



DÍOSPÓIREACHTAÍ PARLAIMINTE  
PARLIAMENTARY DEBATES

**DÁIL ÉIREANN**

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

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# DÁIL ÉIREANN

*Dé Céadaoin, 18 Aibreán 2018*

*Wednesday, 18 April 2018*

Chuaigh an Leas-Cheann Comhairle i gceannas ar 10.30 a.m.

*Paidir.*

*Prayer.*

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## Ceisteanna - Questions

### Priority Questions

#### Corporate Governance

20. **Deputy Billy Kelleher** asked the Minister for Business, Enterprise and Innovation her views on the robustness of the Companies Act 2014 with respect to corporate governance; and the penalties in operation for breaches under the Act. [16974/18]

**Deputy Billy Kelleher:** Will the Minister give her views on the robustness of the Companies Act 2014 with respect to corporate governance and the penalties in operation for breaches under the Act? We are all aware of alleged breaches and investigations and everything that flows from that in a prominent media outlet at this time. Is the Minister confident and happy with the robustness of the Office of the Director of Corporate Enforcement and the penalties in the Act to address issues of breaches of corporate governance in plcs and other companies?

**Minister for Business, Enterprise and Innovation (Deputy Heather Humphreys):** I want to begin by congratulating Deputy Kelleher on his appointment as spokesperson for business, enterprise and innovation and I look forward to working with him. I do not have a monopoly on good ideas and I am happy to work closely with Deputy Kelleher, as I do with my other colleagues, in doing everything we can to create and sustain jobs and to support enterprise.

I am satisfied that the Companies Act 2014 is robust. It is an important element in ensuring Ireland's regulatory environment is maintained to the highest standard. All companies, regardless of size, are required to comply with the extensive provisions of the Companies Act 2014. Moreover, company directors are obliged under common law to exercise fiduciary duties, which include the obligation to act with care, skill and diligence. Alongside company law, companies

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must comply with a broad range of legal requirements on the treatment of employees and creditors, disclosure to Revenue and the protection of the environment etc. Taken together, these regulations make up a wide-ranging legal framework for the conduct of business.

The Companies Act 2014 introduced some changes that are relevant to the governance of all companies, both listed and not. In particular, one of the key innovations of the Act is that directors' common law fiduciary duties are codified together with the diverse statutory duties and assembled into one place. This makes the law more accessible and comprehensive for directors.

The Act also introduced a new directors' compliance statement at section 225. This places an onus on directors of affected companies to make a statement confirming that a company has policies in place to ensure it complies with "relevant obligations" and that they have conducted a review of the appropriateness of these policies or structures during the financial year. The "relevant obligations" mean the company's obligations under tax law; and company law obligations, the breach of which would be a serious offence as defined. Section 225 applies to all public limited companies and large private companies, that is, private companies where the balance sheet for the year exceeds €12.5 million and the turnover for the year exceeds €25 million.

The Companies Act 2014 provides for remedies for breach of directors' fiduciary duties. In general, the company may sue for damages, seek an indemnity for losses or seek an account of profits. In addition, there are circumstances provided for in the Act where a director can be made personally liable for the debts of the company. Examples include reckless trading; fraudulent trading; failure to keep adequate accounting records; and acting in breach of a restriction or disqualification order.

The Government is committed to ensuring that the Companies Act 2014 continues to deliver a robust yet competitive corporate regulatory framework for business in Ireland. Consequently, the provisions of the Act are under continuous review.

**Deputy Billy Kelleher:** I thank the Minister for her kind words. I believe I can be cooperative. The purpose of parliamentary democracy is to hold to account while at the same time to proffer ideas that may address some of the challenges out there.

We speak in hushed tones because the alleged breaches in a company, namely, Independent News & Media, INM, relate to corporate governance. We also speak in hushed tones about the alleged data protection breaches in the same company. I tabled this parliamentary question to ensure that we are confident that we have a robustness, not only around the legislation but also around our ability to enforce the legislation. It is a clear issue. We can have very fine Acts on the Statute Book but we need to be able to ensure there is proper enforcement. I accept that fiduciary duties, underpinned by common law and by this legislation, put an onus on company directors. Equally, it places an onus on the State to ensure the enforcement of such legislation.

**Deputy Heather Humphreys:** The Office of the Director of Corporate Enforcement, ODCE, has played and continues to play a key role in facilitating compliance and enforcement of company law. The ODCE 2016 annual report points to a number of key success during the year. Following the scrutiny of reports submitted to the office by liquidators of insolvent companies, 90 company directors were restricted and a further 11 were disqualified by the High Court. The Office of the Director of Corporate Enforcement examines and reviews all such reports and then makes a determination as to whether or not the liquidator is relieved from the obligations to apply for the restriction of a company director. Some 93 restriction undertakings

were obtained from directors of insolvent companies and as a proportionate and cost-effective alternative to formal enforcement actions, cautions issued to a total of 61 companies, 108 directions were issued to relevant parties requiring them to comply with their statutory obligations under company law. In keeping with the ongoing strategic shift towards the investigation of more serious indications of wrongdoings, five investigation files were submitted to the Director of Public Prosecutions. The Office of the Director of Corporate Enforcement is certainly doing a lot of work in that space.

**Deputy Billy Kelleher:** Within the Office of the Director of Corporate Enforcement, one has the office and within that office, one has the individual, the actual director. Will the Minister clarify that she is happy with the director of the office? Is she uncomfortable with the idea that while every individual is entitled to vindicate his or her good name, people would hold the director personally responsible in acting out his duties under the various Acts that have established the office and under the Acts he is obliged to enforce? This is in the context of references made that the director, Mr. Drennan, would be held personally responsible for alleged leaks and breaches of confidentiality.

**Deputy Heather Humphreys:** It is important to say that this matter is before the courts. We need to respect that ongoing process. I am bearing that in mind with regard to what I say here. I am very confident in regard to the work done by the Office of the Director of Corporate Enforcement. It is an independent agency and it acts independently of my Department. It is the function of my Department to provide the necessary funding. We have increased its funding over the last number of years to enable it to employ more specialised people, such as forensic accountants, and the people it needs to carry out the work more effectively.

With regard to indemnity, it is absolutely the case that any public servant who acts properly and in accordance with his or her mandate, and who does not breach any laws or ethical principles, is indemnified by the State. This point was made by the Taoiseach in the Dáil yesterday. We resource the Office of the Director of Corporate Enforcement and we have increased the resources over the last number of years. It is very much strengthened compared to where it was, and I am satisfied that it acts independently and it carries out its work in a proper way.

## **Brexit Expenditure**

21. **Deputy Maurice Quinlivan** asked the Minister for Business, Enterprise and Innovation if she is satisfied with the funding her Department has allocated to the IDA, EI and ITI to enable each body to mitigate the potential effects that Brexit may have on the economy. [16827/18]

**Deputy Maurice Quinlivan:** We are ten months from Brexit and my concern is whether the Minister believes the funding provided by her Department to IDA Ireland, Enterprise Ireland and InterTradeIreland will be enough to help those agencies to mitigate the effects of Brexit. I know it is a difficult question to answer because we do not know what type of Brexit we are facing. Does the Minister believe the funding allocated to those agencies will be enough to help to mitigate the effects Brexit may have on Ireland's economy?

**Deputy Heather Humphreys:** I thank the Deputy for raising this issue. I am confident the enterprise agencies under my Department's remit have the necessary support and financial resources to enable them to address the challenges of Brexit and to capitalise on any opportunities it presents.

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IDA Ireland was allocated an additional €700,000 as part of budget 2018 to further reinforce the €750,000 funding in 2017 to increase its staffing levels in the context of Brexit. This has significantly strengthened the agency's capacity to engage with firms about investing in Ireland, as well as addressing Brexit-related issues for the agency's current client base. More resources were also made available to the agency to allow for an increase in Brexit-related marketing and communication activities. This has included a new multi-media marketing campaign, targeting international investors, that highlights the advantages of locating or expanding in Ireland.

These additional resources are already helping IDA Ireland to produce results. To date, IDA Ireland has secured approximately 20 new Brexit-related investments from a number of different sectors. There remains potential to attract even more such foreign direct investment and I know IDA Ireland is working hard to convert further opportunities into new projects here in Ireland.

Enterprise Ireland is actively supporting its client companies through its offices at home and across the globe to become more competitive and innovative and to diversify Ireland's export footprint into more markets in response to Brexit. Its capacity to assist Irish firms to deal with Brexit was originally reinforced by its pay provision for 2017, which included an additional €1.7 million to assist in the recruitment of 39 additional Brexit-specific posts. For 2018, to further assist Enterprise Ireland's response to Brexit, the agency was allocated an additional €1.3 million. I understand that Enterprise Ireland intends to recruit approximately 20 additional staff members as a result of this extra funding. InterTradeIreland also has an important role to play in the context of Brexit, particularly in sustaining North-South trade. The body is uniquely positioned to understand the needs of businesses engaged in cross-Border commerce and it has been working hard to help its clients to prepare for the potential challenges associated with the UK's withdrawal from the European Union.

**Deputy Maurice Quinlivan:** I thank the Minister for her response. As I said earlier, Brexit is edging closer and we still have no picture of what it will look like. The issue of the Border has been long-fingered both in December last year and again in March. We need clarity and a firm commitment from the Government on this, the most vital concern to the island and its people. I am extremely concerned that the weak Tory Government in London with the DUP influence could end up scuttling the whole Brexit deal simply to promote the nationalist England-first agenda.

This morning the President of the European Council, Donald Tusk, reaffirmed the position that there would be no withdrawal agreement without a solution to the Border. With the British Foreign Secretary, Boris Johnson, ridiculously talking about London borough borders and the British Prime Minister, Theresa May, recently citing the completely unacceptable US-Canada model, this is a cause for huge concern.

Unfortunately we need to start thinking about real contingency plans for what will probably be a hard Brexit. Has the Department of Business, Enterprise and Innovation come up with concrete plans for such an outcome? For instance, what will the M1 between Dundalk and Newry look like on 31 March 2019 if no deal is struck before then?

**Deputy Heather Humphreys:** I have a range of different supports available through the different agencies to support businesses to prepare for Brexit and help them mitigate the impact of Brexit on their businesses.

The Department secured an additional €3 million in current funding and €5 million in capital funding in 2018, increasing the record capital allocation in 2017. The additional €3 million in current funding will support the recruitment of 40 to 50 staff across the different agencies to meet the Brexit challenge. This brings the number of new Brexit-related staff posts to approximately 100 in the past two years and demonstrates the Department's determination to ensure that it, together with all the offices and agencies, is sufficiently resourced to meet the Brexit challenge.

