



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

DÁIL ÉIREANN

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

Heritage Bill 2016 [Seanad]: Second Stage (Resumed)	320
Leaders' Questions	335
Questions on Promised Legislation	344
Assisted Decision-Making (Capacity) (Amendment) Bill 2017: First Stage	349
Multi-Party Actions Bill 2017: First Stage	350
Private Rental Sector Standards: Motion (Resumed) [Private Members]	351
Equality (Miscellaneous Provisions) Bill 2017: Second Stage (Resumed) [Private Members]	357
Equality (Miscellaneous Provisions) Bill 2017: Referral to Select Committee [Private Members]	359
Heritage Bill 2016 [Seanad]: Second Stage (Resumed)	359
Heritage Bill 2016 [Seanad]: Referral to Select Committee	362
Cannabis for Medicinal Use Regulation Bill 2016 Report: Motion [Private Members].	362
Topical Issue Matters	392
Ceisteanna - Questions	392
Priority Questions	392
Capital Expenditure Programme Review	392
Legislative Programme	394
Public Sector Pensions Legislation	395
Pension Provisions	397
Capital Expenditure Programme	398
Other Questions	401
Defence Forces Pensions	401
Labour Court Recommendations	403
Departmental Communications	405
Commission for Public Service Appointments	407
Public Sector Pay	409
Public Services Card	411
Public Sector Staff	413
Departmental Expenditure	415
Message from Select Committee	416
Topical Issue Debate	417
Special Educational Needs	417
Tax Avoidance	420
Student Grant Scheme Administration	423
Teacher Recruitment	425
Garda Síochána (Amendment) Bill 2017: Second Stage [Private Members]	428

DÁIL ÉIREANN

Déardaoin, 9 Samhain 2017

Thursday, 9 November 2017

Chuaigh an Leas-Cheann Comhairle i gceannas ar 10 a.m.

Paidir.

Prayer.

Heritage Bill 2016 [Seanad]: Second Stage (Resumed)

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

An Leas-Cheann Comhairle: Deputy Catherine Connolly was in possession. Some of the balance of her time will be taken by Deputy Mick Wallace.

Deputy Mick Wallace: I think I have 12 minutes.

An Leas-Cheann Comhairle: Yes, or less if the Deputy wishes.

Deputy Mick Wallace: I will probably take it all.

In many ways it is strange to call this Bill a Heritage Bill. It seems to me to facilitate the eradication and destruction of certain elements of Irish heritage. There are a number of parts to the Bill, including provisions on canals and the burning of vegetation on uncultivated land, as well as changes to the laws protecting National Parks and Wildlife Service rangers. I will focus for the most part on the issue of hedgerows.

There are no positive actions for wildlife in section 7 and section 8 of the Bill. BirdWatch Ireland argues that several red-listed birds, including the curlew and yellowhammer, would be severely negatively impacted by the proposed changes in the Bill. In Ireland, the curlew has experienced an 80% decline since the 1970s and is threatened with extinction globally. The yellowhammer population in Ireland has collapsed. Burning in March will destroy curlew occupied nesting territories and those of other upland birds. The yellowhammer is a red-listed bird due to a staggering 90% decline in breeding population as part of an 11-year to 14-year trend. The yellowhammer uses hedgerows for nesting and was once a common enough sight on telephone wires in rural Wexford. One would do very well to spot one these days in Wexford or anywhere else in the country. According to BirdWatch Ireland, 5% of yellowhammer nests are still active at the end of August. Active means the nests still contain unfledged young. The changes proposed in the Bill will contribute to increasing the already massive contraction in the yellowhammer population in Ireland.

The Bill flies in the face of the all-Ireland pollinator plan. This is at a time when one third of all Irish bee species are threatened with extinction. Bees pollinate many of our crops, such as oilseed rape, apples, peas, beans, strawberries and raspberries. In a 2013 journal article, Dr. Dara Stanley from the National University of Galway and Dr. Jane Stout of the school of natural sciences at Trinity College Dublin stated that the value of insect pollination of crops to the Irish economy is estimated to be €53 million per year. The World Wildlife Fund 2016 report says that changes in the timing of life-cycle events in nature mean that hundreds of plant and animal species are beginning to respond to an earlier spring. We know that since 1970, the number of wild animals on the planet has dropped by more than half and by 2020 it is expected to drop by two-thirds. We have animals and birds changing and expanding the structure and timings of their life-cycles, due to global warming. The more vibrant periods of wildlife activity are encroaching further into non-traditional times of the year and the Government is proposing not to acknowledge this development, but to double down and make the timeframe in which we are liable to destroy them even longer.

No scientific rationale has been proposed for the changes proposed in the Bill. For example, burning has limited value as a land management tool. The changes are proposed as a two-year pilot programme covering all 26 counties. Not only is this poor legislation, but it is also poor in terms of scientific methodology. What is the proposed control area for the experiment? If all of the 26 counties will serve as the experimental group, then what does the Bill propose to use as the control group to which the experimental group might be compared? How on earth will this so-called pilot period and its success or otherwise be monitored? The National Parks and Wildlife Service is already chronically under-resourced and so far no extra resources have been promised.

Fianna Fáil got an amendment to the Bill when it was going through the Seanad which would exclude internal hedgerow cutting in August. Fianna Fáil, the Green Party, Independents, Sinn Féin and Labour were all against section 7 and section 8 of the Bill in the Seanad. I hope their positions will be the same here. It is important to acknowledge that tillage farmers have concerns about the cutting of internal hedgerows, as opposed to road-facing hedgerows, specifically those tillage farmers who grow winter barley. It was mentioned during one of the Seanad debates on the Bill that farmers who grow winter barley account for 4% of the farming community. If this figure is accurate, then perhaps a special provision might be made for these particular farmers. Of course, this should be balanced with the need to maintain biodiversity. The Bill also appears to pose problems with Ireland's EU greening payments for farmers. It may very well weaken the case for funding for farmers in the green low-carbon agri-environment scheme, GLAS, as part of the Common Agricultural Policy.

Regarding burning on the uplands and lowland hills, as Oonagh Duggan of BirdWatch Ireland in a recent *Oireachtas Report* interview argued, we need a strategy for upland management with hill farmers at its core, farming with nature in mind. Many of our upland birds are red-listed for conservation concern. They are on their way out, as is hill farming. We need to think creatively about how we can support and care for both environmental farming and the environment itself. However, the law on illegal burning must be enforced.

Using freedom of information requests, the Irish Wildlife Trust found that 57 wildfires took place across the country this year. Almost all took place in March and April, the period when burning is illegal. Over half the wild fires were in designated areas of conservation, including two national parks, Killarney National Park and the Wicklow Mountains National Park. According to freedom of information requests, however, the Irish Wildlife Trust found no one has

lost out on a single farm payment and no farmer was penalised in 2016 under cross-compliance rules. I stand to be corrected if I am wrong on this last point.

Road safety is at the heart of the argument for the need to amend the Wildlife Act with this Bill. Vegetation impinges on road safety. Obviously, it is important and necessary to improve visibility on roads and reduce hazards. Road safety should be the most important issue. If I might presume to speak on behalf of BirdWatch Ireland, the Federation of Irish Beekeepers, the Irish Wildlife Trust and others who briefed Members recently, neither I nor any of these groups is ignoring road safety.

If a hedge needs to be cut to make a road safe, the hedgerows on that particular road should be cut at any time of the year. However, there is absolutely no reason hedgerow cutting should be taking place in the so-called “closed period”. If hedgerows are properly managed throughout the year, this simply would not be necessary. At the recent briefing organised by Senator Alice-Mary Higgins, this was made absolutely clear in response to questions raised by Deputy Danny Healy-Rae. Nobody should argue roads should remain unsafe. However, that does not mean that road safety concerns should not, or cannot, be balanced with concerns with biodiversity.

Hedgerow cutting needs to be done according to best practice. It needs to be regulated and there needs to be accountability. The Heritage Bill is dependent on voluntary action. It will not compel landowners to cut the necessary overgrowth that is actually causing road safety problems. The proposed changes permit, but do not compel, landowners to cut hedges during August. This means that the main road safety issue, namely, landowners who fail to comply with their obligations under section 70 of the Roads Act, is not addressed. The biggest problem with the excessive growth of roadside vegetation is not landowners who want to cut hedges and cannot. Rather, the issue is with those landowners who should cut their hedges and do not do so. The proposed changes in this Bill do nothing to address this problem.

Another problem is that road safety issues during August, according to the provisions of section 8, would be self-defined by landowners. The aim of section 7(2) is to allow regulated cutting in August. This would in fact be nullified or invalidated by section 8. Instead of the Road Safety Authority defining road safety, it will now be the landowners who decide with no regulation and no answerability to the Minister. This would make a mockery of the very idea and purpose of cutting seasons.

My constituency, Wexford, has been a national leader in promoting biodiversity in terms of hedgerows through its Life Lives on the Edge programme. The aim of this project is to maintain roadside vegetation at various pilot sites in the county. The aim is to achieve biodiversity without neglecting road safety or infrastructural maintenance objectives. Wexford is a biodiversity model for the rest of country. The project co-ordinator in Wexford County Council, Niamh Lennon, deserves special praise for her work in developing the project. The rest of the country can learn much from the success of this Wexford project.

An Leas-Cheann Comhairle: I call Deputy Thomas Byrne. Is he sharing time?

Deputy Thomas Byrne: I do not propose to.

An Leas-Cheann Comhairle: That is a matter for the Deputies. I do not want to get involved.

Deputy Thomas Byrne: It is not necessary because there is no guillotine.

9 November 2017

An Leas-Cheann Comhairle: I am just asking the question.

Deputy Thomas Byrne: It is no disrespect to my colleague.

An Leas-Cheann Comhairle: I do not get involved in internal party affairs. I am totally impartial.

Deputy Thomas Byrne: I am just saying we will all get time.

I have been waiting some time to speak on the Heritage Bill. The idea this Bill, in particular section 7, is about road safety is a complete and utter fraud. If it were to do with road safety, the Minister for Transport, Tourism and Sport would be putting it before the House, advised by the National Transport Authority and Road Safety Authority. That has not happened in this case. Instead, the Minister for Culture, Heritage and the Gaeltacht, who is meant to be protecting our heritage and rural affairs, disgracefully is using the guise of road safety to put a provision like this forward in the House.

The provisions put forward originally in the Seanad would have allowed hedge-cutting in August at a time when many birds are still using hedgerows to nest. The yellowhammer, which has a strong presence in County Meath, needs to be protected because it is endangered and still breeds in hedgerows during August. However, this Bill was brought in under the guise of road safety. We all put road safety first but there is no road safety issue in this case. We already have a Roads Act which allows for the cutting edges for the sake of road safety. There is no reason to change the law on the grounds of road safety.

On the first day of law school, one is told if a measure has to be changed, it is because there was a mischief or something was wrong with it. There is nothing wrong with the existing regulations in terms of road safety. Local authorities have full power and control to decide whether there is an issue of road safety that requires hedges to be cut. This Bill, as originally put forward in the Seanad, added nothing to that. It simply allows certain vested interests - these vested interests were very few because no farmer I asked was looking for this provision - to take over legislation and use road safety in a fraudulent way to essentially give free rein to hedge-cutting in August.

There was significant debate and ill feeling towards this legislation in the Seanad. There was also much debate in my party. I pay tribute to my colleague, Deputy Ó Cuív, who steered the debate in our party and nationally with the various interest groups lobbying on this. His proposal is welcome in that he wants to have a pre-legislative scrutiny hearing on Committee Stage where all interested groups can thrash through sections 7 and 8 to understand exactly what is involved and where we and the Department should go on this.

The Bill was originally introduced as a fraudulent measure with the claim road safety reasons required it. The fraud continued and got worse. After much debate in the Seanad, an amendment was fraudulently stuck in at the last minute of Report Stage which purported to deal with concerns raised in the Seanad. I understand that in the middle of the night, section 7 was amended and representations were given that this would resolve the issue that a large majority of Senators had raised. It has completely liberalised what was already an attempt at liberalisation of the position. I would love for the Minister to contradict me and tell I am wrong on section 7. I will be listening carefully to her reply on this. As I see it, the new section 7 essentially removes the local authority as an arbiter of whether a road safety issue exists and makes the process self-regulatory. That is the fraud. That is certainly the legal advice others have received

and it was certainly my reading of it when I read it originally. I was horrified when I read it. However, I am willing to listen to the Minister about this. I meet the IFA regularly. They are all really good people who contribute massively to this country's economy. Never once did this issue come up in all of my meetings with the IFA over many years. It was never brought to my attention that there was an issue with regard to hedges in August or any other time of the year or that there was a particular road safety concern that had to be addressed at any other time of the year. This was never brought up with me. Had it been brought up by the IFA, I would have considered it and looked at the issues, as I do with any legislation. I would have examined whether it was necessary before forming a view, but it was never raised with me. Rather than having the local authority be responsible for things under road traffic legislation, the Minister for Culture, Heritage and the Gaeltacht, utterly fraudulently in my view, is allowing the local authority to be taken out of the picture and for a self-regulatory regime to be put in place. If I am wrong on that, I will be delighted to be told that I am wrong and I will listen to and accept that, but I want all the interested parties to be listened to and their concerns addressed on Committee Stage in order that we get legislation that is necessary to protect our heritage, wildlife, farmers and road safety, if that is the agenda. If we are looking at protecting road safety in this legislation, I would rather it came from the Road Safety Authority and the Minister for Transport, Tourism and Sport. That is where it should come from.

I am not making the case that road safety should be of lesser importance. It should be of huge importance. I am not making the case that we should make life difficult for our farmers. We should make life as easy as possible for them. However, we had legislation relating to a closed season for years that was accepted by everybody and there were no issues. I said that nobody ever lobbied me about it, and if they want to lobby me that the closed season needs to be opened, let them come and make the case to me, but someone made the case to somebody in the Department over recent years. I do not really know who. Certainly when I rang one or two farmers, they said this might help, but for the ones to whom I spoke, it was a relatively marginal issue and was not the most important thing. I do not see how what is envisaged can be supported because we really have a crisis. The Minister has responsibility for and is in charge of protecting our natural heritage. That is her role in terms of this legislation, and we are doing a bad job of protecting our natural heritage. The number of curlews is dropping dramatically. The number of cuckoos has dropped dramatically. I doubt the Minister hears it but she might hear the cuckoo in parts of her constituency, particularly the eastern side and possibly the west of Cavan. The reason the number of cuckoos is falling is that nests are not available for cuckoos because the number of those birds is declining as well.

We have a huge issue in this country. In my experience, farmers are the biggest supporters and are the most understanding and knowledgeable about biodiversity and species, but the understanding, expertise and sympathy for our natural heritage farmers and organisations like BirdWatch Ireland, which I very much support, have along with all these groups and people living in rural Ireland are not demonstrated by the Department and Minister in any way, shape or form. This legislation has been changed significantly. It has been shown that there are substantial concerns and opposition but there is also substantial willingness for everyone to work together for the common objectives. Yes, we all want road safety. Everybody on every side of this debate has said that. Everybody wants to protect our biodiversity and natural heritage. Everybody wants to make sure our farmers have the best possible shot at producing the crops we need to feed ourselves and that farmers need to pursue farming, so everybody agrees on those broad principles. What Deputy Ó Cuív is proposing, which is that everybody gets together on Committee Stage to see how we all work together to see how best to deal with all of these is-

sues, is really important.

I will be totally honest. Burning is not an issue to which I have given huge consideration personally. It does not happen too much around where I live but there were some high-profile cases this year that caused angst. They were illegal fires that caused people who live in the area and people all over the country angst, not just because of the inconvenience and the massive road safety concerns caused by large-scale burning during the legal closed season but also because the people worry about biodiversity. Deputy Fitzmaurice spoke very interestingly last night. Yes, he was standing up for rural Ireland. We all want to stand up for rural Ireland and we do so. I represent a constituency that is half rural and half urban, so I see both sides of the story. However, Deputy Fitzmaurice seemed to think that this was a case of NGOs - do-gooders, as he called them - trying to interfere with the way rural Ireland has always worked. Yet in all of what was essentially claptrap from Deputy Fitzmaurice, there was a golden nugget where he said that everybody should get together about burning and that local groups should be established to see how burning could be done safely to protect our biodiversity. As I understand it, this is very similar to what BirdWatch Ireland has been saying so I think there is a huge opportunity for voices as apparently diverse as those of Deputy Fitzmaurice and the NGOs in the biodiversity sector to come together to work out the best possible solution to this matter.

I do not normally speak so passionately about many of these issues but I am passionate about protecting our biodiversity and I believe I represent a substantial portion of the population of this country, both rural and urban, to which the Minister should listen. This is something we believe in and value, something we see we are losing, and something we must protect and must urge the Government to protect. There is huge potential on Committee Stage to work this out together. I do not believe the amendment thrown in at the last minute in the Seanad was that but, as I urge the Minister to do, I am willing to listen and accept the exact legal position when that is through.

I know the European Commission has been notified about requirements for the habitats directive and the birds directive. They are serious issues that have been brought up by serious people and of which the Minister must have due cognisance. It is hard to believe how an amendment brought in on Report Stage relating to the new section 7 could have been analysed for compliance with European law. There is no possible way it could have been analysed to the exact level of detail required to make it compliant with the birds directive and the habitats directive. It is really important that it is compliant because we do not want this country to be subject to fines. We do not want hassle forever more after the Minister leaves office because someone did not dot an i or cross a t or because we did not all work together in this House with the NGOs, the IFA and even the contractors' association, which seems to have a strong interest in it, along with the Road Safety Authority and the Minister for Transport, Tourism and Sport. Everybody should get together and try to work out a common solution to this. That is what Deputy Ó Cuív is proposing, which is something I very much value. Deputy Ó Cuív has steered a very moderate course on this Bill. There are many different voices here, but in response to Deputy Fitzmaurice, there are things that everybody is saying and it is up to us in this Parliament to distil them and work out a common approach in order that we can come up with something everyone can support and that can protect farmers, road safety, our really important biodiversity and the natural heritage for which the Minister for Culture, Heritage and the Gaeltacht is responsible.

If Deputy Breathnach is ready and has enough time, I will share the remainder of my time with him.

Deputy Declan Breathnach: Fianna Fáil supports the main objective of this Bill. I endorse what Deputy Thomas Byrne said about bringing together the various interest groups as the Bill progresses. I compliment the many custodians of our countryside, including environmental groups such as BirdWatch Ireland, An Taisce, the Irish Wildlife Trust or the Hedge Laying Association of Ireland, together with many environmental enthusiasts such as the 880 Tidy Towns groups which manage the issue of biodiversity in many of our towns and villages. I especially compliment those in the agriculture sector who have for generations endeavoured to achieve a balance between food production and wildlife protection coupled with more recent and ever-growing problems associated with road safety.

There is no doubt that the increase of vehicular traffic in our countryside, larger vehicular widths and the population growth, which has created an upsurge in walking, cycling and participation in rural pursuits, have added to the vexatious issue of when it is appropriate to trim roadside hedges. Added to all of this is the issue of climate change, which is beginning to change the traditional seasons of growth. That, along with additional heat and moisture, has seen unprecedented growth of roadside verges and hedgerows.

Many views are being obstructed, and the onus of liability seems to fall increasingly on those in the agricultural sector to ensure that their property is not the cause of litigation. In addition as a result of Storm Ophelia and previous storms, there has been a call to denude our roadsides of the trees that are just as important as our hedgerows. Many of us are aware that for a person owning land on either side of a public road, effectively the roadway is part of the landowner's portfolio and inevitably will give rise to litigation in time to come. Equally a person owning only one side owns to the centre of the road.

The Heritage Bill is about getting a balance between road safety and wildlife protection. Anyone with roadside frontage is very aware of achieving this balance. I compliment those in the agriculture sector who have been the real custodians of our wildlife for generations.

The hedgerows along many of our rural roads need trimming back beyond what the current legislation allows. All we need to do is talk to those who jog, cycle or walk on these roads, not to mention those who drive trucks. Reference has already been made to the damage being done to protruding mirrors. In getting that balance right we need to protect the interests of human life without compromising the wildlife living in those hedgerows. The 187 tragic road fatalities in 2016 represented a 15% increase on the previous year, which speaks to issues relating to protection of our hedgerows. It is about getting the balance between wildlife protection and the safety of those who use our roads.

Regarding road safety concerns, most farmers who avail of schemes such as GLAS will employ environmental planners in order to effect that plan. I have had personal experience with both the previous REP scheme and the current GLAS where in the development of the plan, the planner indicated from a road safety point of view the need for hedgerows to be trimmed outside the season, and that was then accepted by the Department of Agriculture, Food and the Marine. While people have talked about the local authorities having responsibility for the roadsides, the reality is that most local authorities do not cut any hedges except at junctions and ultimately those in the agricultural community get hedge-cutting notices. It is trying to get a balance between that road safety issue and wildlife.

Without over-complicating the system of EU grant aid, there is a method there in order for the whole issue to be legalised without necessarily interfering with our wildlife to any degree.

We all have to survive and food production is equally important. The bees and the birds obviously help with growth and propagation. For the agricultural sector to survive, that balance can be achieved.

I welcome that the Bill provides for a review in two years. The best-laid plans of mice and men often go awry. If people do not subscribe to the balance that I support, it can always be reviewed.

Deputy Martin Ferris: Sinn Féin opposes the Bill for many reasons. Obviously, we are all very conscious of having to protect our environment and wildlife, and of road safety. I grew up in a rural area and am very much aware of those aspects.

I am very concerned over the decline in the bird population. One figure suggests that our bird population has declined by a quarter over a number of years. Much of that is down to irresponsible work carried out by some farmers, in particular the uncontrolled burning on hills and mountains. Many of my age group will remember in the 1950s, 1960s and 1970s welcoming spring with the arrival of the cuckoo. I have not heard a cuckoo for years and many other people living in rural areas would have a similar experience. Deputy Tóibín, who is beside me, says he has never heard a cuckoo, which is down to the lack of management and lack of control of our hedges, ditches and so forth.

An aspect of it goes back to what was called progressive farming - removing ditches and hedges to make huge fields for convenience to accommodate the type of machinery that is used nowadays. The cost we have paid has been the decline in a number of species of birds and the effect it has on wildlife. It has not all been progressive; it has had that effect. Travelling along motorways, one will see areas with one field that previously had four fields, and the associated protection for the wildlife is gone.

Frequent cutting has also done damage to bees owing to the decline in the flowers they need to produce honey. Fewer flowers result in fewer bees.

I was very impressed by Deputy Ó Cuív's contribution on consultation and having focus groups sit down to decide on how to move forward. The consultation between the Department of Culture, Heritage and the Gaeltacht and the EU comprised just one informal meeting, which is inexcusable. We need many more meetings to ensure we have the necessary type of consultation.

It would be good if all the lobby groups came together to argue out their case. We all want to protect our wildlife, to ensure that our roads are safe and that needs to be done in a responsible way. I do not accept that the powers are not there for local authorities and others to deal with areas which are a danger to the public, irrespective of the time of year. They have the legal authority to do it. That should certainly not be an argument against it.

Sinn Féin will be voting against the Bill but we want to offer constructive criticism. It is not just about scoring points. Collectively, all of us here want to do the right thing. We want to protect our birds and wildlife and ensure that our roads are safe. We want to ensure we keep our countryside as it should be for future generations. That is the role we will play in taking a position today. Consultation is needed and people must be listened to. Many arguments are made every day in the House on the decline of rural Ireland, usually with reference to the declining population and the lack of jobs. Our environment is equally important.

Deputy Joan Collins: The question was raised earlier as to whether this is heritage legislation at all. Many aspects of the Bill are not sufficiently cognisant of what many environmental NGOs and farming community voices have said, namely that there is no need for sections 7 and 8. There is no huge cry or lobbying effort calling on the Minister to look at this area and introduce these provisions. As such, I hope the Minister will be open to some of the suggestions we put forward this morning. I will consider two aspects of the Bill, namely Waterways Ireland and canals and sections 7 and 8 on burning and cutting of hedgerows and moors.

Every organisation needs legislation to facilitate its activities and to ensure compliance with the law, in this case on the use of public waterways. However, the Bill proposes to change fundamentally the way people use our canals and waterways. I have looked at the system Waterways Ireland currently operates. On the Barrow navigation, the Grand Canal and the Royal Canal, five days' mooring is available under the combined mooring and passage permit, but opportunities also exist to take up to 12 months' mooring vacancies on serviced and unserviced moorings. Waterways Ireland operates an extended mooring permit at a cost of €152 which allows 12 months' mooring at a single designated location and this is available at more than 60 locations on the Grand Canal, Barrow navigation and Royal Canal. Most extended moorings are on soft banks without services but there are also serviced moorings available on the Barrow navigation, Grand Canal and Royal Canal. After 12 months, however, one must reapply for a permit. There is no permanent permit. Nevertheless, a lot of people live on barges because it is a way of life, cheaper and services can be accessed on the docks.

I have been approached by a number of boat and barge residents from the Grand Canal who are hugely concerned about the by-laws the Bill proposes to introduce and the tremendous powers it proposes to grant to authorised officers to challenge people in these areas. I have referred to the €152 payment, but there is also a €126 payment to moor in these areas. Residents have been told they could have to pay up to €5,000 for a permanent permit on the Grand Canal. One of the people who approached me is a pensioner on the State contributory pension. If he were in a local authority house or apartment, he would be paying €30 per week in rent, or approximately €1,500 a year. If the Bill is enacted, there will be lots of regulations on follow-up, authorised officers' powers, by-laws, enforcement, fixed payment notices, search warrants, service of directions, and prosecutions, but I see nothing about how much the long-term permits people are hoping to get will cost. We need to step back and discuss with the people the moorings and Waterways Ireland how this should be progressed, just as people have said we should proceed in relation to hedgerows, uplands and burning and cutting. This is a way of life for these people just as buying a house and moving into a home is for someone like me. Everything around the mooring is part of their way of life. The Minister should be very careful because these people feel they are being evicted from their permanent residences, albeit they have to renew their permits annually at the moment. I ask the Minister to take cognisance of that and to avoid making it prohibitive for these people to stay on the canals. I ask her to assist these people and to consider grants to allow them to upgrade their boats and ensure they are canal or water worthy. She must work with them. I will put down amendments in this regard on Committee Stage.

Sections 7 and 8 are the two main sections people have raised. Under section 40 of the Wildlife Acts, vegetation on uncultivated land and any vegetation growing in any hedge or ditch is protected during the period March to August, inclusive. The Bill proposes to change section 40 to permit under regulation the cutting of vegetation grown in any hedge or ditch on the roadside during August and the burning of vegetation in March. It also exempts landowners from section 40 in any cutting undertaken pursuant to section 70 of the Roads Act. A coalition

of environmental NGOs, which the Minister knows well, has gathered 30,000 signatures from citizens who are concerned that the proposed changes will have a negative impact on already threatened wildlife. In general, there is no scientific basis for the proposed changes, which is very important and must be taken on board. The proposed changes impact on Ireland's commitment under European regulations but have not been formally discussed with the EU as far as I am aware. They also place additional pressure on already threatened species. There has been no assessment by the Department of Transport, Tourism and Sport of the implications of the Bill for road safety. The two year pilot period covers all 26 counties but no methodology for the study has been provided. No baseline data have been recorded despite the lapse of two years during the passage of the Bill through the Oireachtas. The National Parks and Wildlife Service is already underresourced but no additional resources have been promised.

I turn to section 7(1). Burning in March destroys occupied nesting territories. Even if the birds have not yet laid eggs, breeding may not take place that year if an established area is destroyed in this way. Burning has limited value as a land management tool and other management strategies, including grazing, should be deployed to improve upland farm areas. Agricultural policy should reflect the value of scrub and upland habitats for biodiversity, stock management and shelter and not seek to have such areas made ineligible for agricultural payments. Cutting hedgerows from March to August impinges on the biodiversity value of hedgerows. The changes proposed in section 8 are for the convenience of land managers and are not aimed at strengthening wildlife protection. Section 8 will result in the reduced oversight of biodiversity protections. There are provisions in existing legislation to address road safety. The proposed changes permit, but do not compel, landowners to cut hedges. The main road safety issue relates to landowners who fail to comply with their obligations under section 70 of the Roads Act but this is not addressed.

The Bill is internally inconsistent. The purpose of section 7(2) to permit regulated cutting in August is nullified by section 8 which permits year-round, self-definition of road safety issues by landowners with no regulation or ministerial oversight. That leaves section 40 of the Wildlife Act unenforceable having regard to hedge cutting and hedge removal. Hedge cutting is currently restricted during the period 1 March to 31 August annually. The National Roads Authority can cut during the closed period for health and safety purposes and it is the authority that defines road safety issues during that closed period.

The roads authority is answerable to the Minister for Culture, Heritage and the Gaeltacht for work undertaken during the closed period for health and safety purposes. There is a discrepancy between the provision of section 70(2) of the Roads Act and section 40 as regards landowners as there is currently some legal uncertainty as to whether a landowner who is served a section 70 notice by the roads authority during the closed period is exempt from the Wildlife Act. In reality, the NPWS is very unlikely to consider a prosecution where a section 70 notice exists.

As regards section 7(2) of the Bill, landowners can cut roadside hedges under regulation by the Minister for Culture, Heritage and the Gaeltacht during August for a two year period renewable by Oireachtas resolution. Roadside cutting is not limited to safety issues by primary legislation. No draft regulations have been published and road safety issues during August would be self-defined by landowners.

Section 8 exempts landowners from section 40 of the Wildlife Act for road safety purposes. Road safety issues year round are now self-defined by landowners who are subject to no regulation and have no answerability to the Minister. That is not consistent with the intention of sec-

tion 7(2) and effectively leaves section 40 of the Wildlife Act unenforceable as regards hedge cutting. The section amends the principal Act and is not subject to the two year pilot period. The Department of Culture, Heritage and the Gaeltacht does not have authority in matters of health and safety in respect of roads. There are no Government guidelines for landowners on assessing and dealing with road safety issues caused by structures on their land.

As regards burning and environmental impacts, annual wildfires have severely damaged upland habitats across Ireland such that the National Parks and Wildlife Service has assessed them all as being in bad condition. The decline in hill farming has coincided with a decline in wildlife and habitats. Many upland bird species are locally extinct and listed on BirdWatch Ireland's red list of birds of high conservation concern. Such birds include the red grouse, nightjar, twite, ring ouzel and golden eagle. A study carried out by the University of Leeds in the UK found that controlled burning resulted in the loss of biodiversity, water pollution, soil degradation and increased carbon emissions. Effects from annual wildfires are likely to be much worse. Controlled burning does not happen in Ireland. A freedom of information request by the Irish Wildlife Trust, IWT, found that controlled burning happened in one location in 2016. Data gathered by the IWT in 2015 and 2016 show that approximately 50% of all wildfires take place in areas designated for nature conservation. Failure to protect these areas risks sanction from the European Commission. Existing enforcement measures are not effective in preventing wildfires. A freedom of information request by the IWT found that in 2016 no farmer was penalised under cross-compliance rules despite extensive and widespread wildfires that year. It is to be hoped that no farmer consciously started a wildfire.

Our hills are valuable for more than just the food produced therefrom. They are also important landscapes for recreation and amenity, protect water quality, help prevent flooding, store carbon and are home to unique wildlife. Rewarding farmers for all of these services and not only one as is currently the case holds the key to protecting our environment and the livelihoods which depend upon it. Restoring peatlands will help us reach our commitments under climate change agreements, restore habitats for endangered wildlife and protect water for downstream use, including alleviating floods. A new uplands strategy which brings together complementary interests and which can propose tailored solutions to suit each area is urgently needed.

Those points were submitted by BirdWatch Ireland and Neil Foulkes of the Hedge Laying Association of Ireland and I wanted to read them into the Dáil record. It is important that we put that on the agenda because I do not believe that farmers are anti-biodiversity. They want to be part of that diversity and be able to support it in every way they can.

As regards climate change, all Members know that bees are integral to our climate. If the bees go, we go. There have already been problems in Ireland in respect of a loss of bees of different varieties. There have been recent attempts to reintroduce bees into the environment. I wish to read into the record a letter from Jane Sellers and Loretta Neary of Dunlavin in County Wicklow, who are very involved in beekeeping:

When you deliberate on the Heritage Bill please be aware of the following facts: honey bees and other pollinators are entirely reliant on flowers for their food, which is pollen and nectar; in many parts of Ireland hedgerows and scrub are the only sources of flowering plants and habitat; to cut, grub or burn flowering vegetation at any time of the year is to deprive pollinating insects of food; to cut hedges or verges in August is to destroy a food source vital to bees as they gather pollen and nectar to store for winter; to grub and burn flowering vegetation in March is to destroy a food source vital to bees as they emerge from

winter; important hedgerow and verge/ditch species that flower in August include blackberry, rosebay, ivy, meadowsweet, gorse. Important species of scrub that flower in March include gorse, willow, hazel and alder.

Arguments are mounting that we have to take a step back from the Bill as it stands and reevaluate it along with those interested groups and those affected by the Bill such as NGOs, the IFA, the Road Safety Authority and the Department of Culture, Heritage and the Gaeltacht. As a nation, we must ensure our roads are safe and that our farming community can work with biodiversity and make a living out of it and also ensure our biodiversity is kept up to scratch. Question marks have been raised about EU payments and the European habitat and birds directive and I would be interested to find out more about that. There would be a case taken to the European court if the Bill is passed in its current form. I would like there to be a step back from this. I will be opposing the Bill and calling for a vote on its progression to the next Stage. We should work together to ensure that any changes to canals and our heritage have to be taken on board by everybody and ensure no one is prohibited from pursuing their way of life.

Deputy Michael Collins: I thank the Minister for bringing forward the Bill. There are certain aspects of it on which I would like further clarity but it is a move in the right direction and one we should have made long ago. That would have avoided a hell of a lot of issues we are dealing with today, including people being killed on roadsides by falling trees, as well as the problem of illegal burning that is not being properly controlled. The Bill goes some way toward tackling those issues, although it needs further clarity which will hopefully be delivered in the coming days.

As regards verge cutting, rural Ireland, and in particular a huge percentage of the area I represent in Cork South-West, is in a state of disarray in respect of overgrowth on roadsides. I put forward a motion to Cork County Council approximately two and a half years ago while I was a councillor that it would carry out a survey on overgrown trees on the roadside in west Cork. I am sad to say that survey never took place. We were lucky not to have experienced more damage about a month ago when there was a severe storm because everything I said at that time came true. We have a lot to commend the ESB for because if it was not for the ESB cables and poles holding up trees in west Cork there would have been a severe loss of life. We were lucky to have a very good radio station that warned people to stay inside. There were trees flying down onto roadsides left, right and centre during the storm, which had gusts of 191 km/h.

People, and Deputies in particular, in urban Ireland do not have a clue what is going on in rural Ireland. They go on about birds and bees but do not understand that the farmers of west Cork and Ireland protect our birds and bees to the best of our ability. Common sense has to come into play. It has not been in play in respect of verge cutting for many years. My worry is that verge cutting will be extended to August on a trial basis.

There should be no trial basis. It is common sense to cut verges and I will prove it to the Minister. Fair play to Cork County Council - I give praise where praise is due - it has come up with a great verge cutting scheme in west Cork. It is a fabulous scheme, under which local communities can apply for funding to cut verges. In my proud community council area of Goleen every single community applied for a grant. Every community saw a need to do so as simply roads were closed. I received a call from a holiday maker in Goleen in July who asked: "In the name of God, what is wrong? I cannot go up my road. It is closed from both sides." Common sense should have been applied. There should have been no need to ring the local authority or

fill in forms. Verges should be cut and clean and tidy. If they had been, there would have been no need for that gentleman to worry. Unfortunately, because of the system in place, we could not go near them and it was disappointing for me to have to tell him.

When grant application forms were put on the table, every community council, all of which have a lot of environmental protection thoughts on their minds, jumped at the opportunity because they knew that it was a necessity to apply. Communities in areas such as Lowertown, Toormore, Rathoora, Goleen and Cloghankilleen to Mizen Head and Crookhaven, as well as Caher, Letter and Arduslough applied for grant aid and thankfully received it. They are now cutting verges which should not be cut at all in November or December. They should have been cut two or three months ago when we had to protect the tourism industry. We have people renting cars who will not get back their deposit because cars are being torn asunder in visiting beautiful parts of the world. It is absolutely farcical.

This is a move in the right direction, but it should not be done on a trial basis. It should be simple and solid. We should cut verges because lives will be lost if they are not cut. It should come from the top in Dáil Éireann that every local authority should carry out a survey of trees growing along the roadside. There should be strict regulations such that every tree would be cut before people's lives were lost and they are being lost. People are worrying about the bringing forward of a drink-driving Bill, but there is no such worry about those who are being killed or nearly killed or seriously injured by trees. Far more people are going to be hurt than as a result of the carry on with the drink-driving Bill.

I will move on to another issue on which I seek clarity. It is the issue of burning. I am a farmer and met officials of the Department of Agriculture, Food and the Marine in Portlaoise before I came a Deputy. I told them that they would be the cause of an inferno and they were. They fined farmers for having gorse on their farms. They fined them a sum of €5,000 and made the fines retrospective by four or five years. They are terrorising farmers. What can they do? They cannot leave the gorse or burn it because it is wet. There is no proper burning season. I am in discussions with the ICSA and the IFA to see if can we come up with some procedure as we cannot work within the system in place. Basically, farmers are being forced out of business. They will be fined out of business by the Department if they do not get rid of the gorse and they cannot burn it because there is no burning season.

We are lucky that Muintir na Tíre and Mr. Diarmuid Cronin are arranging for controlled burning. I hope that in the next few weeks all stakeholders will be around the table or rather on the ground and that there will be controlled burning, which I would welcome. However, the season must be extended. If it is, there will be legal burning. We must also stop blaming farmers. In 99% of cases, they are not to blame. In some cases, their land is being burned unbeknownst to them or the fire is spreading over the ditch from some other person's land. In a lot of cases, there is messing at the side of the road at night time. People get a thrill out of seeing the property of others burning.

It is fine to talk about burning; it sounds beautiful for those living in an urban area who look out and see the Luas and beautiful taxis. They will not have to worry about briars, bushes and trees. I am sorry, but we do. We are realists. I welcome the movement being made to provide for burning and verge cutting, but we need to go further. We need clarity. It is not good enough that it is being done on a trial basis. It has to be embedded in concrete. I welcome many aspects of the Bill and appreciate that the Minister is doing her best to adopt a common-sense approach.

Minister for Culture, Heritage and the Gaeltacht (Deputy Heather Humphreys): I thank all of the Deputies who have participated in the debate. I congratulate Deputy Catherine Martin who spoke last night on her election as chairperson of the women's caucus.

I stress that the amendments to the Canals Act are primarily enabling provisions to allow Waterways Ireland to make by-laws to regulate boating on canals and manage their use. They were developed on the basis of legal advice to ensure the by-laws would be legally robust. The draft by-laws will be subject to public consultation for a period of up to 90 days and any person can submit objections to them. Waterways Ireland shall consider the objections and the consent of the Minister will have to be obtained for the by-laws which will be subject to review every five years and laid before the Houses of the Oireachtas.

This legislation and the by-laws that will emanate from it will enhance the ability of Waterways Ireland to manage the Royal Canal, the Grand Canal and the Barrow Navigation for the benefit of all of their users. Last night, Deputy Niamh Smyth referred to the Ulster Canal. It is a priority for me and I am delighted that work has been well progressed on the first section of the canal, from Belturbet to Castle Saunderson where the bridge is almost complete. I am glad to see that the work is continuing apace.

Regarding hedge cutting and burning, a number of Deputies referred to the provisions in section 7 of the Bill. Deputies will be aware that an amendment was passed in Seanad Éireann to restrict the cutting of hedges in August to roadsides only. It is proposed to harmonise section 8 of the Bill with the provisions of the Roads Act on the cutting of hedgerows for road safety purposes. As I have stated, there is a conflict between the Roads Act and the Wildlife Act. The divergence of law between the two makes no sense. We must avoid confusion and inconsistency in order that the courts can interpret the law and deal with breaches of it. The provision included in section 8 has been designed to harmonise the two items of legislation, clear up any confusion and remove conflict.

Deputy Thomas Byrne has been misinformed. This is a complex issue, but I will try to explain it. We have the Roads Act, for which the Minister for Transport, Tourism and Sport is responsible. Under that Act, the owner or occupier of land shall take all reasonable steps to ensure a tree, shrub, hedge or other vegetation is not a hazard or potential hazard to persons using a public road and that it will not obstruct or interfere with the safe use or maintenance of a public road. He or she, therefore, is meant to take reasonable steps. On the other hand, the Wildlife Act states very clearly that a person cannot interfere with the hedges in the period referred to. The Minister for Transport, Tourism and Sport cannot amend the Wildlife Act which is the Act which prohibits hedge cutting along the roadside. It is my responsibility to amend it. Landowners were always permitted and even obliged under the Roads Act to cut hedges for the purposes of road safety. It is not correct for the Deputy to suggest there is somehow fraud involved in bringing the Wildlife Act into line with the Roads Act. That is unjustified.

This legislation is not about the widespread and heavy cutting of hedges. It will simply allow a person to trim a hedge in the month of August in certain instances only. In that regard, any trimming of hedges in August may only be of the current season's growth and may only be carried out along the roadside. This affects only a small percentage of the overall number of hedgerows in the country. If heavier cutting is required such as grubbing or flailing, it must be carried out during the current permitted period of September to the end of February. They can continue to do so during the existing permitted period which runs from September to the end of February. This is a two-year pilot project. My Department will carry out studies to deter-

mine what effects, if any, emerge during this pilot phase. The expert advice of officials in the National Parks and Wildlife Service, NPWS, however, is that hedge-trimming of this nature in August is unlikely to have much of a direct impact because of the scale involved. This will be a managed and measured regime and will be subject to clear guidelines. It will strike an appropriate balance between protecting our wildlife and allowing for common-sense trimming of hedges in certain instances only.