My Department established a dedicated Brexit unit in 2016. The unit is led by an assistant secretary within the EU affairs and trade policy division. It co-ordinates and represents the Department's and agencies' response to Brexit, and supports me in my position on the Cabinet committee dealing with Brexit. The unit continues to undertake a range of important Brexit-related tasks.

The Government is working very hard to get the best possible deal for Ireland as part of the EU negotiating team. We have consistently called for the closest possible relationship with the UK after Brexit. Considerable work is going on across Government to ensure we get the best possible deal for Ireland.

**Deputy Maurice Quinlivan:** While I appreciate what the Minister has said, clearly the Government's message is not getting through to those in business to whom we have spoken and who have also appeared before the Oireachtas Joint Committee on Business, Enterprise and Innovation.

PricewaterhouseCoopers recently suggested that with less than a year to go a hard Brexit is the most likely outcome. I appreciate that a hard Brexit is just a possibility at this stage, but citizens and businesses deserve to know the range of possibilities they may encounter. If the past behaviour of the British Government is anything to go by, things will only get worse between now and March 2019. Does the Minister have an explanation for why the uptake of the Government's supports for business has been less than desirable? Are the criteria too strict or the administration burden too great especially for small businesses?

Has the Department secured any commitment from the European Union on funding or assistance for a hard Brexit and if so what is the amount of that funding?

Enterprise Ireland and InterTradeIreland will no doubt be inundated with calls and queries in the lead up to next March and beyond. What plans does the Department have to increase staff numbers and resources even temporarily if such a possibility of a hard Brexit occurs?

**Deputy Heather Humphreys:** I recently launched a brochure which outlines all the different supports we are providing to businesses through the agencies and directly. I recently announced the €300 million Brexit loan scheme. Bord Bia, the Health and Safety Authority and a whole list of agencies are supporting people on Brexit. It is a very short document and is on the Department's website. I believe I also provided it to every Deputy. It outlines what we are doing in preparing for Brexit. I urge companies to contact their local enterprise office. Many supports are available.

We got approval from the European Union for the €10 million rescue and restructure scheme, to be administered by Enterprise Ireland. We have developed a number of different initiatives. IDA Ireland staffing is at a record high and Enterprise Ireland is increasing its staff. Many supports are available and people need to use them. I encourage people to get this very

useful brochure.

## **Economic Competitiveness**

22. **Deputy Billy Kelleher** asked the Minister for Business, Enterprise and Innovation the actions being taken to reverse Irish competitiveness deficiencies to make Ireland an attractive location for enterprises to locate in and scale up; and if she will make a statement on the matter. [16975/18]

**Deputy Billy Kelleher:** I ask the Minister the actions being taken to reverse Irish competitiveness deficiencies to make Ireland an attractive location for enterprises to locate and scale up. I ask her to make a statement on the matter. I raise this because our competitiveness is under continual threat for a number of reasons, including the increased activity in the economy, with rising employment putting pressure on services across the State. Equally, deficiencies in the State's capacity to respond and sometimes reluctance to respond are damaging our competitiveness which will have an impact on our ability to continue to trade internationally. I ask the Minister to outline the efforts she is making to address the issue.

**Deputy Heather Humphreys:** I thank the Deputy for raising the matter. Despite intense competition, Ireland's competitiveness performance remains positive. Ireland moved from 16th in 2015 to sixth in 2017 in the Institute for Management Development World Competitiveness Yearbook. In addition, the World Bank's most recent Doing Business 2018 report shows Ireland is now ranked 17th out of 190 countries, an improvement of one place on last year.

Our improved performance is reflected in strong employment growth across sectors and regions. We have over 2.2 million people at work and our unemployment rate is down to 6.1%. Agency-supported companies now employ over 400,000 people throughout Ireland. The strong performance of clients supported by the enterprise agencies in winning exports and investment, market share and job creation in the face of intense global competition is impressive and reflects the competitiveness of the environment in which to do business.

However, there is no room for complacency. We need to continue to improve our competitiveness and remain vigilant to the very significant challenges in the external environment, particularly Brexit. In addition, the productivity performance of many Irish-owned enterprises is weak and not enough enterprises are engaging in innovation. We have a number of supports available to them in that respect.

Competition for FDI remains intense. Ireland has many strengths when it comes to attracting FDI. We score highly on criteria such as investment incentives, labour productivity, and the adaptability and ability of talent. While we have a proven track record in attracting and sustaining FDI, continued success cannot be taken for granted. Our capacity to continue winning such new investment despite geopolitical changes and intense competition will be aided by the underlying strengths of our FDI offering.

As Minister for Business, Enterprise and Innovation, my objective is to create the best possible environment for enterprise, entrepreneurship, innovation and investment across all regions. The immediate challenge for Ireland is to ensure growth is sustainable, that enterprises are resilient and that we continue to grow Irish enterprises and attract foreign direct investment. We are taking steps to ensure the economy is resilient at sectoral and firm level to deal with

imminent competitiveness challenges and to build further on the progress we have made. That is why we are continually examining how we can improve on factors that are crucial to fostering further investment here, including our cost base, infrastructure, availability of talent and innovation.

*Additional information not given on the floor of the House*

Enterprise 2025 Renewed, which I launched last month, placed an increased emphasis on developing Irish-owned enterprises. There is a strong focus on taking action that will embed resilience in our enterprise base. We are placing a spotlight on innovation and on skills. Enterprise Ireland places a strong emphasis on competitiveness. It supports exporting enterprises with initiatives in LeanStart, research, development and innovation, and management development. The agency helps enterprises to take a strategic approach to understanding and responding to potential implications arising from Brexit and assists them to enter into new markets and diversify their export base. The local enterprise offices offer a suite of supports to enhance the competitiveness of small and micro-enterprises. Initiatives include mentoring, innovation vouchers, LeanStart and access to a Brexit diagnostic and guidance.

My officials and I, as well as the National Competitiveness Council, remain focused on competitiveness, an agenda that requires cross-Government commitment to continue to develop and implement actions to enhance national competitiveness.

**Deputy Billy Kelleher:** We have been here before in terms of competitiveness and the loss thereof as the economy expands and grows quite rapidly. Based on GDP, GNP or any other metrics, there is huge activity in the economy. Key areas in the economy have already reached full employment and we will soon have to address that issue by attracting people into the country. One of the greatest barriers to that will be the costs of housing, childcare, insurance and transport. These and many other areas diminish our ability to attract key labour into the market in order to ensure we remain competitive in key areas of the economy.

While I welcome the Minister's statement that there is no complacency on this issue, proactive policies are needed to address areas where significant competitiveness problems will arise. I refer, for example, to the lack of housing and the inability to address this fundamental issue, not only in the broader context of how society is structured but also in terms of competitiveness. We must remain attractive to foreign direct investment and foreign employees to ensure exports are competitive internationally.

**Deputy Heather Humphreys:** The reason for the shortage of housing supply is that when the country experienced its worst ever recession only a few short years ago, the bottom fell out of the construction sector. The current problems in housing are part of that legacy. We have a plan to address these problems, namely, Rebuilding Ireland, and we are only 18 months into this five-year programme. After 18 months, people claimed the five-year Action Plan for Jobs would not work, yet it was successful. We have to give Rebuilding Ireland time.

The number of commencement notices for houses has increased by more than 40% to 18,000. In 2017, the number of social houses built was three times higher than the number completed in 2016. Since 1 February, a new Rebuilding Ireland home loan has been available from local authorities. We have also introduced measures to fast-track the planning process for large developments and apartments. In 2018 alone, more than 2,300 homes and 3,400 student

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bed spaces have been approved through this process. We introduced rent pressure zones to cap rent increases at 4% in pressure areas. Today, the Government announced that breaches of the cap would be a criminal offence. In 2018, we will spend €1.9 billion on housing, which is an increase of 46% on 2017. I accept we need to do more but building houses takes time.

**Deputy Billy Kelleher:** I thank the Minister for her reply. We must also address interest rates and the cost of credit to small and medium-sized businesses and mortgage holders because it is much higher than the rates available in other countries in the eurozone. The European Central Bank sets the interest rate for the eurozone. The Irish economy must compete with other economies in the eurozone but our interest rates are roughly double those of most of the other eurozone member states with which we compete. As regards the cost of credit to mortgage holders, the variable rates in Ireland are approximately twice as high as the European average. Similarly, credit to small and medium-sized businesses costs approximately twice as much as the European average. As a member of the eurozone operating in the Single Market, we should at least address the fundamental problem of expensive credit costs for small and medium-sized businesses. This has not been done to date. Banks, the State and the European Union have an obligation to create a single market for access to credit across the eurozone.

**Deputy Heather Humphreys:** Supply and demand for credit have improved significantly since the height of the economic crisis. While the cost of credit is falling, it continues to be relatively high and it is vital that is reduced to align our rates with those in competitor countries. The divergence between interest rates for enterprise in Ireland and the rest of the euro area is particularly noticeable for loans of up to €250,000. The interest rate on new business loans was double the euro area average throughout 2017. On 28 March, I opened a Brexit loans scheme for applications to allow for the roll-out of €300 million in funding to eligible Irish businesses. Such businesses can apply to the scheme through the participating finance providers. The scheme, which will be delivered by the Strategic Banking Corporation of Ireland, SBCI, through commercial lenders, will make €300 million available to eligible businesses with up to 499 employees at an interest rate of 4% or less. My Department is working with the SBCI and the European Investment Bank to provide a longer-term facility to assist businesses to deal with the threats posed by Brexit.

### Sale of State Assets

23. **Deputy Richard Boyd Barrett** asked the Minister for Business, Enterprise and Innovation if reports that €7 million of debt was written off in the recent sale of the State's stake in a studio, details supplied, are correct; the price secured for this sale; the process engaged in for the sale; and if she will make a statement on the matter. [17123/18]

**Deputy Richard Boyd Barrett:** I want to revisit the sale of Ardmore Studios. I will be blunt in stating that the sale stinks to high heaven. How much did the State get for the sale of its one third share in the company? I have heard the sale price was €6 million and the sale involved the State writing off €7 million in debt owed to it by Ardmore Studios. This would mean we gave the company away and then gave the purchaser €1 million. I hope that is not true. The House, members of the public and people working in the film industry need to know what is going on here.

**Deputy Heather Humphreys:** In 2016, Ardmore Studios International Limited, ASIL, engaged IBI Corporate Finance to investigate selling the company as a going concern. ASIL, the

majority shareholders in Ardmore Studios Limited, were seeking to exit, having been running the company for more than 30 years. An extensive process was undertaken by IBI Corporate Finance to find a suitable buyer, with more than 100 potential parties contacted. Ion Equity emerged as the successful bidder from that process and its acquisition vehicle, Olcott Entertainment Limited, which was recently incorporated by Ion Equity for this purpose, is now the new owner of Ardmore Studios.

With regard to the sale price and other specific financial details, I am unable to reveal what are confidential details of Enterprise Ireland's minority shareholding disposal transaction in what is a privately held company. This applies to the Ardmore Studios transaction as it would to any other individual investment or share disposal of Enterprise Ireland where it is a minority shareholder in a privately held company. This principle of confidentiality reflects a statutory duty of confidentiality set out in section 16 of the Industrial Development (Enterprise Ireland) Act 1998. In this case, the parties also understood at the time of the sale by Enterprise Ireland and other majority shareholder vendors that, owing to section 16 of the 1998 Act, the consideration and other financial aspects of the sale would not be revealed. Disclosing such information would be in breach of the high standards of confidentiality adhered to by Enterprise Ireland.

I can confirm, however, that Enterprise Ireland negotiated the sale of its shareholding with the benefit of comprehensive due diligence undertaken by independent consultants and is satisfied that it realised full market value on a par with the other majority shareholder parties. The Government had committed that the company would be sold as a going concern and the final decision would be taken in consultation with me, as Minister for Business, Enterprise and Innovation, Enterprise Ireland and the Minister for Culture, Heritage and the Gaeltacht. This is what happened, while realising full commercial value for the shareholders selling the company, including Enterprise Ireland.

**Deputy Richard Boyd Barrett:** I will be honest; this is a load of rubbish. The public is having the wool pulled over its eyes. Ardmore Studios are located on a large piece of real estate. A recent attempt by the current chief executive officer to have part of the site rezoned for residential development was blocked by Wicklow County Council. One property expert estimated that if Ardmore Studios were rezoned for residential development, the site would be worth approximately €100 million. I would like to know if it is true that the Government was advised on the sale of this very valuable property by a director of Savills, the property people, who is now on the board of the company that took over Ardmore Studios and has a record of trying to rezone the site.

What guarantees are there that film production at the studios will continue? Only one of seven stages at the site is being used, while films are being made in buildings owned by the National Asset Management Agency, including a factory in Tallaght and the former John Player factory on the South Circular Road where a dispute is taking place and four workers were recently sacked for kicking up about conditions. Films are also being made in the Dublin sport hotel, while Ardmore Studios are empty. This stinks, yet the Minister cannot answer my question as to whether the State wrote off €7 million in debts held by the studio. Is the Minister seriously suggesting this House does not deserve to know that?

**Deputy Heather Humphreys:** To be clear, this was a commercial deal. It was negotiated commercially. There was a guarantee for the workers and I believe their future is secured in terms of there being investment in Ardmore Studios. I visited the studio some time ago. It badly needed investment. This is an opportunity to expand the facility there. The Deputy talks

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about planning permission. Both he and I know that it is the preserve of the elected members of Wicklow County Council to change the zoning of any area. That is outside my control and that of the Deputy. I am quite sure that when the local authority sees the advantage of this investment in Ardmore, it will be quite happy to make sure that it remains a location for the film industry. Altering the current zoning restrictions cannot be done without the agreement of Wicklow County Council. The State will continue to support the film sector through the Irish Film Board, tax incentives and other measures. The Irish Film Board also welcomed the acquisition of Ardmore Studios by Olcott Entertainment Limited. It stated that:

The Studios continue to represent a vitally important part of the infrastructure of the Irish film industry. It is very heartening to hear about the commitment of the new owners to their investment in and the development of these historic studios.

There is a commitment on the part of the new owners to invest in the site.

**Deputy Richard Boyd Barrett:** The public has a right to know what is happening with the expenditure of public money. The Minister is just not answering the questions. It is reported that Ardmore owed the State €7 million. According to the Irish Film Board's accounts, I suspect that this figure included moneys given by members of the board to themselves when they were working in Ardmore - people like Kevin Moriarty, the former CEO, who got €594,000 in two different loans. Were these loans ever paid back? No, I think they are part of the €7 million debt. Somebody else-----

**An Leas-Cheann Comhairle:** I ask the Deputy to refrain from mentioning names.

**Deputy Richard Boyd Barrett:** People on the board who were also working in Ardmore effectively gave themselves loans for a studio that now sits empty. The CEO of Ardmore prior to the sale attempted to rezone the land for residential development and will remain the CEO with the new purchaser and the Minister is telling us that Ardmore is secure for film production in the future when they have already tried to rezone it for residential development. Sure, Wicklow County Council blocked it but why did we sell to people who have shown a record of wanting to run the place down and possibly get it rezoned for residential development? The Minister cannot tell us about the €7 million owed to the State in loans that were given to Ardmore. It is extraordinary.

**Deputy Heather Humphreys:** It is not a case of somebody blocking zoning. The facts are, and the Deputy knows this as well as I do, that the Ardmore site is currently zoned for film industry use only. This can only be changed by a decision of the elected members of Wicklow County Council so as far as I am concerned it could not be in safer hands. Why would anybody want to rezone an area that has huge potential for an area where there are other-----

**Deputy Richard Boyd Barrett:** The owners can push.

**Deputy Heather Humphreys:** The owners cannot zone anything and the Deputy and I know that. It is up to the elected members. It is zoned for film production. There is another film production centre down the road from it. I see that as offering huge potential for a cluster for the film industry. As the Deputy and I know, the amount of interest in increasing that industry is tremendous and many more people are coming in from abroad along with a lot more indigenous Irish industry. Enterprise Ireland has an investment portfolio of €300 million and 2,000 investments. It has investments of circa €30 million per annum and sells shares worth €25 million. These are all confidential transactions. I cannot give that information because it

would be wrong of me to do so. Enterprise Ireland's accounts detail how all of its funds are appropriated or otherwise. It issues an annual report every year.

### **Small and Medium Enterprises Supports**

24. **Deputy Thomas Pringle** asked the Minister for Business, Enterprise and Innovation her plans to address issues facing small businesses in County Donegal including concerns regarding the retreat of rural services and the lack of Government supports for small businesses outside the remit of Enterprise Ireland and the IDA and if she will make a statement on the matter. [16256/18]

**Deputy Thomas Pringle:** What Government supports are available for small businesses in rural Ireland that are outside the remit of IDA Ireland and Enterprise Ireland?

**Minister of State at the Department of Business, Enterprise and Innovation (Deputy Pat Breen):** I am taking this question in my capacity as Minister of State with responsibility for small business. My Department and other Government agencies operate a number of programmes and schemes to assist the start-up and expansion of small businesses. My priority as Minister of State is to drive the creation of high-quality and sustainable jobs around all the regions and counties of Ireland, including Donegal.

The local enterprise office, LEO, in Donegal is the first-stop-shop for providing advice and guidance, financial assistance and soft supports such as training and mentoring to anyone wishing to start or grow a business. Funded by my Department, LEO Donegal plays a critical role in supporting micro-enterprises in the start-up and expansion phases.

LEO Donegal has invested significantly in micro and small businesses by way of its core suite of supports since its establishment in 2014. Between 2014 and 2017, LEO Donegal paid out over €1.4 million in grant funding in respect of 121 projects. Clients supported with grant funding have consistently added new jobs with 100 new jobs supported in 2017 and 621 in total over the past four years. During this time, over 5,200 participants attended LEO training courses and 132 participants received mentoring. Furthermore, 211 applicants from the county entered the Ireland's Best Young Entrepreneur competition since it was launched in 2014.

I secured an additional €4 million in capital funding for the 31 LEOs for 2017 to fund a range of LEO Brexit supports across the country, including Donegal. This additional funding has been maintained for 2018. These supports are aimed at strengthening the capacity of micro and small businesses to cope better with the changing external environment, especially the impacts arising from Brexit. The supports include grants to assist LEO clients in diversifying their markets, targeted training and mentoring to address Brexit-related challenges and opportunities as well as a Lean for Micro programme to help micro-enterprises to address competitive issues within their businesses by building the capability of their employees to identify problems and improve operations.

In May 2017, my Department with Enterprise Ireland launched the regional enterprise development fund, REDF, with funding of up to €60 million. The first call under this fund concluded last August with results announced on 11 December. Three projects across the north east-north west secured funding under the first call, including Donegal Digital Innovation, which will involve the creation of an innovation ecosystem in Inishowen by delivering a three-year enter-

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prise capacity-building programme based on the peninsula's location factors, high tech skillsets and applied research potential in traditional sectors. The second call for projects under REDF opened for applications on Monday, 16 April.

*Additional information not given on the floor of the House.*

The LEOs can also assist businesses in accessing other Government supports, for example, business loans from Microfinance Ireland or trading online vouchers for businesses that want to improve their online sales.

The regional action plan for jobs, launched in the north east-north west in November 2015, is a central pillar of the Government's ambition to create more jobs in rural areas including Donegal. Under the plan, the aim is to increase employment in the region by 10% to 15% over the period to 2020 resulting in the delivery of 28,000 jobs. A total of 12,000 more people are in employment in the Border region from quarter one of 2015 to quarter two of 2017 representing good progress towards the target of 28,000 jobs by 2020.

Finally, the action plan for rural development takes a whole-of-Government approach to the economic and social development of rural Ireland. The plan contains over 270 actions to be delivered by a range of Departments, State agencies and other bodies. The plan seeks to support sustainable communities, support enterprise and employment, optimise our rural and recreation potential, foster culture and creativity and improve rural connectivity. A key objective of the plan is to support sustainable communities through the enhancement of local services in areas such as rural schools, post offices and convenience shops.

**Deputy Thomas Pringle:** The Minister of State gave an overview of supports. Again, it focuses on export, development and businesses. I am talking about small businesses located in all the rural towns and villages right across Donegal and the whole country. I recently carried out a survey of those businesses to ask them how they felt they were doing. These were small businesses with between one and five employees. I wanted to focus on them because they fall outside the remit of Enterprise Ireland and other bodies. The type of businesses that took part in the survey were coffee shops, hairdressers, furniture shops and newsagents. The results were quite stark. I received over 100 responses that showed that the sector is struggling and that there are barriers facing small businesses across the country across the board. Small businesses are emerging from the recession but the problem they face is the lack of Government policies that actually support them. An overwhelming majority of respondents were not aware of any Government initiative to help improve local enterprises and are concerned about the impact of rural depopulation and the closure of services for which the Government has direct responsibility through closing post offices and Garda stations. This all has a knock-on effect on small businesses and their confidence. There is the question of rates, but also networking and the ability of those businesses to work together. That is something the Government could actually do that would make a real difference.

**Deputy Pat Breen:** Donegal has so much to offer in respect of small to medium enterprises. I visited Donegal myself on a number of occasions, both in a personal capacity on holiday and also visiting the local enterprise offices, LEOs. The LEO in Letterkenny is doing really good work.