There has been a lot of misinformation and scaremongering about this Bill. This Bill will not make it compulsory for anybody to cut a hedge in August. If a hedge is blocking the view of road users, however, the landowner will now be able to trim back that hedge in August. This is a serious issue on local byroads in rural Ireland where hedges are growing out on the roads, damaging cars and restricting the views of motorists. There is of course a provision whereby local authorities can cut hedges in the interests of road safety but the reality is that local authorities simply do not have the manpower or the resources to be out on every byroad in the country inspecting and trimming hedges. Anybody living in rural Ireland will be aware of this. We cannot have a situation where cars are damaged and accidents caused because drivers cannot see around corners due to overgrown hedges. The proposal in the Heritage Bill 2016 represents a moderate and common-sense solution to address this problem.

The curlew was mentioned. I have established a special curlew task force to examine what steps can be taken to support the native curlew, something that has been warmly welcomed by groups such as Birdwatch Ireland. Like many Deputies in this House, I too am from rural Ireland and I respect our farming community and its contribution to the local economy in rural areas. Our farmers are the custodians of our countryside and any suggestion that they are indifferent to our natural heritage and wildlife is complete nonsense. Farmers are not seeking to cause harm or damage. All they want is the flexibility to carry out their own work in a manner that also respects our biodiversity. Deputy Breathnach is right when he says that we need to strike a balance and that is what this Bill does.

With regard to the burning provisions, I echo the Deputies who condemned the spate of illegal burning in certain parts of the country during the spring and summer periods. There is a misconception, however, that this Bill will allow for the extension of the burning season into March and therefore allow all landowners to burn vegetation on any day during the month. I want to make it clear that the provision is not a blanket approval to allow indiscriminate burning of vegetation in March. This legislation, rather, will allow me to make regulations to allow burning in certain areas of the country, in a particular county or parts of a county, at specified periods in the month of March. I want to work with landowners in this respect. This Bill does not allow for widespread burning of vegetation. I also point out that in both Britain and in Northern Ireland the burning of vegetation is allowed up until the middle of April. What I am proposing, then, could not be considered an indiscriminate or unreasonable measure. The forthcoming regulations and best practice guidelines will provide guidance to landowners on a number of issues, including rotational burning; that species and habitat consideration should be to the fore in planned burning; and the need to liaise with relevant authorities and local fire service personnel. What is proposed here is, in essence, the potential extension by a maximum of four weeks to the period during which controlled and responsible burning may be carried out. This will be limited to particular areas and subject to statutory regulation. Such controlled land management activities in March have nothing at all to do with the kind of burning incidents we witnessed during the summer.

I note the contributions made by some Members on the impact of the burning and hedge-

cutting provisions on bird life, especially on the nesting period for various species. I want to assure Members that the regulations that will be drafted to give effect to these provisions will take account of the nesting period as well as of our obligations under EU nature directives. Deputies Fitzmaurice and Michael Collins pointed out that we all depend on the people of rural Ireland to preserve our countryside and I agree with them on this. Like many other rural Deputies, we were reared in rural Ireland to respect our countryside and to look after it.

With regard to the Heritage Council, I stress that the changes mainly relate to governance procedures and have arisen as the result of a detailed review undertaken in 2012. I agree with Deputy O'Dowd that the Heritage Council and its local heritage officers have done great work in engaging with local communities and indeed, through the schools programme, with young people in order to encourage them to connect with and preserve our heritage.

Historic towns were also mentioned. In 2014, we ran a very successful pilot programme in three historic towns - Westport, Youghal and Listowel - in partnership with the Heritage Council and Fáilte Ireland. Beginning in 2018, we hope to roll this out to more towns in the coming years. I consider this very important.

I look forward to further constructive discussion and debate on the next Stage. Go raibh maith agaibh.

Question put.

An Leas-Cheann Comhairle: In accordance with Standing Order 70(2), the division is postponed until the weekly division time today.

Sitting suspended at 11.15 a.m. and resumed at 12 noon.

Leaders' Questions

Deputy Billy Kelleher: Yesterday the waiting lists were published and, unfortunately, it was like Groundhog Day all over again. Ten years ago there were 21,000 people on waiting lists for surgical and medical treatments and day-case or diagnostic treatments. Yesterday the list showed that there were 684,800 patients waiting on lists of various types: outpatient, 494,530; inpatient day-case, 80,894; endoscopy - active, 19,300; inpatient day-case, 18,000; inpatient day-case planned procedures, 11,700; planned procedures for endoscopy, 51,000; and endoscopy, 8,294. The reason I reference all those lists is simply that nobody knows how many people are waiting anymore because we consistently change the goalposts. We consistently change how we assess the numbers of people on waiting lists. We now have a situation where we have so-called suspended lists. One is suspended from the list, one is in abeyance, and then one is brought back onto an active list at some stage. People suffering with juvenile arthritis, scoliosis and several other paediatric illnesses and diseases are waiting inordinate periods of time for outpatient and inpatient procedures. It is wholly unacceptable.

In the NHS in England, there are 1,511 people waiting more than a year for an inpatient appointment. In Galway hospital alone, there are 2,914 waiting more than a year for an inpatient appointment. The fact of the matter is the health services are in crisis. Yesterday, if the Tánaiste wanted to seek clarity on that, all she had to do was read the Minister's two press releases, both contradictory, one trying to correct the other in terms of targets achieved and targets missed,

numbers who were seen and numbers who were not seen. There were corrections even in the context of the press releases sent out.

Finally, we have a situation where advertisements are being issued for winter readiness and proofing of the health services for winter. One senior hospital manager told me that the only programme in place was the flu vaccine and prayers. The flu vaccine and prayers were how prepared we were for the winter initiative in some of our hospitals.

I raised this a number of weeks ago. Will the Tánaiste accept that a great deal has to be done, both in the context of the waiting lists themselves, enhancing capacity and ensuring people are seen in a timely manner, but also in the short and medium term on the issue of ensuring that our hospitals can cope with what will be thrown at them this winter?

The Tánaiste: Dealing with these issues is a priority for the Government. It is a priority for the Minister for Health, as every action he has taken supports that. This is shown by the budget that has been given for the health service, the new initiatives, the increase in the funding for the National Treatment Purchase Fund and the €1 million per week extra that will be spent on dealing with waiting lists, and the fact that the trend is downward.

There is much work to be done. Nobody questions that. I ask the Deputy to look at four hospitals with the lowest numbers on trolleys since 2006, Beaumont, Mayo, Cavan and Connolly. It is important to note this progress.

No doubt there is a huge challenge. Given the demographics, the fact people are living longer and the demand on the health services, and as we develop more primary care centres, of course, the demand continues in the hospitals. It is important to note that the home care packages, numbering 45 extra a week, will help deal with these issues because people will be able to get the services they need at home.

The truth in regard to waiting lists is that the latest NTPF figures show that the number of patients waiting for a procedure has fallen by over 2,000 in the past month and it is the third month in a row the inpatient day-case list has fallen. This is the category of patients who are actively waiting for treatment and these reductions have to be seen as real progress.

I accept the Deputy's point that more needs to be done - we cannot relax for one moment in regard to this because of the level of demand - but let us look at what is happening in the context of the trend being downward. There were significant decreases in October in both the 15-to-18 month waiting list, which was down over 1,000, and the over 18 months category, which was down over 1,000. For the second month in a row, there was also a decrease in the total number of patients waiting for an outpatient appointment with 788 fewer patients waiting for an outpatient appointment.

On the Deputy's point that patients were suspended because their doctors had decided they were unfit or unable to attend for clinical or personal social reasons, that is a reasonable thing to do because the people were not in a position to take up the appointments, and Deputy Kelleher himself asked for this.

The Minister has accepted the Deputy's broader point about the accuracy of waiting lists and how waiting lists in this country compare with those internationally. Trinity College is conducting a study on how waiting lists are compiled in this country and how it compares internationally and we will have that information at the beginning of next year.

Deputy Billy Kelleher: If the Tánaiste wanted any evidence that our health services are in crisis, all she need do is go over to the Oireachtas print shop and see the number of Fine Gael Ministers and Deputies dispensing leaflets pointing out that one can get EU cross-border treatment and avail of treatment abroad schemes. Deputy Michael Collins from west Cork raised a case quite recently of a 91 year old man from west Cork who had to go to Belfast for cataracts because he was waiting so long. The fact of the matter is even the Tánaiste's own Cabinet colleagues and Deputies are running around the countryside dispersing leaflets advising people that the only way one can get treated is in another jurisdiction because of the Government's failures. That is what is happening.

Deputy Mattie McGrath: They were exposed by Deputy Michael Collins.

Deputy Billy Kelleher: Could we just accept for one moment that there are huge pressures on the health services? All this spin has to stop because people across the country are waiting inordinate periods of time in agony. Recently, a case was brought to me by Deputy Dooley of a very elderly man waiting over two years for an appointment even though it was marked urgent and he was in chronic pain and in need of a hip replacement. Every Deputy in this House could bring the Tánaiste instances of this. Will the Government accept that a great deal more has to be done, other than the spin and the PR, moving the targets and extending the waiting times, as was done by the Minister, Deputy Harris's predecessor who is now the Taoiseach? That is the reality of what is happening with Fine Gael's health policies at present and its only answer seems to be deliver leaflets to advise people how they can get treated outside this jurisdiction.

The Tánaiste: The Deputy referred to individual cases. Of course, nobody wants to see anybody waiting a day longer than is necessary.

Deputy Mattie McGrath: Thousands of them.

Deputy Billy Kelleher: Seven hundred thousand.

The Tánaiste: It is extremely important that the Deputy accepts that every effort is being made to deal with the waiting lists. The trend is going in the right direction. I accept that is no help for the individual to whom the Deputy referred.

The point is that it is an absolute priority to deal with this issue in a variety of ways. First of all, real money is being put in to deal with the 500 more operations for those who need hip and cataract procedures, etc., by the end of the year. There is €1 million a week to deal with waiting lists. The National Treatment Purchase Fund will have an allocation next year of €55 million, a huge increase to deal with people on those waiting lists. We accept that people are waiting too long.

In terms of Deputy Kelleher's point about people informing citizens of their rights as EU citizens-----

Deputy Billy Kelleher: It was the Government's only answer.

The Tánaiste: -----it seems reasonable to me that that should be done.

Deputy Billy Kelleher: It is, but it is the Government's only answer.

The Tánaiste: Is Deputy Kelleher suggesting that they should not be told what their rights are as EU citizens? The Deputy will be aware we have always had, and encouraged, cross-

Border health care initiatives. That has worked well. We would like to see that continuing.

Deputy Mattie McGrath: The Tánaiste knows it is an utter failure.

The Tánaiste: We accept that this is a huge challenge. I reiterate it is an absolute priority.

Deputy Billy Kelleher: Our evidence is of providing leaflets rather than interest in the health service.

The Tánaiste: We care every bit as much as the Deputy about people who are on waiting lists, which is why we are making every effort to make sure people will spend less time on waiting lists and that the necessary resources will be given to the health service. It was an absolute priority in the budget to provide the kind of money that would make a difference and reduce waiting lists. The Deputy should acknowledge that the trend is in the right direction, but it is a huge challenge.

Deputy Louise O'Reilly: At the end of September, the European Medicines Agency in London held a public hearing on the epilepsy drug sodium valproate, better known in Ireland as Epilim. The purpose of the hearing was to consider whether the warning against taking the drug while pregnant was strong enough. It followed on from a review in 2014 based on which the European Medicines Agency took the decision to strengthen the restrictions on valproate containing medicines owing to the risk of malformations and developmental problems in children exposed to the drug in the womb. The agency's most recent summary guide for health care professionals on the risks associated with valproate for female patients issued in 2016 states: "Sodium valproate should not be used in female children, in female adolescents, in women of childbearing potential and pregnant women unless alternative treatments are ineffective or not tolerated because of its high teratogenic potential and risk of developmental disorders in infants exposed in utero to valproate". In its most recent valproate patient toolkit the HSE states: "If you take valproate when you are pregnant it can harm your unborn child". The leaflet goes on to state that for women who take valproate while pregnant around ten babies in every 100 will have a birth defect and that about 30 to 40 children in every 100 may suffer from developmental problems. Shockingly, it was only earlier this year that instructions were issued to include a warning label for the outer packaging of Epilim products that had been introduced in Ireland, but they still not being adhered to everywhere. Unfortunately, these measures have come too late for some. A number of women in Ireland, some of whom are in the Visitors Gallery, were not informed about the harmful repercussions for their unborn child when they were prescribed and took sodium valproate while pregnant. In 2013 Epilepsy Ireland estimated that the drug had affected at least 400 children. The syndrome which affects these children is known as foetal anticonvulsant syndrome or foetal valproate syndrome. It can give rise to spina bifida, heart defects, breathing difficulties, overlapping fingers and toes, club foot, hip dislocation and distinctive facial characteristics.

Last week, I met Karen, Wendy and Susan, all of whom had been prescribed sodium valproate while pregnant and all of whom have children with foetal valproate syndrome. They are not looking for much. Will the Government undertake an investigation into the current and historical use of the drug? Will it acknowledge that these women should be compensated for the impact of the drug on their families? Will it also commit to establishing a State-wide register for those who are on the medicine and those who will be prescribed it in the future, as well as a register for the children who have been affected by foetal anticonvulsant syndrome caused by exposure to sodium valproate? As a matter of urgency, will it put in place appropriate

pathways for the diagnosis and treatment of foetal anticonvulsant syndrome, as well as providing additional services for children with the syndrome? Previous Governments did not exactly cover themselves in glory when it came to women's health issues. We have seen Taoisigh and Ministers for Health stand where the Tánaiste is and apologise to women. She has a chance to do this right. I ask her to take that chance.

The Tánaiste: The Deputy raises an issue about a drug that women have been prescribed during pregnancy. As she said, this is not the first time issues have arisen about drugs prescribed during pregnancy which potentially have extremely adverse effects. We have seen this happen in the case of thalidomide and numerous other drugs and women have had to fight quite hard to prove the consequences of the use of such drugs. I am not familiar with the details of the particular drug, but the Minister for Health is informed on issues such as this by the Chief Medical Officer, CMO and the Health Products Regulatory Authority, HPRA, which regulates the use of medicines and drugs. Obviously, there are always clinical decisions involved in the use of a particular drug or prescription. The Minister has heard what the Deputy said and I have no doubt that he will seek a report from the CMO and the HPRA on the particular drug and revert to the Deputy with the details of the information available at this point. The Deputy has said that up to 400 children have been impacted on. If there is information to that effect - I take the Deputy's word for it - clearly it is an issue that needs to be addressed. Further information must be obtained and the clinical position in terms of prescriptions and their impact and so on will have to be examined. I am not in a position to give the Deputy a detailed answer on the drug today, but the Minister will get the information and revert to the Deputy on it.

Deputy Louise O'Reilly: I thank the Tánaiste for her response. The families affected believe they have been ignored, sidelined and let down by the State. I am giving the Tánaiste an opportunity to make a statement on behalf of the Government to the effect that it will consider the issues of compensation, establishing a register for those who have taken or will take valproate and the putting in place of appropriate care pathways. The women concerned have had to fight for every single element of treatment for their children. They have had to fight and scrap hard and want to hear that the Tánaiste, the Government and the Dáil are on their side. They want to know that the Government is on their side and will not treat them in the same way it treated other women who fought for themselves and their families. There is a black mark on the history of the State in that regard, as the Tánaiste has acknowledged. We have an opportunity to do this the right way and I urge the Government to take it.

The Tánaiste: As the Deputy said, the European Medicines Agency has started a review of the approach to use of this drug. Very strict warnings are in place in prescribing it for women and girls. It is a drug that is prescribed across Europe. A review is under way and it is expected that a decision will be made by the end of the year by the European Medicines Agency on whether there should be further warnings about the drug being given to women who are pregnant or girls. This is a European as well as an Irish issue. I have no doubt that the Minister for Health will take the results of the review fully into account when making a decision on the management of this issue, as will the HPRA.

Deputy Brendan Howlin: I refer to the finding of the Workplace Relations Commission, WRC, that one of the Government's Ministers of State, Deputy John Halligan, discriminated against a serving civil servant during the course of an interview. A number of issues arise. First, on the payment of the fine imposed, I am concerned that a double standard is being applied. The Tánaiste will recall that when the Government finally confirmed that an unlawful overpayment had been made to a Minister of State, through no fault of the Minister of State concerned,

it was determined that the sum should be repaid. I understand arrangements for the Minister of State to repay the money are in place, but we have not heard a word from the Tánaiste or the Government about this fine, despite the fact that it had been imposed as a result of the Minister of State's own personal breach of employment equality legislation. In that context, I ask the Tánaiste to clarify whether the Minister of State will be required to recoup to the Department the full amount of the fine.

The next issue is apologising to the victim of the discrimination. During the course of the aforementioned interview the Minister of State began by saying, "I know I shouldn't be asking this;" therefore, we can see clearly that he had full knowledge that on what he was embarking was wrong. Without playing word games, will the Tánaiste take the opportunity to apologise and make it clear that this approach which we thought had disappeared from interviews 20 years ago or more is not tolerated as part of normal procedures?

Will there be other consequences for Deputy John Halligan, given that he is a Minister of State in the Department responsible for equality law and has broken that law?

The Tánaiste: I was disturbed by and disappointed to read the decision of the Workplace Relations Commission. I read it again this morning. It is absolutely clear that the Minister of State's questions during the interview were discriminatory and unacceptable. The Minister of State, Deputy Halligan, has expressed regret for what happened. The incident should never have happened and he has accepted that. Deputies will be aware of the importance I place on gender equality. Many of us in this House, including Deputy Howlin, worked for a long time to make sure that having a family should never be interfered with, whether one was promoted or got a job. We worked hard to ensure there would be strong anti-discrimination and equality legislation in place. Indeed, Ireland's body of employment law protects all persons employed in Ireland. Clearly, we never want to see sexual orientation, religious belief, age, disability, race or membership of the Traveller community placing a barrier when one is looking for a job. That is the first point, on which I think we are all extremely clear.

The Minister of State, Deputy Halligan, has issued a statement and has expressed regret. In regard to the Deputy's point about an apology, of course, the person is owed an apology and I would unequivocally give that on behalf of the Department. We certainly regret what happened and accept the decision of the Workplace Relations Commission which was issued yesterday. In regard to the fine, the obligation falls on the Department to pay that fine, and that is the situation, whatever approach the Minister of State, Deputy Halligan, takes. I am sure, no doubt, that when he returns on Sunday - he is abroad at present - he will give a more detailed statement-----

Deputy Billy Kelleher: Is there a war in Thailand as well?

The Tánaiste: He will give a more detailed statement in regard to some of the issues the Deputy has raised and in regard to some of the discrepancies the Deputy mentioned. As I said, the Deputy has raised a number of issues in regard to this. The Minister of State has expressed his regret and I certainly accept that he has done that.

Deputy Brendan Howlin: I thank the Tánaiste for the clarity of her response. The battle for equality in terms of employment for women has been a very long battle and it is not over. On the notion that Ministers would revert to practices that we really thought were gone, I do not think anyone in any interview situation would begin to believe one could ask those sorts of questions now. This level of clarity might be something positive to emerge from this debacle,

and I thank the Tánaiste for that. There should be no ambivalence in regard to the type of questions that are appropriate because other employers will look at and take signals from this. I welcome what the Tánaiste has said. I ask her to go further and be crystal clear that the whole process of ensuring complete equality in terms of employment and interview processes will be maintained, not only in the public service but across the entire employment sphere.

The Tánaiste: My Department this morning issued an email to all Department staff to remind them again of the policies and procedures that are in place. It is important to note they are in place across the Civil Service, in particular the dignity at work policy and grievance procedure. The dignity at work policy defines what is meant by bullying, harassment and sexual harassment. Indeed, we have been hearing an awful lot about this in our media recently. There is a mechanism for reporting and for investigating bullying or harassment complaints. Similarly, the grievance procedure is in place to ensure that managers and staff encourage and maintain good employee relations. I agree that a lot of work was done over 20 years ago to make sure this was understood but I would make the point that, as we see from all the recent revelations, this issue in regard to women's equality is ongoing and needs constant vigilance and monitoring.

Deputy Richard Boyd Barrett: The Paradise Papers, so-called, or what I think should more accurately be described as the parasite papers, reveal a nexus of elite, super-wealthy individuals, banks and corporations, such as Apple, stashing away countless billions of euro in offshore bank accounts, in places like Jersey in the Channel Islands, in order to hide those billions from the taxman here in this country, and robbing the people of this country of valuable revenues that we need to deal with the housing emergency, the shambles in our public health service, the gross inequalities in income, the poverty and the massive deficits in our infrastructure - all the many urgent and desperate needs. Billions upon billions being stashed away has been revealed in these papers.

I want to ask why it is that the Taoiseach, Deputy Leo Varadkar, when he was Minister for Social Protection, using public money, ran a nasty, unfounded campaign about welfare cheats. Where is the campaign about the super-wealthy corporate tax dodgers who are genuinely robbing us all of the hundreds of millions and billions we need for housing, health and other urgent social problems? Where is the campaign? Where is the outrage? Where is the opprobrium? Does the Tánaiste not agree that the Government and Deputy Michael Noonan have very serious questions to answer about tax changes that were made in 2014 and revealed in the Paradise Papers, that coincided with Apple restructuring its tax arrangements when the double Irish tax scam that cost us €13 billion in tax revenue was rumbled because of international and public outrage? Coincidentally, Deputy Michael Noonan changes the tax regime to benefit Apple and other corporations at the same time that they relocate some of their subsidiary companies to the Channel Islands and, as a result, we lose up to €800 million in tax revenue from Apple alone, never mind the other companies that almost certainly took advantage of this change.

Deputy Pat Deering: He is making it up as he goes along.

Deputy Bernard J. Durkan: It is not true.

Deputy Richard Boyd Barrett: It is absolutely true.

An Ceann Comhairle: Deputy Boyd Barrett, without interruption.

Deputy Richard Boyd Barrett: Is it a coincidence that Deputy Enda Kenny met the CEO

of Apple in January of 2014 at the same time that outrage was being expressed and pressure was coming on the issue of the double Irish? Then, lo and behold, in the budget of October a new loophole was opened up in the tax code to benefit Apple and other corporations like it.

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

Deputy Richard Boyd Barrett: It is too much of a coincidence. Where is the investigation? Where is the outrage? Where is the campaign against these super-wealthy tax dodgers who are robbing the people of this country and the world of these tax revenues?

Deputy Bríd Smith: Well said.

The Tánaiste: The ICIJ leaks make a number of points about changes in the Irish tax system. It rightly points out that Ireland has already acted to address definitively the issues around stateless and double Irish companies. In the Finance Bill this week - the finance committee is meeting as we speak - the Minister for Finance will be discussing the changes he has already brought forward to our regime for capital allowances. Ireland has played a full part in implementing international tax reforms and we are currently holding a consultation process about how we implement the remaining reforms. Issues of concern will be investigated, as appropriate. The issue of aggressive tax planning by multinational companies is a global problem, as the Minister for Finance has said again and again, and it does require a global solution.

Deputy Peadar Tóibín: They are facilitating it.

The Tánaiste: Ireland continues to take a very active part in that global work to reform the international corporate tax system. The publication, for example, of the OECD base erosion and profit shifting, BEPS, report in October 2015 was a significant milestone in this work. From the beginning a key aim of the BEPS project has been to better align the right to tax with real economic substance. That is important in regard to the many international companies we have here, which have real substance in terms of their commitment to this country, the number of their employees and the contribution they make to the Irish economy. This is real; this has substance. We want to make sure the key outcomes of the BEPS project align with our tax strategy. We have fully committed to that process, which is very important, and we are playing our full part in its implementation. The Minister for Finance and the Taoiseach have made that very clear again and again.

Deputy Peadar Tóibín: They have trashed our reputation.

The Tánaiste: Ireland has already begun that process by introducing country-by-country reporting and the OECD-compliant knowledge development box. Ireland is playing a strong role in ensuring that this issue is dealt with at an international level.

Deputy Richard Boyd Barrett: Not a word from the Taoiseach when he met Mr. Tim Cook recently in the United States about the aggressive tax avoidance of Apple.

Deputy Bernard J. Durkan: Deputy Boyd Barrett was not in the country.

Deputy Richard Boyd Barrett: We are probably going to be investigated by the EU for a second time. This will be on top of the investigation into the €13 billion tax dodged by Apple in the double Irish scam. Commissioner Vestager is discussing investigating-----

Deputy Bernard J. Durkan: Same old rubbish.

Deputy Richard Boyd Barrett: -----what happened, what Deputy Noonan did in 2014 to change the tax code and the restructuring of Apple's tax arrangements as regards the Isle of Man. The Government will not even take the €13 billion from Apple and put it into an escrow account as it has been ordered to do by the EU. The EU is taking infringement proceedings over our failure to ratify the anti-money laundering directive, which we were supposed to have ratified in June and which relates to tax evasion and-----

Deputy Bernard J. Durkan: Look at the developments.

Deputy Richard Boyd Barrett: -----the beneficial ownership of deposits. The figures are stunning. After this tax break was introduced by Deputy Noonan, benefitting Apple and other corporations, tax breaks on intangible assets increased from €2.6 billion to €28 billion in one year.

An Ceann Comhairle: I thank the Deputy, but time is up.

Deputy Richard Boyd Barrett: That is hundreds of millions, if not billions, of euro in tax revenue lost as a direct result of what Deputy Noonan did in 2014.

Deputy Bernard J. Durkan: Same old rubbish.

Deputy Richard Boyd Barrett: Where is the outrage? Where is the investigation? Where is the campaign on buses-----

An Ceann Comhairle: The Deputy's time is up. Will he conclude, please?

Deputy Richard Boyd Barrett: -----paid for with public money asking people whether they want to deal with these tax dodgers who are cheating us all?

Deputy Bernard J. Durkan: Deputy Boyd Barrett would set us back-----

Deputy Peadar Tóibín: Durkan's tax haven.

An Ceann Comhairle: Can Deputy Durkan contain himself, please?

Deputy Bernard J. Durkan: I am sorry. It is difficult sometimes.

Deputy Billy Kelleher: There are actors on both sides of the House.

The Tánaiste: Ireland is taking strong action at international level-----

Deputy Peadar Tóibín: It is a tax haven.

The Tánaiste: -----as I have made clear. Indeed, we are one of the leaders internationally. It needs to be addressed internationally.

Regarding Deputy Boyd Barrett's point on the escrow account, the Minister has made it clear that the Department of Finance is working on this matter. It is one of the most complex international transactions that the Department has ever had to deal with, but the Department is working to ensure that the money is put into the account.

Deputy Richard Boyd Barrett: As long as Apple agrees.

The Tánaiste: At international level, the focus is on examining whether new rules are need-

ed to reflect the increasing digitalisation of global business. This issue needs to be examined internationally. The agreement on the anti-tax avoidance directive by all EU member states was another significant step towards the implementation of the BEPS reports to which I referred. Ireland will implement the directive in line with the deadlines agreed therein.

Questions on Promised Legislation

An Ceann Comhairle: Eighteen Deputies have already indicated. I will start with Deputy Kelleher.

Deputy Billy Kelleher: The Minister for Culture, Heritage and the Gaeltacht has announced a number of measures to tackle sexual harassment and abuse of power in the workplace in the arts and cultural sector because of recent pronouncements. The organisations only recently co-signed a statement condemning sexual harassment and abuses of power in theatres. To say the least, it is bizarre that it took so long for them to come to heel in that respect.

Regarding the boards of the national cultural institutions, agencies will now only be asked to attend governance workshops. Given the broader remit of the Government in funding State agencies, will the Government conduct a trawl of those that are directly or indirectly funding other entities to ensure that they have proper governance structures and anti-bullying and anti-sexual harassment protocols in place?

An Ceann Comhairle: I thank the Deputy, but we only have one minute for questions and answers.

The Tánaiste: I welcome the fact that a statement has been signed by the cultural institutions. They are already bound by strong governance protocols. The key point is to ensure that those are implemented. As I told Deputy Howlin, ongoing monitoring and reporting mechanisms are necessary. We have strong rules on board membership and the role of directors and the new Charities Regulator will ensure that there is proper governance in the NGO sector. Governance issues have emerged in the charity sector and State agencies in recent times. The rules are there, but their implementation and monitoring require focus.

Deputy Louise O'Reilly: Section 5 of A Programme for a Partnership Government reads: "Resources will be set aside each year to reduce waiting lists with the funding targeted, in particular, at those most urgent cases and those whose who have been waiting longest." The latest National Treatment Purchase Fund, NTPF, figures show that overall national waiting list numbers are increasing. Some doctors predict that the figure could exceed 100,000 by the end of the year. Will the Government implement a single integrated waiting list management system nationally? The Minister, Deputy Harris, will be aware that this has been done in the RCSI hospital group on a pilot basis and has worked fairly well. Hospitals in the group have started sharing resources and lists.

Sinn Féin has a plan for a single integrated waiting list management system called "Comhliosta". I have offered the Minister the name. In any event, will consideration be given to replicating nationally what has been shown to work locally?

The Tánaiste: I will ask the Minister to answer.

Minister for Health (Deputy Simon Harris): Waiting lists are not increasing nationally;

they have fallen for the third month in a row. Of course, patients on a pre-planned list, which is where a doctor wants to see the patient in another six months and the date for that appointment is set, are not counted as waiting. When the patient visits the doctor, is told that he or she is clinically not well enough for a procedure and is sent home, the patient is on the suspended list and is not waiting. Let us compare apples and apples and not confuse people on purpose. Waiting list numbers have reduced for three months in a row, but we have much more to do.

I agree with the Deputy on the issue of an integrated system. I have outlined to her how we have asked Trinity College Dublin to undertake a body of work, which will conclude in the first quarter of 2018, examining how other countries manage waiting lists. No other country counts them as we do. We are also asking eHealth Ireland to consider the Deputy's suggestion, which has merit. We might even call it "Comhliosta".

Deputy Louise O'Reilly: Do.

Deputy Brendan Howlin: The Tánaiste knows well that the cost of motor insurance remains a critical issue for many people across the country, particularly in communities with inadequate or, oftentimes, no public transport. She knows that, in January, the report of the cost of insurance working group made a number of recommendations and she announced the Personal Injuries Assessment Board amendment Bill in June. A number of specific measures to be addressed in that Bill would make insurance more affordable. When will the Bill advance so that we can have the recommendations of the working group impact on people who cannot afford to pay for car insurance?

The Tánaiste: This is priority legislation. My understanding is that there was some discussion at the committee yesterday as to whether it required pre-legislative scrutiny. I will communicate directly with the Deputy on that matter, but I am keen to have the Bill before the House as soon as possible. Progress has been made.

Deputy Brendan Howlin: Very good.

Deputy Bríd Smith: Before the summer break, the Minister for Communications, Climate Action and Environment, Deputy Naughten, published the national mitigation plan on climate action. He is present today. I have read the plan. It is a voluminous publication and a complete work of fiction. It lets down the country in terms of dealing with climate change.

This weekend, our delegation will attend the COP23 in Bonn and examine our contribution towards mitigating climate change and our adherence to the Paris Agreement targets. Disgracefully, we are miles behind what we should be achieving. Hand on heart, I will be mortified to go to Bonn as part of the Irish delegation. We have much to answer for.

Not once has there been a Dáil discussion on the important issue of the national mitigation plan, yet it affects everything we do. Even in the current rail strike, the question of climate change features centrally.

An Ceann Comhairle: Time is up, Deputy, please.

Deputy Bríd Smith: If we funded public transport properly, we would be reducing our CO2 emissions. I will raise this matter with the Business Committee, but can we please take climate change seriously and have a proper discussion on the work of fiction called the "National Mitigation Plan"?

Minister for Communications, Climate Action and Environment (Deputy Denis Naughten): I am surprised by the Deputy's comments because criticisms of the mitigation plan have been that it clearly sets out the current position. I am disappointed by her comments on COP23. The reason I actively encouraged Members of the Oireachtas to attend was that many good innovative ideas were being discussed and parliamentarians from across the globe who could assist us in meeting our global targets would attend. We could learn from this. The annual transition statement will be released later this month or early next month. I am available at any time, within travel constraints, to come to the House to discuss the mitigation plan or climate change in general.

Deputy Mattie McGrath: Hurricane Ophelia occurred a number of weeks ago and a lot of damage was done to nurseries in south Tipperary and east Cork.

An Ceann Comhairle: On promised legislation, please.

Deputy Mattie McGrath: Of course, it is. Apples are exported all over the world. The nurseries affected have contracts to fill. The Minister of State, Deputy Andrew Doyle, indicated that he would visit the ones affected but then refused to do so. I have also raised the matter with the Minister for Agriculture, Food and the Marine, Deputy Michael Creed, but nothing has been done for the nurseries affected.

An Ceann Comhairle: I think it is the subject of a Topical Issue.

Deputy Mattie McGrath: I will submit one also. The nurseries affected employ significant numbers of people. This has been the second knock for them within a couple of years. They need some support and empathy, at least, if nothing else.

The Tánaiste: I will bring the concerns raised by the Deputy to the attention of the Minister and the Minister of State and ask them to respond to him directly. Hurricane Ophelia had various impacts. It is important to recognise the point made by the Deputy about the damage done and determine whether anything can be done to address it.

Deputy Róisín Shortall: On promised legislation, the Tánaiste recently announced a package of measures to tackle white collar crime, but we first need to find out why the Office of the Director of Corporate Enforcement's handling of the Fitzpatrick trial was so shambolic. The Tánaiste has had a report on the matter for the past four and half months and received advice from the Attorney General. Why is she continuing to sit on the report? Can she give us a date for when she intends to make it publicly available?

Deputy Mary Butler: Earlier this year a former Anglo Irish Bank chairman, Mr. Seán Fitzpatrick, was acquitted of all charges in a court case. The judge acquitted him because of the biased investigation conducted by the ODCE into the shredding of documents and the coaching of witnesses.

Deputy Bríd Smith: The Deputy is naming names.

Deputy Mary Butler: As Chairman of the Joint Committee on Jobs, Enterprise and Innovation, when can we expect the report to be brought before the committee? This issue has been ongoing for five months and we would like the report to be sent to the committee as soon as possible.

The Tánaiste: I am having discussions with the Attorney General on the report which raises

complex legal issues. Therefore, I am not in a position to confirm when and if I will be in a position to publish it.

Deputy Róisín Shortall: On a point of order, yesterday the Tánaiste stated in reply to a parliamentary question that she had received legal advice. She is now discussing the matter with her officials. Will she tell us when she will publish the report?

The Tánaiste: I am not in a position to say when I will publish it. I have received some legal advice from the Attorney General and will have further conversations with the Attorney General and my officials.

Deputy Róisín Shortall: That is not good enough.

An Ceann Comhairle: There is no provision for a debate on these matters.

Deputy Pat Deering: On promised legislation, I refer to the Greyhound Industry (Amendment) Bill. The greyhound industry has been through a difficult spell in recent times. It employs over 10,000 people. As such, it is a very important industry for Ireland and we are aware of its future importance. Pre-legislative scrutiny of the Bill took place last May and June and it was intended to introduce it before the summer recess. That did not happen and the Bill is not listed on the Order Paper. Will the Tánaiste indicate when it may be introduced?

The Tánaiste: I understand it will be published next Tuesday.

Deputy Bernard J. Durkan: The Communications Regulation (Amendment) Bill has been promised. In that context, given the implications for the national broadband plan, when is the Bill likely to be brought before the House? Will it happen at an early date?

Deputy Denis Naughten: To what did the Deputy refer?

Deputy Bernard J. Durkan: I referred to the Communications Regulation (Amendment) Bill. It will confer additional powers on the Commission for Communications Regulation in connection with the national broadband plan.

Deputy Denis Naughten: The process is ongoing. The Bill concerns the accessibility of infrastructure and is part of the overall procurement process. It is being fast-tracked within the Department. I understand it is with the Parliamentary Counsel.

Deputy Brian Stanley: I refer to a commitment on page 48 of the programme for Government, namely, that the new Government will act swiftly on the recommendations of the post office business group. It goes on to outline the steps involved, including those involving credit unions, the Sparkasse model of banking in Germany, motor tax and establishing hubs. The idea is to bring business to the post office network. There are mail centres in Portlaoise, Athlone, Cork and Dublin, staff in at least two of which are questioning their future. In excess of 200 workers are employed in the mail centre in Portlaoise.

An Ceann Comhairle: It is not promised legislation.

Deputy Brian Stanley: We have had the Kerr and McKinsey reports and there is a commitment on page 48 of the programme for Government, but we need to see action which I acknowledge should have been taken by previous Governments. This is something we should have done ten or 15 years ago. We cannot keep dragging our heels. We must move to secure

the future of the service.

Deputy Denis Naughten: We are not dragging our heels. As the Deputy knows, within months of being appointed as Minister, I brought a Bill through the House, facilitated by Members of the Oireachtas, to ensure we could retain the five-day a week universal postal service across the country. The Sparkasse model and the financial services aspect are being dealt with by the Minister, Deputy Michael Ring.

On the other issues raised by the Deputy, I expect to bring a memorandum to the Government within the next few weeks. The Government has already had a discussion on motor tax.

Deputy Michael Collins: It was agreed in the programme for Government that there would be rural-proofing of all Government policies. Where is the rural-proofing of the Public Health (Alcohol) Bill and the Road Traffic Bill? If they are passed, they will lead to the closure of many rural supermarkets and public houses and a loss of jobs in rural Ireland.

Deputy Simon Harris: That is not the case in respect of the Public Health (Alcohol) Bill. I am delighted that this landmark Bill passed Committee Stage in the Seanad yesterday, having been delayed for many years. Many of the arguments being made are similar to those made when the smoking ban was introduced. In fairness, Deputy Micheál Martin had the courage to stand up to the accusation that the ban would close down rural Ireland. It certainly did not. I have given a commitment to engage with retailers to make sure the legislation will not be an unnecessary burden on small shops. Before I reintroduce Report Stage, I will, having engaged with my party, meet retailers to hear their concerns and make sure they are addressed.

Deputy Michael Collins: What about rural-proofing?

Deputy Simon Harris: The Deputy specifically referenced the Public Health (Alcohol) Bill. I assure him that it is being rural-proofed by engaging with retailers.

Deputy Jan O'Sullivan: I referred to the Qualifications and Quality Assurance (Amendment) Bill. The Tánaiste will remember that when she was Minister for Justice and Equality, I was Minister for Education and Skills. We did a lot of work together on bogus English language schools, the importance of rooting out the bogus schools and dealing with the exploitation of young people who had come from other countries to learn English in Ireland. The Minister for Education and Skills might want to address this issue. The joint committee has decided not to carry out pre-legislative scrutiny of the Bill. When will it be brought before the House?

Minister for Education and Skills (Deputy Richard Bruton): The heads of the Bill were approved earlier this year and published on 15 May. There was a meeting of the joint committee on 17 July when it was determined that the Bill did not require pre-legislative scrutiny. It has been referred for drafting.

An Ceann Comhairle: That concludes questions on promised legislation. Our apologies to the six Members who were not reached.

Assisted Decision-Making (Capacity) (Amendment) Bill 2017: First Stage

Deputy Pat Buckley: I move:

That leave be granted to introduce a Bill entitled an Act to amend the Assisted Decision-Making (Capacity) Act 2015 relating to treatment of patients under the Mental Health Act 2001 and the Criminal Law (Insanity) Act 2006; to improve the provision of mental health services; to promote the rights of persons subject to the Mental Health Act 2001 and the Criminal Law (Insanity) Act 2006; and to provide for related matters.

The Assisted Decision-Making (Capacity) Act 2015 established a number of new legal provisions to address issues of consent and capacity in the provision of health care treatments for patients. One such provision was a statutory right to develop and have respected, as practicable, advance health care directives. Advance health care directives are documents in which a person specifies what action should be taken if in the future he or she is no longer able to make decisions for himself or herself because of illness or incapacity. A well known example of such a directive is what is called a DNR - do not resuscitate.

Should a patient ordinarily require cardiopulmonary resuscitation, CPR, or ventilation, this treatment will not be administered. These directives can be particularly important in mental health care, where empowering people to involve themselves in their care and recovery has been demonstrated to help improve outcomes. The Assisted Decision-Making (Capacity) Act 2015, while providing for directives, excludes people being treated as involuntary patients in mental health services. An involuntary patient does not, by definition, lack the capacity to make any decisions about care. This is very clear in legislation, despite the exclusion of such patients from having the right to advance health care directives.

This amending Bill would remove that block on involuntary patients with capacity forming advance health care directives. It was developed by Mental Health Reform and in conjunction with Sinn Féin. The amending Bill explicitly refers to the inclusion of involuntary patients in the definitions section. It also removes the section that blocks involuntary patients from this right. An advance health care directive is a legal document in which a person specifies what action should be taken for health purposes if the person is no longer able to make decisions because of illness or incapacity. These are provided under the Assisted Decision-Making (Capacity) Act, which has yet to be commenced, but only for voluntary patients. As involuntary patients do not necessarily lack capacity and advance health care directives are often drafted by patients who have capacity, this is a very unfair separation.

An Ceann Comhairle: Is the Bill opposed?

Tánaiste and Minister for Jobs, Enterprise and Innovation(Deputy Frances Fitzgerald): No.

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

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

Question put and agreed to.

Multi-Party Actions Bill 2017: First Stage

Deputy Donnchadh Ó Laoghaire: I move:

That leave be granted to introduce a Bill entitled an Act to provide for certain procedural and other changes in civil actions so as to provide for the bringing of Multi-Party Actions; to reduce the cost of litigation; and to provide for related matters.