I say to Deputy Pringle that the branding of Donegal is really good internationally. It is recognised as the coolest place on earth to visit, which is really good. We need to continue

to develop Donegal, particularly those small enterprises in the tourist capacity. The Deputy should look at the branding the LEOs have done in respect of The Food Coast, which was an LEO initiative. The Food Coast is a fantastic initiative to build on the success of the Wild Atlantic Way. There is so much that can happen along the Wild Atlantic Way in Donegal with its fantastic Atlantic coastline, small resorts and villages and wonderful beaches. I have seen the shops myself, the cafes the Deputy talked about, small enterprises, all growing as a result of that fantastic initiative, the Wild Atlantic Way.

My colleague, the Minister of State, Deputy Brendan Griffin, will be in Donegal next Monday to open Fanad lighthouse officially, which has been a tremendous success. I visited it myself last year in Donegal. I have seen the success of Loop Head lighthouse in my own constituency, which brings 30,000 or 40,000 visitors a year and is growing all the time. The same can be done in Donegal. We have seen a huge drop in unemployment in Donegal in recent times - 43% over the last four years. There is real potential to grow micro-enterprise in Donegal and to work with the LEOs. The LEOs play a fantastic role in that. There is Project Ireland 2040 as well, the road network and the collaboration that is going to exist between Strabane, Derry and Donegal. All these are initiatives that will build Donegal.

**Deputy Thomas Pringle:** I wish the Government would stop citing the fall in unemployment figures, for its own sake. The reason the unemployment figures have fallen is emigration. That is why I am asking this question. It is not because of anything the Government has done to create jobs. Some 8,000 people have left the county and that why there is a decline in unemployment figures. That is what we are getting at.

From the survey I have done, 75% of small businesses rely on local trade. They do not rely on tourism trade. Local trade is what we need to develop and foster to ensure they stay there. It is the thing the Government needs to concentrate on to ensure that local businesses can survive, which is the only way to ensure the county survives. If there are not people there, all the tourism factors the Government wants will not make any difference. It is the people whom tourists come to meet and see and that is what we have to protect.

**Deputy Pat Breen:** I do not accept that at all. Tourism creates jobs and that is what we are talking about - micro-jobs, small jobs - and that is one element of it.

**Deputy Thomas Pringle:** We depend on local trade.

**Deputy Pat Breen:** Only last week we had GTeic and the whole digital hub concept which we are developing in Donegal - a fantastic initiative. The future of work is changing and we have got to adapt to that change, particularly in respect of digital technology. The local enterprise offices are putting in place many initiatives. They created 100 jobs net last year. Some of those jobs are in the food sector, which is extremely important. We talked about that branding earlier in respect of The Food Coast. Whether it is small cottage industries, all of this is extremely important. It is also important to look at what is happening in Donegal currently in the branding it is getting. It is a really positive message out there. I say to the Deputy that he should sell his county in a positive way and not be complaining about it all the time. Our policies are working. There were 21,000 people unemployed in Donegal a few years ago and the figure is now down to 12,000.

**Deputy Thomas Pringle:** Some 7,000 people have emigrated.

**Deputy Pat Breen:** That is falling all the time and will continue to fall with the policies

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we are putting into place. The Deputy should work with the LEOs, Enterprise Ireland and IDA Ireland. I assure him that the Government will continue to ensure that the infrastructure is put into place in Donegal because Donegal deserves that.

## Other Questions

### Film Industry

25. **Deputy Richard Boyd Barrett** asked the Minister for Business, Enterprise and Innovation the conditions that surrounded the sale of the State's stake in a studio (details supplied) to secure it as a location for film production into the future; and if she will make a statement on the matter. [16802/18]

**Deputy Richard Boyd Barrett:** The Comptroller and Auditor General should investigate the circumstances of the sale. That is how serious I think this is. This is a piece of real estate that, if it were developed residentially, would probably be worth about €100 million. The Government cannot tell us how much it was sold for or confirm the reports that €7 million of debt was written off. That is not acceptable.

I told the Government a few weeks ago, and it was confirmed last week, that there were major problems in the places where films are actually being made - not in Ardmore Studios where they should be made but in the John Player factory, for example, which is a NAMA building. Four workers were sacked last week because they had protested about health and safety conditions in a derelict factory. That is not surprising, really. What are they doing making films in a derelict factory when there is a purpose-built studio down in Bray where they should be making them? Does the Minister not think it is all a bit strange?

**Deputy Heather Humphreys:** I will answer the question the Deputy raised regarding the conditions that surrounded the sale of the State's stake in the studio. Ardmore Studios has been sold to Olcott Entertainment Limited. The Ardmore site is currently zoned for film industry use only and this protection is due to run for at least five more years under the Bray municipal district local area plan. As the Deputy knows, the site cannot be used for non-film industry development without the agreement of Wicklow County Council to alter the current zoning restriction.

Enterprise Ireland negotiated the sale of its shareholding with the benefit of due diligence undertaken by independent consultants and is satisfied that it realised full market value, and on a par with the other parties. Investment is required in the Ardmore Studios facilities to secure their long-term commercial future and the Olcott Entertainment deal provides the potential to breathe new life into the company at a time when the market for film production in Ireland is again showing huge growth potential. Olcott Entertainment has indicated that it plans to develop and expand the Ardmore Studios offering, and other related entertainment projects, and to retain the current experienced Ardmore management and staff. The promoters of Olcott Entertainment have a strong track record in the film production industry. This acquisition will ensure Ardmore Studios continues to be a world class film studio, can strengthen the potential of Ireland as a location for film production and take advantage of new opportunities in emerging areas including on-demand TV, content and gaming production. Overall, I am confident that

the sale will not only continue to ensure high quality production of current projects, but will also provide continued investment in the studio and employment opportunities for the skilled workers in the area.

**Deputy Richard Boyd Barrett:** There are currently three people working full time in Ardmore because it is sitting empty.

**Deputy Heather Humphreys:** That will improve.

**Deputy Richard Boyd Barrett:** Meanwhile, in Dublin, there are three films being made, one in a derelict NAMA factory where, as I said, four workers have just been sacked because they protested about the conditions under which they were working. Another film is being made in an old factory in Tallaght for some bizarre reason, and there is a film being made in the former Dublin Sport Hotel. All of these are getting public money, our money, coming from the State.

**Deputy Heather Humphreys:** That is a matter for the film board.

**Deputy Richard Boyd Barrett:** There is also a reported €7 million gone into Ardmore. Is this not a bit odd? We are pouring all this money into the film industry and into Ardmore and there is nothing happening in Ardmore. It is happening in NAMA factories where workers are out protesting over the conditions they are employed in and then get sacked for doing so and have now been replaced by contractors. Where is the accountability about the expenditure of public money to ensure that our investment actually results in the development of a real industry with proper employment for those who work in it and where we have some idea what the hell is going on? Instead, millions in public money is going into the hands of private interests, whether they be production companies or a studio built by the State which the Government has now handed over to private interests, with what? Just their word that they will make films there when the place is sitting empty.

**Deputy Heather Humphreys:** I reassure the Deputy that the current Ardmore Studios require investment, as he knows.

**Deputy Richard Boyd Barrett:** It has got a lot of investment in the last while.

**Deputy Heather Humphreys:** This company has purchased it and committed to investing in it. There is a great opportunity there. I am sorry I am not familiar with those particular places the Deputy is talking about. I suggest he brings it up with the Irish Film Board, which falls under the remit of the Minister for Culture, Heritage and the Gaeltacht. The Deputy should visit Troy Studios in Limerick. The same people own Troy as have bought Ardmore. The Deputy should go down there and see what is happening. Some 500 jobs have been created down there and there is huge opportunity. The place is buzzing and it is a good news story. I am confident that the same will happen with Ardmore Studios. It needs investment and there is a shortage of studio space. Ardmore's space is more suited to documentaries while Troy Studios is particularly suited to large films. Currently, they are filming a series there and have constructed a spaceship on the set. Up to 500 people are employed there with a €50 million investment. Film means opportunity. There are significant opportunities with Ardmore and I believe this is the best outcome.

**Deputy Richard Boyd Barrett:** The Government might as well be in a spaceship somewhere off in the stratosphere for all it seems to understand what is going on in the film industry.

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The Minister said Ardmore needs investment. Maybe it does, maybe it does not. According to the report, it has an investment of €7 million. Does the Minister believe it needs more investment than the John Player factory or a factory in Tallaght or the Dublin Sport Hotel? Why are films being made there?

The same chief executive officer, who has made efforts to rezone Ardmore for residential development but was blocked by Wicklow County Council, is still running the place. I pointed out that I have heard Savills, the property people, are involved in all of this. Unless I am mistaken, Savills is not interested in making films but in making money from real estate. To my mind, this stinks to high heaven. The Minister is not answering the questions. Public moneys are spent on derelict factories, on the John Player factory, the Dublin sport hotel and on Ardmore, which sits empty, yet the Minister cannot tell us anything about what is going on. Instead, she just promises us that it will all be okay from the spaceship in the sky.

**Deputy Heather Humphreys:** I think the Deputy is the one who has gone into outer space at this stage. Enterprise Ireland has a significant investment portfolio. It makes many investments for which it carries out due diligence and the necessary checks. It felt this was the best opportunity for Ardmore Studios. I also believe it is. The business of the company which bought the studios is making films. It wants to make films in Ardmore. I am confident that it will continue to make films there. The Irish Film Board has also welcomed this development. It is good for the industry. I am confident this is the right course for Ardmore Studios. From my past experience in my previous Department, I have seen the benefits of the film industry and what it brings to an area.

**Deputy Richard Boyd Barrett:** We are all for the film industry.

**Deputy Heather Humphreys:** However, I cannot tell people where to make films.

**Deputy Richard Boyd Barrett:** There is public money going into it.

**Deputy Heather Humphreys:** This is an opportunity for Ardmore Studios and for the people of Wicklow to strengthen the offering the studio has. There is a bright future for the studio. The film industry is looking for space. Ardmore Studios has the ideal space and I have no doubt the use of that space will be optimised.

### **Office of the Director of Corporate Enforcement Legal Cases**

26. **Deputy Billy Kelleher** asked the Minister for Business, Enterprise and Innovation when she plans to publish an account of the investigative failures identified by a person, details supplied, in regard to a trial; the steps being taken to address them emanating from the trial; and if she will make a statement on the matter. [16812/18]

**Deputy Billy Kelleher:** When does the Minister plan to publish the account of the investigative failures identified in the Anglo Irish Bank trial, the longest criminal trial in the history of the State, when Judge Aylmer directed the jury to acquit Mr. Seán FitzPatrick? When will the Minister publish the investigation into the role of the Office of the Director of Corporate Enforcement, ODCE, in the collapse of the trial and the acquittal of Mr FitzPatrick?

**Deputy Heather Humphreys:** An account of the investigative failures identified by Judge Aylmer is being finalised. The purpose of publishing this account is to understand the factors

that led to such mistakes being made and to ensure that appropriate steps have been taken to address these shortcomings.

On 9 March, Judge Aylmer granted approval to publish some of the transcripts of the trial, limited to the rulings of the court concerning investigative failures made on specific dates. The account is now being finalised on this basis. It is intended that the account will be published as soon as possible.

A key action in the Government's package of measures to strengthen Ireland's response to white-collar crime centres around the establishment of the ODCE as an agency. It is expected that the general scheme of a Bill to give effect to this decision will be published by the end of the second quarter of 2018, with publication of the Bill by the fourth quarter of 2018.

Changing the structure of the ODCE from an office to a statutory agency will provide greater autonomy to the agency and ensure it is better equipped to investigate increasingly complex breaches of company law. Sourcing of expertise and specialist staff, such as forensic accountants, will be enhanced under the agency model.

The Government is committed to ensuring that the new agency will be created in keeping with international best practice, including its internal controls, staffing, budget and corporate governance. My Department will engage with the OECD to seek its assistance in taking account of international best practice in the establishment of the agency.

The ODCE has played and continues to play a vital role in facilitating compliance and enforcement of company law. It has been successful in recent high-profile white-collar crime prosecutions. In 2014, two individuals were convicted for the giving of unlawful financial assistance by Anglo Irish Bank for the purchase of its own shares. In 2016, an individual was convicted of fraudulent trading on foot of a plea of guilty. Also in 2016, another individual was convicted for failing to maintain a licensed bank's register of loans to directors on foot of a plea of guilty. In 2017, a person was arrested and charged with fraudulent trading based on an invoice discounting fraud, entered a plea of guilty and was sentenced, in March 2018, to 18 months in prison, with the final six months suspended. The person was also disqualified from being a director for a period of five years.

Over the past ten years the ODCE has referred files in respect of a number of investigations to the Director of Public Prosecutions, DPP, on foot of which the DPP has directed a total of 214 charges on indictment.

**Deputy Billy Kelleher:** As the Minister well knows, the ODCE is in the High Court seeking to appoint inspectors to Independent News and Media, INM. The reason I raised this particular issue is that it is critically important we have full confidence in the ODCE. By any stretch of the imagination when Judge Aylmer directed the jury to acquit Mr. FitzPatrick, it sent out shockwaves. We heard about the inefficiencies and inabilities of the ODCE and the fact it shredded evidence. The list is endless in terms of its incompetence in dealing with the longest criminal trial in the history of the State. It is vitally important that everybody has full confidence in this office. The legislation is in place. Has the ODCE all the available resources it needs? Has it the capacity to ensure that if it does take a case to trial, it has the expertise, competencies and confidence to do that? This report has to be published and we have to learn quickly from it.

**Deputy Heather Humphreys:** The ODCE is well resourced. Since the appointment of the current director in 2012, he has enhanced the capability of the office to investigate increas-

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ingly complex breaches of company law and amended the investigative procedures used by the office. These enhancements included recruiting additional expertise, most notably the recruitment of six forensic accountants, a digital forensic specialist and two enforcement portfolio managers. Campaigns are under way for the recruitment of two enforcement lawyers and two forensic accountants. Other enhancements include amending the investigative procedures used by the office, with members An Garda Síochána now taking the lead in all criminal investigations; re-organising the structure of the office; and fostering greater culture of risk management. Funding to the office in 2017 came to €4.895 million. In 2018, it was increased to €5.057 million. Organisational reforms have taken place and it is doing good work. It has the necessary resources to enable it to do that. I am going to make it an independent statutory agency, and that will give it the flexibility to locate the skilled people it needs to carry out its work. In the meantime, it continues to work very effectively and I am satisfied that it is carrying out its duties.

**Deputy Billy Kelleher:** I thank the Minister for the reply. When this account is published, we can assess exactly what went wrong in the context of that trial. One can go through it. The judge condemned the ODCE investigation for its inappropriately biased and partisan approach. The judge referred to the coaching of witnesses and, alarmingly, the shredding of important documents carried out by the ODCE. I do not think that can be blamed on a shortfall in staff. This also raises questions about the Director of Public Prosecutions and An Garda Síochána. I want to ensure that if, when this is published, it highlights gross deficiencies concerning the trial itself or it identifies resource issues of some form, they are addressed immediately. We must bear in mind that we do not want to see this country portrayed abroad as incapable of enforcing its corporate law, corporate governance, fiduciary duties and the common law that underpins many of those things.

**Deputy Heather Humphreys:** I agree that what happened in 2012 was alarming. As I said, a lot of changes have been made to the ODCE. The new director has made a lot of internal changes, and it can be seen from the results that they have done a lot of good work, carrying out their duties and ensuring that people are held to account and brought to justice for wrongdoings in the area of corporate governance etc.

I cannot publish the entire report, as the Deputy knows. I will be publishing an account of the failures, and of course we will look at those and make sure that whatever the issues are, they are dealt with. I can assure the Deputy of that. As I said, increased funding has been provided, and I do not believe it is an issue of funding now. It is important that the ODCE finds and attracts the right person, because they do very technical work. We are supporting it with additional resources in every way that we can.

### **Regional Development Funding**

27. **Deputy Peter Burke** asked the Minister for Business, Enterprise and Innovation the way in which the regional enterprise development fund can help drive job creation in midlands; and if she will make a statement on the matter. [16179/18]

**Deputy Peter Burke:** I want to ask the Minister about the regional enterprise development fund to help drive job creation. Phase one of the fund was the Minister's first official engagement in her current role. She came to the Irish Manufacturing Research, IMR, facility in Mullingar to launch the first phase at the National Science Park. We were delighted to receive an allocation of €2.1 million for all the work going on in the facility.

**Deputy Heather Humphreys:** I thank the Deputy for raising this issue. The regional enterprise development fund, REDF, supported by my Department through Enterprise Ireland, was launched in May 2017. It is a €60 million competitive fund aimed at supporting significant regional initiatives that will build on sectoral strengths and improve enterprise capability across the regions. The REDF is intended to support the ambition, goals, and implementation of the regional action plans for jobs.

The REDF is aimed at accelerating economic recovery in all regions of the country by delivering on the potential of local and regional enterprise strengths. The fund will support significant collaborative and innovative regional initiatives to build on specific industry sectoral strengths and improve enterprise capability, thereby driving job creation. This will be achieved by co-financing the development and implementation of collaborative and innovative projects that can sustain and add to employment at a national, regional and county level. The fund will help to ensure the benefits of our growing economy are felt in all regions.

REDF funding is being made available over the period from 2017 to 2020 under two competitive calls. I have committed to ensuring that each region will benefit by at least €2 million from the fund once the required standard for projects is met under the evaluation criteria. The first call under the REDF concluded in August last year, and in December 2017 I announced an allocation of €30.5 million in funding across 21 successful projects from throughout the country. On Monday 16 April, at a regional stakeholder event in Farmleigh, I announced the second competitive call under the fund for the remainder of the €60 million.

Under the first call, one project from the midlands, Irish Manufacturing Research, IMR, based in Westmeath, was approved funding under stream one of the fund. This was for major regional, multi-regional or national sectoral initiatives, attracting grants ranging from €2 million up to €5 million per project.

**Deputy Peter Burke:** I thank the Minister, and I welcome the announcement of the second round of the fund, which will be very welcome. She visited Mullingar with me a number of months ago. We visited Trend Technologies, TEG and Robotics & Drives, companies that are operating at the cutting edge of technology. I am fully confident that these companies will grow rapidly and provide huge employment in the Mullingar area to complement what is there. I also want to mention IMR. This is a huge facility at the National Science Park. The founding members include Trend Technologies, Mergon International, SteriPack, and TEG. There are 42 live projects there, supporting many multinationals in the area and other indigenous firms. I would be grateful if the Minister could reaffirm the commitment of her Department in regard to it and the huge support it is giving to the area.

I am working with Mayor Andrew Duncan in Mullingar municipal district to organise a meeting in the Department with the head of Mullingar Chamber of Commerce, Mr. Tom Hyland, and other stakeholders. We aim to drive this forward to ensure that it is a major asset to the area and makes a difference. A project like this has the capacity to create at least 500 jobs. High-end technology is something that Ireland is good at. One can see the work with robotics that has been done in Mullingar, which the Minister saw first-hand. We have heard in the past fortnight that Robotics & Drives is going to be working with the National Steering Committee on Cobotics. That is a huge area where cutting-edge technology is again at the forefront. I would be grateful if the Minister would update me on that.

**Deputy Heather Humphreys:** I thank the Deputy. As he rightly said, my first function in

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my new brief as Minister for Business, Enterprise and Innovation was to go to the Mullingar facility at the National Science Park. It is a wonderful facility. I have used it as an example of what other regions could do in putting forward an application and providing such a facility for the manufacturing industry. It has significant capacity to support multinationals and indigenous industry in the area, and that is what this €30 million regional enterprise development fund is all about. It is about helping regions to build on their strengths to come forward with requests for projects and to get assistance in helping them to develop them. Of course Westmeath has done very well, apart from the money received for the IMR. County Longford was successful alongside counties Cavan and Leitrim in getting funding for the development of a network of digital and innovation hubs.

**Deputy Peter Burke:** I thank the Minister. We are all very well aware that the labour market grew by 2.9% last year, adding approximately 60,000 new jobs. Seven out of every ten new jobs are now created outside the commuter belt of Dublin, Wicklow and Kildare, which is of huge benefit to rural areas. It is projects like this that will inject new life into our provincial towns. Mullingar is a leading town in the midlands and will benefit from this. I assure the Minister that the confidence she has shown in Mullingar, IMR and the National Science Park will not be misguided. UCD has signed up, placing PhD students at the site, and Enterprise Ireland is also very keen to progress and grow the industry there. There are many good things happening. When we get niches like this that can support multinationals, work in cutting-edge areas like robotics and support new technologies in the area, it is very important that we support them. I welcome the Minister's support for it and I look forward to meeting her on it in the next month.

**Deputy Heather Humphreys:** The Deputy is right that success breeds success. When people see success, it brings others to the area. What is being done in Mullingar is wonderful and I was delighted when we visited for a second time, that we met people from a number of local businesses, including TEG Technology, Robotics & Drives and Trend Technologies. A great deal of exciting, innovative, cutting-edge work is being done there. It is great to visit such businesses and see what they are doing. They are based beside each other in a cluster and what they are doing will attract other businesses to the area. Sometimes we hear in the House that nothing is happening outside Dublin. Those who say that should visit Mullingar Business Park where they will see exactly what is happening. Some of the companies I visited on that day expressed an interest in the regional enterprise development fund. The message very clearly is that it is open for applications and people should get them in. The closing date is 28 June. I want to see support for the strongest applications possible.