Tá mé an-sásta a thairiscint inniu go dtabharfar cead chun an Bhille um Chaingne Ilpháirtí a thabhairt isteach. Reachtaíocht fíorthábhachtach a bheadh ann agus bheadh an-tionchar aige ar go leor cásanna ina bhfuil éagóir ar ghrúpa nó catagóir mhór daoine.

I am pleased to move the Multi-Party Actions Bill 2017, which is co-sponsored by Deputy Pearse Doherty. We intend to move to Second Stage during our Private Members' time next week. The legislation that will be discussed is a potential game changer in how the courts deal with cases where large categories of people are affected by a particular injustice and inequity and share a common issue of fact or law. There are numerous examples of people, including victims of the tracker mortgage scandal, defective medical products or fraud on an institutional basis, who could potentially benefit from these processes.

Currently, the only real option for such persons is for a test case to proceed and related cases to follow on the basis of precedent. Our model has significant advantages over that, with the primary benefit being it would reduce the cost of litigation, duplication and cost of representation. It would make better use of court resources and, crucially, improve access to justice. Our proposal is heavily grounded in the recommendations of the Law Reform Commission paper on multi-party litigation from 2005, which, unfortunately, has sat on the shelf since. There are many people who are the victims of injustice and who would have an actionable case, for example, in a tort or breach of contract, but the cost of taking this on makes it effectively impossible. This Bill brings access to justice within the grasp of such people.

The most current example is the tracker mortgage issue and the duplicitous, dishonest and scandalous manner in which the banks have treated the victims. The Government has essentially facilitated them in doing this. The banks have essentially taken advantage of the fact that those affected are often not in a position to take action individually because of the financial cost involved. This Bill will allow for people to proceed on the basis of strength in numbers and it will embolden many to become part of an action where previously the fear of costs may have intimidated them. This has the potential to revolutionise how cases like this are heard. We are far behind comparable jurisdictions in not having an avenue to justice like this. It could have a similar effect as processes like class action in the United States or the group legal order in the UK. We want to give those who are affected by this and other injustices the tools to take on the banks or any other institution, body or individual. We hope all parties will support this legislation and allow it pass through these Houses without delay.

I will briefly go through the sections. Section 1 is the interpretation element and section 2 provides for certification. This would be a judicially controlled process where an applicant would consult the courts service as to whether a previously certified multi-party action is relevant. When certifying, the nominated judge must consider whether it is likely there will be multiple cases giving rise to multi-party action issues and if it offers an appropriate, fair and efficient procedure for the resolution of multi-party action issues. Where certified, the nominated judge would make a multi-party action order. Section 3 governs that order and section 4

governs the process for joining the multi-party action register, which will contain the names and details of all parties taking the multi-party action.

Section 5 relates to the directions the judge may give as to the resolution of the order, including the details required in the documentation, the cause of action and any further such directions. This section offers a crucial degree of flexibility in terms of division of the various elements of the case. Section 6 relates to the lead solicitor, who would lead the multi-party action. Section 7 relates to the lead cases or case, to be agreed by case conference as to whether it adequately and fairly represents the interests of all those on the register. Section 8 relates to the effect of a multi-party order and the circumstances in which it is binding. Section 9 provides for the costs where costs shall be divided equally, unless the judge orders otherwise, and members of the order shall be jointly and severally liable. Section 10 provides that nothing in the Act shall be construed as limiting or reducing the power of any authority to make rules regarding the practice and procedures of court, provided they are consistent with the provisions of the Bill. Section 11 is the Short Title and commencement.

I encourage all parties to support this legislation and the principles therein have been supported publicly, at least in commentary, by several parties, including the Labour Party and Fianna Fáil. I hope they will support this legislation and I hope the Government will consider it as well. There is no legislation like this in the Government's legislative programme and it could make a significant difference to many people affected by a wide range of injustices and inequity. It would make a considerable difference to the manner in which our courts function.

An Ceann Comhairle: Is the Bill opposed?

Tánaiste and Minister for Jobs, Enterprise and Innovation(Deputy Frances Fitzgerald): No.

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

Deputy Donnchadh Ó Laoghaire: I move: "That the Bill be taken in Private Members' time."

Question put and agreed to.

Private Rental Sector Standards: Motion (Resumed) [Private Members]

The following motion was moved by Deputy Eoin Ó Broin on Tuesday, 7 November 2017:

That Dáil Éireann:

notes, with alarm, the revelations regarding breaches of minimum standards in the private rental sector contained in last weeks RTÉ Investigates documentary 'Nightmare to Let';

further notes that:

— in 2016 only four per cent of private rental properties were inspected by local authorities;

— in 2016 two thirds of inspected properties were not compliant with minimum standards regulations;

— local authorities have failed to adequately enforce standards in the private rental sector;

— central government has failed to adequately resource local authorities to carry out their enforcement functions with respect to the private rental sector; and

— significant numbers of tenants continue to live in unacceptable and substandard private rented accommodation; and

calls for:

— the Minister for Housing, Planning and Local Government to set out, as a matter of urgency, a plan for ensuring compliance with minimum standards regulations in the private rental sector;

— the Government to adequately resource local authorities, to ensure that a comprehensive inspection and enforcement regime is put in place;

— the Government to support the proposal by Threshold for an NCT-type certification system for private rented housing to further strengthen compliance with legal standards;

— the Government to review the penalties faced by landlords, to ensure adequate sanctions for those that fail to register tenancies or who fail to meet minimum standards; and

— the Government to publish an annual report detailing levels of private rental sector inspections and enforcement in each local authority.

Debate resumed on amendment No. 2:

To delete all words after “further notes that” and substitute the following:

“— successive governments have put in place a system of regulation for the private rental sector dependent on vulnerable tenants complaining about breaches of regulations to councils or the Residential Tenancies Board (RTB) rather than preventative State enforcement;

— in 2016 only four per cent of private rental properties were inspected by local authorities;

— in 2016 two thirds of inspected properties were not compliant with minimum standards regulations;

— local authorities have failed to adequately enforce standards in the private rental sector;

— central government has failed to adequately resource local authorities to carry out their enforcement functions with respect to the private rental sector;

— significant numbers of tenants continue to live in unacceptable and substan-

standard private rented accommodation whereby people's lives are being endangered by the drive for profit of unscrupulous landlords; and

— the inadequate legislation in relation to overcrowding, which is not covered under current minimum standards regulations for the private rental sector, and the lack of regulation of student accommodation; and

calls for:

— the Minister for Housing, Planning and Local Government to set out, as a matter of urgency, a plan for ensuring compliance with and improving minimum standards regulations in the private rental sector;

— the Government to review the penalties faced by landlords, to ensure adequate sanctions, including seizing assets of non-compliant landlords, prison sentences and large fines to allow increased compensation for tenants, for those that fail to register tenancies or who fail to meet minimum standards;

— the Government to support the proposal for an NCT-type certification system for private rented housing to further strengthen compliance with legal standards, and as part of this to adequately resource local authorities to ensure that a comprehensive inspection and enforcement regime is put in place, including by hiring 500-750 new local authority inspectors to establish and oversee the new certification system and to ensure that one third to a half of all rental properties are inspected annually from next year;

— the Government to guarantee that undocumented migrants be permitted to make complaints about accommodation standards without fear of deportation or other legal consequences;

— the Government to publish an annual report detailing levels of private rental sector inspections and enforcement in each local authority;

— the Government to democratise the RTB to ensure tenant representation and significantly increase resources to the agency to enable it to properly police registration and compliance with private rental sector regulations, including rent caps under the Rent Pressure Zones, and the introduction of a deposit protection scheme;

— the Government to reverse the burden of proof from tenants to landlords in relation to breaches of rent caps under the Rent Pressure Zones, by mandating that landlords receive a certificate of compliance from the RTB before setting rents on a property;

— the Government to close loopholes in the Residential Tenancies Act 2004 that allow landlords to circumvent Rent Pressure Zone regulations under the guise of property refurbishment and to apply the rent caps to new properties;

— the Government to introduce new legislation on overcrowding, particularly in relation to pre-1963 properties;

— the Government to review legislation on multi-occupancy units and on student accommodation, which currently falls outside of the Residential Tenancies Act 2004,

to improve protections for students; and

— the Government to reverse its failed policy of outsourcing ‘social housing’ to the private rental sector through the Housing Assistance Payment and to build or acquire at least 40,000 new public social and affordable homes next year instead.”

- (Deputy Mick Barry)

An Ceann Comhairle: I must now deal with a postponed division relating to the motion on private rental sector standards. On Tuesday, 7 November 2017, on the question that amendment No. 2 to the motion be agreed to, a division was claimed and in accordance with Standing Order 70(2), that division must be taken now.

Amendment put:

<i>The Dáil divided: Tá, 15; Níl, 116; Staon, 1.</i>		
<i>Tá</i>	<i>Níl</i>	<i>Stاون</i>
<i>Barry, Mick.</i>	<i>Aylward, Bobby.</i>	<i>McGrath, Mattie.</i>
<i>Boyd Barrett, Richard.</i>	<i>Bailey, Maria.</i>	
<i>Broughan, Thomas P.</i>	<i>Barrett, Seán.</i>	
<i>Collins, Joan.</i>	<i>Brady, John.</i>	
<i>Connolly, Catherine.</i>	<i>Brassil, John.</i>	
<i>Coppinger, Ruth.</i>	<i>Breathnach, Declan.</i>	
<i>Daly, Clare.</i>	<i>Brophy, Colm.</i>	
<i>Healy, Seamus.</i>	<i>Browne, James.</i>	
<i>Kenny, Gino.</i>	<i>Bruton, Richard.</i>	
<i>Martin, Catherine.</i>	<i>Buckley, Pat.</i>	
<i>Murphy, Catherine.</i>	<i>Burke, Peter.</i>	
<i>Murphy, Paul.</i>	<i>Burton, Joan.</i>	
<i>Ryan, Eamon.</i>	<i>Butler, Mary.</i>	
<i>Shortall, Róisín.</i>	<i>Byrne, Thomas.</i>	
<i>Smith, Bríd.</i>	<i>Cahill, Jackie.</i>	
	<i>Calleary, Dara.</i>	
	<i>Canney, Seán.</i>	
	<i>Cannon, Ciarán.</i>	
	<i>Carey, Joe.</i>	
	<i>Casey, Pat.</i>	
	<i>Cassells, Shane.</i>	
	<i>Chambers, Jack.</i>	
	<i>Chambers, Lisa.</i>	
	<i>Collins, Michael.</i>	
	<i>Coveney, Simon.</i>	
	<i>Cowen, Barry.</i>	
	<i>Creed, Michael.</i>	
	<i>Crowe, Seán.</i>	

9 November 2017

	<i>Cullinane, David.</i>	
	<i>Curran, John.</i>	
	<i>D'Arcy, Michael.</i>	
	<i>Daly, Jim.</i>	
	<i>Deering, Pat.</i>	
	<i>Doherty, Pearse.</i>	
	<i>Doherty, Regina.</i>	
	<i>Donnelly, Stephen S.</i>	
	<i>Donohoe, Paschal.</i>	
	<i>Dooley, Timmy.</i>	
	<i>Doyle, Andrew.</i>	
	<i>Durkan, Bernard J.</i>	
	<i>Ellis, Dessie.</i>	
	<i>English, Damien.</i>	
	<i>Farrell, Alan.</i>	
	<i>Ferris, Martin.</i>	
	<i>Fitzgerald, Frances.</i>	
	<i>Fitzmaurice, Michael.</i>	
	<i>Fitzpatrick, Peter.</i>	
	<i>Flanagan, Charles.</i>	
	<i>Fleming, Sean.</i>	
	<i>Funchion, Kathleen.</i>	
	<i>Gallagher, Pat The Cope.</i>	
	<i>Griffin, Brendan.</i>	
	<i>Harris, Simon.</i>	
	<i>Harty, Michael.</i>	
	<i>Haughey, Seán.</i>	
	<i>Heydon, Martin.</i>	
	<i>Howlin, Brendan.</i>	
	<i>Humphreys, Heather.</i>	
	<i>Kehoe, Paul.</i>	
	<i>Kelleher, Billy.</i>	
	<i>Kelly, Alan.</i>	
	<i>Kenny, Martin.</i>	
	<i>Kyne, Seán.</i>	
	<i>Lahart, John.</i>	
	<i>Lawless, James.</i>	
	<i>Lowry, Michael.</i>	
	<i>McConalogue, Charlie.</i>	
	<i>McEntee, Helen.</i>	
	<i>McGrath, Finian.</i>	
	<i>McGrath, Michael.</i>	
	<i>McGuinness, John.</i>	

Dáil Éireann

	<i>McLoughlin, Tony.</i>	
	<i>Madigan, Josepha.</i>	
	<i>Mitchell O'Connor, Mary.</i>	
	<i>Mitchell, Denise.</i>	
	<i>Moran, Kevin Boxer.</i>	
	<i>Moynihan, Aindrias.</i>	
	<i>Moynihan, Michael.</i>	
	<i>Munster, Imelda.</i>	
	<i>Murphy O'Mahony, Margaret.</i>	
	<i>Naughten, Denis.</i>	
	<i>Naughton, Hildegard.</i>	
	<i>Neville, Tom.</i>	
	<i>Nolan, Carol.</i>	
	<i>Noonan, Michael.</i>	
	<i>Ó Broin, Eoin.</i>	
	<i>Ó Caoláin, Caoimhghín.</i>	
	<i>Ó Cuív, Éamon.</i>	
	<i>Ó Laoghaire, Donnchadh.</i>	
	<i>Ó Snodaigh, Aengus.</i>	
	<i>O'Brien, Jonathan.</i>	
	<i>O'Callaghan, Jim.</i>	
	<i>O'Connell, Kate.</i>	
	<i>O'Dea, Willie.</i>	
	<i>O'Donovan, Patrick.</i>	
	<i>O'Dowd, Fergus.</i>	
	<i>O'Keeffe, Kevin.</i>	
	<i>O'Loughlin, Fiona.</i>	
	<i>O'Reilly, Louise.</i>	
	<i>O'Rourke, Frank.</i>	
	<i>O'Sullivan, Jan.</i>	
	<i>Penrose, Willie.</i>	
	<i>Phelan, John Paul.</i>	
	<i>Quinlivan, Maurice.</i>	
	<i>Rabbitte, Anne.</i>	
	<i>Ring, Michael.</i>	
	<i>Rock, Noel.</i>	
	<i>Ross, Shane.</i>	
	<i>Ryan, Brendan.</i>	
	<i>Sherlock, Sean.</i>	
	<i>Smyth, Niamh.</i>	
	<i>Stanley, Brian.</i>	
	<i>Stanton, David.</i>	

9 November 2017

	<i>Tóibín, Peadar.</i>	
	<i>Troy, Robert.</i>	
	<i>Zappone, Katherine.</i>	

Tellers: Tá, Deputies Ruth Coppinger and Gino Kenny; Níl, Deputies Eoin Ó Broin and Denise Mitchell.

Amendment declared lost.

Motion agreed to.

Equality (Miscellaneous Provisions) Bill 2017: Second Stage (Resumed) [Private Members]

An Ceann Comhairle: I must now deal with a postponed division relating to Second Stage of the Equality (Miscellaneous Provisions) Bill 2017 which was taken on Wednesday, 8 November. On the question, “That the Bill be now read a Second Time,” a division was claimed. In accordance with Standing Order 70(2), that division must be taken now.

Question put:

<i>The Dáil divided: Tá, 85; Níl, 48; Staon, 0.</i>		
<i>Tá</i>	<i>Níl</i>	<i>Staon</i>
<i>Aylward, Bobby.</i>	<i>Bailey, Maria.</i>	
<i>Barry, Mick.</i>	<i>Barrett, Seán.</i>	
<i>Boyd Barrett, Richard.</i>	<i>Brophy, Colm.</i>	
<i>Brady, John.</i>	<i>Bruton, Richard.</i>	
<i>Brassil, John.</i>	<i>Burke, Peter.</i>	
<i>Breathnach, Declan.</i>	<i>Canney, Seán.</i>	
<i>Broughan, Thomas P.</i>	<i>Cannon, Ciarán.</i>	
<i>Browne, James.</i>	<i>Carey, Joe.</i>	
<i>Buckley, Pat.</i>	<i>Coveney, Simon.</i>	
<i>Burton, Joan.</i>	<i>Creed, Michael.</i>	
<i>Butler, Mary.</i>	<i>D’Arcy, Michael.</i>	
<i>Byrne, Thomas.</i>	<i>Daly, Jim.</i>	
<i>Cahill, Jackie.</i>	<i>Deering, Pat.</i>	
<i>Calleary, Dara.</i>	<i>Doherty, Regina.</i>	
<i>Casey, Pat.</i>	<i>Donohoe, Paschal.</i>	
<i>Cassells, Shane.</i>	<i>Doyle, Andrew.</i>	
<i>Chambers, Jack.</i>	<i>Durkan, Bernard J.</i>	
<i>Chambers, Lisa.</i>	<i>English, Damien.</i>	
<i>Collins, Michael.</i>	<i>Farrell, Alan.</i>	
<i>Collins, Niall.</i>	<i>Fitzgerald, Frances.</i>	
<i>Connolly, Catherine.</i>	<i>Fitzpatrick, Peter.</i>	
<i>Coppinger, Ruth.</i>	<i>Flanagan, Charles.</i>	

Dáil Éireann

<i>Cowen, Barry.</i>	<i>Griffin, Brendan.</i>	
<i>Crowe, Seán.</i>	<i>Harris, Simon.</i>	
<i>Cullinane, David.</i>	<i>Heydon, Martin.</i>	
<i>Curran, John.</i>	<i>Humphreys, Heather.</i>	
<i>Daly, Clare.</i>	<i>Kehoe, Paul.</i>	
<i>Doherty, Pearse.</i>	<i>Kyne, Seán.</i>	
<i>Donnelly, Stephen S.</i>	<i>Lowry, Michael.</i>	
<i>Dooley, Timmy.</i>	<i>McEntee, Helen.</i>	
<i>Ellis, Dessie.</i>	<i>McGrath, Finian.</i>	
<i>Ferris, Martin.</i>	<i>McLoughlin, Tony.</i>	
<i>Fitzmaurice, Michael.</i>	<i>Madigan, Josepha.</i>	
<i>Fleming, Sean.</i>	<i>Mitchell O'Connor, Mary.</i>	
<i>Funchion, Kathleen.</i>	<i>Moran, Kevin Boxer.</i>	
<i>Gallagher, Pat The Cope.</i>	<i>Naughten, Denis.</i>	
<i>Harty, Michael.</i>	<i>Naughton, Hildegarde.</i>	
<i>Haughey, Seán.</i>	<i>Neville, Tom.</i>	
<i>Healy, Seamus.</i>	<i>Noonan, Michael.</i>	
<i>Howlin, Brendan.</i>	<i>O'Connell, Kate.</i>	
<i>Kelleher, Billy.</i>	<i>O'Donovan, Patrick.</i>	
<i>Kelly, Alan.</i>	<i>O'Dowd, Fergus.</i>	
<i>Kenny, Gino.</i>	<i>Phelan, John Paul.</i>	
<i>Kenny, Martin.</i>	<i>Ring, Michael.</i>	
<i>Lahart, John.</i>	<i>Rock, Noel.</i>	
<i>Lawless, James.</i>	<i>Ross, Shane.</i>	
<i>MacSharry, Marc.</i>	<i>Stanton, David.</i>	
<i>McConalogue, Charlie.</i>	<i>Zappone, Katherine.</i>	
<i>McGrath, Mattie.</i>		
<i>McGrath, Michael.</i>		
<i>McGuinness, John.</i>		
<i>Martin, Catherine.</i>		
<i>Mitchell, Denise.</i>		
<i>Moynihan, Aindrias.</i>		
<i>Moynihan, Michael.</i>		
<i>Munster, Imelda.</i>		
<i>Murphy O'Mahony, Margaret.</i>		
<i>Murphy, Catherine.</i>		
<i>Murphy, Paul.</i>		
<i>Nolan, Carol.</i>		
<i>Ó Broin, Eoin.</i>		
<i>Ó Caoláin, Caoimhghín.</i>		
<i>Ó Cuív, Éamon.</i>		
<i>Ó Laoghaire, Donnchadh.</i>		

<i>Ó Snodaigh, Aengus.</i>		
<i>O'Brien, Jonathan.</i>		
<i>O'Callaghan, Jim.</i>		
<i>O'Dea, Willie.</i>		
<i>O'Keefe, Kevin.</i>		
<i>O'Loughlin, Fiona.</i>		
<i>O'Reilly, Louise.</i>		
<i>O'Rourke, Frank.</i>		
<i>O'Sullivan, Jan.</i>		
<i>Penrose, Willie.</i>		
<i>Quinlivan, Maurice.</i>		
<i>Rabbitte, Anne.</i>		
<i>Ryan, Brendan.</i>		
<i>Ryan, Eamon.</i>		
<i>Sherlock, Sean.</i>		
<i>Shortall, Róisín.</i>		
<i>Smith, Bríd.</i>		
<i>Smyth, Niamh.</i>		
<i>Stanley, Brian.</i>		
<i>Tóibín, Peadar.</i>		
<i>Troy, Robert.</i>		

Tellers: Tá, Deputies Michael Moynihan and John Lahart; Níl, Deputies Seán Canney and Tony McLoughlin.

Question declared carried.

Equality (Miscellaneous Provisions) Bill 2017: Referral to Select Committee [Private Members]

Deputy Jim O'Callaghan: I move:

That the Bill be referred to the Select Committee on Justice and Equality pursuant to Standing Orders 84A(3)(a) and 141.

Question put and agreed to.

Heritage Bill 2016 [Seanad]: Second Stage (Resumed)

An Ceann Comhairle: I must now deal with a postponed division relating to Second Stage of the Heritage Bill 2016 [Seanad] taken today. On the question, "That the Bill be now read a Second Time", a division was claimed in accordance with Standing Order 70(2) that division must be taken now.

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

<i>The Dáil divided: Tá, 90; Níl, 43; Staon, 0.</i>		
<i>Tá</i>	<i>Níl</i>	<i>Staon</i>
<i>Aylward, Bobby.</i>	<i>Barry, Mick.</i>	
<i>Bailey, Maria.</i>	<i>Boyd Barrett, Richard.</i>	
<i>Barrett, Seán.</i>	<i>Brady, John.</i>	
<i>Brassil, John.</i>	<i>Broughan, Thomas P.</i>	
<i>Breathnach, Declan.</i>	<i>Buckley, Pat.</i>	
<i>Brophy, Colm.</i>	<i>Burton, Joan.</i>	
<i>Browne, James.</i>	<i>Collins, Joan.</i>	
<i>Bruton, Richard.</i>	<i>Connolly, Catherine.</i>	
<i>Burke, Peter.</i>	<i>Coppinger, Ruth.</i>	
<i>Butler, Mary.</i>	<i>Crowe, Seán.</i>	
<i>Byrne, Thomas.</i>	<i>Cullinane, David.</i>	
<i>Cahill, Jackie.</i>	<i>Daly, Clare.</i>	
<i>Calleary, Dara.</i>	<i>Doherty, Pearse.</i>	
<i>Canney, Seán.</i>	<i>Ellis, Dessie.</i>	
<i>Cannon, Ciarán.</i>	<i>Ferris, Martin.</i>	
<i>Carey, Joe.</i>	<i>Funchion, Kathleen.</i>	
<i>Casey, Pat.</i>	<i>Healy, Seamus.</i>	
<i>Cassells, Shane.</i>	<i>Howlin, Brendan.</i>	
<i>Chambers, Jack.</i>	<i>Kelly, Alan.</i>	
<i>Chambers, Lisa.</i>	<i>Kenny, Gino.</i>	
<i>Collins, Michael.</i>	<i>Kenny, Martin.</i>	
<i>Collins, Niall.</i>	<i>Martin, Catherine.</i>	
<i>Coveney, Simon.</i>	<i>Mitchell, Denise.</i>	
<i>Cowen, Barry.</i>	<i>Munster, Imelda.</i>	
<i>Creed, Michael.</i>	<i>Murphy, Catherine.</i>	
<i>Curran, John.</i>	<i>Murphy, Paul.</i>	
<i>D'Arcy, Michael.</i>	<i>Nolan, Carol.</i>	
<i>Daly, Jim.</i>	<i>Ó Broin, Eoin.</i>	
<i>Deering, Pat.</i>	<i>Ó Caoláin, Caoimhghín.</i>	
<i>Doherty, Regina.</i>	<i>Ó Laoghaire, Donnchadh.</i>	
<i>Donnelly, Stephen S.</i>	<i>Ó Snodaigh, Aengus.</i>	
<i>Donohoe, Paschal.</i>	<i>O'Brien, Jonathan.</i>	
<i>Dooley, Timmy.</i>	<i>O'Reilly, Louise.</i>	
<i>Doyle, Andrew.</i>	<i>O'Sullivan, Jan.</i>	
<i>Durkan, Bernard J.</i>	<i>Penrose, Willie.</i>	
<i>English, Damien.</i>	<i>Quinlivan, Maurice.</i>	
<i>Farrell, Alan.</i>	<i>Ryan, Brendan.</i>	
<i>Fitzgerald, Frances.</i>	<i>Ryan, Eamon.</i>	
<i>Fitzmaurice, Michael.</i>	<i>Sherlock, Sean.</i>	
<i>Fitzpatrick, Peter.</i>	<i>Shortall, Róisín.</i>	
<i>Flanagan, Charles.</i>	<i>Smith, Bríd.</i>	

<i>Fleming, Sean.</i>	<i>Stanley, Brian.</i>	
<i>Griffin, Brendan.</i>	<i>Tóibín, Peadar.</i>	
<i>Harris, Simon.</i>		
<i>Harty, Michael.</i>		
<i>Haughey, Seán.</i>		
<i>Heydon, Martin.</i>		
<i>Humphreys, Heather.</i>		
<i>Kehoe, Paul.</i>		
<i>Kelleher, Billy.</i>		
<i>Kyne, Seán.</i>		
<i>Lahart, John.</i>		
<i>Lawless, James.</i>		
<i>Lowry, Michael.</i>		
<i>MacSharry, Marc.</i>		
<i>McConalogue, Charlie.</i>		
<i>McEntee, Helen.</i>		
<i>McGrath, Finian.</i>		
<i>McGrath, Mattie.</i>		
<i>McGrath, Michael.</i>		
<i>McGuinness, John.</i>		
<i>McLoughlin, Tony.</i>		
<i>Madigan, Josepha.</i>		
<i>Mitchell O'Connor, Mary.</i>		
<i>Moran, Kevin Boxer.</i>		
<i>Moynihan, Aindrias.</i>		
<i>Moynihan, Michael.</i>		
<i>Murphy O'Mahony, Margaret.</i>		
<i>Naughten, Denis.</i>		
<i>Naughton, Hildegarde.</i>		
<i>Neville, Tom.</i>		
<i>Noonan, Michael.</i>		
<i>Ó Cuív, Éamon.</i>		
<i>O'Callaghan, Jim.</i>		
<i>O'Connell, Kate.</i>		
<i>O'Dea, Willie.</i>		
<i>O'Donovan, Patrick.</i>		
<i>O'Dowd, Fergus.</i>		
<i>O'Keefe, Kevin.</i>		
<i>O'Loughlin, Fiona.</i>		
<i>O'Rourke, Frank.</i>		
<i>Phelan, John Paul.</i>		
<i>Rabbitte, Anne.</i>		

<i>Ring, Michael.</i>		
<i>Rock, Noel.</i>		
<i>Ross, Shane.</i>		
<i>Smyth, Niamh.</i>		
<i>Stanton, David.</i>		
<i>Troy, Robert.</i>		
<i>Zappone, Katherine.</i>		

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

Question declared carried.

Heritage Bill 2016 [Seanad]: Referral to Select Committee

Minister for Culture, Heritage and the Gaeltacht(Deputy Heather Humphreys): I move:

That the Bill be referred to the Select Committee on Culture, Heritage and the Gaeltacht pursuant to Standing Orders 84A(3)(a) and 149(1).

Question put and agreed to.

Sitting suspended at 1.30 p.m. and resumed at 2 p.m.

Cannabis for Medicinal Use Regulation Bill 2016 Report: Motion [Private Members]

An Leas-Cheann Comhairle: So that there is no confusion, let me be very clear in respect of the first speakers. First we will have the chair of the committee, Deputy Michael Harty, then we will have the Minister. With the approval of the House, I will then call on the Deputy responsible for this Bill, Deputy Gino Kenny. Agreed? Agreed. I remind the Deputies that they can share time.

Deputy Bríd Smith: Those Deputies did not come in for ages. We were in the queue long before them.

An Leas-Cheann Comhairle: I only came into the Chair now.

Deputy Bríd Smith: We were queuing by the Chair and were told to sit down.

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

Deputy Bríd Smith: I do not.

An Leas-Cheann Comhairle: I am here a long time and I know the practice.

Deputy Bríd Smith: I am not. I have only been here a short time.

Deputy Ruth Coppinger: The practice is that Deputies stand by the Chair and give their

names. That is the normal practice.

Deputy Pat Buckley: Anseo.

Deputy Bríd Smith: An bhfuil cead agam dul amach go dtí an leithreas?

Deputy Louise O'Reilly: Níl cead ag an Teachta. Suí síos.

An Leas-Cheann Comhairle: There are only ten-minute slots anyway.

Deputy Richard Boyd Barrett: May I make a suggestion on that?

An Leas-Cheann Comhairle: The Deputy may if it is helpful.

Deputy Richard Boyd Barrett: The arrangements would only allow for seven slots.

An Leas-Cheann Comhairle: No, the slots are ten minutes each.

Deputy Richard Boyd Barrett: The Government and the committee have 50 minutes between them.

An Leas-Cheann Comhairle: They have 15 minutes each. That is 30 minutes.

Deputy Richard Boyd Barrett: They have 30 minutes between them to begin and then a further ten minutes each at the end. That leaves only 70 minutes for the rest of us.

An Leas-Cheann Comhairle: There will only be seven slots if everyone takes ten minutes.

Deputy Richard Boyd Barrett: That is precisely my point. I suggest we change that and make them five-minute slots.

Deputy Bríd Smith: That should include Government speakers.

Deputy Joan Collins: Or the ten-minute slots could be shared.

An Leas-Cheann Comhairle: We can do that if we get agreement. Are the Government and the chairman going to take 15 minutes each, as they are entitled to?

Deputy Simon Harris: I do not need that much time.

An Leas-Cheann Comhairle: The Minister is being helpful.

Deputy Michael Harty: I will need 15 minutes.

An Leas-Cheann Comhairle: The chairman is taking 15 minutes and the Minister is taking ten.

Deputy Gino Kenny: I will only need five.

An Leas-Cheann Comhairle: Will someone run out and get a few more speakers? We will have too few.

Deputy Richard Boyd Barrett: The Leas-Cheann Comhairle need not worry, we will fill the time.

Deputy Bríd Smith: The Leas-Cheann Comhairle should not forget to take a few women

as well.

Deputy Ruth Coppinger: We need a gender quota or something.

An Leas-Cheann Comhairle: I will not respond to that. In the times we are in, I will not say anything.

Deputy Joan Collins: Are we being given ten-minute slots?

An Leas-Cheann Comhairle: Let the chairman begin and I will work it out.

Deputy Richard Boyd Barrett: What are we doing?

An Leas-Cheann Comhairle: We will go for five minutes.

Deputy Richard Boyd Barrett: Five minutes. And will everybody be allowed speak?

An Leas-Cheann Comhairle: I am trying to let everybody in. Let me work out the list while Deputy Harty begins. There is no point in delaying.

Deputy Michael Harty: I move:

That Dáil Éireann accepts the recommendation of the Joint Committee on Health in its Report entitled 'Report on Scrutiny of the Cannabis for Medicinal Use Regulation Bill 2016 [PMB]', copies of which were laid before Dáil Éireann on 12th July 2017, that the Bill should not proceed to Committee Stage for the reasons set out in the Report, and orders accordingly.

I should say at the outset that the Joint Committee on Health has been interested in the medicinal benefits of cannabinoids since November 2016. It set the issue as a priority and devoted a meeting to examining these benefits on 24 November 2016. At this meeting the committee heard evidence from the Health Products Regulatory Authority, a specialist neurologist with an interest in epilepsy and the mother of a young girl who suffers from intractable epilepsy. The Joint Committee on Health is very supportive of making medicinal cannabinoids available to patients who do not respond to conventional medication. On 19 January 2017 the committee produced a report on medicinal cannabinoids. In that report the committee noted that, despite the encouraging medicinal possibilities offered by cannabis and cannabinoids, there is still a shortage of peer-reviewed evidence for the efficacy and safety of cannabinoid treatment for many conditions and that potential benefits had to be balanced against risks. The report stated that we should therefore pursue a careful yet committed course of action in engaging with medicinal cannabinoids.

Also in November 2016, the Minister for Health tasked the HPRa with producing a report on the subject of cannabinoids and their medicinal efficacy. That HPRa report, Cannabis for Medicinal Use - A Scientific Review, was completed on 31 January 2017 and published by the Minister for Health on 12 February. The health committee held a meeting to discuss the report on 7 March. Thus, it has demonstrated a commitment to making available regulated, safe, efficacious cannabis-based products for patients through prescription for conditions that have a proven response and in respect of which the products are well tolerated.

The Cannabis for Medicinal Use Regulation Bill 2016 was debated in the Dáil on Second Stage on 1 December 2016, after which it was referred to the health committee without a vote.

The committee decided to conduct a detailed scrutiny of the Bill before it proceeded to Committee Stage. In that regard, it met on 5 April 2017 when it heard evidence from the Bill's sponsor, Deputy Gino Kenny, who was accompanied by a consultant psychiatrist and a professor of pharmacology.

The committee held a second meeting on 13 April when it heard evidence from officials of the Department of Health, together with officeholders from the Pharmaceutical Society of Ireland, on their respective views on the content of the Bill. Thus, the committee has held four meetings on this issue in the past year.

Based on its consideration, the committee has determined that the Bill has technical issues and implementation difficulties, that it may have unintended policy consequences, including leakage of supply of cannabis to recreational markets and a lack of safeguards against harmful use of cannabis by patients. It also determined that there were major legal issues, given that the numerous amendments that would be necessary to reconcile the Bill with existing law would be onerous, and that access to medicinal cannabis in Ireland would be better achieved through an access programme and secondary legislation, which the committee has been informed is under preparation. Therefore, it recommended that the Cannabis for Medicinal Use Regulation Bill 2016 not proceed to Committee Stage.

The purpose of the Bill is to make cannabis available as a medicinal product for individuals who receive certification from a registered doctor. To that end, it proposes the foundation of a cannabis regulatory authority that would regulate the sale of medicinal cannabis and oversee a system allowing pharmacies to receive licences to sell medicinal cannabis.

While the committee appreciates Deputy Gino Kenny's statement that his aim in sponsoring the Bill is to alleviate unnecessary suffering, aspects of the Bill cause it to be concerned that it may not be possible to reconcile the Bill with its above-mentioned careful approach to medicinal cannabis. The committee is concerned that the Bill proposes the removal of cannabis from the Misuse of Drugs Act 1977 as a controlled substance, meaning that it could have major unintended policy consequences, decriminalising cannabis in non-medicinal circumstances. This seems to conflict with the intention of the Bill which is to make cannabis available specifically for medicinal use, as expressed in the Title. It is the view of the committee that the decriminalisation of cannabis is not a safe course of action as the cannabis plant has many psychoactive effects that are potentially harmful. The Bill is as much about decriminalising the use of cannabis as it is about promoting it for medicinal use. The Minister for Justice and Equality is the relevant Minister quoted in the Bill, indicating that decriminalisation is the Bill's main focus.

The committee is also concerned that the Bill's proposal to establish a cannabis regulatory authority to regulate cannabis would establish a parallel system of regulation, duplicating the functions of the HPRA, and allow a substance that has not received authorisation from the HPRA to be considered a medicine. This would be an unusual departure which would subvert the agency's regulatory authority and ignore its expert advice that herbal cannabis is not capable of being authorised as a medicine and could create an undesirable precedent.

Advocates of the Bill state the HPRA is not willing to regulate cannabis. It is not possible, however, to regulate the whole-plant extract of the cannabis plant which has over 100 varieties and several hundred components. Authorised medicines must be of high quality, safe and effective. Furthermore, the system of access to medicinal cannabis proposed in the Bill appears to the committee to be too loose to guard effectively against leakage of supply to recreational

users, could lead to overuse by patients and could have unanticipated harmful effects owing to side effects and interactions with other medicines.

The Bill would allow a doctor to certify a person as having a condition that could be reasonably treated by cannabis without having to stipulate a dosage or a finite period for treatment. There is no provision in the Bill for stipulating the type of cannabinoid product a patient should be treated with. There is no reference in the Bill to the medical indications for cannabis certification by a doctor. A lack of specific indications for a product that has no authorisation from the HPRA would raise many legal and medical indemnity issues.

A certificate is fundamentally different from a prescription. Evidence was given to the committee by the Bill's sponsor that a doctor's certification was to be used as evidence to protect the holder of the certificate from prosecution and unnecessary criminalisation if found in possession of cannabis. Doctors could be pressurised to provide certificates for reasons other than medicinal purposes. Evidence was given to the committee that regulation of medicinal cannabis was key to its availability, yet the Bill does not define what the term "medicinal cannabis" means. Therefore, it would be very difficult to regulate an ill-defined product.

Embedded in the cannabis plant are cannabinoids which act on the endocannabinoid system in the human body and have medicinal properties. Whole-plant extract, however, also contains many other chemicals that are psychoactive and potentially harmful. The isolation of cannabinoids which have proven medicinal beneficial effects and scientifically proven efficacy and safety is the key to developing medicinal cannabis products that can be legally prescribed and dispensed.

Although the Bill limits the maximum amount of cannabis to be sold per transaction as one ounce, the committee cannot identify any provision which limits the number of transactions. The committee cannot identify any provision in the Bill for medical follow-up or supervision beyond initial certification, to monitor potential negative side effects or interactions with other medications. It is, therefore, worried that any individual who receives certification from a doctor would then be able to buy as much cannabis as he or she wanted indefinitely, without continued medical supervision.

Normally medication is prescribed with reference to strength in milligrams and instructions are given on frequency and length of use. Such stipulations are not mentioned in the Bill.

The sponsor of the Bill proposes that whole or full plant extract be made available in whatever form, including smoking cannabis, when used for medicinal purposes. The method of consumption would be the patient's prerogative. That is entirely unacceptable to the committee. Smoking cannabis is not recommended as an acceptable method of use for medicinal purposes.

The committee also wishes to draw attention to the use of the word "consumer" rather than "patient" in the Bill to describe medicinal users of cannabis. The Bill's use of imperial measurements which implies selling cannabis by weight rather than strength in milligrams which is the convention in medical prescriptions is unacceptable. Also, the Bill suggests the proposed cannabis research institute commission research on cannabis for recreational use, as well as medicinal use. Additionally, the institute would promote public awareness of cannabis as to its safe use. This element of the Bill seems contrary to its purpose.

Although the committee has outlined a number of discrete problems in the drafting of the Bill, some of which may be more easily fixed through amendments than others, the underlying

approach of the Bill proposes a system of access to medicinal cannabis that would be much looser than the committee considers prudent. Therefore, a central element of the Bill is irreconcilable with the committee's views on how medicinal cannabis should be approached. The committee favours a gradual introduction of medicinal cannabis that is evidence-led for each condition for which access is approved, as endorsed by the usual regulatory authority for medicines in this jurisdiction and which has the benefit of close monitoring by medical professionals of the effects of treatment. The committee has been informed that such an approach is being pursued by the Minister for Health and his officials. Departmental officials told the committee members in their engagement with them on 13 April that an expert reference group had been established and that it was drafting guidelines to facilitate the use of cannabis treatments under an access programme. That work is being informed by the HPRA.

The committee understands the Department will progress statutory instruments to advance the access programme. The committee views such an access programme as a more careful and desirable method of introducing medicinal cannabis to Ireland and, therefore, views the continued advancement of the Bill under scrutiny as duplicative and undermining of the access programme proposed. Having received legal advice, the committee is satisfied that enacting the Bill as it stands would create legislative contradictions between the Bill and existing Acts. Resolving such contradictions by amendment of this Bill or of other Acts appears to the committee to be an onerous undertaking, quite apart from the further redrafting which would be necessary to avoid undesirable policy consequences.

The committee understands that sections 42 and 43 of the Bill, as drafted, would legalise cannabis entirely, as the 1977 Act would cease to apply to cannabis. That seems to conflict with the intention of the Bill, which is to make cannabis available specifically in medicinal circumstances. If those sections were to proceed without significant amendment, they may also necessitate amendment of the Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016, as well as having complicated implications for extradition law.

The Bill may necessitate amendment to the Health Acts 1947 to 2015, the Pharmacopoeia Acts 1931 and 1977, the Poisons Acts 1961 and 1977 and the Pharmacy Acts 1875 to 1977, and other legislation, affected by the medicinal prescription of cannabis. Differing definitions of cannabis between the Bill and the Misuse of Drugs Act 1977 creates a possibility that the differing interpretations could be exploited in the criminal justice context. The enactment of the Bill would possibly give rise to the need to amend the Criminal Justice (Psychoactive Substances) Act 2010 and Misuse of Drugs Act 1984.

The Bill's creation of offences without prescribing corresponding penalties conflicts with the 1977 Act which provides both offences and penalties. Sections 16, 18 and 19 of the Bill, respectively, provide for licences to wholesale, import, and cultivate cannabis. The committee understands that those would require the amendment of sections 3, 15, 15A, 15B, 17 and 19 of the Misuse of Drugs 1977 Act. Section 3 of the Criminal Justice Act 1994, which defines drug trafficking, might need to be amended. Section 15 of the 1977 Act would need to be amended to allow a parent to give medicinal cannabis to their child. Based on all the considerations, as outlined above, the committee recommends that the Cannabis for Medicinal Use Regulation Bill 2016 should not proceed to Committee Stage.