### **Action Plan for Jobs**

28. **Deputy Pat Deering** asked the Minister for Business, Enterprise and Innovation the steps being taken by IDA Ireland to support job creation in the regions, particularly in County Carlow and the south-east region; and if she will make a statement on the matter. [16185/18]

**Deputy Pat Deering:** What steps are the Minister and IDA Ireland taking to support job creation, particularly in the south-east region and, more specifically still, County Carlow? There is potential for a technological university for the south east and a long-standing promise to provide an advanced facility. When will the facility go ahead? I have asked a number of questions about it in the last period, but the date has been pushed out time and again. If we could get a

definite answer and find out exactly what IDA Ireland is doing to support job creation in County Carlow, I would be grateful.

**Deputy Heather Humphreys:** I thank the Deputy for raising the issue. The Government is committed to supporting job creation in the regions. My Department and its agencies are working towards ambitious targets to ensure employment and investment are distributed as evenly as possible across the country. This includes County Carlow which is marketed by IDA Ireland as part of the south-east region. The employment situation in the south east which also covers Waterford, Wexford, Kilkenny and south Tipperary has been improving steadily in recent years. Key to this has been the South-East Action Plan for Jobs which was launched in September 2015. I met the people involved with the plan only last Monday. The action plan places a heavy focus on employment growth, with a target of creating 25,000 extra positions for the area. To date, 16,200 jobs have been created, which represents significant progress towards achieving the set target. IDA Ireland client companies in the south east created 1,200 new jobs last year alone, which brought total employment in overseas companies in the region to 14,785 across 75 client companies.

Looking ahead, IDA Ireland will continue to work with its clients to identify opportunities for new investment or expansion in the south east. In doing so the agency will draw the attention of investors to the region's particular strengths which include the south east's accessibility, ports and existing cluster of medical technology firms. The agency is also working closely with its existing clients in the region to help to strengthen and potentially grow their respective workforces. In addition, the agency is investing in property solutions to drive the growth of foreign direct investment in the region. IDA Ireland's €150 million regional property programme includes the construction of nine new advance facilities throughout the country, one of which will be located in Carlow. The building is at design stage, with the aim of having it completed in 2019.

*Additional information not given on the floor of the House*

While more work remains to be done in the wider south-east region, the overall employment trend in the area is positive. My Department and its agencies will continue to do their utmost to ensure further progress is made in the creation of more jobs and attracting further foreign direct investment.

**Deputy Pat Deering:** I thank the Minister for her reply which is encouraging. I do not want to paint the picture that nothing is happening in the area where MSD has created up to 800 jobs and Netwatch, a new indigenous company, employs approximately 200 people. I was keen to listen to what the Minister had to say about the strengths of different areas. There is potential in the south east for the new technological university, of which Institute of Technology, Carlow will be a key part. The property solutions and advance facility to which the Minister referred need to come on stream at the earliest possible date. We need facilities to cater for the graduates of the university in the future. An advance facility was available to MSD when it came on site originally. The original plan was that a number of companies would be attracted to the site, but MSD took over the entire facility and now employs over 800 people, which is hugely beneficial to the area.

**Deputy Heather Humphreys:** As the Deputy said, last year MSD announced the creation of 330 new jobs and an investment of €280 million in the next three years at two of its manufacturing sites in Carlow and Cork. As part of this investment, the company will create a new

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state-of-the-art manufacturing facility in Carlow, with 120 new roles. It will be the company's first stand-alone vaccines and biologics facility outside the USA. This significant investment in the county will assist IDA Ireland in its efforts to attract further investment. In 2017 Waters Corporation opened a new site expansion at its state-of-the-art manufacturing and assembly facilities in Wexford. Since commencing operations in 1997, this science technology company has seen continuous and sustained growth. Over 300 people are employed in the 145,000 sq. ft. facility manufacturing various devices.

**Deputy Pat Deering:** There was a major setback in the county a number of years ago when the sugar industry was closed in Carlow. At the same time, the Braun manufacturing facility closed. At their peak, these industries employed approximately 1,100 to 1,200 people. While Merck Sharp & Dohme has come on stream since, those jobs have not been replaced. While there are jobs at the lower end of the employment spectrum, facilities must be established in the area to replace what was provided in the past. The promised advance facility would be key in finding replacements for these jobs. It must come on stream soon to tie in with the prospective establishment of a technological university in the south east. It is important that they come on stream at the same time. I am disappointed that we are talking about the end of 2019 for the provision of the advance facility which initially was supposed to be in place at the end of 2018. It has now been pushed out by another year. I would like to see a little more progress in the near future.

**Deputy Heather Humphreys:** Of course, we want to see more foreign direct investment in Carlow and the surrounding area, as we do in all regions. That is what IDA Ireland's regional property programme has been designed to do. It seeks to encourage investors to locate outside the main urban areas. I accept that there have been delays in identifying a site in Carlow, but I understand from IDA Ireland that the issues have been largely resolved. The project is at design stage and it is aimed to complete it by quarter 2 of 2019. As the Deputy well knows, having raised the matter with me on many occasions, the advance facility will be a major asset for Carlow and the south-east region generally. It will build on recent successes in the county such as the announcement made by MSD. That is the kind of investment I want to see in counties like Carlow and across rural Ireland. I have no doubt that the Deputy will continue to remind me of the importance of these matters.

### **Personal Injury Claims**

29. **Deputy Billy Kelleher** asked the Minister for Business, Enterprise and Innovation the status of the introduction of legislation to enhance the powers of the PIAB in relation to a recommendation made in the report on the cost of motor insurance; and if she will make a statement on the matter. [16813/18]

**Deputy Billy Kelleher:** What is the status of legislation to enhance the powers of PIAB on foot of recommendations in the report of on the cost of motor insurance? The Minister might make a brief statement on that and we can then discuss it further.

**Deputy Pat Breen:** On 27 June 2017 the Government gave approval to the drafting of the personal injuries board (amendment) Bill along the lines of the published general scheme. The purpose of the Bill is to amend existing legislation to strengthen the PIAB operationally to ensure greater compliance with the PIAB process and encourage more claims to be settled through the PIAB model. The board facilitates objective, fair and transparent assessments of

damages in personal injury cases at a low delivery cost and in a timely non-adversarial manner in a far shorter timeframe than is possible through litigation, which often takes several years. According to PIAB data, 33,114 new personal injury claims were submitted in 2017 compared to 34,056 in 2016. PIAB processing costs were 6.2% of awards, which is a fraction of the cost had the claims been handled by way of litigation.

The average time taken to assess a personal injury claim was 7.3 months, compared to several years if litigation was involved. In 2017 the average PIAB award was €24,879, compared to a figure of €24,305 in 2016. Award values vary, depending on the nature and severity of cases received. The figures demonstrate that the PIAB model continues to deliver major benefits by providing a low cost, quick and fair option in injury compensation cases. The general scheme addresses issues highlighted in submissions made during the public consultation process held in 2014 by the then Minister on the operation of the Personal Injuries Assessment Board Acts 2003 and 2007, in addition to issues highlighted in the report of the cost of insurance working group on the cost of motor insurance, published in January 2017, and the report on the rising costs of motor insurance published by the Oireachtas Joint Committee on Finance, Public Expenditure and Reform, and Taoiseach. The Bill is being drafted by the Office of the Parliamentary Counsel. It is technical and complex legislation which requires careful consideration during drafting in conjunction with the Office of the Attorney General. It is hoped to have the drafting of the Bill completed in quarter two of 2018 and published thereafter.

12 o'clock

### **Leaders' Questions**

**Deputy Micheál Martin:** We read in *The Irish Times* today that the Minister for Communications, Climate Action and Environment, Deputy Denis Naughten, told the public affairs director of Heneghans PR firm two months before it was made public that he planned to refer the proposed takeover of Celtic Media by Independent News & Media, INM, to the Broadcasting Authority of Ireland. It appears that this information was then passed on to the senior director of the PR firm who passed it on to the former chairman of INM who then relayed it to the largest shareholder of INM, all in advance of it being made available to the other shareholders. This may or may not have been in breach of new market abuse regulations. The public relations executive told the former chairman of INM that the Minister's decision was to be treated as highly confidential. The director of public affairs of Heneghans confirmed that this morning, saying the Minister would have known that he was working for INM. He was asked by the company to find out the Minister's view on the suggested merger after the decision of the Competition and Consumer Protection Commissioner and said:

I ascertained what his reaction would be and I told the client. What they did with it after that is a matter for them.

It is my view that the Minister should come into the House to clarify the matter and confirm whether he did or did not tell the public affairs director of Heneghans two months in advance of making the information public. Has the Taoiseach raised queries with the Minister on the issue and does he have concerns about his behaviour? Why would it be normal practice for a Minister to inform a company what his intentions were relating to a proposed merger before they were publicly announced? Was this not commercially sensitive and price-sensitive information? Why would the Minister make known his intentions? Had he received any other

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representations about the proposed merger? Did the Minister inform the Government that his office had given a heads-up about his plans to refer the proposed takeover to the Broadcasting Authority of Ireland two months it was referred?

**The Taoiseach:** I understand the Minister, Deputy Denis Naughten, will make a statement to the House this afternoon on the matter referred to in *The Irish Times* in respect of the proposed acquisition of the Celtic Media group by INM. I have not seen the affidavit and do not think anyone in this House has. As it is a matter before the courts and *sub judice*, it would not be appropriate for me to comment on the affidavit.

The purpose of the media mergers regime is to safeguard the diversity and pluralism of media in the State and foster a regulatory environment that will enable media companies to flourish and ensure a range of diverse views are heard. All proposed media mergers that have been cleared by the Competition and Consumer Protection Commission, CCPC, are examined from a media plurality and diversity perspective in line with published guidelines which set out criteria for examining proposed media mergers, including diversity of ownership in the relevant media sector and the wider media market; geographical impact; governance structures; and the financial standing of the parties. The guidelines provide for an initial phase one examination by departmental officials and referral to the Broadcasting Authority of Ireland for a more detailed phase two examination where this is warranted in the light of the initial diversity and plurality assessments and factors such as the scale of the proposed acquisition and its geographical reach. In this case the CCPC cleared the proposed merger on 10 November 2016. An application under the media mergers process was received by the Department on 21 November 2016. I am advised by the Minister that his Department subsequently subjected the application to the full rigours of the Act and the media merger guidelines before making its recommendation to him on 4 November. He made the decision on the matter on 10 January 2017 and acted on the advice of his officials at all times.