Minister for Health (Deputy Simon Harris): I welcome the opportunity to have this report. I begin by thanking the Joint Committee on Health and all its members for the incredible work they put into considering this issue and for the unanimous report they produced which

we are debating today on the floor of the Dáil. The last time we met to debate the Cannabis for Medicinal Use Regulation Bill 2016, we agreed not to divide this House because there is much common ground between us. We all wish to help patients for whom medicinal cannabis may be a treatment option.

I again acknowledge the significant work undertaken by Deputy Harty and all the members of the committee on this Bill. The committee heard testimony from a number of interested parties, including the Bill's sponsor, Deputy Gino Kenny, the Department of Health, the Pharmaceutical Society of Ireland and the Health Products Regulatory Authority. The committee members carefully considered the views and concerns expressed and they went further in seeking their own legal advice on the Bill. While the committee has determined that the Bill has technical and implementation issues and that it may have unintended policy consequences it also decided unanimously that the best way to proceed is on the grounds of a compassionate access programme. Today, the Government finds itself in a rather bizarre position in that it supports the unanimous cross-party report on the Bill only to find out that the authors of the Bill may now have a different view on how to proceed. I am happy to tease that out because ultimately we all want to try to help patients who might benefit from the use of medicinal cannabis.

Deputy Gino Kenny said the intention of the Bill is to make cannabis available to patients, but he is aware there is a number of worrying provisions in the Bill, including references to recreational use of cannabis, as well as proposed amendments to the Misuse of Drugs Act which would mean that cannabis would no longer be a controlled drug and possession for personal or recreational use would not be an offence. It is important to remember that we are talking about cannabis and we should proceed carefully. As many of us are very much aware, cannabis is the most widely used illegal drug in this country and that it is younger people who are particularly at risk from the effects of cannabis use, which can damage their mental health and their future prospects in life. That is the medical evidence by the way not just my own view. I think that most people in this House would acknowledge that there are significant concerns about the prevalence of recreational use of cannabis among people in society. People can continue to distort this if they wish but while I strongly believe that Ireland should allow medicinal cannabis to be made available as a treatment option for certain medical conditions, I also strongly believe, that as Members of Dáil Éireann, we have a duty to be guided by evidence-based best practice and consequently we must follow the advice of the medical and scientific community on how best to make the wish I think we all share a reality in terms of people's health.

Deputy Gino Kenny's Bill also proposes the establishment of two new State agencies, namely, the cannabis regulation authority and the cannabis research institute. He has views in terms of how that could be addressed. Those provisions would be in my view an attempt to bypass the existing regulatory systems that are in place for health products. We discussed earlier the importance of those regulatory systems. Like the health committee, I too do not see the need for more regulators in the area of health products when the HPRA already has extensive experience in regulating products for medical use, including controlled drugs used in the health care setting. I have voiced those concerns in the past and the committee has similarly concluded that many of the provisions in this Bill would have undesirable consequences for the regulation and safe provision of health care so it is clear there is significant work to be done.

The question of providing access to cannabis products that are not authorised as medicines is a complex but important matter. While it has been reported that a lot of research has been carried out on the use of medicinal cannabis, there is much anecdotal evidence but not the type of clinical research that is the norm when medicines are authorised in this country or in other

countries. There is still a lot that is not known about the side effects of cannabis and about its interactions with other medicines that patients may already be taking. Some cannabis products contain a chemical known as THC, which is psychoactive, meaning it has mind-altering effects and for that reason it is strictly controlled in this country under the Misuse of Drugs Acts. Other cannabis products that are of particular medical interest are those containing a single active ingredient known as CBD, which is not psychoactive and so is not controlled under the Misuse of Drugs Acts and can be prescribed by doctors without a need for a special licence.

Given the complexities involved, any measures put in place to allow access to cannabis for medicinal purposes will need to be done in a cautious and controlled way and with the appropriate level of medical involvement for patients with long-term illnesses. While we are looking for a solution to providing access to medicinal cannabis for those who need it, this has to be done with the appropriate involvement of medical consultants who are treating patients with complex illnesses. That is where this Bill and I part company. I want to put in place an access programme for medicinal cannabis that is authored by doctors. This Bill is an attempt to put in place legislation from politicians. We are not neurologists. I have brought people together to try to progress that view and to make sure we have clinical buy-in. I will address that in a moment. I think we all share a common desire to make progress on the issue of medicinal cannabis. We have accepted that approach and made progress as an Oireachtas in that regard. I and many of my Government colleagues and Deputies from across the House have met with patients and their carers who passionately believe that cannabis should be available as a treatment option for various health conditions. They want to do what is right for their patients, child, loved one or relative.

I wish to make clear once again that, while cannabis is not currently viewed under Irish legislation as a product having medicinal use, there are already provisions under the Misuse of Drugs Acts to allow an Irish-registered consultant to apply for a licence for cannabis-based products for an individual patient. The Chief Medical Officer, the top doctor, has advised that licences should only be granted in cases where a consultant has endorsed the proposed course of cannabis treatment. Such applications can be considered on a case-by-case basis. I have granted two licences for two separate individuals following receipt of valid licence applications. Any application I receive endorsed or supported by a consultant will be granted. That is the approach I have taken.

Deputy Richard Boyd Barrett: Two.

Deputy Simon Harris: I have received two applications from consultants. Neither Deputy Boyd Barrett nor I are consultants. Such applications from doctors will be considered because they know an awful lot more about this issue than Deputy Boyd Barrett or I do. Separately and importantly, we are progressing well with work on the cannabis for medical use access programme. That follows on from a commitment I gave to this House that there are better ways than primary legislation to achieve the same outcome whereby we can have a doctor-led compassionate access progress for medicinal cannabis.

In February, I published the country's first ever policy review on this area, namely, the HPRA's report, Cannabis for Medical Use - A Scientific Review. On foot of the conclusions of the regulatory body, namely, the HPRA - we know what happens in this country when we do not listen to regulators - I announced that I would establish a cannabis for medical use access programme for patients under the care of a consultant, for the following medical conditions, on the basis that they were the medical conditions recommended by the HPRA. The conditions

are spasticity associated with multiple sclerosis, MS, nausea and vomiting associated with chemotherapy, and treatment-resistant epilepsy. I then put together an expert group chaired by the eminent Dr. Máirín Ryan from the Health Information and Quality Authority, HIQA. I established the group in March to develop operational, clinical and practise guidelines for the access programme. There is no point having a piece of paper or report that cannot actually work in a doctor's office. Dr. Ryan brought together an expert group to put the clinical and operational guidelines in place. The group included medical consultants who treat epilepsy, MS, cancer and other serious illnesses, along with patient representatives, pharmacists and health regulators. Considerable work has been undertaken by my officials and my Department to try to put in place the new access programme for medicinal cannabis for the first time ever in the country.

I am pleased to inform the House that the expert group has drafted clinical guidelines. The group has completed the targeted consultation and finalised the guidelines. I thank Dr. Ryan, the patient representatives and the doctors who dedicated an extraordinary amount of time to ensuring that we can have clinical guidelines for a compassionate access programme. Officials in my Department are now working on secondary legislation in the form of three statutory instruments that will underpin the access programme. These statutory instruments will be finalised in December. The expert reference group has made significant progress in developing the clinical guidelines for the programme. However, further work is required in terms of how we source suitable quality-controlled cannabis-based products. We must ensure we have a source for any product that can be accessed under the new scheme.

I have no wish to conflate the issues, but should the point come up during the debate, I inform the House that my colleague, the Minister of State at the Department of Health, Deputy Catherine Byrne, will put in place a review group under the national drugs and alcohol strategy to look at alternatives to criminal sanctions for personal use for some drugs. The intention is to take a health-based approach in respect of drugs and drug addiction. Shortly, the Minister of State will appoint a chairperson. This is a key recommendation of our new national drugs strategy.

I believe the Bill to be well-intentioned. I have no doubt about that or about the commitment, passion and dedication of Deputy Kenny. I do not believe this is a party political issue for him. I accept his bona fides on the matter. However, I have to take heed of the advice available to me as well as the advice, legal and otherwise, available to the Joint Committee on Health. The advice was agreed unanimously by that committee. The Bill would require significant amendment before it can proceed any further. It is in this vein that I hope we can tease out the issues this afternoon.

An Leas-Cheann Comhairle: This system is not a good one, but we have lost five minutes already. Next we have Deputy Kenny. Deputies Kelleher and MacSharry have agreed to share five minutes, with two and a half minutes each. Then we will have Deputy Boyd Barrett and Deputy O'Reilly. I had thought Deputy Barry and Deputy Bríd Smith might share, but let me work on this. Deputy O'Connell will come after that, followed by Deputy Michael Collins. Deputies Eamon Ryan and Healy are sharing five minutes. Deputy Joan Collins and Broughan are sharing five minutes. Deputies Cowen and Brassil are sharing five minutes. Deputies Ellis and Buckley are sharing five minutes. Then we have Deputy Coppinger, Deputy Jonathan O'Brien and Deputy Clare Daly.

Deputy Ruth Coppinger: I will pull out to let in Deputy Barry.

Deputy Gino Kenny: I move amendment No. 1:

To delete all words after “Dáil Éireann” and substitute the following:

“ , notwithstanding the recommendation of the Joint Committee on Health in its Report entitled ‘Report on Scrutiny of the Cannabis for Medicinal Use Regulation Bill 2016 [PMB]’, copies of which were laid before Dáil Éireann on 12th July, 2017, agrees that the Bill should proceed to Committee Stage in order that amendments may be made to the Bill.”

I welcome everyone in the Public Gallery. Unfortunately, Vera Twomey is not here today. She collapsed outside the Dáil today. I hope she gets well soon. I know she is here in spirit and that she will be back with us very soon.

I stood on this spot a year ago with a great deal of hope in my heart. Obviously, the country was probably behind what we are trying to do. We are trying to give safe and legal access to cannabis for people who need the medication. The hundreds of people I have met over the past year shared my hope that they would be recognised as medical patients. They had hoped that they could have safe and legal access to medicinal cannabis. They had hoped to be able to come out of the shadows of darkness brought about by their illness. It was not an illness they chose. The illness chose them.

Today I stand here with despair, unfortunately. I hope I am wrong. This place can grind a person down sometimes, and we are all human. I have been left with a sense of despair. I will never give up in any sense.

Over the course of the past year, I believe our Bill has been completely sabotaged. I was rather shocked by the shambolic nature of the pre-legislative scrutiny. I believe it was politically motivated in some ways. It was rigged. Some of the comments made in the Joint Committee on Health were extraordinary, although I am not going to go into them now. I believe the Committee on Health looked for every excuse to stymie progress of our Bill. It is as simple as that. Deputy Harty has said every conceivable negative thing about our Bill. He has never said one positive thing about it, but there are positives aspects to it.

I am not saying the Bill is perfect by any means. However, it is always amendable in my eyes. Let us consider all the international evidence. Those responsible had to abandon the compassionate access scheme in Germany because it was so restrictive. The Minister’s compassionate access scheme is extremely restrictive. I will explain how restrictive it is.

The situation of Ava Barry is instructive. I went to see her in the Netherlands. It was a bittersweet experience. It was sweet to see a child doing very well. However, it was a bitter experience to see an Irish citizen in medical exile in Holland. I came back ten times angrier. I was angry that a child should have to go to another country to get simple medicine. Over there, she can go to the pharmacy. The pharmacist gives out the medication. She gives her money and comes back to her house. Is it not shambolic that an Irish citizen has to go to another country to do that? Ava has been almost seizure-free since she went over there. Under the compassionate access scheme that the Minister is promoting, she would be unable to access the scheme. That is the simple truth.

I am keen to dispel some myths about our legislation. I find it rather incredible that one of the pretexts set out in the Committee on Health report was that it would be too onerous to go through the Bill. We are lawmakers. We are elected to the Dáil to change laws. That is our job.

If it is an onerous task, then it is worth it. I do not understand that point.

What really annoys me is the point about a shortage of peer-reviewed evidence. The evidence is available. It is coming out of people's ears. Of course we need more research. However, it seems that people want to hide behind that until kingdom come. They say there is not enough peer-reviewed research, but there is. It is only that certain people choose to look away. There is ample evidence that people can greatly benefit from the Bill.

I have always said that we would look at the Bill objectively with anyone in this room, regardless of political persuasion. I have no problem if people want to take out certain provisions. The main thing is to give people legal access to medicinal cannabis.

I have a message for the Deputies in the Chamber who will be voting on this next week. In my eyes, they will be on the wrong side of history, science, public opinion and international recognition. No matter what happens after next week, our fight will continue. The political establishment might be giving up on people, but we will never give up on the people who are in the Gallery. They will never walk alone.

Deputy Billy Kelleher: I went to the Joint Committee on Health with an open mind. We facilitated pre-legislative scrutiny when we discussed the Bill in the Dáil previously. We intend to look at the option of allowing it to go to Committee Stage again. However, there is no point in saying otherwise. The Bill, as drafted, is seriously flawed. This was highlighted in the discussions during pre-legislative scrutiny. The Joint Committee on Health has overwhelmingly rejected the Bill in terms of its suitability for Committee Stage.

I have listened to what has been said by the sponsors. I hope they put on the record a willingness to accept the flaws highlighted in the pre-legislative scrutiny process. There may need to be substantial amendments. I hope all parties embrace this issue to ascertain whether we can produce meaningful legislation that will allow for access to medicinal cannabis in limited circumstances. It is easy to make sweeping statements in the House setting out the pros of cannabis and claiming it is all good but it is a psychoactive drug which has highly damaging consequences for health. Benzodiazepines may be legal medicines that are prescribed daily but they have catastrophic effects on people. Just because a drug is prescribed does not mean it will always have only positive effects. We must tread carefully on this issue.

As I stated, Fianna Fáil is willing to facilitate the Bill's passage to Committee Stage to enable a discussion to take place on how we can progress it in such a way as to ensure the intentions outlined by the sponsors are realised. We must not have cannabis becoming freely available, through prescription, to people other than those who need it for the reasons set out by the Minister in his access programme. The programme is excessively restrictive, however. It is appropriate that the Minister acts on the advice of the Health Products Regulatory Authority, HPRA, on this issue but we must consider how the programme can be opened up, through consultants and the HPRA, to help people access it on a controlled basis. As drafted, the Bill is deeply flawed. I hope Deputies accept that and that if it proceeds to Committee Stage, it will be embraced in a non-partisan manner.

Deputy Marc MacSharry: I thank the Joint Committee on Health for the work it has done on this issue and Deputy Gino Kenny for introducing legislation on medicinal cannabis as it has focused minds on the issue. I agree with Deputy Kenny that if a task is onerous, it does not mean it cannot be done. It is not a question of laziness in the Civil Service or political circles.

If the Bill is flawed and requires work, as Deputy Kenny has acknowledged is the case, let us do the work.

I am glad the Fianna Fáil Party will facilitate the Bill's passage to Committee Stage and, onerous or not, the necessary improvements will be made to the compassionate programme in order that people will have access to medicinal cannabis. I do not want cannabis to become available in every sweet shop for recreational use, nor is that the intention of anyone else. Cannabis clearly has a medicinal benefit in treating a variety of conditions, although I appreciate that research in this area is ongoing. In fairness to the Minister, he has tasked people with carrying out various reviews and producing proposals. Let us move this issue forward quicker. Refusing to allow the Bill to proceed to Committee Stage to allow us to try to make improvements to it, however onerous, and kicking it out on the never-never would be a betrayal of the many patients who could benefit from medicinal cannabis.

Last night, I received a text from someone who is known to me and is not a typical recreational drug user. He states he is unable to live the life he should be living, is on disability allowance and is not fit to attend college or full-time work, despite having tried to do so. If, he asks, there is a plant that can relieve his pain, why can it not be safely prescribed by his doctors who want to help. They have not been trained but want to be trained. The text, which goes into much more detail, highlights the type of people and the variety of conditions who are holding out hope that Deputies, rather than pontificating endlessly, will make an honest effort to get this Bill to Committee Stage and make the necessary changes. We must maintain the unanimity that was evident in the House on Second Stage in order that medicinal cannabis can be made available to patients who need it.

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

Deputy Richard Boyd Barrett: I appeal to the Government to drop its opposition to the Bill proceeding to Committee Stage. It is not too late to change its position. I welcome the engagement with Fianna Fáil and Sinn Féin over the past week or two. Notwithstanding their concerns and those of the Joint Committee on Health about aspects of the Bill, which must be taken seriously, they are willing to engage. This is what is necessary because tens of thousands of people in this country are suffering from chronic pain, multiple sclerosis, the effects of nausea from chemotherapy and a host of other conditions for which there is, to quote the experts, strong evidence of the efficacy of medicinal cannabis. That is the view of Professor Mike Barnes, a consultant neurologist who did the authoritative report on this issue for the British Parliament. Professor Barnes has refuted the argument made by the Minister and the joint committee and he, unlike the Minister and members of the committee, is an expert.

Deputy Simon Harris: I have experts.

Deputy Richard Boyd Barrett: The Health Products Regulatory Authority is not an expert body either.

Deputy Simon Harris: It is the regulator.

Deputy Richard Boyd Barrett: When members of the joint committee asked representatives of the HPRA what specific expertise they had in the area of medicinal cannabis, the answer they gave was "None".

Deputy Simon Harris: That is a slur.

Deputy Richard Boyd Barrett: David Finn, a professor of pharmacology at NUI Galway who has studied medicinal cannabis for 16 years, stated the decision to leave chronic pain out of the Minister's compassionate access programme made no sense. Professor Finn, Dr. Cathal Ó Súilleabháin and representatives of the Irish Medical Organisation stated the strongest evidence-----

Deputy Simon Harris: The Deputy is misrepresenting people.

Deputy Richard Boyd Barrett: I do not know why the Minister is shaking his head. He should read the Barnes report and stop interrupting me. He spoke earlier and will have more time to respond.

Witnesses at the committee stated the strongest evidence in respect of medicinal cannabis was on pain. The joint committee's report states that pain is complex, which is correct. However, we do not mind allowing opiates to be prescribed when there is widespread opiate addiction caused by opiate based painkillers and benzodiazepines. We can regulate these products with the complexities of pain but cannot do so with medicinal cannabis, even though all the evidence shows that opiates are much more dangerous than medicinal cannabis.

There is no evidence to back up the statement that there would be leakage to recreational use. Professor Barnes and Dr. Ó Súilleabháin stated that no evidence of increased recreational use of cannabis or increased problems relating to cannabis has emerged. Specifically, there is no evidence of diversion of medicinal products to the illicit market. As in Ireland, illicit cannabis is so widely available in the countries in question as to make diversion insignificant. We have diversion with prescription painkillers, yet the Minister has not banned them. We have diversion of opiate based drugs, even though their use is not based on the prescriptions given. The Minister has not banned those drugs or argued that they cannot be regulated, as he has argued in the case of cannabis, despite the absence of any supporting evidence.

Why can Germany, the Netherlands and a number of US states do what is proposed in the Bill? The problem with the HPRA regulating this issue - this concern was raised by Sinn Féin and Fianna Fáil - was that its compassionate access programme did not provide access. Other countries abandoned their access programmes and introduced laws similar to what we have proposed. They dealt with the issue by having their version medicinal products regulatory authorities establish a new subdivision to deal specifically with cannabis. We are open to an amendment providing for such a change. This could be easily achieved on Committee Stage if there was a will to do so. If this Bill is not the vehicle for doing so, it will be two years before we have another Bill on this issue, on which we have spent a year already.

Vera Twomey collapsed with stress outside the House and her daughter is in Holland. It is disgraceful that thousands of people will be left out in the cold. The alternative is to work together as parliamentarians and progress the Bill. Professor Mike Barnes and representatives of the IMO will come to the House next week.

An Leas-Cheann Comhairle: The Deputy's time has concluded.

Deputy Richard Boyd Barrett: Will the Minister meet them and allow the Bill to pass?

An Leas-Cheann Comhairle: Please, Deputy.

Deputy Richard Boyd Barrett: I went five seconds over my time.

Deputy Louise O'Reilly: I welcome our visitors in the Gallery. This is a very serious and emotive issue, on which there is a wide range of views and opinions that the House should acknowledge. Previous speakers referred to the work done by the Joint Committee on Health. I did not attend the hearings with a closed mind or with a view to being negative in any way, shape or form. At all times I approach my work with the committee in the same way I approach my work in here, which is with an open mind. However, I also come in here as a Sinn Féin Deputy and I represent my party's policy.

It is our policy that we look at the issue of medicinal cannabis from a medical and a health perspective, and that we should in all instances defer to the medical experts and the patient advocacy groups. That equally means that when it comes to legislating for medicinal cannabis, we must look to ourselves, as legislators, to see what it is we can do. That is what Sinn Féin has sought to do right throughout this process.

On Second Stage, I outlined the many concerns that I and my party have about the Bill and the possible unintended consequences. At that point, I stated that we would reserve the right to scrutinise the Bill at the Joint Committee on Health and amend it to make it fit for purpose and to bring it into line with our party policy.

I still hold some of those concerns, but I believe that the process of legislating and scrutinising should continue so long as there is an acceptance that the Bill is flawed in many ways but that the drafters are willing, as they indicated - Deputy Boyd Barrett pointed out that they had indicated that to us outside the Chamber and now on the record - to work with us and others who support the objective to ensure that the legislation can be amended and made fit for purpose.

I have spoken with the drafters. They have accepted the concerns that we had raised around the complexities and the unintended consequences. They have liaised with myself and some of my colleagues in the interests of progressing this Bill and working towards legalising medicinal cannabis. They have agreed to compromise on a range of areas in the Bill which are beyond the scope of legalising medicinal cannabis. I respect the drafters, as colleagues and legislators. I accept their bona fides when they show that they are willing to compromise and amend sections of the Bill in order to ensure it is only for the legalisation of medicinal cannabis. I am sure I and others can work well with them in the spirit of co-operation in order to deliver for those who need medicinal cannabis, namely, these are the people who we must have at the forefront of our thoughts.

Sinn Féin supports the legalisation of medicinal cannabis where it has been deemed medically necessary for a patient by his or her clinician, in consultation with the patient and-or parents or guardians, as appropriate. We have a long-standing party policy, decided by our membership, to support the legalisation of medicinal cannabis. It is through that prism that we looked at the legislation on Second Stage and that is why we supported its passage at that Stage.

Today cannot pass without me saying that there are parts of the legislation which we believe to be flawed and to hold it up as the final and complete answer to patients is unfair. There was a great deal of misunderstanding, some of which was bordering on misinformation, when it came to this Bill. It is irresponsible to say that the Bill, in its current form, will guarantee access to medicinal cannabis for all who need it. It is apparent, from the legal advice and the motion from the Joint Committee on Health, that it will not. While I agree with the legal advice, which is

factually correct that amending the Bill would be an extremely onerous undertaking and require substantial redrafting to avoid any undesirable policy consequences, if the drafters can work with us, as they indicated to me that they would both outside this Chamber and on the record, and if they are willing to compromise on the sections of the Bill which have nothing to do with the legalisation of cannabis for medicinal use, then I believe that we can overcome these issues.

In the meantime, we await the launch of the medicinal cannabis compassionate access programme. I ask that the Minister consider placing the statutory instruments before the Joint Committee on Health so that we might be able to ensure they are devised in such a way that we get the maximum value for those people outside the House who are awaiting this legislation and the compassionate access programme.

Having met the drafters and having been assured that they understand that there are elements which are problematic for my party, they are willing to work with others who support these objectives. They are prepared to compromise on the sections which go beyond the objectives of the Bill.

We will oppose the motion as outlined by the Joint Committee on Health. We will give conditional support to the medicinal cannabis Bill provided it is sufficiently amended, in line with our party policy.

Deputy Mick Barry: I want to put on the record what I believe is happening in this debate. There was a recommendation from all parties on the Joint Committee on Health, bar Solidarity-PBP, to stop the progress of this Bill, or to effectively kill it. In the past week, U-turns have been performed by the Fianna Fáil Party and by the Sinn Féin Party.

Deputy Louise O'Reilly: That is not true.

Deputy Mick Barry: That is a fact.

Deputy Jonathan O'Brien: That is disingenuous now.

Deputy Mick Barry: Sinn Féin has changed its position.

An Leas-Cheann Comhairle: Deputies.

Deputy Louise O'Reilly: Deputy Barry should speak to his colleague.

Deputy Mick Barry: I believe that those changes were made in the face of public opinion-----

Deputy Jonathan O'Brien: Deputy Barry is wrong.

Deputy Mick Barry: -----on this issue, which is in favour of change.

I note the comments of the Fianna Fáil representative, in particular, asking Solidarity-PBP to accept that the Bill is deeply flawed. I do not accept that this Bill is deeply flawed nor do I believe it is perfect. I believe amendments could improve it. It is fundamentally sound and it is not deeply flawed. If that is a signal on the part of the Fianna Fáil Party that it intends to gut this Bill on Committee Stage and achieve on Committee Stage what the party was unable to do today, we will fight it all the way on that.

A more accurate assessment of the Bill and its so-called flaws was published in the *Irish*

Examiner by Fergus Finlay, who wrote that this is “an excellent piece of work which needs to be tightened up in some respects”. That is fair and balanced. He wrote that “what happened to Mr Kenny’s Bill on medicinal cannabis was another example of extremely poor parliamentary work [he was not referring to Deputy Gino Kenny here], that actually failed to protect the public interest.” That was a criticism, by the way, of the Joint Committee on Health, and Mr. Finlay was correct in that regard.

The Minister talks about having an approach based on medical opinion and not that based on politicians’ opinion. I am all for that. The proposal the Minister puts forward of having a regulatory system which allows for the prescription of medicinal cannabis for those with epilepsy, MS and suffering nausea post-chemotherapy is far too limited. The most wide-ranging, authoritative and comprehensive study into this was the study conducted around the Barnes report in the UK. Barnes’s recommendation was medicinal cannabis for the management of chronic pain. That is far broader than the three limited examples given by the Minister.

At its annual conference, the Irish Medical Organisation representing GPs showed itself to be open to the idea that in the event of legalisation, one would have prescription by GPs, and that is the way it should be. It is GPs who have the relationship with the patients who are suffering - a far more progressive approach than the approach of the Government.

I would say to the people in the Public Gallery to keep the pressure up on this issue. Do not place any trust-----

An Leas-Cheann Comhairle: I ask the Deputy to address the Chair. It is customary.

Deputy Mick Barry: I would advise them not to place trust their in the majority of the parties on this issue. They have conducted U-turns in the face of pressure on this issue. People should keep the pressure up and, if necessary, protest for the progress that is needed in the interests-----

Deputy Dessie Ellis: That is nonsense.

Deputy Mick Barry: -----of tens of thousands of people in this country who need this change and who are suffering on a daily basis.

Deputy Jonathan O’Brien: The only people who did not do a U-turn was Solidarity-PBP; it compromised.

Deputy Mick Barry: Deputy Jonathan O’Brien does not like being called out on it.

Deputy Jonathan O’Brien: What, compromisation?

Deputy Dessie Ellis: I will call it out.

Deputy Jonathan O’Brien: I will call a halt to it now in a minute.

Deputy Kate O’Connell: I recognise that cannabis has been used for medicinal effects for centuries. I fully accept and appreciate that cannabis has properties which some people find to be effective in the treatment of many conditions, including pain, nausea and seizures.

There is a shortage of peer reviewed evidence for the efficacy and safety of cannabinoid treatment. Peer reviewed evidence is usually the cornerstone of clinical best practice in medicine, not anecdotal evidence and not the sort of talk-to-Joe pressure that is being applied here.

Bypassing the approach to regulation exposes the public to incomplete and unpredictable medical treatments.

I am very concerned that comprehensive legal advice that we, on the Joint Committee on Health, received is basically being ignored by Members in this House.

We have heard today that the HPRA has no experience of dealing with cannabis regulation, but we dealt with that issue at the Joint Committee on Health. That is true for any new drug coming up for regulation. If a new drug is produced tomorrow, of course the HPRA will have had no experience because it did not exist. In that sense, Deputy Richard Boyd Barrett's point is void.

The flaws have been highlighted. Someone brought up the Dutch situation. I want to clarify for the House that in Holland medicinal cannabis is available through pharmacies, but it is not reimbursed by health insurance companies because the body of evidence is not strong enough for them to take the hit. Deputy Gino Kenny has said someone goes in and pays his or her money, that that is essentially what one does. It is very important that we do not misrepresent some of the stuff out there. I feel very strongly about this issue because we are elected to represent - I would appreciate it if I was not sneered at across the Chamber-----

Deputy Gino Kenny: I was not sneering.

(Interruptions).

Deputy Kate O'Connell: We are elected-----

(Interruptions).

An Leas-Cheann Comhairle: Deputy Kate O'Connell to continue, without interruption from the Chamber or the Visitors Gallery.

Deputy Gino Kenny: I did not do anything.

Deputy Kate O'Connell: We have cameras here and can see the Deputy sneering.

An Leas-Cheann Comhairle: The Deputy has a right to be heard. Let there be no interruptions.

Deputy Kate O'Connell: Some in this House might feel it is okay to proceed with this measure, but I believe I have a responsibility, as an elected Member, to proceed with caution. There are other Members of the House who are very well qualified in this field, medical professionals in all parties, who know that the Bill is flawed and would call out the Deputies here as being populist on the issue.

Deputy Gino Kenny: That is not true.

Deputy Kate O'Connell: I am all for having a new Bill. I am all for working through the issue, but the Bill put before the Joint Committee on Health was deeply flawed. It is very disturbing that we would set a precedent by ignoring the volume of legal advice we have received and that we would do anything in this House to disrupt those mechanisms that have been put in place to safeguard public health.

I am mindful of the fact that earlier during Leaders' Questions Deputies spoke about robust regulatory processes for sodium valproate use by women who were intending to or who might become pregnant. About two hours ago we had Deputies talking about strict regulatory processes and making available information to safeguard public health, but now they are saying, "Don't mind those regulations; it will be fine."

Deputy Bríd Smith: I want to respond to what Deputy Kate O'Connell has just said. I am a member of the Joint Committee on the Eighth Amendment of the Constitution alongside the Deputy. We are dealing with a situation where women, including me and others in the House, are being exiled from the country to obtain a medical procedure. Now we are looking at a Bill that tries to deal with a situation where children are being exiled from the country to obtain certain medicines. Anyone's heart would have been gladdened by seeing Ava Barry on Facebook and the difference made to her life by being able to access medicinal cannabis while residing in Holland. I share the concerns everybody here has expressed for her mother, Vera Twomey, who has been totally stressed out in the battle she has had to fight with the State to have the right thing done by her daughter.

It is completely disingenuous for Deputy Kate O'Connell and others to say they cannot ignore the volume of evidence brought before them because they are ignoring another volume of evidence. They refused to have Professor Barnes come before the Joint Committee on Health. They also refused to call the Irish Medical Organisation, IMO, which passed a motion at its conference recently calling for doctors to be allowed to prescribe medicinal cannabis. These Deputies have refused to listen to a body of evidence that is stronger than that of the HPRA. They also say we do not have experience of prescribing cannabis here. We do not have experience of performing abortions here either, but we are fighting to be able to provide for them. This is a disingenuous position for a professional such as Deputy Kate O'Connell and other medical professionals in this House to take.

International experience shows that Ireland is out of step with other countries in Europe. As others said, in Germany, Italy, Spain, France, Poland, Greece and the Baltic countries medicinal cannabis is legal. Are we such a great, plucky little race that we can stand alone and say it is not going to happen here, just as we stand alone and say there will be no access to abortion in this country? Can we not be on the right side of history, science and justice and listen to what is being said?

I wish to make a conciliatory remark to the parties that have indicated that they are generally supportive. We are willing to consider changing the Bill in a big way. I urge them to come along to hear the evidence of Professor Mike Barnes in the audiovisual room next Tuesday at 5.30 p.m.

Deputy Ruth Coppinger: I also want to know what is going on. We have a family in exile. While there are many families in exile, Vera Twomey and her family's experience have been centre stage. Vera would have been present for this debate but for the fact that she has suffered a stress related hospitalisation. She and her husband have been forced to take turns to care for their daughter in another country. One would have to have a heart of stone not to want to sort out their situation. How come it is fine to have medicinal cannabis available in Holland, Australia, Chile, Germany, Greece and Mexico but not Ireland? It is down to the fact that the establishment has adopted an extremely conservative and backward position on this issue, as it does on so many other issues, including abortion. It is ironic that Deputy Kate O'Connell has talked about the lack of health care and medicine for women but does not recognise that

the same is happening in this case purely because of the nature of cannabis. It must also have something to do with the pressure exerted by the pharmaceutical industry.

It is welcome that Fianna Fáil and Sinn Féin have stated they will not block the Bill. That is great, but I put it down to the fact that the response on this issue on social media has been massive. I have never witnessed such support on an issue from both young and old and all layers of society. It defies belief this Parliament is so conservative that it would block something that is so clearly needed.

The last point I will make is in response to comments made on leakage. Some Deputies have said there would be a leak into recreational use, but all legally prescribed drugs leak into recreational use. On what planet are Deputies living? The biggest addiction is to legally prescribed drugs, but that should not be used as a reason not to progress the Bill. We should let it progress and stop blocking it.

An Leas-Cheann Comhairle: I was doing some mathematics during the course of the debate and found a few half minutes here and there. To remove any doubt, we will now have three minute contributions by Deputies Michael Collins, Eamon Ryan, Seamus Healy, Joan Collins, Thomas P. Broughan, John Curran, John Brassil, Dessie Ellis, Pat Buckley, Jonathan O'Brien, Aindrias Moynihan and Clare Daly. If there is any time left, I will call others, but I ask all Deputies to stick to the three minute time limit.

Deputy Michael Collins: I am delighted to have the opportunity to speak about this extremely important issue which has been brought to light in the last year by a very brave Cork woman, Vera Twomey. She highlighted the problems facing her young daughter, Ava Barry, who was suffering from a severe form of epilepsy, Dravet syndrome. She has seizures numerous times a day, but these seizures can be reduced significantly by the administration of medicinal cannabis. She is now living in the Netherlands where she is able to receive the appropriate medical help and her seizures have stopped. Vera has described this as "life-saving". However, Ava is unable to return home as she cannot legally obtain the necessary cannabis based treatment here. This is yet another failure on the part of the health system. Why are we, as a nation, shamefully shipping people out of the country in pursuit of simple cures which could easily be available here? Ava's case is but one example. Another is that of John Patrick Harrington who had to travel abroad to undergo a simple cataract operation. Why can we not deal with our own health issues here rather than exporting them?

I am aware that certain provisions of the Cannabis for Medicinal Use Regulation Bill 2016 are unclear and that there are numerous technical issues with the legislation, including unintended legal implications, as highlighted by the Joint Committee on Health. I note the findings of the report on the scrutiny of the legislation. The report's authors are fearful that the Bill, which proposes the removal of cannabis from the list of controlled substances under the Misuse of Drugs Act 1977, could have major unintended policy consequences such as decriminalising cannabis for recreational use, of which I am not in favour. However, I do not accept the committee report outcome that the Bill should not advance to the next Stage because there are too many technicalities and problems facing the legislation in its current form. I seek that the Bill would go forward to Committee Stage and any relevant issues and amendments be addressed at that point, and Deputy Kenny has said he accepts this. The issue at hand is far too important, not only for young Ava Barry and her mother, Vera, who have faced this nightmare for years, but for all the people affected by this type of epilepsy, severe migraines and many other illnesses. I am sure all the relevant changes to the legislation to allow only sick patients obtain

the necessary CBD can be addressed on Committee Stage.

Deputy Eamon Ryan: I am very glad we seem to have a changed situation. This morning my understanding was that the Bill would not be moving on to Committee Stage and I do not know what changed in that regard. I listened to what Deputy Harty said. I know there was a fairly extensive discussion at the committee and there can be different views on how what went through. However, there was not an absence of debate, and Deputy O’Connell can refer to that as well. For whatever reason, I welcome that Sinn Féin and Fianna Fáil seem to have changed their view on the merits of the Bill going to Committee Stage. I am glad it will. Whatever one’s view, it is a very complex, technical and difficult issue and the parties need to present their detailed alternatives and to have an open legislative process. As Deputy Gino Kenny acknowledges, there are flaws in the Bill and he is not clinging on to the structure or any particular wording. In some ways, it provides the House with the opportunity to do something innovative, and while it is complex, difficult and challenging, I believe it is something we should aim to do. We would support that step, as we have at each stage.

I want to refer to two issues. We have heard the evidence on one side while Professor Michael Barnes is on the other side, and I am glad he is coming here next week to address the medical case. I refer to the inquiry report from the all-party parliamentary group for drug policy reform in the House of Commons which was published recently. I refer to it because my Green Party colleague, Caroline Lucas, was one of the main authors of this significant report. To give some context, the report by Professor Michael Barnes and Dr. Jennifer Barnes was based on a literature search producing over 20,000 references and the evidence was graded according to the system used by the American Academy of Neurology. While I do not dispute that Deputy Harty and others have medical views, this is the sort of thing we need to tease out on Committee Stage, given this report suggests there are 20,000 references to medical cannabis having effects in regard to pain management and moderate evidence in regard to its use in treating sleep disorders, appetite stimulation and in cases of chemotherapy, fibromyalgia and so on. That was the report that influenced me, partly because it comes from my Green Party colleagues.

As I understand it from listening to Deputy Harty, the other argument is there is a concern this would lead to the effective decriminalisation by the back door. That probably will not come into this Bill, which is specific in its intention around medicinal use. From our party’s perspective, however, that is also a debate we should be having. Our current system, which is based on a criminalisation process in regard to the possession or use of cannabis, is not effective, is not working and, in fact, is forcing people into the criminal system. It would be far better to have a health-centred approach which does not look to criminalise someone if they are using but looks to help them. Where that has been introduced in countries like Portugal and Australia, it seems to have resulted in lower use, although the evidence on this needs to be teased out. It may be able to protect the vulnerable who we do not want using it, such as younger people, but we may be able to get away from this incredibly expensive and punitive criminal system which is not stopping supply but is just letting the criminal underworld run it. It is far better for us to do that in a safe, medically tested way rather than through the current system.

Deputy Seamus Healy: I welcome Vera to the Visitors Gallery and hope she is fine again. I spoke to her earlier this morning and she was absolutely over the moon. Her daughter Ava has been responding very well to the treatment she is receiving in the Netherlands. Obviously, she wants Ava back at home, particularly once the three-month monitoring period is completed on 28 November.

I welcome what appears now to be a general consensus that this Bill should go to Committee Stage for consideration and for whatever amendments are necessary. We all know there are thousands of individuals out there, including thousands of children, who would benefit from medicinal cannabis prescribed in a proper way. That is what this Bill is all about. It is to ensure there is a regime in place whereby medical cannabis can be available to the very many people who are suffering and to people whom it would benefit where there is good medical and scientific evidence that it can alleviate suffering. We know that it can. The evidence is out there and has been given by various experts and specialists over a long number of years.

The bottom line is that other jurisdictions have dealt with this matter. They have introduced legislation and introduced programmes whereby patients can be prescribed cannabis to their benefit. If other jurisdictions have done it, I do not see why the Oireachtas cannot do it. I certainly support this legislation. As Deputy Kenny said, amendments need to be made to the Bill. Many are very straightforward, such as changing the word “consumer” to “patient”, changing the word “certificate” to “prescription” and simply deleting the reference to “smoking cannabis”. Many of the matters raised by the committee can be dealt with in a very straightforward and simple way. Now is the time. We must grasp the nettle and put in place a proper, regulated, medically based system to allow people who suffer chronic pain, seizures and a number of other illnesses to have proper treatment through medicinal cannabis.

Deputy Joan Collins: I welcome those in the Visitors Gallery. On 1 December 2016, when the Bill came before the Dáil, there was great hope among thousands of people that we were going to see change and people would have proper access to medicinal cannabis. People were crying out for it. That expectation has risen in the recent period. When Vera Twomey marched from Cork to the Dáil gates, I remember the support she had all along the way. That reflected not just those who needed medicinal cannabis for medical purposes but the support for access for her daughter to CBD.

While there was a lot of technical detail at the committee that I would not be *au fait* with, I wish to make one point. Professor Barnes, who is an eminent expert, was not invited to the committee. The IMO was not invited to the committee and it has passed a motion stating that it should not be just consultants who are able to dispense medicinal cannabis.

I am absolutely opposed to anybody trying to kill this Bill but I am also opposed to people trying to use it against others in here when people want to work together to try to make sure it happens and that people see change. I support Deputy Kenny’s motion that this goes on to Committee Stage but we should be working together to make sure it happens, not for me or for anybody in Sinn Féin, Fianna Fáil or Solidarity-People Before Profit, but because we represent people out there who need this Bill to go through. I appeal to everybody to start working together on this. There has been a change. I was going to read from an email that I received, but I am sure that all of us have received many emails about people going through a dire situation with chronic pain and so on, so I will leave it at that. I support Deputy Gino Kenny’s Bill.

Deputy Thomas P. Broughan: I support the outstanding work of Deputy Gino Kenny and People Before Profit in producing the Cannabis for Medicinal Use Regulation Bill and having it passed through Second Stage. Despite the caveats and reservations in the report on the scrutiny of the Bill - I listened carefully to Deputy Harty on that matter - and coming from the Department of Health and the Minister, the Bill should proceed straight to Committee Stage and any reasonable and necessary amendment should be tabled then or on Report Stage.

In his introductory speech on the Bill last December, Deputy Gino Kenny made a powerful case for its passage into law. In particular, he recalled the extraordinary campaign of Vera Twomey on behalf of her daughter Ava. I welcome Vera to the Public Gallery. The Deputy was heavily involved in that campaign. He also drew our attention to other harrowing medical situations, such as those of Marie Fleming and her husband Tom and of Mark Gaynor and his son Ronan. I recall Deputy Bríd Smith discussing the difficulty involved in treating Dravet syndrome during a later part of the debate.