**Deputy Micheál Martin:** I asked the Taoiseach if he had made inquiries of the Minister. Does he not find it unacceptable that the Minister gave this information to a public relations firm acting on behalf of INM two months before making a public announcement on it? Does he think it was appropriate and correct to do so? Has he ascertained from the Minister that he did, in fact, do this? Will he, please, say “Yes” or “No” as I want a straightforward answer. Any reading of the situation seems to suggest the inside track is alive and well. It is extremely important that there be clarity and transparency. What is the Taoiseach’s view? Does he think it is normal practice for something like this to occur, that a Minister informs a PR firm acting on behalf of one party two months in advance?

**The Taoiseach:** The Minister, Deputy Denis Naughten, contacted me and my staff last night to inform us that the story would appear in the newspapers today and I have spoken to him since. I still do not have all the facts and nobody does. None of us has seen the affidavit.

**Deputy Micheál Martin:** I am not talking about the affidavit. It has been confirmed by the company.

**The Taoiseach:** The matter is before the courts. It is fair to say it would have been better if this conversation had not happened, but I am satisfied that the Minister did not give any confidential information. There seems to be a misunderstanding of the nature of the process. It is not secret. Guidelines on it are publicly available on the Department’s website and the same guidelines were subject to a detailed public consultation prior to their finalisation. Prior to the

phase one decision the Minister answered seven parliamentary questions on the matter in the Dáil and was exhorted by outside groups and political parties to use all of the powers available to him to examine aspects of the acquisition.

**Deputy Mary Lou McDonald:** This is a very troubling story which, undoubtedly, raises questions for the Minister for Communications, Climate Action and Environment, Deputy Denis Naughten, about his discussion with a person acting on behalf of INM in connection with the attempt to take over Celtic Media. This all happened in November 2016. The Minister gave advance notice to the PR executive, acting on behalf of Independent News & Media, of his plan to refer the takeover to the Broadcasting Authority of Ireland. We understand that the Minister, when speaking to this individual, understood he was working on behalf of INM. The engagement between them and the Minister's decision to refer the proposed acquisition to the Broadcasting Authority of Ireland was then a subject of an email sent by the PR company to the chairperson of INM, and this email was subsequently forwarded to Mr. Denis O'Brien. This email stressed that the information contained within it should be treated with the strictest of confidence, which is at variance with the Taoiseach's assertion that all this had full public purview and that it was not confidential at all.

We also understand that the PR company in question did not log the engagement with the Minister with the lobbying registrar, as it should have done. As the Taoiseach knows, this is a legal requirement under the Regulation of Lobbying Act 2015. This law is designed to protect the public interest and ensure transparency in the lobbying process. The Office of the Director of Corporate Enforcement, of which we spoke yesterday, has expressed concerns about the sharing of insider information and, perhaps, breaches of stock market rules. All this gets very murky in its totality.

There are very serious issues over the concentration and consolidation of media ownership and, by extension, power in this State. We are all conversant with that. I am sure I do not have to remind the Taoiseach that, in the past, interactions between a former Minister and a powerful interest in the media and a proposed acquisition spawned the Moriarty tribunal. Indeed, that tribunal is one of the reasons people distrust powerful politicians and the political process itself.

Let me put a couple of questions to the Taoiseach - ones he has failed to answer so far. He said the Minister contacted him last night to tell him the story would appear in the paper. Am I to take it from that that this was the first time he had knowledge of the conversation between the Minister and the person acting on behalf of INM? The Taoiseach says he has not had sight of the affidavit. He does not need sight of the court affidavit to put to the Minister, Deputy Naughten, the very obvious questions that ought to be put to him.

**An Ceann Comhairle:** The time is up.

**The Taoiseach:** The answer to the sole question the Deputy asked is "Yes". The Minister, Deputy Denis Naughten, is willing to come before the House this afternoon to make a personal statement. I understand that has been agreed for 3 p.m. The Minister will be willing to take questions on foot of that. He informs me the date was 4 January 2017, not November 2016. The information, as I said earlier, was not confidential. It is not unusual for PR companies and PR agents to use information that is not confidential or publicly available and make out somehow that it is confidential information.

Under the lobbying Act, the onus is on the lobbyist to register. It is not a requirement that

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the politician do so. I imagine the Deputy is aware of that because I doubt that she has ever registered under the lobbying Act herself. It is not her obligation to do so; it is the person lobbying her who is obliged to do so.

**Deputy Mary Lou McDonald:** Does that make it okay?

**The Taoiseach:** Has the Deputy ever registered when somebody lobbied her?

**Deputy Mary Lou McDonald:** I am asking legitimate questions. I would prefer to be in here raising a different issue but we are not. For all the guff about new politics, is this where we are at, with the gold-plated few having access to Ministers and, in part, given the heads-up on decisions the Minister has taken? What way is that to conduct politics? I very much hope the Minister will present himself this evening. I hope he has full, transparent and credible answers in respect of all this.

The story states very clearly that the meeting took place in November 2016. The Taoiseach seems to be contesting that fact.

**The Taoiseach:** Could the Deputy say that again?

**Deputy Mary Lou McDonald:** I am saying, if I am correct, that the meeting in 2016 occurred on 12 November.

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

**Deputy Mary Lou McDonald:** The Minister is on record as suggesting, in answer to a question in the House, that he had not taken a decision at that stage. All this is extremely troubling and worrying.

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

**Deputy Mary Lou McDonald:** I do not accept the position of the Taoiseach, as Head of Government, that this is simply a matter for the courts.

**An Ceann Comhairle:** The Deputy needs to conclude. Her time is up.

**Deputy Mary Lou McDonald:** It is true that it is a matter for the courts on points of law but the conduct of one of his Ministers is a matter for him and the entire Dáil.

**The Taoiseach:** Almost anyone in Ireland can have access to a Minister. It is not that difficult to have access to politicians or Ministers in Ireland, whether it is through a constituency clinic or simply by requesting a meeting or telephone call. With regard to the lobbying Act, as the Deputy well knows as a serving politician, the obligation is on the person carrying out the lobbying - the lobbyist - to register, not the politician. I have never registered that somebody lobbied me under the lobbying Act and I am not required to do so. I doubt that the Deputy has done so either so therefore her contention is a bit of a red herring.

With regard to the timeline, I am advised that the mergers process went through the full rigour required under the Act and the guidelines afterwards were received by the Minister, Deputy Denis Naughten, on 21 November 2016. The recommendation was made by officials on 4 January 2017 that the acquisition be referred for a phase 2 examination, and that was approved by the Minister on 10 January.

**Deputy Brendan Howlin:** The scandal over what allegedly happened at INM, where the data of journalists were literally handed over to an outside body, is shocking and deeply disturbing. The matter is in the hands of both the courts and the Office of the Director of Corporate Enforcement, and they will do their work. This case will have serious repercussions and highlights the fragility of the institutions that sustain our democracy. It is a subject that will no doubt feature largely in our debates in this House in the future. What is deeply disturbing is the detail of what is now emerging and how sensitive information was shared by a Minister.

The Celtic Media Group publishes a number of well-known titles. It was announced in September 2016 that INM planned to buy the group of seven newspapers. It was part of a trend of consolidation in the print industry, which has been under long-term stress, as we have discussed many times here. INM already has a dominant position in the Irish media landscape, and it sought to make these acquisitions. There were concerns over the control of so many outlets resting in one company, all but controlled by one significant shareholder.

In January 2017, the Minister publicly announced he was referring the deal to the Broadcasting Authority of Ireland. The Minister for Communications, Climate Action and Environment, Deputy Denis Naughten, sought a full review of the proposed merger and a recommendation from the authority within 80 working days. However, in June 2017, INM announced the takeover would not go ahead. That was before the Minister would announce his decision on the Broadcasting Authority of Ireland review. *The Irish Times* reports today that the Minister told a lobbyist from INM in a telephone conversation of his intention to refer the takeover to the Broadcasting Authority of Ireland because of “the overall ownership of print and broadcast titles by Denis O’Brien”. This telephone call with a former Government press secretary, Mr. Eoghan Ó Neachtain, now director of public affairs at Henaghan PR, occurred two months before the Minister acted. It is an extraordinary revelation that the Minister provided key information to a lobbyist for INM considering he refused to engage with the NUJ on that very same issue. In effect, it appears that the Minister might have prejudiced his statutory functions under the competition Acts in regard to approving media mergers. He might also have unwittingly shared insider information that was passed on subsequently to a shareholder. Unlawful disclosure of insider information is a criminal offence under Regulation 6 of the European Union (Market Abuse) Regulations 2016.

The Taoiseach said the Minister is going to make a personal statement. This is not a personal matter. It is not encompassed by the rules of the House on personal statements. I ask that the Minister make a full statement on his departmental role and be subject to questions in the House this afternoon.

**The Taoiseach:** It does not appear to me that this is sensitive information or confidential information. It may be the case that the PR executive or the lobbyist claimed it was, but that is part of what lobbyists do. They often take information that is publicly available or easily available and present it as being confidential in some way.

**Deputy Pearse Doherty:** It was not publicly available.

**Deputy Sean Sherlock:** We have to interrogate that information here.

**The Taoiseach:** The Competition and Consumer Protection Commission and Broadcasting Authority of Ireland act and make their decisions independently. The Minister has clearly stated all previous decisions were based solely on the advice provided by his officials. He has

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reiterated that he had adhered to that approach in this case as well. What he said was that he would follow the advice of his officials. The Minister has agreed to make a statement to the House later and will take questions on it.

**An Ceann Comhairle:** I am sorry but I must clarify that, procedurally, the device by which a personal statement is handled does not allow for the taking of questions so the matter would have to be ordered in a separate fashion.

**The Taoiseach:** I think it can be ordered so that questions are taken.

**An Ceann Comhairle:** I am sure the House would be amenable to doing that.

**Deputy Micheál Martin:** Yes.

**Deputy Brendan Howlin:** I take it what is agreed is the Minister will make a statement and be subject to a period of questioning in the fashion that has been determined in previous cases.

**An Ceann Comhairle:** Arrangements will be made.

**Deputy Brendan Howlin:** The Taoiseach said he was informed for the first time of this yesterday evening. I ask exactly what communication was made to him in order that we can prepare ourselves for questions that we might pose later in the afternoon.

**The Taoiseach:** The Minister for Communications, Climate Action and Environment rang me, I missed the phone call and I rang him back. We could not get each other because we were at different events yesterday evening.