Like many Deputies, I was struck by a report, entitled Cannabis: The Evidence for Medical Use, which was produced by Professor Michael Barnes and Dr. Jennifer Barnes in May 2016. It presented good evidence for one or more cannabis products or natural cannabis in the management of chronic pain, including neuropathic pain, spasticity, nausea and vomiting, particularly in the context of chemotherapy, and the management of anxiety. The report also outlined a graduated list of the successful use of medicinal cannabis for many other conditions.

I listened to Deputy Harty's caveats and reservations and his statement that the Bill should not proceed to Committee Stage, but the issues raised could be addressed. These are said to be "technical issues and implementation difficulties". I have read some of the committee's work. The claim that there is a "shortage of peer-reviewed evidence for the efficacy and safety of cannabinoid treatment for many conditions" does not seem to have a basis in fact, given the wide international experience and research to which I have alluded. The point that the committee makes about the cannabis regulatory authority has relevance. This House is always reluctant to create yet another quango or agency, but the remit of the Health Products Regulatory Authority, HPRA, could simply be extended, as Deputy Gino Kenny has argued in line with the German model, to include the regulation and research of medicinal cannabis treatment.

The scrutiny report also had difficulties with the proposed framework of the avenue to cannabis, but the Misuse of Drugs Regulations 2017 clearly enunciate the responsibility of a registered medical practitioner in prescribing drugs that, in the future, could include medical cannabis.

I again wish to convey my support to Deputy Gino Kenny and his colleagues in People Before Profit for producing the Cannabis for Medicinal Use Regulation Bill. The Bill should proceed to Committee Stage and I am heartened by some of the comments that have been made during this debate. Any reasonable amendments on, for example, the caveats to which I have referred could be dealt with then or later in the House.

Deputy John Curran: I welcome the opportunity to contribute on this debate. None of us can contribute without being conscious of and touched by the story of Vera Twomey and her daughter. For many of us, it has dominated and been at the forefront of these proceedings. From personal experience, I know what she is going through and the challenges she is facing, particularly when traditional and conventional drugs no longer operate as they should. While the legislation before us will have a major impact for Vera, it is also important to realise that it will be further reaching than that.

I acknowledge the work of the committee. I read its report. The committee found significant challenges in the Bill. According to the concluding remark on the last page of the recommendations to the Dáil, it would be onerous to address those issues. The Bill's proposers have stated that they are willing to challenge and address these. My colleague, Deputy Kelleher, indicated that he was prepared to work on this and give an opportunity for the issues to be addressed.

Speaking as a former Minister of State with responsibility for drugs, one of my main issues relates to a specific concern of the committee, namely, the Bill's proposal to remove cannabis from the Misuse of Drugs Act and what that would entail. Apart from being a psychoactive drug, considerable research and reports refer to cannabis as being a gateway drug and so on. However, I do not want to have that debate today. The types of issue that were highlighted need to be addressed.

Deputy O'Reilly spoke. I have the greatest of respect for the members of the committee. It was an all-party report and they conducted their work in a fair manner. The issues that they highlighted need to be addressed. We are prepared to work with colleagues to do so.

In that regard, I am appalled by Deputy Barry's comments.

Deputy Mick Barry: I am sure Deputy Curran is.

Deputy John Curran: He tried to turn this into nothing but a political game. He wanted the politics of opposition. He wanted the politics of protest. When Members of all parties in this House-----

Deputy Mick Barry: Deputy Curran is the one who-----

An Leas-Cheann Comhairle: Please, Deputy Barry.

Deputy John Curran: Members on all sides of this House were faced with a choice between rejecting the Bill completely and killing it off and-----

Deputy Mick Barry: Deputy Curran should look at himself in the mirror.

Deputy John Curran: -----affording an opportunity to address the issues identified by the committee and making the substantial changes required to render the Bill fit for purpose and capable of delivering the effects that Deputy Gino Kenny intended it to have. That is the challenge. We have stated that we are prepared to do it. Of all Deputies who have spoken today, Deputy Barry was the one who turned around and said, "Protest and turn this into an issue". Members on all sides of the House agreed to work to try to deliver-----

Deputy Mick Barry: I will say it again.

Deputy John Curran: -----the outcome that Deputy Gino Kenny's Bill was intended to have.

Deputy Ruth Coppinger: He said: "Keep up public pressure."

Deputy Jonathan O'Brien: Not true.

An Leas-Cheann Comhairle: I call Deputy Brassil, who has three minutes.

Deputy Ruth Coppinger: That is what he said: "Keep up public pressure."

Deputy Jonathan O'Brien: Not at all.

Deputy Ruth Coppinger: It is very potent.

Deputy John Brassil: I welcome the opportunity to contribute on this debate.

9 November 2017

Deputy Ruth Coppinger: It has a habit of changing Sinn Féin's minds.

An Leas-Cheann Comhairle: Please, ciúnas.

Deputy Jonathan O'Brien: No. The email that I got from Deputy Coppinger's colleague changed our minds, not public pressure.

Deputy Ruth Coppinger: It took just one email to change Sinn Féin's minds.

An Leas-Cheann Comhairle: Please, Deputies. You all got opportunities to speak.

Deputy Jonathan O'Brien: It took one email and a couple of conversations that Deputy Coppinger's group was not ready to have.

Deputy Mick Barry: You are very sensitive, Jonathan. Very-----

An Leas-Cheann Comhairle: There will be no meetings within the House. I call Deputy Brassil.

Deputy John Brassil: I welcome the opportunity to contribute on this debate. I have severe reservations about the Bill. My background is in pharmacy. I have had the opportunity through my working career to encounter issues such as those raised by Deputy O'Reilly, for example, teratogenic problems among mothers who are on Epilim, people becoming chronically addicted to benzodiazepines, and people who have been using selective serotonin reuptake inhibitors, SSRIs, for depression and either cannot get off them or, if they try, the side effects are worse than the original depressive effects.

As legislators, we are considering politically based treatment and prescribing, but I am not sure that we are fully qualified to do that. I have no issue with debating medicinal cannabis in the Chamber and getting its use, given that it can be of great benefit, but the way to do so is through compassionate access programmes. When we are fully satisfied on the safety of any drug, I am happy to have it used. When I say "safety", I am referring to standard procedures. It is through double-blind randomised trials that one finds out whether a drug is useful and safe. Any amount of testing must be done before it gets into the public domain. That is as it should be. The reason for this is that, in the 1960s, a drug called thalidomide was taken by women for morning sickness, but it had untold consequences. That is why this whole area has tightened up significantly.

(Interruptions).

An Leas-Cheann Comhairle: Please.

Deputy John Brassil: That is why it should be-----

(Interruptions).

An Leas-Cheann Comhairle: There will be no interruptions from the Public Gallery.

Deputy John Brassil: That is why the use of any drug-----

(Interruptions).

An Leas-Cheann Comhairle: I want the debate to continue, but if we are going to have interruptions from the Public Gallery, we may not be able to continue. Whatever people's opin-

ions are, I ask that they not express them.

Deputy John Brassil: I thank the Leas-Cheann Comhairle. That is why the use of any drug should be done in line with the strictest safety regulations, including medicinal cannabis. I have no issue with its use as long as it is proven to be safe and goes through the correct channels. Deputy Barry said the Bill is not flawed and he will not be changing it. If it is not flawed-----

Deputy Mick Barry: I did not say that. I said it was not deeply flawed.

Deputy John Brassil: -----do not change it. If he does not want to change it and does not believe it is flawed, that is fine. We will see where it goes.

Deputy Dessie Ellis: I would like to acknowledge the family, friends and supporters in the Gallery. I am glad to see Vera there. I wish her and her daughter all the best. We are not dealing with the legalisation of cannabis. However, we should make medicinal cannabis available to those who require it for medicinal purposes where it is deemed medically necessary and is prescribed by a medical practitioner in consultation with the patient, parents and family members. We have to be compassionate in our approach to this sensitive issue. We understand this is a very emotive issue, but we have always been upfront with families and listened to their concerns.

We have also been straight in outlining where we stand on these matters. We cannot mislead or give false promises to those who are suffering and continue to suffer. We await the launch of the compassionate access programme for medicinal cannabis which the Minister for Health, Deputy Simon Harris, has indicated will be available later this year. We will monitor its delivery and hope it is fit for purpose. We shall see.

However, there is much work left to be done on the Bill. It is flawed and the Joint Committee on Health was of the same opinion as us. The Bill requires amending. This debate concerns a motion on the scrutiny of the report and, as my colleagues stated, we will oppose the motion in order to allow the legislative process to continue, given the assurances from the drafters of the Bill who are willing to compromise on aspects of the Bill which many legislators have indicated they have a problem with.

We support the Cannabis for Medicinal Use Regulation Bill, but it will require amendment in those areas which are contrary to party policy as decided by our Ard-Fheis. There is an onus on us all to support and help anyone who is suffering or has a disease which can be alleviated in some way by the use of medicinal cannabis. We need to get this over the line.

Deputy Pat Buckley: I, too, welcome everyone in the Gallery. I welcome the opportunity to speak. I have listened to much of the debate and put my pen away because I kept changing my notes.

There has been a lot of misinformation. Sinn Féin supports the legalisation of medicinal cannabis where it is deemed medically necessary. I would like to appeal to Members of all parties and none to come together and do the right thing. Let us forget about political point scoring. We all have feelings and we are all human beings. Those of us who are blessed with children know the stress and strain on families.

I acknowledge Deputy Kenny and his colleagues on bringing this issue forward. We have spoken on a personal, rather than a political, basis. I know the work that went into the process.

I do not want the Bill to fail. The majority of Members want to help everybody.

I thank Deputies for having a debate with Sinn Féin and other parties and being willing to make compromises to get the Bill to the final stage. We want to try to help Ava Barry and all of the other Ava Barrys in the country. If we can pull together as a team, surely to God we can do the right thing.

Deputy Jonathan O'Brien: The reason we have decided to support the amendment to the motion to allow the Bill to go to Committee Stage is because we sat down with Deputies Kenny and Boyd Barrett last week. In fairness to both, we had a very frank conversation around some of the issues we had with the Bill. Deputy Kenny has always known that we have concerns about certain aspects of the Bill which have prevented us from supporting its passage at the final stage.

Deputy Kenny has always said that he is willing to work with others within the House to address these concerns. Last Tuesday week, we put four particular concerns to Deputies Kenny and Boyd Barrett. In fairness to both, not only did they take those concerns on board, they came back with draft amendments they were willing to allow on Committee Stage which addressed our concerns. On that basis, we decided it was in everyone's interests to allow the Bill to go forward to Committee Stage.

The sponsors of the Bill showed a willingness to work on the aspects which we felt fell outside its purpose, that is, to provide medicinal cannabis. Some of the issues we raised concerned Parts 2 and 3 of the Bill and some of the functions which would be given to the cannabis authority. Some of those functions went way beyond medicinal use. I will list some of them for the information of Deputy Barry, who said the Bill is not deeply flawed.

One asked employers to review current drug-free workplace policies. A second considered research for recreational use. A third referred to patients as consumers. A fourth referred to methods of consumption. A fifth related to the descheduling of cannabis as a Schedule 1 drug. In fairness, Deputies Kenny and Boyd Barrett came back with an amendment to reschedule it. It will not be descheduled, as is the current proposal. Rather, the amendment will reschedule the drug as a Schedule 4 drug along with other medicines which can be classified as drugs, such as benzodiazepines. That is a very responsible attitude to take.

Another unintended consequence of the Bill which we wish to highlight is that as it is currently drafted, somebody who has a criminal conviction for the sale and supply of cannabis could obtain a licence. A convicted drug dealer could obtain a licence. That has been addressed by the sponsors of the Bill. On that basis, we are willing to support its passage. This is nothing to do with public pressure or U-turns. Rather, it is Members coming together with a willingness to work together to pass legislation. We are willing to do that.

Deputy Aindrias Moynihan: It is almost a year since we debated Second Stage of the Bill. There was widespread support across parties at that time. I am glad that the support has continued. People recognised that medicinal cannabis can make a difference to people and that efforts need to be made to make it accessible to those whom it will help. It may help conditions such as multiple sclerosis, MS, epilepsy and others.

A number of issues were highlighted on Second Stage. Since then, issues such as the cannabis board and the possible availability of cannabis well beyond medicinal use have arisen. They need to be dealt with if the Bill is to progress. I understand the sponsor is willing to make

significant changes and deal with those issues in the Bill. I would be keen to support him and move the process along if that is possible.

There was widespread cross-party support for the Bill. I would like that to continue rather than there being efforts to divide and cause aggravation. This goes beyond politics. It is about making something available to ease people's conditions.

Cannabis needs to be controlled and the Bill is not about the wholesale availability of medicinal cannabis. The substance needs to be controlled through the proper channels, and that needs to be facilitated if the Bill is to progress. I would like the Bill to progress to Committee Stage where the necessary changes and improvements can be made.

The committee report referred to a compassionate access programme. Secondary legislation should be a faster and more accessible route. Over the past year, we have seen that things are very restrictive and change is not happening as quickly as should be the case with primary legislation. If the Minister is serious, he needs to get that moving and make it realistically accessible. In the meantime I would like to see the Bill advance to Committee Stage, where all the larger matters that have been identified could be dealt with. I note the willingness of the sponsors to do that.

Deputy Clare Daly: The fact that we have had so many Deputies competing to contribute to the discussion is reflective of the fact that everybody takes the matter incredibly seriously. There is a large inherent contradiction in this with the silence surrounding legalised opioids, which make billions of euro for pharmaceutical companies, and drugs like Lariam, which are legal but do enormous damage, held against the queasiness that exists around the legalisation of cannabis, which is safe and non-addictive. It has been proven to have huge medicinal benefits.

I do not need to be convinced of the hypocrisy that surrounds this issue and there are arguments that I have made many times before. As one of only eight Deputies who supported a Bill from a former Deputy, Luke "Ming" Flanagan, to legalise cannabis in all circumstances, I clearly support the use of cannabis in medical circumstances. We must be honest as that is not what today's debate is about. This is about how to make cannabis available as quickly as possible to our citizens who so desperately need it. I am mindful that we sat here almost a year ago and people desperate for that treatment were led to believe it could be granted with a wave of a hand; it was implied that if the Bill went through Second Stage, it would be sorted within a few weeks. That did not happen. If, as a result of some games being played today, we have another year of being in the same position, it will amount to a scandalous betrayal of people who need this treatment.

I reject some of the analysis of the health committee on the Bill. I have read its report and the reply from Solidarity-People Before Profit. There are qualms among the committee members about the potential side-effects and the need for more peer-reviewed research and so on but those are not reasons not to advance the Bill. There are plenty of ways in which the committee could have advanced the issues. I also accept the points made that this legislation is deeply flawed. It is a fact, although I wish it were not so. It is in the way it has been drafted and there are fundamental problems with the Bill in its current form. They need to be addressed or else we would be lying to people in the Gallery and outside. The Bill has not been delayed because of some plot to delay the legalisation of medicinal cannabis but maybe civil servants who are slow at responding to issues have used poor drafting to delay it. That should not happen.

Today's debate seeks to move this forward. The health committee debated making access more readily available through secondary legislation and so on. In order to force whatever mechanism is required for delivery - I do not care if it is secondary legislation - this Bill should remain on the Order Paper. It should go to Committee Stage and keep the pressure on so we will not be here in a year's time in the same position.

Minister of State at the Department of Justice and Equality (Deputy David Stanton): Having listened to speakers this afternoon, on behalf of the Minister for Health I am left in no doubt that this is clearly a very important matter for Deputies and many members of the public as well. I thank Deputies for the work that has gone into this and for taking part in today's debate. We must all remember that the fundamental issue we are discussing is whether the Bill will progress to Committee Stage rather than the general issue of cannabis usage. There seems to be consensus among colleagues that this should happen.

Some of us are around here long enough to know if there is very flawed legislation, it might not be possible to amend it and sometimes it is better to start from scratch, redraft the legislation and resubmit it. Most colleagues I have listened to have said there are serious flaws in the legislation so the committee will have a challenge in addressing them. It may well be the case that the committee might have to start again and redraft the legislation. It might be considered if a Bill is so fundamentally flawed, and the easiest thing might be to start again. However, we are where we are.

The Bill has been carefully examined by the committee and the report indicates the Bill has fundamental flaws that could lead to many undesirable and unintended consequences for patients and wider society. I know the committee put much time and work into this and took the matter very seriously. Deputy Harty chaired those discussions. There are medical professionals in the House who have also expressed their opinions, and Deputy Brassill spoke very strongly from his experience. We must listen to that too.

The Bill places the regulation and oversight of medicinal cannabis under a completely different and separate legislative and regulatory framework to all other held products. This appears to be an attempt to bypass the existing well-established rules in place for the protection of public health and safety. We are on new ground and we must proceed carefully. The legal advice obtained by the committee refers to major legal issues with the contents of the Bill. Currently, there is very little clinical evidence on the safety and effectiveness of many cannabis products and we must proceed cautiously as a result. After all, we agree that cannabis is not a normal medicine and it has not gone through the normal assessment procedures and clinical trials for medicines, which are designed to protect patients. Therefore, we must take great care in making such products available for patients.

It is my view and that of the Minister for Health that a system of accessing cannabis for medicinal use must be introduced on a gradual basis under appropriate clinical supervision, and only for those patients recommended for such treatment by their treating consultant. These consultants are experts in their patients' medical conditions and they are best placed to monitor carefully a patient's response to cannabis treatment, including improvements or deterioration in a patient's medical condition. This level of clinical involvement limits the level of risk to a patient's overall health.

As I said, the expert reference group established by the Minister for Health, Deputy Harris, to develop the operational, clinical and practice guidelines for the access programme has

made great progress in finalising the clinical guidelines for prescribing cannabis for medicinal purposes under the programme. It is also important to note it remains open to consultants to prescribe cannabis treatment for a patient if granted a licence to do so by the Minister for Health. In such cases, it is the decision of the patient's consultant to prescribe cannabis for a patient under his or her care. It is also the decision of the prescriber to make an application to the Minister for Health for such a licence. I advise any consultant considering this option to consult the Department of Health directly for more information.

I thank the Chairman and members of the health committee for their thorough examination of this Bill and their work in preparing this report of scrutiny of the Private Members' Bill. It appears the majority want the Bill to proceed to Committee Stage and the Government will not oppose it at this time. We have listened very carefully to the debate. I wish the committee the very best in amending this legislation, as it will be a major challenge. Like Deputy Kelleher and some others, I have been around this House for quite a while dealing with very complex legislation and I know this will not be easy. One must be very careful not to have unintended consequences at the end of the process that could result in much damage. The Government will not oppose the amendment to the motion and it will not support the motion.

Deputy Michael Harty: I am in a very difficult position, as I was when the debate was conducted on 1 December last year. At the time I saw fundamental flaws in the Bill and I was the only person in the Chamber that night to speak against it. I spoke on it from a position of genuinely held medical views, which I still hold. I am also here as the Chairman of the health committee, which is proposing the motion that the Bill should not proceed to Committee Stage. On that committee there were three Fianna Fáil members, three Fine Gael members, a member of the Labour Party, a member of Sinn Féin and three Independents. The recommendation that the Bill should not proceed to Committee Stage was reached without dissent. It would appear today that is not the case and I find it very difficult to speak on a motion when those who did not dissent are now dissenting. Such is politics. I have learned much about politics from working on this cannabis Bill.

I believe the committee had fair hearings. I do not believe that anybody was badly treated at the committee. Many Members, who were not members of the committee, contributed. I do not accept that there was any bias. I chaired the meetings in a fair and unbiased manner. There were some robust exchanges and asked particular questions. By analysing the contributions of all those who spoke at the meetings, and we had four meetings on medicinal cannabis, we came to our unanimous conclusion.

It was the intention of the committee, and it is my intention as chair, to see medicinal cannabis products being available to patients. I met Ms Vera Twomey in the audiovisual, AV, room in June 2016 and promised her that I would bring the issue before the Joint Committee on Health, which I did on 24 November last. I know that she was bitterly disappointed in me when I told her on 1 December that I was going to oppose this Bill. It upset her greatly. However, my intention, and the intention of the committee, is to provide medicinal grade cannabinoid products to treat people who have conditions which will respond to it. That is still the intention of the committee. The committee rejected the Bill because we found that it was substantially flawed and was not going to progress the provision of medical grade cannabinoids for patients. I would love it if that was possible in the future, but we had to deal with the Bill, and our conclusion was that it should not proceed to Committee Stage.

The Bill was very poorly worded. It is telling that many sections of the Bill were taken

from the Luke 'Ming' Flanagan Bill of 2013, which proposed the introduction of recreational cannabis as well as medicinal cannabis. Many of the sections of the Bill were taken from that previous Bill and were not cleaned up properly. Both the committee and I found many references unacceptable. It referred to recreational use, it referred to consumers rather than patients, it referred to selling cannabis rather than dispensing it and it referred to certification by a doctor rather than prescribing by a doctor, and there is a fundamental difference between a doctor issuing a certificate and a doctor writing a prescription because a prescription has a legal status whereas a certificate has no status, or certainly substantially less status. The Bill proposes making available whole plant cannabis products. Included in that is a provision to sell cannabis by weight, which of course implies that cannabis is for smoking. It also proposes that cannabis should be sold in plain packaging so that it would not be advertised. A further proposal is for a ban on smoking cannabis in the workplace, which I found quite extraordinary. It implies that cannabis could be smoked legally outside the workplace. Indeed, in section 44 of the Bill it defined cannabis as something that could be smoked.

Those were the flaws that I could see. The more one reads the Bill the more flaws become apparent. That was the substantial reason the committee did not recommend that this Bill should proceed. It certainly did not want to indicate that it did not support the provision of medicinal cannabinoid products, either on their own or in combination, which would treat illness. That is the aim of the committee.

The study conducted by Mr. Mike Barnes was referenced widely in the Bill. One of the issues that the proposers of the Bill had was that the HPRA did not reference pain as an illness or a condition for which medicinal cannabis should be produced. There are only four studies in the study from Mr. Barnes which deal with smoking cannabis. None of those four studies reached a level that Mr. Barnes had set for good evidence that medicinal cannabis dealt with pain. Those studies were class two and three studies, and the bar Mr. Barnes set for good evidence was not reached by those four studies. That is not to say that smoking cannabis could not relieve pain, but in his own investigations the studies on smoked cannabis did not reach the level at which it could be called good evidence. The products that Mr. Barnes referenced as having good evidence for pain relief were pure cannabinoid products, and he named those four products which he accepted relieved pain. However, smoking cannabis did not reach that level.

The content of this Bill relates to smoking cannabis, and that was the main objection the committee had on the Bill. Smoking cannabis has serious health effects. It can precipitate psychosis, particularly if smoked by young adolescents or young adults. It can trigger a psychotic illness. I have patients who have had psychosis triggered by smoking cannabis. I have come across patients who have been demotivated, and their lives changed completely, by smoking cannabis. There is a 9% dependency rate if one smokes cannabis on a regular basis. They are the issues that I feel are unacceptable in this Bill.

I have to reiterate that the committee is committed to providing medicinal cannabis that is safe and effective and has data to back it up. We could not accept the Bill in the manner in which it was drafted. The Government made the excellent suggestion that this Bill be redrafted rather than amended. The committee felt that it would be so difficult to amend this Bill that it would be practically impossible. We are now going to be given the task of amending the Bill, and I feel it is going to be very difficult to amend it. I suggest that redrafting may be a better course of action than amending.

I thank the Leas-Cheann Comhairle for the opportunity to contribute to this debate. I am

standing alone on this side of the House again. It is a very uncomfortable position to be in. I hope people understand that as Chairman of this committee I cannot go against its recommendation, so I will be voting that the Bill should not proceed to Committee Stage.

An Leas-Cheann Comhairle: A genuine and sincere thanks to all the Members present for their co-operation. When we started at 2 o'clock it looked as if very few would get a chance to speak, but because of their co-operation and my recommendations everyone has had his or her say. I thank the Members for that. I also thank those in the Public Gallery for their restraint.

Amendment put and declared carried.

Motion, as amended, put and declared carried.

Topical Issue Matters

An Leas-Cheann Comhairle: I wish to advise the House of the following matters in respect of which notice has been given under Standing Order 29A and the name of the Member in each case: (1) Deputy Joan Burton - the allegations in respect of the Paradise Papers and the involvement of Irish banks in international tax evasion; (2) Deputies Declan Breathnach and Fergus O'Dowd - to discuss protocols and guidelines for employers and employees during status red weather warnings; (3) Deputy Noel Rock - the supply of substitute teachers at primary level; (4) Deputy Charlie McConalogue - the need for additional funding at Letterkenny University Hospital; (5) Deputies Martin Ferris and John Brassil - special needs students transferring to the adult school service; (6) Deputy Peadar Tóibín - to discuss the distribution of Garda resources; (7) Deputy Sean Fleming - the need to discuss issues at Portlaoise hospital; (8) Deputy Peter Fitzpatrick - obstacles facing insolvent families with the SUSI scheme; (9) Deputy Mattie McGrath - supports for plant nurseries damaged by Storm Ophelia; (10) Deputy Fiona O'Loughlin - the reinstatement of the Coughlanstown Road, Ballymore Eustace; (11) Deputy Donnchadh Ó Laoghaire - delays in driver testing; (12) Deputy Mick Barry - concerns about the use of "renovations" as a means to end tenancies; and (13) Deputy Dessie Ellis - to discuss the loading on car insurance for the elderly.

The matters raised by Deputies Joan Burton, Martin Ferris and John Brassil, Peter Fitzpatrick and Noel Rock have been selected for discussion.

Ceisteanna - Questions

Priority Questions

Capital Expenditure Programme Review

1. **Deputy Dara Calleary** asked the Minister for Public Expenditure and Reform the status of the capital review; if the ten-year plan will outline funding beyond the timeline of 2021; the way in which it will co-ordinate with the national development plan; if it will incorporate findings from the IMF's PIMA report; and if he will make a statement on the matter. [47437/17]

Deputy Dara Calleary: Will the Minister update the House on the progress of the review of the capital plan? Tomorrow is the closing date for the receipt of submissions on the review of the national planning framework. What alignment will there be between the two documents when the review is published?

Minister for Public Expenditure and Reform (Deputy Paschal Donohoe): As previously outlined to the Deputy in the response to his parliamentary question on this matter at the end of September, the capital review was published on 14 September. I understand all Members of the Oireachtas received a hard copy on that date.

To recap, the review of the capital plan highlighted some key themes which will closely inform and be incorporated into the analysis leading to the finalisation of the new ten-year plan for public capital investment 2018 to 2027. The themes include confirmation of the central role of public capital investment in underpinning the economy; the need to align public capital investment priorities with a changing demographic profile; the critical importance of public capital infrastructure in meeting the requirement for balanced regional growth and promoting the change needed to achieve our climate action objectives; responding to Brexit; supporting value for money; and ensuring we have a strong business case in place in spending the public's money.

The review of the current capital plan identified a number of key sectors as priorities for investment, including transport, education, housing and health. The findings of the review assisted the Government in selecting priorities for the allocation of the additional €4.3 billion capital expenditure allocated in budget 2018 in the period to 2021. Consequently, between 2014 and 2021, public capital expenditure in Ireland will have more than doubled which, as set out by the Irish Fiscal Advisory Council, will see public investment in Ireland moving to be among the highest in the European Union.

The ten-year capital plan is in the process of being finalised. It will set out the public capital investment objectives beyond 2021. Across that period a key factor will be aligning this expenditure with the new national planning framework detailed in the Ireland 2040 plan. The previous lack of integration of expenditure with such plans contributed to the difficulties from which we are emerging. On foot of my request, this work will include the work carried out by the IMF on the public investment management assessment, PIMA, for Ireland.

Deputy Dara Calleary: When will the Minister announce the projects being aligned with the extra allocations? Second, I realise the national planning framework is the responsibility of a different Department, but its alignment with transport plans, for example, is weak. There are vague references to matters such as climate change which was mentioned by the Minister. Will we be given the list of projects before Christmas and will it be aligned with the planning framework, or will it be 2018 before the list of projects is prioritised? Transport infrastructure is creaking and under enormous pressure. What priority will be given to public transport projects, in particular, and what deadlines does the Minister anticipate for building the projects, as opposed to their announcement? Does he have plans to review the planning process with the capital plan?

Deputy Paschal Donohoe: With regard to transport infrastructure, it is my objective to place a higher value on investment in public transport in the coming period. That is because it is a key way by which we will respond to the climate change challenges we face.

On the number of projects and the timing of their announcement, we will strike a balance. Given that Ministers are in the process of announcing various projects between now and 2021 or 2022, I anticipate that we will be making a number of commitments beyond that period to add weight to the ten-year plan. At the same time, however, it will not be feasible to make commitments that will use every resource allocated for all projects because there will be planning processes to be gone through and business cases to be put in place.

On the timing, it is my objective that in the first quarter of 2018 we will publish a tracker that will identify each project to which we have committed, where it stands and the progress being made towards its delivery or opening. That will be done in the first quarter of next year.

Acting Chairman (Deputy Bernard J. Durkan): Question No. 2 is in the name of Deputy Pearse Doherty. Deputy Jonathan O'Brien has been authorised to put it to the Minister.

Legislative Programme

2. **Deputy Pearse Doherty** asked the Minister for Public Expenditure and Reform the date on which the data sharing and governance Bill will be introduced; the number of staff in his Department tasked with its drafting; and if he will make a statement on the matter. [47609/17]

Deputy Jonathan O'Brien: This question asks when the data sharing and governance Bill will be published and the Minister to indicate the number of the staff in the Department tasked with drafting it. I accept that this is a busy time in the Department in terms of finance and the drafting of other legislative measures.

Minister of State at the Department of Public Expenditure and Reform (Deputy Patrick O'Donovan): The draft general scheme of the data sharing and governance Bill was approved by the Government and published in August 2015. The purpose of the Bill is to promote and encourage data sharing between public bodies by providing a statutory framework for data sharing for legitimate and clearly specified purposes that are compliant with data protection law and to improve the protection of individual privacy rights by setting new governance standards for data sharing by public bodies.

Pre-legislative scrutiny hearings on the Bill were held in April and May by the Joint Committee on Finance, Public Expenditure and Reform, and Taoiseach. Officials of the Department of Public Expenditure and Reform, the Department of Justice and Equality, the Office of the Data Protection Commissioner and representatives of civil society groups with an interest in the area of digital rights and data protection attended the hearings. The committee published its report in July. Work is well under way on the drafting of the Bill which will be informed by the findings and recommendations contained in the committee's report. The Bill must also take into account the provisions of the EU general data protection regulation which was published in April 2016 and will come into effect on 25 May 2018.

The Government reform unit in the Department is responsible for progressing the Bill. In conjunction with other duties, three members of staff of the unit, in consultation with colleagues in the Office of the Government Chief Information Officer, are working with the Office of the Parliamentary Counsel on the drafting of the Bill. The Minister intends to submit the text of the Bill to the Government for approval to publish and commence passage through the Oireachtas by the end of the year or shortly thereafter.

Deputy Jonathan O'Brien: A number of concerns were raised during the pre-legislative scrutiny stage. In particular, some concerns were raised by Digital Rights Ireland, which is expert in the area. One of the concerns was related to how the public service shared e-infrastructure should operate and whether it would be incorporated into the Bill. Another concern was related to how the issue of access to underlying data would be addressed and that access should only be supplied to respond with answers to a predefined and pre-approved set of queries. These were just a few of the concerns raised. Are they being taken on board? Will the Minister of State give us an indication of the exact changes or the scope of the changes that will be made in the final Bill as opposed to the heads of the Bill?

Deputy Patrick O'Donovan: The Deputy is correct. There were many recommendations made, of which the Department is cognisant, as is the Data Protection Commissioner, and they were taken into account in many of the discussions which took place following the committee's report. Yesterday, on behalf of the Department, I started consultations with the Opposition spokespersons, Deputy Dara Calleary, Deputy Pearse Doherty this morning and Deputy Joan Burton, to ensure the matters raised by the Opposition would be considered. That process will take time, but work to have revised heads of the Bill placed before the Government is at an advanced stage. As soon as they have been approved by the Government, the Bill will be able to proceed through the House. What we all want, including the Minister, Deputy Paschal Donohoe, is to ensure the maximum support from all parties. It is common-sense legislation which will allow the Government to offer a more streamlined set of services in a manner that will not in any way undermine people's rights or the complexity and overarching rules of data governance, of which we are very cognisant. The recommendations made have been taken into account and further engagement will take place.

Deputy Jonathan O'Brien: The Minister of State will be aware that there are 15 or possibly 17 sitting days before Christmas. It would be beneficial to have Second Stage completed before then. If we could have the Bill published, it would allow Members the Christmas break to formulate amendments for Committee Stage. We all want to see the Bill pass through the House as quickly as possible as it is important legislation. It is unfortunate that we are in a time of the year when the number of days left is getting smaller with each passing week. If it would be possible to have the Bill published and passed on Second Stage before Christmas, it would be helpful.

Deputy Patrick O'Donovan: We welcome the Deputy's support. He is correct. The regulations from the European Union are time sensitive and we want to make sure we progress the Bill. Because so many concerns were raised at the committee, we want to make sure we will bring people with us and address their concerns as best we can and in as inclusive and holistic way as possible. It is on the Government's agenda as a priority matter and the revised heads of the Bill will be brought to the Cabinet as soon as they have been completed. We hope to see the Bill being put before the House as soon as possible afterwards. The Opposition's support, especially in making time available in this and the other House, would be very welcome. We are as anxious as the Deputy to ensure the Bill is passed as quickly as possible.

Public Sector Pensions Legislation

3. **Deputy Dara Calleary** asked the Minister for Public Expenditure and Reform his plans to deal with pension restoration for retired public servants; and if he will make a statement on

the matter. [47438/17]

Deputy Dara Calleary: While there has been an understandable focus on public service pay and I acknowledge the publication this week of the FEMPI legislation, this question focuses on public service pensioners, particularly those on lower pensions, and the timeline for recovery of their incomes in the course of the agreement and the legislation that we will discuss in the coming weeks.

(Deputy Paschal Donohoe): This question refers to the position on pensions and the status of the public service pension reduction, PSPR, which was introduced on 1 January 2011 under the terms set out in the Financial Emergency Measures in the Public Interest Act 2011. The PSPR reduces the value of those public service pensions which have pre-PSPR values above specified thresholds. It does so in a progressively structured way which has a proportionately greater effect on higher value pensions.

A very significant part-unwinding of the PSPR in three stages is taking place under the Financial Emergency Measures in the Public Interest Act 2015, with PSPR-affected pensioners getting pension increases via substantial reversal of the PSPR cuts on 1 January 2016, 1 January 2017 and 1 January 2018. On 1 January 2016 all pensions up to at least €18,700 became exempt from the PSPR. From 1 January 2017 all pensions up to at least €26,000 have been exempt from the PSPR. From 1 January 2018 all pensions up to at least €34,132 per year will be exempt from the PSPR. Those pensioners not fully removed from the reach of the PSPR by dint of these changes will, in the majority of cases, benefit by €1,680 per year from 2018. The cost of these changes is estimated at about €90 million on a full-year basis from 2018.

The Government published the Public Service Pay and Pensions Bill 2017. If the legislation is enacted, it will put in place further changes in 2019 and 2020, with the objective being that, by the beginning of 2020, anyone with a pension value of at least €54,000 will be entirely free of the PSPR. That will include the vast majority of pensioners.

Deputy Dara Calleary: While coverage of the issue of public service pensions tends to focus on the minority of high pensions, the majority of public service pensioners do not have alternative means to earn income. They are on relatively low incomes, considering the service they have given to the State. I welcome the proposed changes in the legislation. Will the Minister outline how many pensioners will be affected by his proposals within the legislation and the cost of those proposals? Will there be flexibility to bring forward dates if extra revenue becomes available, for instance during 2018?

Deputy Paschal Donohoe: I will return to the Deputy by the end of the week with the figure for how many pensioners will be affected, but the vast majority will have their pensions restored. On the costs that will be incurred in the period, I have announced that, on a full year basis from 2018 onwards, the figure will be €90 million. That will be the figure until the end of 2018. I will provide the Deputy with the figures after that date, if the legislation is enacted, as I hope it will be. I agree with him that when the issue of public service pensions is discussed much of the focus is on the few who have pensions with a particular value. In fact, the vast majority of pensioners are on pensions well below the values that are well known.

Deputy Dara Calleary: I acknowledge the work done by the Alliance of Retired Public Servants. Public service pensioners endured substantial cuts to their incomes. As I noted, they have no other means to make up for the cuts, yet they have no negotiating rights. In the future

we will need to examine how the alliance may become involved in some way. Rather than being merely an add-on in public service pay talks, we should ensure the alliance will have a role to play in representing public service pensioners, including on the matter of pensions policy. The management of pensions policy generally, not only public service pensions, is one of the biggest problems facing the State. It is important that the voice of public service pensioners be heard and some standing in future negotiations.

Deputy Paschal Donohoe: I met the Alliance of Retired Public Servants on a number of occasions, including immediately after the conclusion of the negotiations which led to ratification of the public service stability agreement. I do not believe it would be appropriate for it to be given union or formal status. As I said, I have met it and my Department has done its utmost to meet its representatives to hear their views and accommodate them, where possible. I always have to navigate a trade-off. The State has a clear obligation to restore pensions up to a certain point. We have done this by providing for a faster pace of pension restoration than wage restoration in recognition of the fact that their pension is their only source income for the people concerned after their working lives. They therefore have little opportunity to work more or to earn more. I will continue to meet them where important. I know that this is an issue which the Deputy has focused on and has raised with me a number of times.

Pension Provisions

4. **Deputy Michael Collins** asked the Minister for Public Expenditure and Reform his plans to reinstate the pension bands to their pre 2012 levels; his further plans to correct the pension anomalies that affected approximately 35,000 women; and if he will make a statement on the matter. [47440/17]

Deputy Paschal Donohoe: This is a matter for which I have no statutory function. Responsibility for this area sits with my colleague, the Minister for Employment Affairs and Social Protection, Deputy Regina Doherty. In this context, I understand the Minister comprehensively addressed the substance of the question the Deputy has raised in the House on Tuesday, 7 November. In her reply to Deputy Willie O’Dea, she outlined her intention to introduce a total contributions approach to calculating the contributory State pension from 2020 onwards. In the meantime she has asked her officials to examine this matter, but she wants to ensure that any changes or measures which might be taken will not cause any further anomalies or disadvantages. This is matter for which the Minister, Deputy Doherty, has responsibility. I will, of course, work with her on the matter in the House, but I know that she is currently focused on the social welfare Bill for next year.

Deputy Michael Collins: I have examined this matter and it has been going on for a number of years. It is shockingly unfair that the Minister will only seek to address it in the year 2020. It is totally unfair. These women are being penalised by these anomalies. Deputy Joan Burton and the then Government made serious changes which disadvantaged many of these workers who stayed at home caring for children, for their mothers and fathers and, in some cases, for their in-laws, thereby saving the State thousands of millions of euros. They are now being penalised every week in their pension payments. They are hurt by this. I would appreciate it if the Minister could look at this more urgently.

Deputy Paschal Donohoe: I acknowledge the Deputy’s point. When dealing with this matter in the Dáil last week, the Minister, Deputy Doherty, made the point that while she also

acknowledges the issue, it estimated that the annual cost of reverting to the pre-2012 bands would be well over €70 million for next year and that the annual cost of giving this extra money to people would increase by between €10 million and €12 million per year. In putting together the budget for 2018, we put in place a number of measures to raise revenue to allow us to pay for a social welfare package which would make a difference in a number of areas, but we did have to make choices about where to put that money. In the run-up to the budget I was never in a position to indicate that it would be possible to resolve this issue in a single budget or in budget 2018. As I have said, the Minister for Employment Affairs and Social Protection is looking at the matter very carefully. If there are any developments, she will update the House. I will obviously work with her in that regard.

Deputy Michael Collins: As I have pointed out, this is a violation of thousands of women's rights. We fight for women's rights every day. This is a complete violation of the rights of the women who worked hard in their homes. Many Deputies took extra money for themselves in pay reform and €5 million has been made available for a PR budget, so money can be found if there is a need, and there is a desperate need to address this issue and to address it properly. We cannot put it out to 2020. It must be addressed in the next budget. I plead with the Minister and the Minister for Employment Affairs and Social Protection. There is no point in telling me that they are looking into this matter. It has been going on for several years and is well known to Government and to all parties in the House. I ask for this issue to be dealt with immediately and for the Minister to set a date today as to when this issue will be resolved. That date should be very soon as people are suffering.

Deputy Paschal Donohoe: I am not in a position to do that here today. Of course, I am well aware of the very strong and understandable feelings which citizens have in respect of this matter. I have met a number of them on this issue and I can understand why they feel as strongly as they do. It is an area which the Minister, the Taoiseach and I are well aware of. We want to see if we can make progress on it, but it is a challenge to make progress in the way some would want for next year. The cost of reinstatement for next year alone would be €70 million. The cost of the overall social welfare package for budget 2018 was well below €300 million. This illustrates the challenge we have in terms of making progress on this matter. I know that the Deputy wants to see us making progress on this matter. As I have said, it is a matter which Government is well aware of, but at this point I need to outline the challenges which prevent us making quick progress on it.

Capital Expenditure Programme

5. **Deputy Eamon Ryan** asked the Minister for Public Expenditure and Reform the carbon price that applies to the cost benefit analysis assessments for capital projects; and the reforms he is considering in regard to this price and mechanism. [47497/17]

Deputy Eamon Ryan: At the meeting of the Citizens' Assembly at the weekend there was a real sense of dismay at the lack of political leadership in tackling climate change in this country. Among the various criticisms which Professor John FitzGerald, the head of the Climate Change Advisory Council, made was that the Minister's Department does not have an appropriate mechanism for measuring, valuing and pricing carbon in respect of investment decisions. What price are we using? What reforms does the Minister intend to introduce in order that we can start leading on climate change rather than being a laggard, as we are currently recognised

universally?

Deputy Paschal Donohoe: As set out in public spending code, robust and rigorous project appraisal is central to securing value for money from public capital investment. Value for money, VFM, relates not just to the efficiency of investment but to its effectiveness. The public spending code maintained by my Department therefore contains detailed technical guidance on the methodology for carrying out cost-benefit analysis.

Section E-05 of the public spending code, which can be found at *www.publicspendingcode.per.gov.ie*, sets out parameter values for monetising carbon currently used in cost-benefit analysis. This guidance is based on work carried out by an interdepartmental working group which completed its work in 2014. The group recommended that the price of carbon on the EU emission trading system, ETS, on the European Climate Exchange should be used where possible and set out an approach for using futures pricing on the EU ETS to use for future time periods. Where futures prices are not available, the group recommended the use, up to 2050, of the price projections for the ETS set out in the reference scenario in the EU 2030 framework for climate and energy policy.

To give an illustrative example, which is presented in table 2 of the relevant section of the public spending code, it is estimated that the shadow price of carbon for 2018 to 2019 will be €7.29 per tonne, based on average futures prices on the EU ETS over the period from 22 January to 25 March 2014. As set out in that section, for the period from 2020, the projected price rises from €10 per tonne in 2020, in 2010 prices, to €100 per tonne in 2050.

Additional information not given on the floor of the House

As the impacts of climate change are expected to be pervasive in Ireland's environment, society, economy and natural resources, it is, of course, essential that the Government's expenditure choices are informed by an assessment of the full range of such impacts at the appraisal stage. This means being able to capture the broadest possible range of potential costs as well as the range of benefits that might also accrue.

Consequently, in line with the advice of the Climate Change Advisory Council, the national mitigation plan contains a specific action for "a review of guidance on public expenditure appraisal and evaluation to ensure their suitability to capturing key costs and benefits of climate measures" for completion in 2018. This will include consideration to ensure that an appropriate range of shadow prices of carbon are available to public bodies undertaking expenditure appraisal. The review will seek to determine if the existing appraisal framework provides the best available advice on measuring and reporting on the costs and benefits, including those measures with climate change effects. It is expected that an updated public spending code will also be able to better inform investment decisions.

It is, of course, also important to be aware that the public spending code clearly acknowledges that the economic costs and benefits are not the only factors influencing policy decisions regarding public expenditure. There may also be social or other public policy considerations which inform the decision-making process.

At the recent meeting of the Citizens' Assembly on how the State can make Ireland a leader in tackling climate change, there was unanimity that the State should take a leadership role in addressing climate change. This will be a core objective of the forthcoming ten-year capital plan. This leadership role will need to be underpinned by key actions such as ensuring that

there is an effective price signal for investment project appraisal achieved through an appropriate price of carbon in the public spending code.

Deputy Eamon Ryan: The code the Minister is using and the price he is setting are not working. I will take a number of measures as evidence. The European Commissioner for Transport was over recently. She said that 90% of her budget goes on public transport in recognition of the fact that we have to decarbonise our entire transport system in record time. What do we have in this country? The national planning framework brings us back, by about two or three decades, to the same old model of roads, roads, roads. We do not have a single public rail project ready to go to tender. At the heart of that problem is the Minister's Department's lack of belief in public transport and renewable energy and its lack of belief that it has a role in taking action on climate change. I am sorry but something has to change. If the national capital plan, which the Minister will publish in coming weeks, is anything like the model of the national planning framework, we will be heading on a path to growing emissions and we will not be delivering the other social benefits which come with building a new, clean system of public transport. We are going badly wrong on climate and it is up to the Minister, as one of the key people involved, to turn it around. Will he change that code? Will he change the pricing mechanism? Something is badly wrong in his Department if it cannot see that a high-carbon future for transport, energy and agriculture is not the right thing for this country.

Deputy Paschal Donohoe: If the Deputy has any suggestions on the price we are using for carbon that he wants me to take on board, I will be very happy to hear it. I assure him that my views and those of my Department are reflected in the increased funding being made available to the Department of Transport, Tourism and Sport and in the Government's commitment to the metro project. That is because of my commitment to investing in public transport. Despite what the Deputy said, I believe that when we outline the ten-year capital plan later in the year, he will see that commitment maintained.

Deputy Eamon Ryan: In every area I look, I see a lack of commitment. With regard to transport, the metro is arriving 20 years late. We should have built it 20 years ago, as set out in the transport plan at that time. Instead, we just built the roads. We are not building the DART interconnector. Where is that as another significant and important transport project in this city? Where is the light rail project for Cork? I was in Cork at the weekend. We are talking about Cork having 500,000 people. There are no public transport projects of any scale ready to go in the city. The same applies in Waterford, Limerick and Galway. All our cities are grinding to a halt because of the lack of commitment.

With regard to renewable energy, we are making a submission tomorrow on where we should go. The Government states there should be no increase in renewables integration although we believe the figure could increase to 75% if we were serious.

The Minister asked me what pricing system I would have. First, I would move away from the emissions trading scheme, which is universally recognised as a brokering system in setting the price of carbon. I would include immediately in the current national capital plan a proper price, not €7 per tonne, for needed investments. It is nothing like the real cost of the pollution the carbon is causing and the damage to our reputation, which is declining by the day because we are climate laggards.

Deputy Paschal Donohoe: In other considerations, particularly regarding the development of roads, I must also take into account road safety and the maintenance of the local and regional

road network, for example. I cannot take responsibility for decisions made 20 years ago. What I can do is take responsibility for decisions I have to make now, and that is what I am doing. In engaging with the Department of Transport, Tourism and Sport, I have tried to provide for doing more about the metro and supporting our rail network, notwithstanding the current difficulties. There is also provision for the supply of more buses. That is a response to the commitment the Minister for Transport, Tourism and Sport, Deputy Shane Ross, and his Department have made in this area.

Other Questions

Defence Forces Pensions

6. **Deputy Lisa Chambers** asked the Minister for Public Expenditure and Reform his plans to review the Public Service Pensions (Single Scheme and Other Provisions) Act 2012; and if he will make a statement on the matter. [47144/17]

Deputy Lisa Chambers: Has the Minister any plans to review the Public Service Pensions (Single Scheme and Other Provisions) Act 2012? I ask because the current position of the Minister of State at the Department of Defence is that the Act does not provide for pre-existing superannuation arrangements and, consequently, a 2009 arrangement, CCR 421, which allows for a supplementary pension for retired commissioned officers to be in place.

Deputy Paschal Donohoe: Under section 41 of the Public Service Pensions (Single Scheme and Other Provisions) Act 2012, the Minister for Public Expenditure and Reform can initiate a review, or an actuarial review, or an actuarial review and revaluation of the single public service pension scheme, also known as the single scheme. I have no immediate plans for the carrying out of such a review, bearing in mind, in particular, that the single scheme has been in place for less than five years, which is a relatively short time in pension terms.

Since its commencement on 1 January 2013, the single scheme has been the default pension scheme for new-recruit personnel across all sectors of the Irish public service. It is administered principally by individual public service employers, who are known as “Relevant Authorities”, and who discharge or oversee key member-facing responsibilities, such as the collection of contributions and the tracking of pension benefit accrual. The single scheme already has 60,000 members across the public service, with further significant membership growth in prospect. Against that overall background, the single scheme is, of course, subject to ongoing monitoring by my Department, as is the operation of the 2012 Act more generally.

Deputy Lisa Chambers: I am asking for a review because there is an anomaly in respect of the Defence Forces. From 1995, commissioned officers of the Defence Forces have paid a PRSI class-A contribution, and their pensions are fully integrated with the social welfare system. They were eligible for a supplementary pension, provided by the agreement in 2009, CCR 421, because they reached retirement age at 56. This age went up to 58 and there is a gap before the individuals concerned get their State pension. The implication, where the agreement is no longer in place, is that a new entrant to the Defence Forces - from 1 January 2013 - who is mandatorily retired at 58 or 60 would have a final benefit less than the value of the State contributory pension. New-entrant Defence Forces officers will be at a loss of approximately

€12,390 until they reach the age of retirement, at 66. This is to increase to 68.

The Department of Defence acknowledged in 2009 that the compulsory retirement age set the individuals concerned apart from those in other areas of the public service. There is an anomaly whereby the agreement is no longer recognised. There is a gap between mandatory retirement at 58 and the age of 66. The affected officers are actually getting less than what officers who joined before them are getting.

Deputy Paschal Donohoe: In respect of members of pre-existing public service pension schemes, supplementary pensions can be paid only to certain retiree categories and, even then, their payment is subject to strict terms and conditions. In essence, a supplementary pension in a pre-existing scheme is an additional amount of pension that may be paid to a person whose occupational pension is integrated or co-ordinated with the contributory State pension. It can be paid only where the occupational pension, combined with any relevant social welfare benefit to which the person is entitled, is less than the pension the person would receive if the occupational pension were calculated on a non-co-ordinated basis.

If a public service pensioner who would otherwise qualify for a supplementary pension has taken up employment, no supplementary pension is paid. Many public service pensioners with mandated early retirement, such as former members of the Garda and military personnel, go on to take up further employment. I am aware that the Minister of State, Deputy Paul Kehoe, wants to raise with me the point made by Deputy Lisa Chambers. In my contacts with him, I am sure he will raise the matter with me. My experience is that pension schemes are exceptionally complex and any changes thereto have all kinds of consequences that require consideration. I have noted the Deputy's views on the matter.

Deputy Lisa Chambers: I appreciate that this is complex, but there is an anomaly. It is different from other areas of the public service in that officers are mandatorily retired. At the age of 56, it is more difficult to seek other employment. A small number of people are affected but they are at a disadvantage. In 2012, when the single pension scheme was being negotiated, this did not arise. There was an expectation by the military that this particular arrangement would continue as normal. It was not until afterwards that it realised there was an effect. The superannuation arrangements for new Defence Forces officers who have entered after 2013 are unfit for purpose. They fail to provide a sustainable living benefit until the age of retirement is reached. There is a gap of a substantial number of years during which those affected receive less pay than they otherwise might. It will be very difficult to live on what they will be getting. The officers are being forced to pay a higher contribution.

I appreciate that the Minister of State of the Department of Defence, Deputy Paul Kehoe, will raise the matter with the Minister. The anomaly needs to be addressed. In light of the considerable retention problem faced by the Defence Forces, in respect of which I am sure the Minister of State will brief the Minister further, this matter needs to be addressed. It contributes to members leaving early.

Deputy Paschal Donohoe: As the Deputy will no doubt be aware, many other parts of our public service have mandatory early retirement. The pension schemes of affected members of the public service reflect that. Although not always, the schemes tend to have a slightly different accrual rate to reflect scheme members' early retirement.

I acknowledge what the Deputy said on this matter. Any changes in areas such as this are

very difficult and complex and tend to have costs associated with them. If we make a change in one area, it always has consequences in others. As I have stated, there are personnel in other areas of our public service who have an earlier retirement age and, in many cases, a mandatory early retirement age. I thank the Deputy for raising the matter. I am sure she will continue to raise it with the Minister of State, Deputy Paul Kehoe, who I have no doubt will raise it with me.

Labour Court Recommendations

7. **Deputy Dara Calleary** asked the Minister for Public Expenditure and Reform the progress on his discussions with the Department of Employment Affairs and Social Protection in relation to the implementation of Labour Court recommendation, LRC 19293, concerning the rights of community employment scheme supervisors in view of commitments made by his predecessor; and if he will make a statement on the matter. [47265/17]

17. **Deputy Willie Penrose** asked the Minister for Public Expenditure and Reform the progress on his Department's discussion with the Department of Employment Affairs and Social Protection in relation to the implementation of Labour Court recommendation, LRC 19293, regarding the rights of community employment scheme supervisors; and if he will make a statement on the matter. [47334/17]

Deputy Dara Calleary: Just before the Halloween recess there was an all-party gathering on a Topical Issue concerning the issue I am raising in relation to community employment scheme supervisors. That was held in advance of what was a planned meeting of the forum that was established in the Department to address the pension issue. That meeting was postponed and I gather it will now happen later in November. I want to understand the reasons for the postponement and I would like to tease out with the Minister the status of the plans to deal with this issue that were put in place by the Minister's predecessor, Deputy Howlin.

Deputy Paschal Donohoe: I propose to take Questions Nos. 7 and 17 together.

Following a meeting with SIPTU and IMPACT trade unions in late 2015, the community sector high level forum, which had ceased operation some years earlier, was reconvened by my predecessor, Deputy Brendan Howlin, in order to fully examine certain issues pertaining to the community employment sector, having regard to the consequences for costs and precedent.

An issue which has been under discussion by the forum relates to community employment supervisors and assistant supervisors who have been seeking, through their union representatives, the allocation of Exchequer funding to implement a Labour Court recommendation relating to the provision of a pension scheme. The Labour Court recommendation was issued on 22 July 2008 following a hearing on 11 July 2008 in relation to a claim on behalf of community employment scheme supervisors and assistant supervisors supported by IMPACT and SIPTU. FÁS, the then funder of the community employment schemes, was not a party to the Labour Court hearing on the matter.

At the most recent forum meeting, in April of this year, my Department outlined its intention to conduct a detailed scoping exercise in order to comprehensively examine and assess the full potential implications of the issues under consideration. In considering the particular matter referred to, regard must be had to the costs and precedent of such an arrangement were one to be created. A scoping exercise is currently being progressed by officials in this Department

and should be completed by the end of this year. A meeting of the forum has been arranged to discuss the scoping exercise in the coming weeks.

It continues to be the position that State organisations are not the employer of the particular employees concerned and that it is not possible for the State to provide funding for such a scheme. The employees in question are, or were, employees of private companies, notwithstanding the fact that the companies concerned are, or were, reliant on State funding. In considering the matter, regard must be had to costs and the precedent of such an arrangement were one to be created given that the individuals employed in that sector are not employed by the State, even if the services they provide are funded by the State.

Deputy Dara Calleary: First, FÁS was part of the Labour Court hearing. It made submissions to the Labour Court hearing in 2008. The court's recommendation refers to the fact that the court has considered the submissions made to it by the direct parties, that is, the supervisors and by the funding agency, namely, FÁS. It also said that FÁS acknowledged that the provision of pensions was regarded as a legitimate cost in the cases of employees in community training workshop so FÁS was very much part of the hearing and was very much aware of the implications of that hearing. It put €10 million aside.

We understand a pathway was laid out with a view to resolving this issue without knocking on other claims, which is something we are all legitimately concerned about. I understand the previous Minister, Deputy Howlin, had tried to lay out a pathway to do that before he completed his term of office. We are talking about people who have given enormous service to their community. The quality of a CE scheme is dependent on the supervisor. Many of them are now coming to pensionable age with nothing to show for their service. We need to address this issue once and for all.

Deputy Paschal Donohoe: I have three points to make in response. The information I have, which of course I will check given the point the Deputy made, is that FÁS was not at the Labour Court and had not consented to the matter being taken to the Labour Court for determination. Given that Deputy Calleary has information to the contrary on that point I will take that into account but the information I have is pretty clear in that regard.

The second point I would make is that Deputy Calleary should think about where we were at that point in time. It was 2008 and we had had a number of years of rapid economic growth. The FÁS organisation was a significant beneficiary of much of that economic growth across that period. In the many years in which significant resources were available, leading right up to the crash period, a pathway was not found to resolve that issue. The reason for that is as I outlined earlier in my initial reply to the Deputy, and also the fact that despite what he said regarding it being possible to settle one matter without having knock-on claims elsewhere, he knows how difficult it is to do that. When one makes progress in one area, within seconds of that progress being made there are other groups who legitimately feel that if one can do something for one group, in particular when it comes to industrial relations, that one has got to do the same for another group.

Deputy Calleary has a lot of experience in this area and he will appreciate the challenge this matter poses, in particular when we have so many other organisations, especially in the health service who are in a similar situation in that we have people working within them who are dependent on funding from the State to provide the service but are not employed by the State. For those reasons the scoping process to which I referred has been set up to get an understanding of

the number of people we are talking about and the cost involved in dealing with the matter. The process is under way and will be complete by the end of the year.

I do not know why the forum meeting was deferred a few weeks ago but I imagine it had something to do with all the work that was under way in relation to the FEMPI legislation. I will ensure that the commitment on the next meeting is upheld.

Deputy Dara Calleary: I understand the complexities but there is a Labour Court recommendation and one cannot have the Government on the one hand advising companies to listen to the Labour Court, even though it is a voluntary system, while it ignores recommendations concerning itself, in particular now that the Minister with responsibility for employment, is in charge of social protection schemes and, by extension, is also in charge of the Labour Court.

Will the outcome of the scoping process be ready for the end of November or is it the end of the year? Will the officials be in a position to table the scoping document at the forum meeting at the end of November?

Deputy Paschal Donohoe: My understanding is that the scoping exercise will be completed by the end of the year but I am hopeful that the next forum meeting will be able to discuss where it is and if the conclusion of the scoping process is not available by then at least my officials will be able to give a good update of where the work stands. If the scoping exercise cannot be brought to a conclusion in time for the next forum meeting I am sure a further forum meeting will be organised either later in the year or early next year to give the full update on where that work stands.

Departmental Communications

8. **Deputy Dara Calleary** asked the Minister for Public Expenditure and Reform if he has been consulted or if he has been involved in the rollout of the new communication strategy across government; if the Office of Government Procurement has been involved with the procurement of outside communication services; the amount spent on outside communication services through the Office of Government Procurement; and if he will make a statement on the matter. [47261/17]

Deputy Dara Calleary: Communications and the communications strategy of the Government is a topic of much interest at the moment. The Minister made an allocation to the Department of the Taoiseach during the budget process which we understand will be used to reform communications within Government. The previous Government made significant investment in film production and that ethos seems to have extended into the Taoiseach's office in recent weeks as there are more videos from within Government on Twitter than there are episodes of "Coronation Street" at the moment. Could the Minister outline whether the Office of Government Procurement was involved in the process, and how much is being spent by each Department currently on communications and public relations?

Deputy Paschal Donohoe: Following due consideration and discussion, the Cabinet decided that a strategic communications unit, SCU, should be established in the Department of the Taoiseach, based on international best practice, and with the citizen at the centre of its work. I attended one meeting with the SCU, which took place on 19 October. The director of the unit briefed me, the Secretary General and senior officials from my Department on the work of

the unit. The director outlined the role it will play in improving effectiveness, efficiency and cross-government co-operation to foster and develop a whole-of-government approach to communications.

The Office of Government Procurement is currently running six procurement processes on behalf of the Department of An Taoiseach in respect of the strategic communications unit. The first is a request for tenders for the provision of research and insight. This was published on the eTenders website on 19 September 2017. The second is a request for tenders for the provision of brand identity and design services. This is being run as a mini-competition under the Office of Government Procurement framework agreement for creative and digital campaign services. The invitation to tender issued at the end of September 2017. The third is a request for tenders for the provision of digital media creative services. This is being run as a mini-competition and went to tender on 26 September. The fourth is a request for tenders for the provision of integrated creative and digital campaign services and also went to tender on 26 September. The fifth is a request for tenders for the provision of media strategy planning and buying services. This went out to tender on 4 October. Finally, a request for tenders for the provision of marketing pitch specialist services, which is a mini-competition, went out to tender on 22 September 2017. All these procurement processes are currently at evaluation stage and no contracts have yet been awarded. Expenditure relating to each of these contracts is a matter for the Department of An Taoiseach.

Deputy Dara Calleary: God be with the days when the leader of the country could look into his heart and know what the people were thinking. The Minister has referred to research and insight, branded entities, digital media creative services, digital campaigning services, media strategies and marketing pitches.

I realise the Minister cannot give me the breakdown of all of this for procurement reasons, but what is the combined amount of money that will be allocated? What is the total amount of money being spent on communications and public relations throughout all Departments?

The Minister has held talks with the new head of the strategic communications unit. The new head is an exceptionally gifted individual who has done an extraordinary service to the State in his work during the 1916 commemorations. Did the Minister for Public Expenditure and Reform set him targets for money he might save for the Government in terms of the overall communications bill?

Deputy Paschal Donohoe: I do not have the answer for the Deputy in respect of the total value the State spends on advertising and communications throughout the State. That was not contained in the Deputy's original question. However, I will get the answer for him. I believe that when I provide the answer, the need for efficiency and streamlining in respect of how we do this work will become apparent.

A wide number of State bodies go out and procure advertising and communications. I am certain that it is possible to secure greater efficiencies than we do at the moment. That is the reason I support the work under way in respect of media strategy planning and buying services as well as the work under way in respect of development, provision of brand identity and design services. Too often, I have seen Ministers from this and other Governments stand up to represent our country with a plethora of organisations behind them, all of which are branded and spending taxpayers' money separately but all trying to do the same thing.

When I met the head of the strategic communications unit and discussed the matter with him, I made clear to him that one vital area on which we can make progress is how we deliver further efficiency for the State in how we procure advertising and do communications. This is not on behalf of this Government but on behalf of the State. Money can be saved.

Media planning and buying is now a career option in organisations outside Government. Certain people do only this work. It is a whole area of efficiency into which we have to tap to save money. This is vital for how we procure communications to give citizens information to which they are entitled.

Deputy Dara Calleary: Presumably in the establishment of the strategic communications unit, like the establishment of any new Government unit or service, a business case was made. It would have pointed out that the unit could bring its skills to bear in terms of bringing these efficiencies on Government communications. Presumably in the business case savings were projected or figures were presented to the Minister or the Department for sanction of the appointment of all the various people who are part of the unit. Presumably it showed how much it would save or could potentially save. Was a business case presented for the establishment of the strategic communications unit either to the Minister or to officials within the Department by the Department of the Taoiseach? What proposal was presented to sanction the establishment of the strategic communications unit? Did it come from within the Department of the Taoiseach or from another Department?

Deputy Paschal Donohoe: A decision was brought to Government in respect of the matter, and it was one I supported. The recommendation came from the Department of the Taoiseach. I do not believe any other Government body or agency was involved. As part of that there was focus on how much money we are spending on advertising and on the procurement of communication and the opportunity to centralise and do that work in a better way. As I have said to the Deputy, I will come back to him with details on the value of all communication at the moment and the types of efficiencies and opportunities that exist to spend the money better. The figures are available; it is simply that the details were not asked of me today.

Commission for Public Service Appointments

9. **Deputy James Browne** asked the Minister for Public Expenditure and Reform to set out the number of complaints received by the Commission for Public Service Appointments with regard to public sector recruitment practices in 2017; and if he will make a statement on the matter. [47148/17]

Deputy James Browne: Will the Minister set out the number of complaints received by the Commission for Public Service Appointments with regard to public sector recruitment practices in 2017? Will the Minister make a comment on the matter, please?

Deputy Paschal Donohoe: As the Deputy will be aware, the Commission for Public Service Appointments is an independent statutory body. It is responsible for overseeing appointments to a wide range of positions in the civil and public service. In carrying out its oversight role the commission audits recruitment processes and examines complaints from individuals unhappy with the conduct of an appointment process. The CPSA may make recommendations, offer advice or give instructions to recruiting bodies within its remit. However, it does not have the statutory authority to reverse a recruitment decision taken by one of these recruiting bodies.

As the commission is an independent statutory body, my Department has no involvement in the examination of complaints made to the CPSA.

There are two distinct review procedures provided for under section 7 and section 8 of the codes of practice. A review under section 7 applies in cases where a candidate is unhappy with a decision relating to his or her candidature and wishes to have that decision reviewed. The review of a recruitment decision is conducted solely by the licence holder. The commission cannot overturn this decision and has no role in the process. A review under section 8 applies in cases where a person believes an appointment process has breached the codes and wishes to have it investigated. The complainant must make the complaint to the licence holder in the first instance. If the complainant remains dissatisfied with the outcome of the licence holder's review, he or she may request the commission to investigate the alleged breach.

In this area in the year to date, 83 requests were received under section 8. Of these, a total of 18 requests were deemed invalid, 19 requests were deemed premature and 46 requests were accepted as valid complaints. To date, a total of 35 complaints have been examined with a formal decision issued by the commission. Of these, a total of five were upheld, seven were partially upheld and 23 were not upheld. Where a complaint was upheld or partially upheld, recommendations were made to the licence holder to address the shortcomings identified.

Deputy James Browne: I am raising the issue because of an issue that arises in respect of the recruitment of psychologists within the HSE. The CPSA has received multiple complaints relating to this issue from 2012 to date. In 2013, the CPSA established the codes of practice and recommended a review of recruitment criteria that the HSE duly concluded in 2016. This review failed to resolve the issue and the HSE continues to refuse some qualified psychologists eligibility for posts for which they would be eligible in the UK. No rational justification was put forward for this.

5 o'clock

Recruitment campaigns conducted in 2016 and 2017 led to nine complaints from the CPSA from qualified psychologists who were refused interviews because the HSE characterised their experience as not relating to appropriate health settings, but did not define what this meant. The term seems to have applied on an *ad hoc* basis within the HSE.

5 o'clock Numerous existing employees have been refused access to promotion or transfer and, in effect, have been deemed ineligible for the jobs they are carrying out daily.

Deputy Paschal Donohoe: It sounds as if the roles and process to which the Deputy refers relate to section 7 rather than section 8 procedures. As I explained, under section 7 procedures, the commission cannot overturn the decision of the licence holder and does not play a role in the decision.

Has the Deputy raised the matter with the Minister for Health? Perhaps he has already done so. If the matter falls within the ambit of section 7, the responsibility for responding to the Deputy's query lies with the HSE. I am particularly struck by his comment to the effect that no rationale was offered for the decisions that were made. State bodies should offer a rationale for all decisions they take on the recruitment, retention and development of staff. It may be a better course of action to raise this matter with the Minister for Health if the Deputy has not already done so.

Deputy James Browne: While I will raise the matter separately with the Minister for Health, it also falls within the scope of the Department of Public Expenditure and Reform. Some job

applicants received letters on which alterations had obviously been made post-date using Tipp-Ex. These alterations related to decisions originally made by HSE psychologists and involved applicants' results being changed from eligible to ineligible for the role. We do not know who made these changes, why they were made or who authorised them. An internal report released in October 2017 confirmed that the HSE was operating without an adequate definition of "appropriate health setting" for psychologists. This continues to be the case. The absence of such a definition has consequences because individuals who are working as counselling psychologists in appropriate clinical settings are being told that their experience and current employment are not relevant. We do not know who set this criterion. It was not the Psychological Society of Ireland because that body is asking why qualified psychologists are being refused employment.

Deputy Paschal Donohoe: This is not a matter for my Department. As I indicated, the CPSA is an independent body. From the Deputy's description, this appears to be a section 7 matter in respect of which the CPSA may not have a role. It is very much a matter for the Department of Health and HSE, which will respond to the Deputy's query. The Deputy's question did not refer to the specific issue he raises, which is in an area in which I do not play a role.

Deputy James Browne: With respect, the Minister plays a role in that his Department has oversight of the CPSA and its investigative function.

Deputy Paschal Donohoe: If the Deputy had referred specifically to the recruitment of psychologists in the text of his question, rather than raising a general issue in respect of the role of the CPSA, I may have been able to provide a clear answer on the role of the HSE and Department of Health in this matter. Given the way in which the psychologists in question are appointed, it is highly likely that the CPSA does not have a role in the matter. I am sure the Minister for Health will provide a clear answer.

Public Sector Pay

10. **Deputy Dara Calleary** asked the Minister for Public Expenditure and Reform his plans to address pay equalisation across the public sector; if his Department will take a leading role in determining the way in which pay equalisation will be rolled out across Departments; and if he will make a statement on the matter. [47264/17]

Deputy Dara Calleary: In the context of forthcoming legislation to unwind the financial emergency measures in the public interest, pay equalisation is to be dealt with by the Public Service Pay Commission. Will the Minister provide a timeline for addressing this issue? When does he expect to be in a position to receive a report or recommendations from the commission?

Deputy Paschal Donohoe: The issue of addressing the difference in incremental salary scales between those public servants who entered public service employment since 2011 and those who entered before that date was addressed with the relevant trade union interests under the provisions of the Haddington Road agreement. My Department and the Department of Education and Skills reached an agreement with the INTO and TUI on many, albeit not all, of the issues related to pay equalisation and we made progress in resolving some of them.

As part of the public service stability agreement, a commitment was made to commence a process of examining pay equalisation within 12 months of the agreement being reached. While the agreement has only recently been ratified and I have not yet introduced legislation

to give effect to it, I am pleased to note that the first meeting under this process took place on 12 October. As a result of that meeting, a process has been agreed whereby the issue will be analysed and data generated. The process will be managed by the oversight body for the public service stability agreement, on which officials of my Department and representatives of the Irish Congress of Trade Unions sit. The process will be managed by both parties to the agreement and I am sure efforts will be made to progress work quickly next year.

To return to a point I made in my exchange with Deputy Lisa Chambers earlier, the Department of Education and Skills has estimated that the cost of implementing pay equalisation in education would be €70 million in 2018. If pay equalisation were extended to the Department of Health, the cost would increase to €156 million. If it were extended to all staff hired on new entrant scales, it would increase to €209 million. To reiterate a point I made to Deputy Lisa Chambers, it is very difficult to make a move in one area that does not have consequences elsewhere. To put the figure of €209 million in context, it amounts to a significant proportion of the full cost of the entire pay agreement in the early years after its implementation.

Deputy Dara Calleary: I thank the Minister for the update. Is there a deadline for the work to conclude or will it proceed through next year? Will it be completed in advance of next year's budget? Is the projected cost of €209 million to address pay equalisation an annual or once-off cost?

Deputy Paschal Donohoe: It is an annual cost. In terms of the timeline for completing the process, I expect it to conclude - one way or another - in advance of next year's budget. We will engage in the process in good faith. From my dealings with the INTO, which has raised the matter with me, and the Irish Congress of Trade Unions, I am aware of the difficulty the pay equalisation issue causes. It would be very difficult to address it in isolation, however. The costs of implementing pay equalisation in the Department of Education and Skills alone are significant. An additional €70 million is roughly comparable to twice the yield from the training levy for next year. This levy will generate a significant amount of the additional resources the Department of Education and Skills will receive next year. These will be invested in third and fourth level education. All of this is taking place in the context of the improvements we have tried to make in recent years to starting salaries of public and civil servants.

Deputy Dara Calleary: While I recognise the complexity of this issue, when an organisation such as the INTO, which normally takes a very constructive approach to participating in many issues in the past ten years, takes the decision it did on the public service pay agreement, it highlights the importance of starting the process and addressing the pay equalisation issue once and for all. We all recognise the complexity of the issue and I welcome that the process has started. Will the process include a public consultation on pay equalisation or will the issue be addressed exclusively within the confines of the public service pay agreement?

Deputy Paschal Donohoe: I do not envisage a broader consultation on this. It is part of the agreement that I made with representatives of the union movement on the Public Service Stability Agreement. In fairness, given that I have made that commitment, I will adhere to the process.

The process, as I understand it, does not include a role for public consultation. No doubt the union movement, in dealing with this issue with us, will consult with its own members on the issue. I am sure that is already under way.

9 November 2017

I am well aware of the importance of the INTO and the contribution it and other unions have made at times of great difficulty to our country. It is in recognition of that that, for example, I reached an agreement with the Minister, Deputy Richard Bruton, and the INTO and the TUI approximately a year ago to make big progress on that matter for a number of teachers. As I have said, due to the importance of the matter we have initiated this process. Even though the agreement only requested us to do it within the first year of the agreement and we are only a few weeks into it, we already have that work under way.

Deputy Aindrias Moynihan: I seek clarification on the implications for the health service. Often organisations, such as COPE and the hospice movement, who would be providing services to people would not be funded directly. I refer to the difference between the section 38 and section 39 organisations. Where do such organisations stand in relation to any changes coming down the line? They would have seen the cuts through the FEMPI and many of them have not felt any benefit from its unwinding. I ask to see whether the Minister is taking a leadership role in also providing for them in an unwinding of it.

Deputy Paschal Donohoe: This is exactly the point I was making earlier on at different points in these questions. It is that if one makes one move in one area, it always has consequences in other areas. The Taoiseach dealt with this matter in Leaders' Questions during the week and both myself and the Minister, Deputy Harris, are engaged in this matter at present.

I understand that the organisations that are the subject of Deputy Aindrias Moynihan's question have received significant additional funding of up to €120 million over the past number of years. As I have said, the Taoiseach has asked that myself and the Minister, Deputy Harris, examine the matter and that is what we are in the course of doing.

Public Services Card

11. **Deputy Willie O'Dea** asked the Minister for Public Expenditure and Reform the details of the media campaign designed to promote the public services card; and if he will make a statement on the matter. [46856/17]

Deputy Dara Calleary: There has been quite considerable controversy around the public services card. The Data Protection Commissioner is investigating issues around it under section 10 of the Data Protection Act. Can the Minister outline how much money is being used to promote the use of the public services card and whether the expenditure of that money is being suspended pending the outcome of the data protection review?

Deputy Paschal Donohoe: As the Deputy will be aware the card is a means of assisting the delivery of public services to people who need them.

The Department is currently engaged in a procurement process for a media campaign to promote the awareness and benefits of the scheme.

The campaign is likely to be delivered by radio, digital and print channels and is expected to begin in the coming months. The primary objectives of the campaign are: to improve understanding of the card; to highlight services that will be available; and to let people know where they can find out more detailed information about the card and MyGovID.

To date, 2.89 million of these cards have been issued. A number of cards have been re-

issued or have expired. The cards are in broad use.

Despite the comment and debate on the issue at the end of the summer and into this term, these are cards one of the purposes of which is to assist us where individuals have to keep supplying the same information repeatedly to the State to access different services. For example, the legislation on data sharing and governance, that the Minister, Deputy O'Driscoll, referred to earlier on, will provide another building block in how we can further provide services more effectively and conveniently to citizens. We are making progress in so doing but it is a source of frustration for citizens that we cannot do even more, and that is what this card is about.

Deputy Dara Calleary: There is a new Minister in the UK. I did not realise we had one here today as well. The Minister had rugby on his mind.

Deputy Kevin Boxer Moran: The Minister is getting a bit tired.

Deputy Patrick O'Donovan: Deputy Calleary is embarrassing me now.

Deputy Dara Calleary: In the context of the concerns raised, particularly with an investigation under way by the Data Protection Commissioner, will the procurement for a service for promoting the card proceed or will the campaign be delayed until that report is filed, and is there any update on that report?

Deputy Paschal Donohoe: My voice is not as fresh as I thought. Apologies to the Minister, Deputy O'Donovan, for what I have just done.

Deputy Patrick O'Donovan: We will have to leave Deputy Calleary out of the finance committee.

Deputy Paschal Donohoe: On the questions Deputy Calleary put to me, the procurement process is not being delayed. It is under way. Because we have not got to the point at which the campaign has even begun - we are not at a point yet, indeed, in which the campaign can even be paused - my understanding is that the Department of Employment Affairs and Social Protection has engaged with the Data Protection Commissioner on many of the issues that she raised, as she is entitled to do, around the period in which this card was the subject of much debate.

Deputy Éamon Ó Cuív: I was involved in introducing the card. As long as it is a convenience, I have nothing against the card. Some comment has been a little bit over the top.

There are two comments I would make. One is on the design of the card. I have to say the writing on it, for example, the PPS number, is very small for older people. It is much better on the medical card where it is much bigger. It is a small, but important, point because this is used commonly by older people accessing services.

The second issue is more germane. Zealot approaches cause chaos. What I mean by a "zealot approach" is this. I had a case of somebody who wanted to get a driver's licence. He could not get the driver's licence because he did not have a card and could not get the card because he did not have a driver's licence and did not have a passport. Social welfare took a practical view and issued the card on reasonable evidence of an out-of-date licence. The point that seems to have arisen is that it is being demanded as an absolute, only way of identifying oneself whereas, in my view, and I ask the Minister to consider this, in most cases one would have to produce suitable evidence of one's identity which would include a passport, a card or other suitable identification because the people who likely do not have it are older people who

are well settled in the community and who are easily identified. If, however, the Department states one must have the card the most likely person to get trapped is somebody who is known to everybody but the rule states the person has to have the card and he or she gets caught, literally, in a vicious circle. Could the Minister deal with that issue?

Deputy Paschal Donohoe: In relation to the Deputy's first point, I myself have the card and I am glad to hear Deputy Ó Cuív appreciates and acknowledges the role that it can play.

I will take on board the point the Deputy made about the writing on it and I will pass it on to my colleagues who are working on it. As the Deputy will be aware, the people who are making the greatest use of it at present tend to be our older citizens. They are accessing it either for free travel or to access payments to which they are entitled. I am not aware of the issue having been raised to date but it is a fair point.

On the zealot approach that Deputy Ó Cuív talked about, we have a challenge here. We want to get to a point where this card is used by citizens to access services because I believe the issue of ensuring that we are providing valuable services to those who are meant to get them will become more important in the future.

I have my own experience in this area. We expect public services and staff involved in dealing with this issue on the front line to try to accommodate people and, indeed, they do so. If people have particular issues, we ask them to ensure that they are dealt with sensitively and respectfully. It seems that the Deputy had such an experience in terms of the particular matter with which he dealt.

Public Sector Staff

12. **Deputy Dara Calleary** asked the Minister for Public Expenditure and Reform his plans to review and address recruitment and retention issues in various areas of the public service; and if he will make a statement on the matter. [47262/17]

Deputy Dara Calleary: The issue of recruitment and retention within the public service is causing considerable pressure, particularly in the health service but also in the area of education. An issue has arisen, for example, in the context of the availability of substitute teachers. I have also seen figures which indicate that 60 hospital beds were closed last month because of a shortage of staff. I understand that there are procedures within the Public Service Pay Commission to address this and, as with the question on pay equalisation earlier, I want to know if those procedures have been initiated.

Deputy Paschal Donohoe: The Public Service Stability Agreement 2018-2020 provides for a more comprehensive examination by the Public Service Pay Commission of underlying difficulties in recruitment and retention in sectors and employment streams of the public service where difficulties are evident.

The Government recently approved the terms of reference for the second phase of work of the commission. Where a difficulty is identified, the commission will examine the full range of causal factors, including matters such as the totality of the current remuneration package, planned future pay adjustments, alleviations from current rates of pension related deductions as provided for in the public service stability agreement and FEMPI unwinding post-2020.

The commission will also look at supply constraints of newly qualified graduates of relevant post-leaving certificate and third-level programmes. It will develop appropriate analytical criteria to ensure a robust evidence-based approach to this exercise. It will look at areas where a global labour market exists as well as the responses being adopted in other jurisdictions where similar recruitment and retention problems obtain.

I met the commission to discuss this matter two weeks ago. I met Mr. Kevin Duffy and the full commission and we had a discussion on this issue and on the terms of reference being set by the Government. Where we have retention and recruitment issues, we want to determine the reasons for that and we discussed the importance of evidence in terms of allowing us to understand it. One of the areas on which we made progress relates to the last piece of work carried out by the commission. The commission published work that was transparent and evidence-based, particularly regarding public pensions. I would be eager that such an approach would be continued in respect of this sensitive area. I understand that, in the first instance, the commission intends to focus on those groups in the health sector that were identified in its first report. It will produce a preliminary report on these issues during 2018 and I anticipate receipt of the final report by the end of 2018, as was envisaged in the agreement.

Deputy Dara Calleary: I suggest that another issue be added to the criteria would be the amount of money being spent, particularly within the health service, on agencies to fill the gaps. I point to the example of Erris in County Mayo, an area that is physically the same size as County Louth, where there is currently no public physiotherapy service. Can the Minister imagine County Louth without such a service? There is a difficulty in recruiting physiotherapists and the posts are currently being filled by agency staff. That also applies to occupational therapy, speech and language therapy and general nursing. I heard reports of a freedom of information request on the money being spent to recruit nurses from abroad. Representatives of our hospital groups are travelling abroad to recruit nurses while we are exporting nurses out of the country.

As another assist in terms of looking at the cost of this, can we look at the amount of money that is being spent on agencies, particularly within the health service? That money might be better invested in putting more comprehensive pay packages in place. However, it is not just a question of pay. It is also a question of HR policies within the public service that have not been adapted or updated to reflect modern ways of working and of career development.

Deputy Paschal Donohoe: I entirely agree with Deputy Calleary on the final point he made. As he said, pay will play a role but there are many other matters at stake here, particularly the issue of career planning. When people enter any kind of job, but particularly a front-line service job, they have a reasonable expectation that they will know how their career is going to be planned for the foreseeable future. This is an issue that I discussed with the commission and it will be an important factor in understanding where we have difficulties. It is my view that we do not have a generalised recruitment difficulty but we may well have specific retention challenges in particular areas in our country and in particular specialties.

On the Deputy's first point about agency staff, I will ask the commission to include that in its work.

Departmental Expenditure

13. **Deputy Éamon Ó Cuív** asked the Minister for Public Expenditure and Reform his plans to allow the Department of Rural and Community Development to prepay local authorities at the end of 2017 for work to be carried out after payment is received by them; if the Comptroller and Auditor General has been consulted regarding this practice; and if he will make a statement on the matter. [47141/17]

Deputy Éamon Ó Cuív: Last year the Department of Public Expenditure and Reform gave permission to the then Minister for Arts, Heritage, Regional, Rural and Gaeltacht Affairs to prepay money to local authorities, which is an unusual practice. To date, only 60% of that money has been spent and the rest is lying in local authority coffers, which is another very unusual practice. Is that likely to be repeated again at the end of this year?

Deputy Paschal Donohoe: The disbursement of funds from the Vote of the Department of Rural and Community Development is a matter for the Accounting Officer of that Department in the first instance. My Department's circular No. 13/2014 clarifies arrangements for the management and accountability for grants from Exchequer funds. In particular, section 6 provides that the default position is that grants should be paid on the basis of vouched expenditure. However, where pre-funding is required, prior approval must be sought from my Department. In cases where pre-funding is required on an ongoing basis, these arrangements should be referred to in the annual delegated sanction letter from my Department.

It is a matter for the Accounting Officer for the relevant Vote to ensure that any funding arrangements made fully comply with public financial procedures. The rationale for pre-funding should be documented by the grantor and available for audit and inspection, together with the monitoring and control arrangements attaching to the pre-funding. It is for the Comptroller and Auditor General to decide what issues to examine in the course of his office's regular audits of departmental spending.

I am informed that to date my Department has not received any specific requests for sanction from the Department of Rural and Community Development in respect of pre-payments to local authorities.

Deputy Éamon Ó Cuív: I presume the reference in the circular to pre-funding relates to situations where the person who is going to engage in the expenditure would not have the where with all to carry out the work without pre-funding, which I understand. Would the Minister for Public Expenditure and Reform consider the fact that a Minister was not able to spend the money made available to a Department an adequate reason for pre-funding? It is obvious that local authorities handle much larger sums of money than the €28 million that was disbursed to 30 local authorities, amounting to less than €1 million each, and that following the normal pattern of vouched expenditure would not be a problem for them. In that context, would the fact that the Minister could not spend the Department's money in time be a sufficient reason for the Department of Public Expenditure and Reform to give sanction for the pre-funding of local authorities so that the Government would not have the embarrassment of a Minister who was not able to spend the money allocated? That is basically what happened last year.

Deputy Paschal Donohoe: I can assure Deputy Ó Cuív that there are few Ministers more capable of spending money well than the Minister for Rural and Community Development, Deputy Ring.

Deputy Patrick O'Donovan: Deputy Dara Calleary knows that only too well.

Deputy Paschal Donohoe: When he is dealing with this matter this year, I am very confident that he will be ensuring that money made available will be spent. Deputy Ó Cuív can be certain that if the Minister for Rural and Community Development, Deputy Ring approaches my Department looking for a decision regarding pre-funding - he has not done so as yet - it will be for money that he is confident of spending. I am certain that if money is made available to his Department, it will be spent.

Deputy Éamon Ó Cuív: The Minister for Rural and Community Development was Minister of State at the Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs last year and had responsibility for the same functions. The money was not spent last year and he had to pre-fund local authorities to the tune of €28 million. As I said in the preamble to the question, only 60% of that has been spent to date and the 40% of last year's money which has not been spent amounts to €11 million. On top of that, it is likely that out of this year's allocation, despite the smart-alec remarks, he will underspend by over €30 million on the capital side of his Department. I am asking if his inability to spend the money is sufficient reason for the Minister for Finance, rather than saying he can carry forward 10%, to give a pre-funding arrangement to local authorities which we know they have already abused this year and will likely abuse again next year.

Deputy Paschal Donohoe: There was no smart-aleckry in the comment I made. As somebody who has worked with the Minister, Deputy Ring, over many years and had the experience of working with him in the Department of Transport, Tourism and Sport, I know his ability and focus to ensure that plans from Government happen on the ground is unparalleled. If there is an issue in regard to the expenditure of money by local authorities I am confident the Minister, Deputy Ring, will fix it. As I said, to date he has not approached me looking for pre-funding for any programme. I know, given the engagement I have had with the Minister in recent weeks in the run-up to the budget, he is determined as a member of Cabinet to ensure that if funding is made available in the Department of Rural and Community Development, that money will be spent through local authorities and elsewhere. It is always the case, as the Deputy will know, that when we are dealing with local authorities, commitments and funding that are made available to them are, on occasion, not spent during the year. There are other Departments which have ample experience of this but, as I have said, I am confident the Minister, Deputy Ring, in his role in leading this new Department, will tackle and make progress on this matter.

Written Answers are published on the Oireachtas website.

Message from Select Committee

Acting Chairman (Deputy John Lahart): The Select Committee on Employment Affairs and Social Protection has completed its consideration of the following further Revised Estimate for public services for the service of the year ending on 31 December 2017 - Vote 37.

9 November 2017

Topical Issue Debate

Special Educational Needs

Deputy Martin Ferris: Last Monday night Deputies John Brassil, Michael Healy-Rae and I met with the parents of the Nano Nagle school in Listowel. They articulated in a very painful way what they are encountering regarding their loved ones, both in terms of the adult services and the lack of respite services in their area. The reality is that, on occasion, an after-service is not available for some months after their children leave school, which is often due to a lack of trained staff at the facility they have been offered. Staff recruitment can take many months so young adults have to stay at home until recruitment is complete. This current process needs to be reviewed. The timescale to find a facility for these young adults is very short and there is rarely any transition time for them to get used to the new day services.

The way it has worked in the past is that, in September, school leavers are identified for the coming year and support services carry out an assessment and report to the adult day services. This should be completed by December in order to have the services available by May. We have been told by both the services that were available, as well as the Nano Nagle school, that the school-level referral process starts too late. They recommend that the students need to know where they are going after Nano Nagle at least two years ahead of time. There is also a problem with funding in that additional funding may be needed. I will continue the point in my supplementary contribution.

Deputy John Brassil: To follow on from Deputy Ferris's contribution, I will not be repetitive because there is a very straightforward ask. To commence the process in September for completion the following June does not give enough time and it needs to commence 12 months earlier. If that happened, one would get the assessments done, get the funding in place and get the staff in place, which would give some hope of a smooth transition for special needs children coming out of the school environment and going into the adult environment.

Another important issue is the question of the transition itself. It often happens that a child will finish in the Nano Nagle school or any other special needs school and will not know the person who is going to be caring for them in the day services they are going into and will not know where the day services are. There will be no preparation by the school and no opportunity for the school to meet the new carers. The whole thing is operating on a trial and error basis, which is not acceptable for the most vulnerable in our society.

I ask the Minister of State, first, to bring the assessment process back 12 months and, second, to allow for a minimum of a six-month transition for the special needs child, the parents and the carers to get familiar with the new set-up and to make the transition as smooth as possible for what we all know are the most vulnerable people in society, to whom we, as elected Members, have a duty of care.

Minister of State at the Department of Finance (Deputy Patrick O'Donovan): I am taking this matter on behalf of the Minister of State, Deputy Finian McGrath. I have some knowledge of this service because it is not far from my area. I am based almost as close to the centre as the two Deputies and I know people from my own constituency are using it. I will refer the points made by the Deputies to the Minister of State, Deputy McGrath. I will ask that he meets

the Deputies outside the Chamber to try to progress the issue.

I am pleased to outline the position on services for young people with disabilities who need continuing supports from the health services. The Government is committed to providing services and supports for people with disabilities which will empower them to live independent lives, provide them with greater independence in accessing the services they choose and enhance their ability to tailor the supports required to meet their needs.

The HSE disability services engage in a detailed and person-centred process with a wide range of agencies every year to identify the most appropriate service provider and quantum of service to meet the individual needs of each school leaver. This process takes place over a number of months and is led by the needs of each individual school leaver. In addition, the HSE disability services also engage with individual school leavers' families to listen to any concerns they may have regarding the process and work with both families and agencies to seek an appropriate placement for the school leaver.

Some 291 applications were submitted to the Cork Kerry community health care disability services under the 2017 school leavers process, including four from Nano Nagle school in Listowel. A placement was offered to each and every one of these applicants. However, 57 deferred their placement, chose another option or the individuals remained in school for another year.

Notwithstanding that, the Cork and Kerry community health care organisation, CHO, acknowledges that there are some shortcomings in the school leaver process. In order to enhance the process, the CHO has approved the recruitment of two occupational guidance officers. These additional resources will support enhanced delivery of the school leaver process for 2018 and thereafter.

The Minister of State acknowledges that there are still a number of deficits in the school leaver process that are common to all parts of the country. The available funding does not provide for access to multidisciplinary team support and access to transport to and from placements for day service users. Local HSE disability services management, not only in Cork and Kerry, but in other counties as well, continues to work at local and national levels to address these deficits. The HSE will continue to engage with the service users, their families, service providers, national HSE management and the Department of Transport, Tourism and Sport in this regard.

On behalf of the Minister of State, I wish to inform the House that the assessment of needs for each individual school leaver who will require a day service in 2018 has already commenced and a validation exercise will be undertaken by the national office in terms of profiling in the first quarter of 2018. If it would be of any assistance, I could ask my office to engage with the Minister of State, Deputy Finian McGrath, and suggest that he sit down with Deputies Ferris and Brassil, together with the other Oireachtas Members from County Kerry, whom I am sure have an interest in this matter as well, as soon as he is available to discuss the issues that have been raised tonight regarding the Nano Nagle school, which affect north Kerry and a cohort of people in west Limerick.

Deputy Martin Ferris: I thank the Minister of State for his response. It is essential that his colleague, the Minister of State, Deputy Finian McGrath, meet the Kerry Deputies so that we can bring to his attention the plight of the parents and their special children. We must find a resolution and try to create a situation in which parents can be confident and secure in the

knowledge that their adult children will find placements well in advance so that they can prepare and ensure that the best available care is provided.

Besides the parents and the school, those who attended were led to believe that there was a lack of funding for these services. This is something that we will need to raise with the Minister of State, Deputy Finian McGrath. There also appears to be a lack of cohesion between the Department of Education and Skills and the Department of Health.

I welcome that the Minister of State, Deputy O'Donovan, will try to ensure that a meeting takes place. Hopefully, we will be able to meet next week, given that we intend to report to the parents and Nano Nagle school on progress in our engagement.

Deputy John Brassil: I welcome the indication that the Minister of State, Deputy Finian McGrath, will meet us. Deputy Ferris and I have requested that meeting. I am sure that Deputies Michael Healy-Rae, Danny Healy-Rae and Griffin have as well. After the previous meeting, we committed to the parents to raise this issue in the Dáil - thankfully, it has been taken as a Topical Issue - and to try to arrange a further meeting. Some of the issues are practical ones. For example, if the timeframe was moved back by six, nine or 12 months, there would be scope to make the transition easier.

Funding will always be an issue. More funding is needed, but when one is recruiting staff for a position that has been approved, the days of ringing someone and asking whether he or she is free to do the job are gone. Now, recruitment has to go through the proper channels, including advertisements and interviews. This can take months. The timeframe that we are allowing ourselves is not enough. We need to be practical on that front.

During the upcoming meeting with the Minister of State, we will also raise the issue of respite for parents, a service that is at a low level, and the need for a practice nurse in the school to help administer drugs and feed some of the children who have life-limiting conditions and need percutaneous endoscopic gastrostomy, PEG, feeding, etc. The school needs a full-time nurse.

Deputy Patrick O'Donovan: I do not disagree with anything the Deputies have said. Every Deputy will have encountered the parents of children who face personal difficulties in life. The disability sector is one of those areas that every Deputy deals with regularly. On a one-to-one basis, many parents privately tell us that a major concern for them is the question of who will look after their children when they are gone. The safety net of this transitional arrangement is available through these services. The HSE acknowledges in the reply that I read out that the services are not ideal and there are deficits. Unfortunately, we do not have as much money for them as we would like. We are trying to perform a loaves and fishes operation. We have made progress in recent years, but we would love to do more.

As Deputies Brassil and Ferris suggested, if logistical and practical elements can be changed on the ground through dialogue without requiring a pile of money or, indeed, any additional money, that can be thrashed out with the Minister of State.

I have some knowledge of this area because I know a great deal of the west Limerick terrain, and the next closest town to Glin, Athea, Mountcollins and Abbeyfeale is Listowel. No less than is the case with other service providers, there is considerable affinity with the work that the Nano Nagle school does in my part of the world.

This is an emotive and sensitive issue. I welcome the fact that the Deputies have raised it in

the House in a constructive manner. The Department involved is not mine, so the only commitment that I can make on foot of what they have said is to ask my office at the earliest possible opportunity to arrange for a meeting between them and the Minister of State, Deputy Finian McGrath, officials from his Department and the relevant people from the Kerry area with a view to determining whether, as Deputy Brassil suggested, a practical approach can be taken.

Tax Avoidance

Deputy Joan Burton: The recently released Paradise Papers and, before them, the Panama Papers tell a shocking story of the world's wealthiest companies and individuals using secretive offshore tax havens to shelter their wealth from the legitimate tax demands of tax authorities across the world. Ireland's name features in all this, which, like Robin Hood in reverse, seeks to rob the poor, the working class and the middle class to create a tax-free globe for the rich and mighty, both corporate and personal. The newspapers, including *The Irish Times* and *The Guardian* in the UK, that have supported the International Consortium of Investigative Journalists, ICIJ, in publishing this information are to be congratulated even if what they have to say is disturbing.

The Paradise Papers and Panama Papers show that these arrangements and structures are the enemy of a flourishing, open democracy. The secrecy that is the core asset and principle of tax havens, as well as their no-tax status, is the greatest threat to countries such as Ireland and other EU member states. It is also probably a critical factor in the creation of a global elite of oligarchs, billionaires, multimillionaires and companies that are outside of normal taxation. This is one of the scandals of our age. Its consequences in terms of undermining the kind of open and flourishing democracy that we all aspire to are frightening.

What is the Minister going to do about this in terms of Ireland's reputation, which risks being shredded, and what actions will he take? When I was a member of the previous Government, the Labour Party in particular sought to include Ireland fully in the OECD process. That stands to us now as we face the difficulties of Brexit. However, I hear a deafening silence from Fine Gael in particular, but also from the Independent Alliance, regarding the scandal of international taxation. Multimillionaires in Ireland can park their recently-purchased jets for an hour or two in the Isle of Man, thereby cheating the Revenue and Irish taxpayer of the VAT that would be due on such a luxury product, and the Minister has his hands up and open and has nothing to say about it. I realise the Minister of State who is to respond is not personally in charge of this area but all I can say is that we are fooling ourselves.

As the United Kingdom is leaving the European Union, we must address this area. We only want people to pay their fair share of taxation. We do not want particularly punitive tax rates. Why are people in ordinary jobs in Ireland, including civil and public servants and those in private businesses, paying quite a lot of tax while other people are flying in on jets or sailing in on yachts, having spent two hours in the Isle of Man? They are not even contributing VAT.

Deputy Patrick O'Donovan: I am taking this issue on behalf of my colleague, the Minister for Finance and for Public Expenditure and Reform, Deputy Donohoe. The Minister is aware of the publication by media outlets of information deriving from the Paradise Papers. The Paradise Papers are not currently publicly available but the International Consortium of Investigative Journalists, ICIJ, has indicated that it intends to release them in the coming weeks.

To the extent that these or any similar papers identify individuals or entities associated with Ireland, Revenue will examine the cases and intervene as appropriate. At an international level, Revenue will also work in close co-operation with other tax administrations within the framework of the OECD's Joint International Taskforce on Shared Intelligence and Collaboration, in addressing issues raised by the papers and will, as appropriate, share information under existing legal frameworks. The Minister for Finance has confidence that any issues of concern will be investigated by the Revenue Commissioners, as appropriate, as soon as the papers become available. On the media references to the Irish banks, as the Deputy is aware the Minister for Finance has no direct function in strategic or operational decisions made by the banks in which the State is a shareholder. Decisions in this regard are the responsibility of the board and management of each institution, under the supervision of their regulator and equivalent authorities in the jurisdictions relevant to their operations. The Minister must ensure that the bank is run on a commercial and independent basis and in this regard a relationship framework has been specified that defines the nature of the relationship between the Minister for Finance and the bank. As the Deputy is aware, these frameworks can be found on the Department of Finance website.

The Deputy will be aware that AIB has indicated it does not support or facilitate tax evasion and acts in accordance with all relevant tax and data protection laws in any jurisdiction in which it operates. Under the terms of its EU restructuring plan, AIB was tasked with becoming a simpler, smaller and more domestically-focused banking group, to ensure its stability and return to viability. AIB previously had banking operations in many jurisdictions around the world and provided a range of standard banking services to its international customers. As part of the EU restructuring plan commitments, the bank made the decision to dispose of some of these operations, such as its Polish subsidiary, and close others, which included the winding down of their operations in the Isle of Man and Jersey. The bank has confirmed to the Minister for Finance that it was decided to wind down AIB ISL Limited in the Isle of Man and AIB (CI) Limited in Jersey in 2012 and they ceased operations on 31 December 2013. The banking licence of both companies was terminated and the administration of both, which is a legal and regulatory requirement as part of the orderly wind-down of the banking operations, was migrated to and continues to be carried out by two companies, namely, Estera Trust (Isle of Man) Limited and Estera Trust (Jersey) Limited. The bank has also advised the Minister that it fully complied with a series of disclosure orders made by the High Court in Dublin between 2004 and 2012 in favour of the Revenue Commissioners in respect of information held by the bank's Irish operations as part of Revenue's offshore products investigation. Bank of Ireland has advised the Minister for Finance that it is its group's policy to fully comply with all the requirements as set out in tax legislation in the countries in which it operates. The group is also committed to maintaining open and co-operative relationships with the relevant tax authorities in the jurisdictions in which it operates. To this end, the bank has informed the Minister for Finance that the group has signed up to and operates within the co-operative compliance framework with the Revenue Commissioners and the equivalent banking code of practice on taxation with the UK's HM Revenue and Customs. The group closed the last of its retail operations in the Channel Islands in June 2014 following a general business review. Significant action has been taken, in Ireland and internationally, in respect of offshore activity in recent years. Revenue originally launched an investigation into offshore activity in 2003 and has collected more than €1 billion in tax, interest and penalties to date as part of this investigation. Changes were also made in 2016 to the voluntary disclosure tax regime. Since that change, the Minister for Finance is advised by Revenue that the number of disclosures exceeds 2,700, with a value of more than €80 million. As already noted, as soon as any information becomes available it will be closely examined by the Revenue Commissioners.

Deputy Joan Burton: I do not know that there is anything new in what the Minister of State has said. I would like to know what new demands, if any, the Minister for Finance has made in respect of the banks since the publication of this information. I refer in particular to those banks which were bailed out at a significant and continuing cost to Irish taxpayers. Was any new initiative undertaken as a consequence of the publication? Has any squad been assembled in the Revenue Commissioners or the Office of the Director of Corporate Enforcement, ODCE, to ensure that what the banks say they are doing has actually been carried out? Will the Minister commit to a full Dáil debate before the Christmas recess on this matter? I appreciate that the Minister may not have all of the data until everything has been published.

We already see too many Irish-based organisations, companies, individuals and so on popping up in the reports which have been released on a daily basis by the Irish media, in particular *The Irish Times*, as well as by *The Guardian* in the UK. Is the Department monitoring those reports? Is it examining the status of individuals and transactions which have been identified? Will the Minister commit to continuous reform of the structure of tax inquiry and monitoring in order to catch up with this brave new world of global financial organisation and tax evasion and avoidance? It is happening on a global basis and is outside the reach of almost every country.

I have repeatedly recommended a standing tax commission in Ireland which would enable the Revenue Commissioners to do this on a continuous basis. Can the Minister of State tell us about the yachts and private aircraft, which rest for a couple of hours in the Isle of Man, directly across from Dundalk? Can he tell us what the heck is going on?

Deputy Patrick O'Donovan: The Minister asked that I reiterate that the sooner the ICII makes the papers publicly available, the better. Revenue has already spoken to the Minister. As far as I know, the Minister was with the finance committee and said he discussed this matter with the chairman of the Revenue Commissioners. The Chairman of the Revenue Commissioners has assured the Minister that as soon as the papers become publicly available and the revelations which are currently circulating in the media are published, Revenue stands ready to investigate them.

6 o'clock

Everybody in the House would agree that the Minister for Finance and for Public Expenditure and Reform will not and has not been found wanting in respect of issues in the past. We do not have evidence that significant issues affecting Revenue will arise but if they do when the papers are published, the Minister has committed to dealing with them. He will not be found wanting on the issue.

As he stated in the reply I have given to the House, the sooner these papers are published and made available the better because it will allow Revenue and other tax authorities around the world, with which we will co-operate, to act. As I stated, it is in Ireland's interests to have as clean a reputation as possible.

We have no interest in having a question mark over our reputation and it is certainly not the way the Revenue Commissioners operate. Deputy Burton was a Minister and knows it is in Ireland's best interest to continue to have an intact and good reputation. This Government and its predecessor have taken any necessary steps in our tax code to ensure our reputation is maintained. I have no doubt the Minister, Deputy Donohoe, is prepared to continue that process. I encourage the House to give its co-operation in this respect.

Student Grant Scheme Administration

Deputy Peter Fitzpatrick: In recent months I have assisted a family in Dundalk with a Student Universal Support Ireland, SUSI, application. This family has two children in third level education and they face a dilemma, as both children's SUSI applications, SUSI appeals and appeals to the student grant appeals board have been refused. We have now been told the process has gone as far as we can with SUSI. The family must now come to terms with the fact that their children have to leave college because the family cannot afford the fees and expenses. Unfortunately, the father's business went bust and he has been declared insolvent, with the family entering into a personal insolvency arrangement, PIA. The mother's income, which is the sole income of the household, is now an allowance from her salary, with the remainder going to the PIA to cover debts. The family does not have access to the amount that SUSI has calculated as income and they are working from extremely tight allowances, where every cent is accounted for in the PIA. The husband cannot claim social welfare as he was self-employed.

The response from the student grant appeals board states:

There is no provision under the student grant scheme to provide for any exceptions to those involved in the process of insolvency. The assessment of means is applied equally to everyone. This ensures all applicants have the same starting points and eliminates any distortion which might arise from the different individual spending decisions.

This is very unfair on the family as they are not equal to other applicants and they do not have the same starting points as all other applicants. This family should be assessed on the allowance only, as it is the only money they have. If that were the case, the family would qualify for the full SUSI grant.

It is also unfair that the board states this "eliminates any distortion which might arise from different individual spending decisions". This family's individual spending decision is no longer theirs, as every decision is made for them, with the allowance from the bank right down to what they can spend on groceries. The comment is very unfair. I have no interest in playing the blame game and we all know the difficulties in dealing with banks. I am more interested in what my Government can do for this family and families in similar positions. The Taoiseach speaks about rewarding people who get up early in the morning and go to work, and this family is an example. The family members are hard working. The wife is a hard-working professional and the husband was an entrepreneur who, due to unfortunate circumstances, has been left in this position. They want a bright future for their children. These people could have gone down the route of declaring bankruptcy and living on the State, receiving free education, social welfare, medical cards etc., but this was not an option. The family wants to repay its debts.

In the Minister's previous role with responsibility for jobs and enterprise, he encouraged people like this family to do well in business. It is vital that the Government helps families when business does not go to plan. My Government needs to assist our entrepreneurs at all stages as they are valuable to our economy. This is one of the nicest families I have come across in my time in politics and the stress being faced by them is unimaginable. The parents have been losing sleep and carrying guilt because they cannot assist their children in obtaining an

education, as every parent wants for their child. Their children will have to drop out of college after working so hard to gain places in their respective colleges. The family is also worried about banks that will not allow them to alter the allowance in any way. This is affecting their overall health and particularly their mental health. They are exhausted, stressed and understandably depressed. The mother was in my office and broke down, telling me, “Peter, there is no more I can possibly do. We have let our children down.”

In this day and age, no family in Ireland should have to face this problem. I ask the Minister to insert a provision under the student grant scheme to provide for exceptions for those involved in the insolvency process.

Minister for Education and Skills (Deputy Richard Bruton): I certainly sympathise with the case outlined by Deputy Fitzpatrick. The difficulty I have is that SUSI is a national statutory-based scheme and its allocation of student grants is based on an assessment of gross income. That assessment is applied uniformly in all cases. Where people have other outgoings, such as a mortgage or any other payment, they are not deducted. It is not a net means test and it has always been based on gross income. People might argue that it should consider net income in certain circumstances but it does not. It is applied nationally in that way and there is no special arrangement for people in insolvency, as the Deputy outlined in the comments he made. SUSI treats this in the same way as other means-tested arrangements and there are no special means tests available through the Department of Employment Affairs and Social Protection, for example, dealing with insolvency cases. Again, it is income that is assessed and allowance is only made for tax paid or similar items.

Although it is not in my area, it is my understanding there is an arrangement whereby a family means requirement is carried out before the personal insolvency agreement would be arranged. Within that process I understood there was an obligation to ensure provision was first made for children, including cases where young people were in college. I do not know if that assessment of means was made before finalising what was deemed to be a reasonable contribution to the debt. I do not know if it failed to take account of the fact that children were in college.

The only scheme I can point to within my Department is where students in third level institutions experiencing financial need can apply for support under the student assistance fund. This helps students in a sensitive and compassionate manner who may otherwise be unable to continue their studies due to financial circumstances. Information on that fund is available through the access office in the third level institution being attended. The fund is administered on a confidential and discreet basis. This year we increased the allocation to the fund to assist access for students facing hardship.

Unfortunately, the system under SUSI is statutory-based and it takes into account gross income. I do not have the authority to waive those provisions for any individual case. There is the possibility of appeal but that is still on the basis of existing legislation. It seems the only direction I can suggest to Deputy Fitzpatrick is the student assistance fund. Has there been a failing in the personal insolvency agreement in considering the outgoings of the family in respect of the children’s education? I do not know if that can be examined under the Insolvency Service of Ireland arrangement.

Deputy Peter Fitzpatrick: I understand that in SUSI guidelines and rules there is no provision under the student grant scheme to provide any exceptions to those involved in the insol-

vency process. That is why I have brought this matter to the Minister's attention as a Topical Issue matter. I hope I am not wasting my time. I am asking what the Government can do for this family, which needs help. I am convinced that with the stroke of a pen, this family and those in a similar position could have their problems resolved. As a previous Minister with responsibility for jobs and enterprise, he can understand their position. The students' father does his best and the mother is working her fingers to the bone to pay off debts. The two children are being deprived of an education. This Government has the opportunity to put this right. The family has been no burden to the State and this Government cannot deprive these children of an education.

The Minister is the last hope for these children. We speak about homelessness, health and education and, health aside, the most important thing for any family is their education. I am pleading with the Minister. Many people have the same problems as this family in Dundalk and many kids will not get the opportunity to get a third level education. This Government has been through a recession. The people of Ireland have helped this Government get to where we are at the moment. We cannot deprive these two children of an education. I will give the Minister the address and mobile number of the mother, and I would appreciate it if he would contact her and tell her, her husband and two children that this Government will look after them. This family deserves it. I am convinced that with the stroke of a pen and with the authority the Minister has we can help these families. This mother came into my office and she was pleading for help. I know that she would sacrifice anything for the education of her children. I do not think this family should have to deal with this at the moment. I am pleading with the Minister to do something for people in insolvency. We are talking about mental health problems and depression. This family needs help. I have been a Deputy for seven years and I have never pleaded with a Minister to help anyone in the Dáil before. I am pleading with the Government to help this family.

Deputy Richard Bruton: As I have outlined, there is no provision for ministerial discretion in this scheme. This is a statute-based scheme. SUSI was appointed to carry out the assessments, and it does so under the provisions of the scheme. It is not open to me or indeed to anyone else to, at the stroke of a pen, change the operation of that scheme. I draw the Deputy's attention to the student assistance fund, which is administered in each college. It has funding available to support, in confidential way, the position of any individual family. That has to be decided by the administrators of that fund on an individual basis, but it is designed to meet situations of particular hardship. The Department makes provision for that fund each year, and I will make arrangements to send the details of that fund to the Deputy.

Teacher Recruitment

Deputy Noel Rock: I thank the Minister for taking the time to discuss this most important issue which not only affects primary schools within my constituency but across the State. We are facing a massive crisis at primary level, which needs to be addressed by the Government. Principals across the State and indeed in my constituency of Dublin North-West are facing huge difficulties in obtaining substitute teachers to cover sick days and maternity leave, and in filling permanent positions. This has resulted in pupils being crammed into other classrooms, or in the case of smaller schools closing for the day. In 2017, this is unacceptable. We are dealing with the future of our State and we cannot afford for pupils to be left behind in the education system due to a lack of substitute teachers to cover illness or maternity leave. I do not believe

it is good enough for the Government to congratulate itself on budget 2018, having reduced the pupil-teacher ratio to 26:1 one week only for that ratio to become 26:0 the next week due to the lack of a substitute teacher or the lack of cover.

One of the issues we are facing on this issue is the number of young, newly qualified teachers being recruited for positions in the Middle East. We have seen this affect our health service with nurses taking up employment abroad and now we are facing this in our education services. When answering my parliamentary question on 24 October the Minister advised that his Department has no evidence of a recent or current shortage of primary teachers. The evidence is there to be seen in the data from the academic years 2010-2011 and 2014-2015 provided by the Teaching Council working group. The same group noted that substitute cover was required 915,000 days per year on average. However, teachers were employed by schools for an annual average of 590,000 days of substitute cover, which means that only 62% of substitutable absence was actually covered.

I am worried that this has resulted in special needs assistants, SNAs, being taken away from the most vulnerable pupils in an effort to cover these absences. Such testimony has been provided to me by a number of principals and teachers. This is completely unacceptable and something which will unquestionably worry the families of these students.

Another concern is the drastic effect this will have on DEIS schools, many of which are in my constituency. I have met with the Catholic Primary School Management Association, CPSMA, which believes it is these schools which will be affected the most by this shortage. There are also a number of DEIS schools in the Minister's constituency, and I am sure he does not want to see those schools or their students being at a further disadvantage when it comes to staffing issues. He is aware that the CPSMA conducted a survey of principals on this matter. The results are startling and the feedback from principals is extremely worrying. Some of the relevant feedback was as follows, and I quote:

I accidentally entered Galway instead of Dublin into the TextaSub service one day and I got about 15 responses. I spoke with many of them and offered them the position. They informed me the rent was too expensive in Dublin to sub here.

Another example is as follows:

For the last sick leave I rang 16 qualified teachers and sent out a TextaSub to 112 substitute teachers. Only one person responded to the text.

This appear to me to not only be a shortage, but a potential crisis in the making. Only 66% of substitutable days were covered. If we are to look ahead to Saturday in Copenhagen, were Martin O'Neill to have three injured players on the pitch but only be able to substitute in two players, people would have to ask about the managerial effectiveness at play there. It is perfectly reasonable to ask about the managerial effectiveness at play here if we can only substitute in two teachers for every three missing on a given day.

An Ceann Comhairle: I hope the Deputy is not tempting fate.

Deputy Noel Rock: I hope I am not tempting fate, but I have no doubt that Martin O'Neill and the boys in green are adequately prepared for any such issues that arise in the game. Nevertheless, I would be keen to hear the Minister's response to the issues that have arisen.

Deputy Richard Bruton: It is not correct to suggest that there is a massive crisis in primary teaching. As the Deputy knows, the Government has reduced the class size twice in the last three years, and last year we provided 1,093 additional teachers. This September an additional 1,160 teachers will start. That amounts to 2,250 additional teachers in the last two years. Those are permanent, full-time positions. There has been no difficulty in filling those positions. They have been filled, and there are currently a total of 37,000 teachers across the primary school system. In urban DEIS schools there are now smaller class sizes. There is great strength in that.

In respect of resource teaching for children with special needs, even in those very difficult crisis years we continued to expand those numbers, and the number of teachers provided for resource teaching has increased by 50% over the years since 2011. We have a well staffed primary school system, and we continue to make very substantial improvements. Next year I will be making 637 additional teaching positions available.

On the issue of supply and demand, there is no doubt that we have successfully filled the full-time positions by recruiting at that level, with over 2,250 additional teachers hired in a very short space of time and where 1,750 have been recruited. However, substitution may involve working for one or two days here and there. I recognise that poses difficulties within an economy where there are increasing opportunities. It is less attractive for teachers to wait for short periods of placement. In order to ease that I have made a number of changes. There are a very significant number of career breaks - 1,750 in the primary system - so I have made arrangements to increase the limits for people who are on career breaks. They are now allowed to do substitution work for up to 90 days. I have also arranged that those who have recently retired can, if they remain registered, take up opportunities for substitution positions. For a number of years there was an effort to restrict the use of retired teachers to fill those positions because there was a need to prioritise those who were coming out of college who did not have opportunities.

There is some pressure in this area but I took the opportunity to examine the recent trends. It might reassure the Deputy to know that there is an increase this year over last year in the payments we are making for substitution to people who are qualified to substitute. We are paying more people who are qualified, available and in the schools to meet casual vacancies than we were last year. It is significantly more, going from €100 million to €125 million. That is a 25% increase in the payments being made to people who are undertaking substitution duties. Unless there has been a massive surge in absences that I cannot see, we are making provision.

However, there is no doubt that there is a particular problem in Dublin. I will monitor this issue carefully but according to the most recent data I have, and admittedly it is data from the end of 2016, some 7.5% of the days when there could have been substitutes were not paid. In other words, people were not available to be paid substitution where substitution was justified.

Deputy Noel Rock: I thank the Minister. Let me be clear that I am not saying there has not been significant progress made under the Minister and in his Department with regard to teaching, the reduction in the pupil-teacher ratio, the increase in budgets and the increase in standards in both primary and secondary levels. This specific issue has been brought to my attention by the CPSMA and I feel duty bound to act on it given the figures. Many of them are disputed by the Minister's account. Nevertheless, it is clear that 90% of schools have indicated in a recent survey that they have difficulty sourcing a substitute teacher and 82% of them have indicated that it has been more difficult this year than in any previous year. These figures speak for themselves.

However, it must be accepted that the Minister has increased the budget by €25 million, or 25%, this year over last year. It appears that there might be some structural issues in certain areas. There are difficulties in getting substitute teachers in Dublin, in particular. That might be something that could be reviewed in due course because it is a particular pressure point. Indeed, that is why I am coming under pressure in this regard. I would be interested to hear what the solutions might be in that respect in the future. The CPSMA has outlined a number of potential actions for alleviating the substitution issue which it would be more than happy to share with the Minister and his Department. The Minister might be interested in that.

Deputy Richard Bruton: My Department and I are always in discussion with the various stakeholders. I will examine the survey. I note that it was conducted over an eight week period and suggested that there was a difficulty filling the vacancies that had arisen in the previous eight weeks. We will examine that, get the data and see if a particular issue has arisen here. The difficulty is that where there is a short-term vacancy of only a day or two teaching it is hard to make that an attractive offer to qualified teachers when there are permanent positions available. We have made it easier to get permanent contracts. We have reduced from four to two years the period when one gets a contract of indefinite duration. We are giving better permanency and conditions, increasing the number of full-time permanent positions and increasing the pay. We now pay nearly €36,000 to a graduate straight out of college who is starting in a position.

I can understand that there are difficulties with substitution. We will meet with those involved to see what initiatives might be taken beyond those we have already taken.

Garda Síochána (Amendment) Bill 2017: Second Stage [Private Members]

Deputy Jim O’Callaghan: I move: “That the Bill be now read a Second Time.”

I am sharing time with Deputy Lahart.

The last number of years have been very difficult for An Garda Síochána. Part of the reason they have been so difficult is that the force has been exposed to a series of events that have had the effect of damaging public confidence in the force. Before outlining some of those events, however, it is important to state that the Garda Síochána has many fine attributes. The men and women who serve in An Garda Síochána today are as committed and diligent as their forebears in the force who served during the last century. However, we must acknowledge that, perhaps because it is a different time, the Garda is being exposed to greater public scrutiny than was the case in the past. As a result of that greater public scrutiny, there has been a loss of public confidence in the Garda due to the events I will discuss presently.

I wish to acknowledge that when it comes to doing its primary job of fighting crime and protecting the Irish people An Garda Síochána does the job excellently. Recent events in respect of An Garda Síochána confirm that. Perhaps part of the difficulty for An Garda Síochána is that it finds the other aspects of the policing job, which require accountability, transparency and answering questions, difficult to deal with. The positive news, however, is the fact that it is an excellent force when it comes to fighting crime and defending the Irish people.

It is also important to acknowledge that politicians cannot simply state repeatedly that the

responsibility to reform the force and to rebuild public confidence rests with An Garda Síochána alone. It is unquestionably the case that primary responsibility for trying to rebuild trust in the force rests with An Garda Síochána and particularly its senior management, but everybody has a role to play in this respect. Significant responsibility rests with the Government. The Minister, Deputy Flanagan, is new to the Department but since this Government came to power in May 2016 it has not come to grips with its responsibility for reforming and improving An Garda Síochána. That is not a criticism of the Minister but of the Government in general, in terms of how it has recognised and responded to the series of issues that have arisen in the force.

However, responsibility does not rest with the Government alone. All Members of this House have a responsibility, including the main Opposition party. We must recognise that the great power politicians in this House have is, first, to hold the Government to account and, second, to make laws. The Garda will only be reformed if we change the laws in respect of how it operates. That is not the only basis on which it can be done, but it will not happen without that. It is not just the responsibility of An Garda Síochána. It is also the responsibility of politicians. That is the reason I have put forward this legislation which we are now debating on Second Stage.

The series of issues that have given rise to a loss of public confidence in An Garda Síochána relate to matters pertaining to whistleblowing and the establishment of tribunals of inquiry. However, in my opinion the most significant damaging event that had an impact on public confidence in An Garda Síochána was the false breath tests and the convictions that took place as a result of individuals being prosecuted who should not have been prosecuted because they had already paid the fixed notice penalty. I should outline how we reached this point in respect of the false breath tests. On 23 March, senior members of An Garda Síochána announced that there were 950,000 false breath tests recorded on the Garda PULSE - police using leading systems effectively - system. At the time of making the announcement they stated that no single reason could be identified for so many false breath tests on the system.

That was an astonishing statement by An Garda Síochána. It was not acceptable or permissible for those members to make that statement and just leave it hanging. At the time my party stated that there had to be answers and accountability for it. Unfortunately, we got neither answers nor accountability. As a result, we made a significant and serious decision for the main Opposition party - we stated that we could no longer express confidence in the then Garda Commissioner. That decision was not taken lightly, but we made it due to the fact that there had been such a significant statement from An Garda Síochána yet there had been no answers as to how so many breath tests had been falsely recorded and there had been no accountability.

Subsequently, there was the investigation and inquiry conducted by Assistant Commissioner Michael O'Sullivan who reported in September 2017. He reported that rather than there having been 950,000 false breath tests, there was another half million, bringing the figure to 1.45 million false breath tests on the garda PULSE system. Assistant Commissioner O'Sullivan's methodology for this investigation was to examine approximately 2,100 checkpoints. He listened to some of the recordings of phone calls made by members of An Garda Síochána to the Garda information service centre after the checkpoints took place and on the basis of that assessment he determined that the figure in question was 1.45 million false breath tests.

Last week, the Policing Authority published the report by Crowe Horwath which it had commissioned into the matter. The report stated that the figure for false breath tests on the garda PULSE system was not 1.45 million but 1.85 million. That PULSE system has a total of 3.2 or

3.3 million breath tests recorded on it. This means that more than 50% of breath tests recorded on the PULSE system have been categorised as false by the Policing Authority and An Garda Síochána.

This House must take steps to deal with this issue. I introduced the Bill we have before us some months ago following the initial announcement by An Garda Síochána in March 2017 that there had been 950,000 false breath tests and since then, the figure has risen to 1.85 million. We need to do something, not specifically on the breath tests but to change the way that An Garda Síochána operates so that things such as this do not happen in the future. We keep telling An Garda Síochána that this cannot happen again, but if we want it not to happen again, we must change the law.

I will identify the particular sections in the legislation before the House. The first significant proposal is in section 2 of the Bill which provides for an amendment to section 41(a) of the principal Act, the Garda Síochána Act 2005, as amended by the 2015 legislation which established the Policing Authority. The Policing Authority is a significant addition. It is the mechanism that we should use to ensure that reform of An Garda Síochána takes place. The Policing Authority has been given certain functions and responsibilities by this House through the primary legislation by which it was established but we must recognise that under this, there was no obligation on An Garda Síochána to inform the Policing Authority about its audit into the false breath tests which was being undertaken across the country. That is why in section 2 we seek to introduce an obligation on An Garda Síochána to inform the Policing Authority about any matters which have required an internal review, audit or examination of the functions or operation of An Garda Síochána, and which were requested by the Garda Commissioner, deputy commissioner or any assistant commissioner. This means that only significant internal reviews and audits would be obliged to be reported to the Policing Authority. It is astonishing that the Policing Authority was not apprised of what was happening in An Garda Síochána regarding the false breath test review until the early part of this year. It was an issue which had been ongoing within the force since 2015 which is when the Policing Authority should have been informed.

In section 3, we seek to give power to the Policing Authority to be able to dismiss a member of An Garda Síochána if in the extraordinary circumstances of the case, the member's conduct or his or her continued membership or position would undermine public confidence in the gardaí and the dismissal of the member is necessary to maintain that confidence. This gives the Policing Authority a significant power, and it is a power that we believe it should have. There will only be real reform in An Garda Síochána when its members perceive that there is an oversight body with significant powers and responsibilities over the force. In section 4 we also seek to give powers to the Policing Authority to supervise the functioning of the Garda Commissioner's office and to supervise the discharge of functions by the Commissioner.

The final substantive section is section 5 where we seek to give powers to the garda inspectorate to be able, if necessary, to enter, inspect and review any garda station or premises without prior notification. We put these down because we think it will add to and build up confidence in the force once more. Gardaí are in the strong position that the public has faith in An Garda Síochána and want it to succeed. Confidence in the force has been damaged and we need to help in its rebuilding. This legislation will assist in that.

Deputy John Lahart: I will begin where my colleague, Deputy Jim O'Callaghan, concluded, namely in public confidence in the gardaí. Irish confidence in the gardaí has been maintained quite consistently. It is testament to the standing in which An Garda Síochána is held

but it is not infinite and the force cannot take it for granted. I acknowledge and will elaborate on something which Deputy O’Callaghan said, and the Minister for Justice and Equality might pass it on to the Garda authorities, namely the gratitude felt in communities in constituencies such as mine for significant Garda successes. I would highlight some in recent months and am thinking of one in Citywest recently in my own constituency. A phenomenon that is also becoming more common, and has crept into our society without our noticing, is the presence of armed support units. Recently, in my local service station, I noticed a garda with a gun in his holster pass me as we were both buying coffee. The Garda has secured considerable wins. Gardaí patrol our city and they continue to keep the people safe. There was an incident recently involving the Kinahan gang where they put their lives at considerable risk in order to protect people.

The Garda has opened up in recent years. The role of the joint policing committee at local authority levels is a process about which they were initially reticent but my experience as a member of one is that the gardaí have become more open to the process in terms of engaging with public representatives and the public on matters which are important to them. Members of the public are no longer scared to have a go at gardaí at public meetings and at community meetings, which is something that would not have happened ten years ago. That is a healthy development. However, one does not want that healthy dialogue to pass a tipping point where it moves to a place of disrespect for the force.

The force, as a collective, may count its lucky stars that in spite of there having been almost 2 million false breath tests which have never been accounted for, no rationale has been given for it. From all the different organisations within the Garda - an investigative force, which has uncovered the most incredible evidence relating to crimes, secured convictions in the most phenomenal cases which have come before the courts, and secured prosecutions of criminals from all classes and none - no one has been able to explain why and how this happened or who initiated it.

The role of the Garda Inspectorate is expanded in this Bill. I want to focus on the Garda Reserve. Its numbers are dropping but out of the 120 or 130 pages in the original Garda Inspectorate report in December 2015, there were 80 references to the Garda Reserve. The report said it needed a champion in the Garda, that its role needed to be buffered, that there was a role for an officer corps, a cadet corps. None of these have been acted on in any significant way by the Garda. It will take the role of oversight bodies such as the Garda Inspectorate and the Policing Authority to ensure that happens.

I believe this Bill is timely, and very important in giving significant additional, necessary powers to the Policing Authority.

Minister for Justice and Equality (Deputy Charles Flanagan): I thank Deputy O’Callaghan for the opportunity to engage with Members of the House on the critically important issues of Garda accountability and Garda oversight. I welcome the opportunity for Members to reflect on the role and work of the Policing Authority, which has been undertaking a most valuable programme of work since it was set up. While I acknowledge and appreciate that the Bill purports to provide the authority with additional powers in line with the recommendations contained in the Joint Committee on Justice and Equality’s December 2016 report on Garda oversight and accountability, I regret that I must oppose the Bill now before the House.

My opposition to the Bill is primarily based on, but not limited to, the issue of its timing,

which does not take account of the process under way through the Commission on the Future of Policing in Ireland or the legislation governing the Policing Authority, in particular section 62O of the Garda Síochána Act 2005, as amended. There are further serious difficulties with the Bill which I will have the opportunity to outline to the House later in my speech. I must draw the attention of the House to the substantial grounds that exist for opposing this legislation. It goes without saying that the Government is fully supportive in principle of the Policing Authority having appropriate powers in order that it can carry out its oversight functions in an efficient and timely manner.

A fundamental difficulty with this Bill is that it is being introduced at a time when the Commission on the Future of Policing in Ireland, which was established in April of this year following consultation with the party sitting opposite me, is undertaking a comprehensive examination of all aspects of policing in Ireland. That examination will consider all functions currently carried out by An Garda Síochána and the range of bodies with oversight and accountability roles, namely, the Policing Authority, the Garda Inspectorate, the Garda Síochána Ombudsman Commission, the Department of Justice and Equality, and the Government. I note in particular that Deputy O'Callaghan is on record as welcoming both the membership and the full terms of reference of the commission. He has committed his party to working constructively with it. The House will be aware that the commission is to report by September 2018 and may, in accordance with its terms of reference, bring forward immediate proposals and rolling recommendations for implementation in advance of its final report.

The terms of reference require the commission to bring forward proposals addressing the following five themes: the structures and management arrangements required for the most effective delivery of policing, including all functions currently carried out by An Garda Síochána; the appropriate composition, recruitment and training of personnel; the culture and ethos of policing; appropriate structures for oversight and accountability; and the legislative framework for policing in Ireland. I emphasise again that oversight and accountability is one of the five themes under consideration by the commission.

While I appreciate that the Deputy's Bill has been initiated in the spirit of trying to contribute positively to the overall governance and oversight architecture for An Garda Síochána, I strongly believe that progressing this Bill through the legislative process has the potential to cause uncertainty for the commission. This is particularly so in light of the fact that the commission is also required to examine the legislative framework for policing in Ireland. Having said that, I acknowledge that there is a serious need for further reform of the framework of governance for policing in the State. This is evidenced in the terms of reference set by the Government for the commission. There is a clear consensus in the House on the need for reform. I would have thought that there would also be a consensus on the methodology by which that reform might be identified and made effective, namely, on foot of the commission's report and subsequent recommendations. I take this opportunity again to encourage Members of the House to engage fully with the Commission on the Future of Policing in Ireland as it goes about its important analysis and consultation process.

Furthermore, I wish to draw the attention of Members of the House to section 62O of the Garda Síochána Act 2005. This section requires the Policing Authority to prepare a report on its effectiveness and the adequacy of the functions assigned to it by the legislation. The report can contain recommendations for improving the effectiveness of the authority and must be submitted to me, as Minister, by the end of this year. I am required to lay that report before the Houses. While it is, of course, accepted that the authority must have whatever powers it needs to carry

out its oversight functions, it would be premature of this Legislature, which gave the authority the role of identifying any gaps in the legislation, to presume to know the answers before the authority has spoken. It would be far better to wait to hear from the authority and then to consider what legislative changes are required. It would then be for this House to decide whether to make such changes in the early part of next year or whether to wait for the commission's report in September. Instead, if this Bill were to be enacted in advance of the reports of either the authority or the commission, we would run the risk of being accused of once again failing to deal comprehensively, in a holistic way, with the accountability and governance of An Garda Síochána. Indeed, the very fact that we have commenced legislative consideration of the Bill could be construed as evidence of a fragmented and incoherent approach to the much-needed programme of reform of An Garda Síochána.

While it is clearly the case that lawmaking in the State is the exclusive prerogative of the Oireachtas, I feel it would assist our deliberations if the views of the Policing Authority on Deputy O'Callaghan's Bill were sought. I put on record my appreciation of the time taken by the authority to engage positively with the Bill and for providing me with its analysis. In its observations the authority demonstrates some concerns with the Bill, in particular about the implications for its independent oversight role should it be conferred with the supervisory or operational powers outlined in the Bill. In the view of the authority, the Bill has the potential to weaken the clarity in the existing statutory framework on the role and functions of the Commissioner and his or her responsibilities and accountability, thus compromising the independent oversight of the authority. The authority is also of the view that the Bill is premature at this juncture having regard to the ongoing work of the Commission on the Future of Policing in Ireland. It considers that the commission should be allowed to complete its work and produce its report. The authority also makes that point that it does not have any role in respect of the security of the State and that, accordingly, it would not be in a position to assume the responsibilities in the Bill which relate specifically to security.

To take up the point about security, I will now address what is perhaps the most serious difficulty with this legislation, namely, that it makes no distinction between policing and security matters. The Deputies will recall that during the passage of the Garda Síochána (Policing Authority and Miscellaneous Provisions) Act 2015, the Oireachtas decided that the authority was to have no role in respect of security services. Instead, the 2015 Act established a reporting relationship between the Garda Commissioner and the authority in respect of policing services. This distinction between policing and security is, in part, intended to address any constitutional issues concerning the delegation of the Government's executive powers under Article 28 of Bunreacht na hÉireann. However, the Bill before us makes no distinction between security and policing services and serves to give the authority oversight over the security functions of An Garda Síochána, which would put these provisions in direct conflict with the other sections of the Act which deal with the functions of the authority and would bring the Bill, and by extension the Act were the Bill to be enacted, into potentially difficult ground constitutionally. Even if there were no constitutional issues, the Bill makes no concession to the fact that other provisions in the Garda Síochána Act delimit the authority's remit to policing services. Instead, if we enact this Bill, the authority will both be excluded from dealing with security issues and be responsible for directing the Commissioner in respect of them. I fail to see how this can be right and proper.

I will now turn briefly to the main provisions of the Bill. I will outline some of the key areas of concern, always bearing in mind the concerns already outlined in respect of security matters.

Section 2 requires the Commissioner to keep the authority fully informed of each and every matter which has required an internal review, audit or examination of the functions or operation of the Garda Síochána to be requested by the Garda Commissioner, a deputy commissioner or assistant commissioner. In practice, current legislation enables the authority to require the Commissioner to provide it with any review, audits or examinations which it considers necessary for the performance of its functions. I refer the Deputy to section 41A(2) of the 2005 Act, under which the authority can require the Commissioner to furnish “a report on any matters connected with policing services or the performance of the functions of the Commissioner relating to such services that may be specified in the requirement”. Indeed the Commissioner is obliged to provide that report, which the authority can publish. This provision is in addition to the provision in section 41A(1) of the Act which requires the Garda Commissioner to keep the authority fully informed of matters appropriate to the functions of the authority and any other matters which the Commissioner considers should be brought to its attention.

Section 3 purports to enable the authority to dismiss summarily any member of An Garda Síochána where it forms the opinion that, by reason of the member’s conduct, his or her continued membership would undermine public confidence in An Garda Síochána. Indeed the proposition that the authority could dismiss the Commissioner or a deputy commissioner was considered in the development of the 2015 Act but, on the basis of legal advice provided by the Attorney General, the Act instead provides that the authority can recommend to Government that a Commissioner or deputy commissioner be dismissed if the reasons for removal relate to policing services. It is unclear how this provision which appears to provide the authority with power to summarily dismiss would work, having regard to the fact that the Act of 2005 contains detailed procedures to guarantee fair processes for any person concerned.

Section 4 of the Bill would require the authority to supervise the functioning of the Garda Commissioner’s office, establish policies and procedures, cause to be published and made accessible to the public all sections of the Garda code and Garda operational policies and review the adequacy and appropriateness of policies and procedures that underpin the operation of An Garda Síochána. Under current law, the authority performs a wide range of functions that are most extensive in overseeing the corporate governance structures and performance of An Garda Síochána in the area of policing. Rather than critiquing the individual elements of the section, I draw attention to two key difficulties. First, the intention is that the Policing Authority would supervise the discharge by the Commissioner of his or her functions and could direct him or her in the management of his or her office in the performance of his or her functions. The authority, of course, is independent in its oversight. An Garda Síochána must report to the authority on policing matters, but it is fully accountable to the Government. To insinuate the authority into the management of An Garda Síochána in the various ways set out in the Bill would transform the role and function of the authority from overseer to supervisor or director. The question would then arise as to whom the authority would be accountable for the operation of the Commissioner’s office. If the authority were to direct the Commissioner to do something that went wrong, who would be answerable? The second problem is that, under section 26 of the Act, the Commissioner is responsible for directing and controlling An Garda Síochána. He or she is required “to carry on and manage and control generally the administration and business of the Garda Síochána”. The Bill proposes no amendment to section 26 that would recognise that what is proposed by the Deputy in section 4 would be in direct conflict with the provisions of section 26.

Section 5 of the Bill appears to be intended to provide the Garda Inspectorate with a right

to enter any Garda station without giving prior notice to An Garda Síochána. Again, I do not know whether this is intended by Deputy Jim O’Callaghan, but this is the only provision that would require the Garda Inspectorate to obtain the approval of the Minister in order to carry out its functions. It is also unclear how the provision would interact with section 118 of the Act which requires that a written protocol be agreed between the Garda Inspectorate and the Garda on the provision of the information required.

The Government remains fully supportive of the Policing Authority. I acknowledge its hard work, determination and skill, particularly of its chairperson, Ms Josephine Feehily. We will continue to ensure the authority has appropriate powers in order that it can carry out its oversight functions in an effective and efficient manner. I believe, however, that it is reasonable to propose that any extension of the powers of the authority take into account its views on what additional role, functions and powers it needs and also the recommendations from the Commission on the Future of Policing in Ireland which are awaited. The Bill pre-empts both the views of the authority and the recommendations.

I read in the media that Deputy Jim O’Callaghan believes that if his Bill had been enacted, we would not have experienced the recent Garda controversies. I do not accept that at all. The roots of the controversies we have seen are deep cultural issues in An Garda Síochána that are not amenable to quick legal fixes. If they were, there would be no problem a Bill could not solve. As the Deputy will agree, however, having regard to his experience and expertise in these matters, policing is complex and responses to problems with policing have to reflect what is real complexity. Having said that, I welcome and share his genuine and sincere commitment to reform of An Garda Síochána. Where we disagree is on the timing of further legislative change. I am convinced that further *ad hoc* piecemeal legislative change at this point, even if the Bill before us did not have the deficiencies mentioned, would be wrong. Instead of implementing such change, we should allow the authority, having operated under the existing legislative framework, to tell us what it believes is needed and, perhaps more importantly, the Commission on the Future of Policing in Ireland to at least issue its report. We will then be in a position to consider comprehensive proposals that will address the governance and accountability framework in a holistic manner. I invite the contributions of Deputy Jim O’Callaghan and other Members of the House, be they on the Government or the Opposition side, on this important framework. In the meantime, while I fully understand and acknowledge the spirit in which the Bill has been introduced, I must, on behalf of the Government, oppose it.

Deputy Clare Daly: To be honest, I am a little gobsmacked by some of the comments of the Minister. I refer to the idea that this House would be accused of implementing *ad hoc* measures and being slow in dealing with these issues, as if this was the first time we had heard about them. If anything, people outside the House have been accusing us of not acting swiftly and comprehensively enough. We already have a plethora of reports the recommendations of which have not been implemented. Therefore, it is a little ironic that we need to wait for the report of a commission on policing, a commission from which members have resigned because they believe the Government has not given it sufficient backing, when we have some excellent organisations in place that have demanded for themselves precisely some of the powers proposed in Deputy Jim O’Callaghan’s Bill. What it comes from is not a fragmented and unco-ordinated approach but actually a very thorough and detailed public scrutiny and engagement with the existing oversight bodies in order to hear from them what the limitations and problems were for them in performing their policing oversight role. A number of the measures come directly from it. A criticism - I have a few - is that the legislation does not go far enough and take on board

enough of the points made during the discussions.

Let me quote Mr. Patten who oversaw the reform of policing in Northern Ireland. The Patten report presents an illustrative backdrop to the circumstances in this state:

5.2 In a democracy, policing, in order to be effective, must be based on consent across the community. The community recognizes the legitimacy of the policing task, confers authority on police personnel in carrying out their role in policing and actively supports them. Consent is not unconditional, but depends on proper accountability, and the police should be accountable in two senses - the “subordinate or obedient” sense and the “explanatory and cooperative” sense.

5.3 In the subordinate sense, police are employed by the community to provide a service and the community should have the means to ensure that it gets the service it needs and that its money is spent wisely. Police are also subordinate to the law, just as other citizens are subordinate to the law, and there should be robust arrangements to ensure that this is so, and seen to be so. In the explanatory and cooperative sense, public and police must communicate with each other and work in partnership, both to maintain trust between them and to ensure effective policing, because policing is not a task for the police alone.

This very much sums up the challenges facing us in this state. We do not need a commission on policing to tell us that. We have seen with our own eyes the consequences of our not having the aforementioned arrangement in the midst of the deep cultural problems in An Garda Síochána. We had the very real benefit of the very detailed and comprehensive work undertaken on behalf of the State by the Garda Inspectorate which in its reports has referred to many measures which, if implemented, would serve as a beneficial tool in transforming policing. Therefore, we do not need to reinvent the wheel in that regard.

In the first instance I wish to deal with the Policing Authority. It is a little ironic that Fianna Fáil is bringing forward some of these measures now when it previously opposed legislation brought forward by Deputy Mick Wallace that actually included some of these provisions to empower the Policing Authority more than provided for in the Government’s legislation. It is worth pointing out that there is a Bill from the last Dáil that got stuck on Second Stage. That Bill, a Garda authority Bill, was drafted by Deputy Mick Wallace. It would give much more far-reaching powers to the Policing Authority than the legislation before us. While we could be doing more to reform the Policing Authority, I welcome the measures proposed by Deputy Jim O’Callaghan in his Bill. As was said in the oversight discussions at the justice committee, the authority has very few hard, independent powers or sanctions under current legislation that could be imposed to compel compliance and co-operation. Seemingly, it has no function at all when it comes to discipline.

That is a deficit in the Bill. The Bill does not propose to give power to compel compliance and co-operation, which is unfortunate because, for example, we know about the long delay in clarification by the former Commissioner of unreliable and incorrectly reclassified homicide statistics and delays in providing information on breath tests and fixed charge notices among other issues. I welcome the fact that the Bill deals to a degree with discipline, giving the Policing Authority the power to establish policies and procedures for An Garda Síochána which would be binding on all members, and the ability to dismiss a member of any rank. That is necessary. However, it is one thing to give the Policing Authority powers; the issue is whether it will use them. The Policing Authority had the power under section 11 of the Act to recommend

to the Government that the Garda Commissioner would be removed before she jumped ship and it chose not to use that power. When the members of the Policing Authority were asked by the justice committee in September whether they had given consideration to exercising the power the authority had as the scandals around the Commissioner developed and got deeper and caused so much damage, the reply was that they had a conversation about whether they knew what the section meant. That was an incredible response for a body charged with oversight of the police force.

I welcome the proposal in the Bill that the Garda Commissioner must keep the Policing Authority fully informed of any matters which have required an internal review, audit or examination of the functions of An Garda Síochána. Presumably, that would cover something like the internal review of breath test figures carried out by the Garda in 2015. If that arrangement had been in place then, who is to say that the process of getting information out of the Garda might have been expedited much more quickly than it was. Let us look at the Crowe Horwath report commissioned by the Policing Authority into breath tests and overseeing the Garda's own internal report. I found it incredible that practically all of the recommendations were to implement what the Garda Inspectorate said in 2014. I do not know what was paid for the report. We are back again to reports we already have so let us implement them. We have had report after report telling us to do what the Garda Inspectorate said. What is even worse is that one of the key recommendations of that report was that a working group should be set up under the Department of Justice and Equality, the Garda Síochána and other bodies to review fixed-charge notices and to deal with the broad range of changes that should be implemented in that regard.

When Assistant Commissioner Michael O'Sullivan carried out the internal review on the breath tests, his report to the justice committee was that the recommendation of the Garda Inspectorate report had not been implemented, yet in the Policing Authority report we heard that it had been up and running. Acting Commissioner Ó Cualáin and his hierarchy team said at the justice committee that the recommendation of the Policing Authority that a working group would be set up had not happened and then we heard that not only had it happened, but 22 of the 37 recommendations had been implemented. I found it incredible that the acting Garda Commissioner and his team or the people reviewing the situation internally did not know that.

The Policing Authority as currently constituted was hand-picked by the Government and there was not a proper selection process. The way in which that process was handled was deficient. I very much welcome the points in the Bill about implementing the Garda Inspectorate report. The request to go into stations unannounced came from the Garda Inspectorate. It has the unanimous backing of all groups on the justice committee. We think that is very much overdue.

It is somewhat regrettable that we do not have all of the accepted changes that are necessary in terms of GSOC. When GSOC came before us, it asked for substantial changes in law to allow it to do the job that it was set up to do, namely, holding gardaí against whom there are complaints to account. GSOC highlighted a whole number of areas of legislative deficiencies which in fact the previous Minister, Deputy Fitzgerald, also agreed were deficient. It is unfortunate that there are not any proposals to do that in this Bill but I hope that is something we could address on Committee Stage. I very much welcome the proposals that are there and I am sorry there are not a few more.

Deputy Sean Sherlock: My party has been calling for Garda reform for well over a decade and we have not been doing so from an ivory tower. Our demand for reform is very much

rooted in an understanding of why the communities we serve need policing and who loses out if society is not properly policed. It is not enough to say that poverty produces crime. We need also to understand that our disadvantaged communities are also the biggest victims of crime. From minor break-ins to more serious anti-social behaviour to the shocking level of gangland homicide, crime is concentrated where vulnerable people can least afford its consequences. The reason we want reformed policing is because we want effective policing and the reason we want effective policing is because neighbourhoods in need are entitled to a policing service that safeguards their communities.

This Bill is a welcome contribution to the ongoing debate. We support the general thrust of it, although naturally we have some concerns and would propose some changes. At its heart the Bill proposes to grant enhanced powers to the Policing Authority in overseeing the performance of the Garda Commissioner and the Garda Síochána. That much is desperately needed.

The Labour Party's Garda authority policy dates back to 2006. We freely acknowledge that the legislation we enacted in government, which finally created a Policing Authority, is by no means perfect. Fine Gael's commitment to meaningful reform of policing in Ireland was, to put it bluntly, questionable, as was the commitment of the permanent administration, the Department of Justice and Equality. As an example, let us look at what happened to the 2015 report of the Garda Inspectorate. It proposed a radical shake-up but it was given a speedy burial by the Garda Commissioner, the Minister and the Department. The Department simply does not see securing Garda accountability as a core role. Sometimes, the gardai's best friends are in truth their worst enemies. One cannot support and assist the Garda Síochána today if one does not insist on holding it to modern standards of accountability.

I wish to refer to one issue that continues to operate as an impediment to serious public debate about the design of the institutions of State. I refer to the legal advice to the previous Government that under the Constitution policing belongs inherently to the Executive branch of Government, in other words, that it would be unconstitutional to remove the Minister and the Department from centre stage in the control of policing. We have heard some echo of that advice again today. We are told that the powers of the independent Policing Authority must, constitutionally, be circumscribed and core powers must be retained in the Department of Justice and Equality.

I am all in favour of a close and confidential role between the Government and its Attorney General but when it comes to legislating for the oversight of policing, the Government's legal advice about what the Constitution will and will not permit cannot be kept secret from the legislators. One cannot stymie desperately needed legal reforms by relying on legal advice if one refuses to publish it. I say that because other eminent lawyers do not see where this particular argument comes from. It is, after all, asserted in the context of a constitution that makes no reference, even in passing, to policing and also in the context of a common law tradition where policing was more usually seen as a branch of administrative or local government law. If we look at other countries with our legal system and similar written constitutions, we can see police forces operating at federal, state, county and municipal level. None of those states has encountered the argument that is foisted on us here, namely, that, uniquely of all our services, it would be unconstitutional to remove policing from under the thumb of Government and place it under independent oversight. In particular, in that home of the purest version of the doctrine of the separation of powers, the United States of America, there are more police forces than one could shake a stick at and no one would seriously argue that they are all constitutionally attached to the executive branch of government. This perhaps obscure and homegrown legal argument

is the reason our law says that the Garda Commissioner must be appointed, and may only be removed from office, by the Government. We need to get to the root of this legal argument, which the Government relies on to insist that it must continue to remain central to the control and management of policing. Deputy O’Callaghan’s Bill does not seek to do this. To the extent that it seems to accept the *status quo*, the Bill is a stopgap measure.

More generally, public confidence in the ability and credibility of Garda management has been seriously undermined. In particular, Garda management has shown no ability to respond effectively to the modernisation agenda championed by the Garda Síochána Inspectorate. The problem here is not simply cultural - this is the expression senior gardaí often use - but structural. We still do not have any body with the power, duty or capacity to bring senior Garda management into the modern age. This is an age in which effectiveness, efficiency, openness, transparency and accountability are expected and delivered. Thus, we need the Policing Authority to take account of the series of impressive reports from the Garda Síochána Inspectorate and to insist that they are implemented by the Garda Commissioner. I do not mean simply that the authority should supervise the Commissioner - that is a vague concept to insert into statute. The authority should have power, having adopted an inspectorate report, to direct the Commissioner, by order, to implement the report.

I do not believe all structural reforms must await the report of the Commission on the Future of Policing in Ireland. Nor do I believe that the reports the inspectorate has already published must be put on ice pending another review and report. The reports make sense and they should be implemented now. Moreover, the authority should be given the power to insist on it.

Of course, we also need the independent policing review. I hope it will be both radical and comprehensive. I say as much because the Labour Party’s reform agenda was never simply about senior Garda management. Our 2006 policy document called for a Garda authority and a new model of community policing to travel hand in hand. These initiatives have been ostensibly adopted but they are both still very much works in progress. We have far more to do before communities can say that they have a real sense of shared ownership of and input into the policing of their neighbourhoods. I hope the commission will make proposals for structures and arrangements to promote policing that are effective and efficient as well as fair and impartial. We need a policing service that is fully accountable to the law and the community.

The reform agenda is long. We need new members recruited to a force that is efficient and effective, one that uses modern equipment and policing methods to ensure the best possible results. We need a serious look at Garda formation and training. For example, would the college in Templemore serve us better if it was merged into a multidisciplinary third-level institution? More broadly, we need a wide range of educational, social and economic measures aimed at ending social deprivation and alienation. We need far greater urgency in tackling now the conditions that will cause crime in future. A serious concerted effort now can target young people most at risk.

Gardaí are the primary guardians of the community. They must be, and be seen to be, a part of the community. As the first Garda Commissioner, Michael Staines, put it, “The Garda Síochána will succeed not by force of arms or numbers but on their moral authority as servants of the people.” Our ambition should be for a transformed service that enjoys acceptance and support throughout the community. There must be no piecemeal reacting on the hoof and no more *ad hoc* damage limitation. Above all else, we need a changed mindset of the Government and within Garda management.

Deputy Donnchadh Ó Laoghaire: I wish to begin by stating that we will be supporting Deputy O’Callaghan’s Bill, perhaps with some reservation. In any event, we will be happy to support the Bill to enable it to pass to Committee Stage.

Public confidence in the Garda Síochána is at an all-time low. We have seen controversy after controversy-----

Deputy Charles Flanagan: That is not true. It is not true at all.

An Ceann Comhairle: The Minister should please allow the Deputy to speak without interrupting.

Deputy Charles Flanagan: It is a question of fact.

An Ceann Comhairle: I hope the Minister will respond and I am sure he will rebut what the Deputy is saying.

Deputy Charles Flanagan: Does Sinn Féin have confidence in the Garda? It is not right to say the public does not have confidence in the Garda.

An Ceann Comhairle: The Deputy has the floor. We will all do him the courtesy of allowing him to continue.

Deputy Donnchadh Ó Laoghaire: To be honest, I am not going to get hung up on that point. Whether it is the second-lowest or the lowest, public confidence is low. If the Minister can think of a time when it was lower, then he can instance it. It is the case that public confidence in An Garda Síochána is very low. To be honest, I think the Minister is being pedantic.

There is no doubt that the vast majority of gardaí are held in high regard by the public and are committed and dedicated public servants. What they have had to endure during much of this controversy is a cause of considerable frustration to each member.

When Garda representatives were before the committee recently, I made the point that I have seen the value of good policing at first hand. I have seen the impact that good-quality gardaí, especially in the community policing mould, have made to my community. They have made a substantial difference to the progress of the community in which I grew up. I can instance people I know now who are walking the streets and doing full-time work but who could otherwise have been in prison but for the work of good community gardaí. Unfortunately, that project and vision has been neglected in recent years. I regret to say that I have also seen instances of poor policing and policing that has undermined public confidence in the locality in which I grew up.

It is vital that the Government realises the opportunity to begin the process of restoring confidence in An Garda Síochána. The process must involve the right person being nominated and appointed to the position of Garda Commissioner. It is our view that the person should come from outside the jurisdiction. It would be very difficult for any person who is currently in the force to do the role in the current situation. Furthermore, we believe that the Policing Authority must be empowered to recruit a commissioner and to recommend the removal of a commissioner. Ultimately, we need a government that is not prepared to stand over major controversies, one that is committed to proper reform of An Garda Síochána.

It was telling that only a few weeks ago the chair of the Policing Authority, Josephine Feehi-

ly, effectively said it was apparently easier for gardaí to give false information than tell the truth in respect of the issue of the breath tests. This indicates an unhealthy culture and reveals that, whether direct or indirect, there was certainly pressure regarding the falsification of breath tests.

It has long been our view that there was a need for a body along the lines of the Policing Authority. We proposed the introduction of a Garda authority in 2014. We have long proposed a process similar to that which unfolded in the North with Patten was required here. Some of the steps that are necessary have been undertaken following political pressure from all sides of the House, and that is welcome. Although the Policing Authority that exists is not everything I would like it to be, I am of the view that it is making a contribution at this point. There is no doubt that it needs more powers. Perhaps it was not said explicitly, but it was certainly implied from Josephine Feehily's remarks at the justice committee that she believed that the authority was likely to request additional powers.

The Bill includes several of these additional powers. The point has been made that this is pre-empting a process. The Garda has stated that the force is undertaking reforms and pursuing reforms proposed under the Garda Inspectorate report. The recommendations contained in that report need to be implemented. The outstanding provisions of recent legislation that have yet to be enacted certainly need to be progressed. There is no question but that everyone is of the view that Garda reform needs to continue. We do not need to wait until the Commission on the Future of Policing in Ireland has finished its work. The pace of reform has to continue. That is likely to be flagged by the request of the Policing Authority for more powers. Therefore, I do not believe that this is pre-empting anything or out of place in any way.

There is a need for additional powers not only for the Policing Authority but also for various other bodies. This includes having responsibility for determining the priorities of An Garda Síochána and working with the Garda Commissioner in the preparation of annual policing plans. The authority should consult local communities and obtain their views and experience of policing and joint policing committees. We also believe that the power and scope of the joint policing committees need to be expanded considerably. The committees should have powers far closer in nature to those of the district policing and community safety partnerships in the North. The authority should be empowered to conduct its functions without requiring the consent of the Minister. It should hold the Garda Commissioner to account and the Commissioner should keep the authority fully briefed on relevant matters. The authority should have full independent capacity regarding the appointments of the Garda Commissioner, deputy commissioners and assistant commissioners following open competition based on best practice in recruitment. It should also have the independent power to remove these senior officers and should be empowered to deal with complaints against them and discipline them.

I have a slight reservation regarding section 3 and the proposal to apply the provisions of the section to all ranks. However, I have an open mind on the issue and I am willing to listen to argument on Committee Stage. As I indicated, Sinn Féin will support Second Stage of the Bill. I fear the provisions of section 3 could result in the Policing Authority being clogged up with cases and consume time that could be better spent on oversight. I draw a distinction between senior ranks and other ranks of the Garda because the former have significant influence over the culture of the institution. I recognise, however, that the threshold in the section is set relatively high. A balance needs to be struck in this regard and I am open to further exploring the proposal.

On section 4, the supervisory powers provided in respect of policies and procedures are

welcome. I also welcome section 5 and the proposal to give the Garda Inspectorate powers to enter, inspect and review any Garda Síochána station or premises without prior notification to any member of the Garda. Sinn Féin also supports giving a similar power to the Garda Síochána Ombudsman Commission. The strength and powers of GSOC are characterised by failings and weaknesses. While we need to return to this issue, GSOC requires the power provided to the Garda Inspectorate if it is to adequately pursue its functions and responsibilities. Sinn Féin will include a number of recommendations in its submission to the Commission on the Future of Policing.

The Minister referred to the proposal to confer on the Policing Authority powers in respect of security, an area in which it does not have powers. This issue needs to be examined by the Commission on the Future of Policing. Many of the problems in the RUC arose because there was a force within a force. The artificial distinction sometimes created between policing and security has the potential to create a similar dynamic. For this reason, it is essential that the oversight and interrogation role of an oversight body such as the Policing Authority encompasses all matters relating to policing, including security matters.

The legislation and other additional powers for the Policing Authority, which the authority is likely to seek in any event, are required to ensure full faith is restored in the police service and we have a service that is accountable, representative of the community it serves and enjoys the confidence of the general public. Sinn Féin will, therefore, support this legislation as it proposes to give additional powers to the Policing Authority.

Minister for Justice and Equality (Deputy Charles Flanagan): I thank Deputies for their contributions. Although I have indicated on behalf of the Government that I cannot support the legislation, I am pleased the House had an opportunity to debate this issue, for which I thank Deputy Jim O’Callaghan.

I have always believed that we should have debates dealing with facts. For this reason, I reject Deputy Ó Laoghaire’s comment in respect of public trust and confidence in the Garda. I expected he would at least source that comment but it is in keeping with many of the utterances from many sections of the Opposition in recent times, particularly the Deputy’s party, that statements are made in the Dáil which have no basis in fact regardless of whether that matters.

I acknowledge that this is a very difficult time for the Garda Síochána. I also acknowledge that many of the practices thrown up in independent and internal Garda reports are unacceptable. This has also been acknowledged by the Garda Síochána across all ranks. Having met representatives of all the Garda associations in recent days, I acknowledge a stated intent on the part of the Garda to modernise and embrace the type of change envisaged by the Policing Authority and Garda Inspectorate. All the representative associations indicated their intent to engage fully with the Commission on the Future of Policing.

I reiterate the Government’s full support for the Policing Authority and for the authority having appropriate powers to carry out its oversight functions in an effective and efficient manner. However, it is reasonable to propose that any extension of the powers of the Policing Authority or change to its fundamental role and function must take account of the views of the authority as to what additional powers it may wish to have. Unfortunately, as far as the views of the authority are concerned and having regard to the existence of the Commission on the Future of Policing, I must repeat my view that the Deputy’s Bill is pre-emptive. That is a serious deficiency on the matter of our task here as we embark on the processing or enacting of legislation.

The Bill also has the potential to create internal conflict with the existing legislative framework establishing the Policing Authority. Perhaps the most serious area of potential conflict is the extension of the authority's remit into the area of national security. In this regard, I am not surprised by the comments of the Sinn Féin speaker given the disposition of that party.

I reiterate that while I welcome the sincere and genuine commitment of the proposer of the Bill to the reform programme of An Garda Síochána, I strongly believe we should allow the Policing Authority, having operated under the existing legislative framework, to tell the Oireachtas what it considers it needs and, perhaps more important, for the Commission on the Future of Policing to report. The latest date for receipt of the commission's report is December 2018 but it is open to the commission to produce interim or earlier reports. Having regard to the fact that the Oireachtas established the commission, Members have a duty to work closely with it in the matter of its work. I invite Deputies, either at parliamentary party level or individually in the case of Independents, to engage fully and make appropriate submissions or observations in accordance with the stated wish of the commission.

When we have the commission's report we will be in a position to consider a comprehensive package of proposals that will address the governance and accountability framework. That the commission is not likely to report until next year does not in any way halt the ongoing process of reform in the Garda Síochána.

I acknowledge Deputy O'Callaghan's sincerity and commitment and the spirit in which the Bill was introduced. However, having regard to the arguments I have made, it is the view of the Government that we will not accept further advancement of the legislation.

Deputy Jim O'Callaghan: I thank all Deputies who contributed to the debate. It is important that we continue to debate issues concerning An Garda Síochána in the House. Sometimes there is a tendency in Ireland for issues to boil up and then go off the boil, and we move from talking about the Garda to talking about the health services and on to some other topic. It is important that we keep the focus of this House on issues which are of public concern.

I will not get into the debate between the Minister and Deputy Ó Laoghaire as to the situation in respect of An Garda Síochána, but I will simply state, and I think everyone in the House can agree on this, that public confidence in An Garda Síochána has been damaged by recent events. I think we can also agree on the following statement, that it is the responsibility of everyone in this House to try to regain that public confidence and restore it to the very high level it was at before. It is still important to note that the public has great faith in the police force. It has been damaged, but we all have a responsibility in this House to try to see it improved again and to see it regain its proper place.

I listened closely to the contribution made by every Member here. In particular, I listened to the Minister. He indicated there are three grounds upon which he is opposing the Bill. The first is in respect of the timing. He says we should await the outcome of the commission on policing before we start introducing any legislation in the House. His second ground of objection was that he referred to section 62O of the Garda Síochána Act, as amended, which requires the Policing Authority to deliver a report to the Minister in respect of its effectiveness. He says we should await the outcome of that report. Third, the Minister referred to the fact that the Policing Authority had indicated that it has some concerns with the legislation that we are discussing this evening. The Minister then went on and looked at each of the sections in the Bill. I will respond to the Minister. By responding to him, I offer no disrespect to the other colleagues who

spoke on the Bill, but since the Minister is opposing it, I wanted to concentrate on his arguments and submissions.

The first point the Minister mentioned was that we should await the outcome of the Commission on the Future of Policing in Ireland. Like the Minister and like most Members in this House, I welcomed the establishment of that commission. I welcomed its membership and I look forward to reading its final report when that is published in September 2018. However, simply because we have set up the Commission on the Future of Policing in Ireland does not mean that this House can go into a state of paralysis in which we twiddle our thumbs for ten months until the commission reports. We cannot do that. We would do a disservice to An Garda Síochána if we were simply to abdicate our responsibility for lawmaking to another, albeit welcome, body whose report we look forward to.

We cannot abandon our responsibility to make laws in respect of An Garda Síochána simply by awaiting the outcome of the report from the Commission on the Future of Policing in Ireland. We do not know to what extent the commission will make recommendations in respect of how all legislation should be dealt with. It may make a recommendation that the law should be repealed or the law should be reformed, or it may make no recommendations in respect of legislative changes. However, what we have to recognise is that there are problems in the systems within An Garda Síochána, some of which can be resolved by legislative intervention by giving the Policing Authority more powers. If that is a good idea today, let us do it. Let us not simply postpone that on the basis that we will wait to find out whether the Commission on the Future of Policing in Ireland thinks it is a good idea. On many occasions over recent years, and this is not the exclusive fault of the Minister's party, we have delegated our responsibilities to so many other statutory bodies that we get to a stage where we are nearly afraid to make laws because of whether these other bodies will support it or whether some review group we have set up agrees with it. We are elected here to make laws. Let us not be afraid to do it. The fact that the Commission on the Future of Policing in Ireland is considering what should be done on the future of policing should not be a bar on us now taking steps to improve the legislative basis upon which there can be oversight of the Garda.

The second point raised by the Minister was that, under section 62O of the Garda Síochána Act, as amended by the 2015 Act, the Policing Authority will prepare a report on its own effectiveness. That is all very well and we look forward to reading that report, but that should not put us into a state of paralysis. We have an obligation to pass laws and it should not be dependent upon what a statutory body will say to us in its annual report or annual review.

The third point made by the Minister was that he had consulted the Policing Authority and it had some concerns in respect of the legislation. I must say I was relatively optimistic when I heard it only had some concerns in respect of it. That is generally Government or statutory body speak for there being some good ideas in it. We need to recognise we have a responsibility. I have no proprietorial ownership over this legislation. I want to ensure that the legislation that is introduced is the legislation for the country. When it gets to Committee Stage, let us table amendments, as no doubt every member on the Committee on Justice and Equality will do, to see whether they can improve the Bill. If they do, I will be glad to agree to them.

The Minister also mentioned that I had previously indicated that if this Bill had been in place, none of the difficulties in respect of An Garda Síochána would have occurred. I do not know if I said that. If I did say it, that is not what I intended. What I would have intended is that, given section 2 of the Bill, we would have had a different outcome in respect of the Garda

breath test issue. I was limiting my comments in respect of that test issue. The reason I said that is because section 2 would have required An Garda Síochána to inform the Policing Authority, in 2015, when the authority came into existence, of the fact that there were audits going on into the Garda breath test issue. Had that been done, it would have been to the advantage of An Garda Síochána. The Garda could have shared this problem with the Policing Authority, and the authority could have directed how this should have been dealt with. One of the reasons there was such concern about the issue of false breath tests was there was a public belief that the Garda did not handle the issue well when it first came to its attention in 2014 and also after that. There was a slight public concern that the Garda was, in effect, hoping that the problem would go away. If this legislation had been in place, the Garda would have been obliged to report the fact of the internal review to the Policing Authority. That would have been to the benefit of this issue and it would have been to the benefit of the public.

The Minister then went through each of the sections and made some comments, and I will briefly reply to that. He said that section 2 probably is unnecessary because there is already legislation in place which allows the Policing Authority to seek information from An Garda Síochána. The purpose of section 2, however, is different. It places an obligation upon An Garda Síochána to bring to the attention of the Policing Authority that there is an internal review, audit or examination of the functions or operation of An Garda Síochána. There was no reason the Policing Authority, in 2015 or 2016, would have asked the Garda whether it was conducting any audits or reviews into false breath tests. The authority had no information about that. If this law had been in place, however, the Garda would have been obliged to inform the Policing Authority about the internal review and audit.

The Minister also referred to section 3, which would give the authority the power to dismiss a member of An Garda Síochána. It is important to point out that, at present under the legal system, the Policing Authority can make a recommendation that a Commissioner be removed, and in that instance the Government has a responsibility to take into account that recommendation. I do not see the legal obstacles that the Minister says would exist in respect of giving the power to the Policing Authority to remove a member of An Garda Síochána. It is a power that, I suspect, would be used only in exceptional circumstances by the Policing Authority. Nonetheless, it is a power that should exist, as otherwise we are dependent upon the Garda trying to put its own house in order, and sometimes that can be very difficult when there are disciplinary issues involved.

The third point that the Minister mentioned was in respect of section 4. He said that this in a way would put the Policing Authority in a position whereby it would be managing the Garda Commissioner's office. I do not think so. The word that is used is "supervision". It is important that the Policing Authority establishes policies and procedures for An Garda Síochána and that it keeps an overview of the functioning of the Garda Commissioner's office. That would be to the long-term benefit of An Garda Síochána.

The final issue was in respect of the Garda Inspectorate. As Deputy Clare Daly mentioned, that is a recommendation that was made previously and it would be one that would assist the inspectorate.

I thank Members for their contributions to the debate. It is important that we do not merely decide to put ourselves into cold storage until September 2018 when we get the report from the Commission on the Future of Policing in Ireland. We should all contribute to that, but let us not forget what we are all elected to do. We are elected to make laws.

Question put.

An Ceann Comhairle: In accordance with Standing Order 70(2), the division is postponed until the weekly division time on Thursday, 16 November 2017.

The Dáil adjourned at 7.40 p.m. until 2 p.m. on Tuesday, 14 November 2017.