**Deputy Brendan Howlin:** What did he tell the Taoiseach?

**The Taoiseach:** He told me what I have told the Deputy.

**Deputy Pearse Doherty:** Come on. Answer the question.

**An Ceann Comhairle:** I call Deputy Boyd Barrett. Can we have order?

**The Taoiseach:** He told me what I outlined. I wrote it down and I just read it into the record of the Dáil.

**Deputy Jan O'Sullivan:** The Taoiseach did not answer the question.

**Deputy Paul Kehoe:** He did.

**An Ceann Comhairle:** Can we have order please and a little respect for the leader in possession?

**Deputy Richard Boyd Barrett:** In what is a pretty well worn pattern, we had yet another announcement, which was the umpteenth announcement, yesterday by the Minister for Housing, Planning and Local Government that purportedly will help to deal with the housing and homelessness crisis and, in particular, the issue of private rented accommodation. Twice yesterday during Taoiseach's Questions, I asked questions in an attempt to interrogate these proposals because they are nothing more than another half-baked, futile exercise in closing the door after the horse has bolted. They are pure tokenism, which will do nothing to address a housing and homelessness emergency that is spiralling out of control. I hope I might get the answers today from the Taoiseach that I did not yesterday.

What is the point of bringing in legislation, even with criminal sanctions about which I am happy, which will limit rent increases to 4% annually when rents are unaffordable anyway and the level of rent is such that nobody on a low income or dependent on housing assistance payment, HAP, or even those on a reasonable income such as teachers, nurses and so on can afford them? Average rents in parts of Dublin are €1,800 per month. In south Dublin, average rent is almost €2,000 per month, which means someone needs €24,000 a year to secure an average rental property. That is impossible. What will the Taoiseach do about that? This is only if someone can secure accommodation at those rents given landlords will not even look at those on HAP. I am dealing with constituents who have come to my office with lists of between 80 and 100 properties that they have viewed trying to find accommodation that they can afford but it is impossible. All this leads directly to homelessness. None of the loopholes relating to substantial refurbishment and moving relatives in for the sale of properties, which are being exploited by vulture funds and landlords, is being addressed. Landlords are using them to evict people. Nothing has been done about affordability. Emergency legislation is needed. Earlier this week, a scandal was revealed yet again. The *Sunday Independent* revealed that Christian Carter who had previously been caught with 70 people in a five-bedroom house in Cabinteely had seven other properties with up to 30 people living in some of them following an investigation by the newspaper.

**An Ceann Comhairle:** The Deputy's time is up. He would be better not to name people.

**Deputy Richard Boyd Barrett:** He has been named in the national newspapers.

**An Ceann Comhairle:** I would rather the Deputy did not name people here.

**Deputy Richard Boyd Barrett:** What about emergency legislation to deal with sublets?

**An Ceann Comhairle:** The Deputy's time is up. Will he resume his seat?

**Deputy Richard Boyd Barrett:** Where is the legislation and, more important, the policy action to reduce rents to affordable levels and to provide affordable accommodation to those who need it?

**The Taoiseach:** It took a while to get to the question.

**Deputy Mattie McGrath:** It will take a while to get the answer.

**The Taoiseach:** Rents in Ireland are high, particularly in Dublin, and they have increased considerably over the past couple of years. They fell quite a lot during the recession and have increased very much over the past couple of years. Nonetheless, while it may come as a surprise to the Deputy, people are paying them. There are few vacant rental properties because people will not pay these rents; the reverse is the case. We do not have enough rental properties available for people to rent. The legislation the Government has brought in is intended to contain the increases in rents in order that people do not face double digit or significant hikes if they live in rent pressure zones, RPZs. According to the statistic produced by the Residential Tenancies Board most recently, average rents increased by just over 1% in the previous quarter. Rents had been increasing at a high rate. In 2016, for example, rents in Dublin increased by 8%. However, the average increase was in the region of 5% for 2017, with an increase of 1.1% in the final quarter. The rent controls for the RPZs that were brought in more than a year ago are working and are having an effect in containing and reducing the increases in people's rent.

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**Deputy Pat Buckley:** But they are not outside the RPZs.

**The Taoiseach:** I am not sure what Deputy Boyd Barrett is proposing. He seems to be proposing legislation whereby the Government would intervene and slash rents. We all know why that would not be a practical solution. That would not provide an additional property for any person in the State. If anything, the Government coming in to slash rents would create other problems. There would not be additional supply, which is what we need now. Fewer people would be willing to let their properties and get involved in the buy-to-let sector if a socialist government was to come along and slash rents and control the rents being charged. There would also be many accidental landlords, for example, for whom that rent is how they pay their mortgage. They would be put into mortgage arrears and huge financial difficulty. The Deputy's solution would make matters worse, as is always the case.

**Deputy Richard Boyd Barrett:** People are paying rents, like Tara Nic Chormaic, the nurse who wrote an open letter about how she cries at the end of a 39-hour week because she has €6 left after she pays her rent. That is how people are paying while others cannot even get these properties. I am proposing as an absolute minimum a complete rent freeze. A 4% increase on an unaffordable rent of €1,900 or €2,000 a month is not payable by people on HAP or by teachers, nurses and ordinary workers. What will the Taoiseach do about that? I would go further, as is the norm in many European countries, and have rents set by local authorities based on square metreage at affordable levels. What is the point in the Minister's proposed legislation given the RTB only has 55 staff and cannot even enforce the current legislation? The Taoiseach is saying they will launch investigations, which is just nonsense.

**An Ceann Comhairle:** The Deputy's time is up.

**Deputy Richard Boyd Barrett:** We need to stop rent increases, bring rents down to affordable levels and stop vulture funds sitting on empty properties. As I told the Minister earlier this week, Cerberus is sitting on 27 empty properties in Sandyford while Apollo Global Management is sitting on empty properties in Dún Laoghaire. Nothing is being done about this. These speculators are dictating what is going on in the housing market. If the State takes those properties back for public use, that is how the Government will secure additional properties.

**The Taoiseach:** I am confused by the Deputy's proposal. A minute ago he said rents were unaffordable; then he called for a rent freeze. If they are unaffordable-----

**Deputy Richard Boyd Barrett:** I said at a minimum a rent freeze and affordable square meterage.

**The Taoiseach:** I do not see how a rent freeze would work. We have brought forward rent certainty and rent controls which ensure nobody in most of the country - 60% of people are now covered by rent pressure zones - will face a rent increase of more than 4% in any given year. I have demonstrated how that is having an effect, with the average increase in the last quarter being just over 1.1%. It is not quite a rent freeze, but it is an increase of in the region of 4%. There are uplifts when it comes to the housing assistance payment, HAP. If somebody is facing homelessness, an uplift of between 20% and 50% can be provided for to make sure the person can afford to pay the rent. We have a HAP finder to assist people in finding available properties. The real problem both for people who want to buy houses, including their first home, and those who need to rent is the lack of supply. The Deputy's solutions would make the position much worse with the Government coming in and setting rents in particular areas and slashing

them. Fewer people would then be willing to let properties. Fewer people would be willing to buy properties, with a view to letting them. Loads of people, particularly accidental landlords who are just about getting by and for whom the rent is just about covering the mortgage, would be placed in arrears and the position would be made much worse.

### **Questions on Promised Legislation**

**Deputy Micheál Martin:** I have a question about the Sea-Fisheries (Amendment) Bill. As the Taoiseach knows, the Minister for Agriculture, Food and the Marine, Deputy Creed, laid a statutory instrument before the House on Easter Monday to allow penalty points to be applied to fishing vessel owners who engaged in illegal, unreported and unregulated fishing. While we all agree with having a proper and fair regime in that regard, given the fate of previous statutory instruments that were proved to be unconstitutional, the Minister indicated that he would not do this by statutory instrument but rather by primary legislation and that he would consult other parties on it. He has not consulted other parties. My party has a particular difficulty with the statutory instrument. My question is why is the Government introducing a statutory instrument. The statutory instrument and the appeals process are unfair. Will the Government revert to its original position that it would introduce primary legislation to govern this issue, as it would allow for proper transparency and fairness for all concerned?

**Minister of State at the Department of Agriculture, Food and the Marine (Deputy Andrew Doyle):** I acknowledge that I am not fully familiar with the proposal about the statutory instrument.

**Deputy Micheál Martin:** I cannot hear the Minister of State.

**Deputy Andrew Doyle:** I am not fully familiar with the proposal about the statutory instrument, but if the Minister has said he intends to consult and revert to primary legislation, I presume that is what he will do. I can check.

**Deputy Micheál Martin:** The Minister of State might check with Deputy Pat The Cope Gallagher who is an acknowledged expert.

**Deputy Andrew Doyle:** Okay.

*(Interruptions).*

**Deputy Mattie McGrath:** What about the Ceann Comhairle?

**Deputy Micheál Martin:** The statutory instrument has been laid before the House. I ask the Minister of State to consult Deputy Pat The Cope Gallagher.

**A Deputy:** Poor Charlie.

**Deputy Andrew Doyle:** I will check with my colleague, the Minister, Deputy Michael Creed, first.

**Deputy Micheál Martin:** Deputy Charlie McConalogue has proved to be an expert advocate on behalf of farmers who need fodder.

*(Interruptions).*

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**An Ceann Comhairle:** Deputy Micheál Martin cannot enter a second round.

**Deputy Mary Lou McDonald:** Will the Taoiseach clarify when business will be reordered to allow for statements and questions to the Minister? I understand from media reports that he has finally agreed to implement the Ombudsman's recommendations following a scathing report late last year on the Department's administration of the Magdalen laundry redress scheme. The report came on foot of complaints made by 27 women who had been excluded by the Department from the scheme. Even after the investigation was complete, the first instinct of the Department of Justice and Equality was to push back. In evidence to the Joint Committee on Justice and Equality in January the Ombudsman stated that in his ten years as Ombudsman, he had never reached a point where a Department had, prior to publication of a report, absolutely and categorically refused to engage in the process of accepting and implementing the recommendations made. That reflection very much echoes the experiences of the excluded women.

**An Ceann Comhairle:** The Deputy's time is up.

**Deputy Mary Lou McDonald:** A small number of women are awaiting redress. They lack capacity and are particularly reliant on the Department and the Courts Service to support their applications. The Taoiseach's decision to implement the report's recommendations is welcome. The Minister for Justice and Equality-----

**An Ceann Comhairle:** The Deputy cannot make a long statement on these matters. A brief question is provided for.

**Deputy Mary Lou McDonald:** Pardon?

**An Ceann Comhairle:** A brief question is provided for, not lengthy statements.

**Deputy Mary Lou McDonald:** I am not making any lengthy statement.

**An Ceann Comhairle:** That is the order of the House. If the Deputy disregards the order of the House, she is being disorderly. Can we, please, conclude?

**Deputy Pearse Doherty:** I think Deputy Micheál Martin spoke twice.

**Deputy Mary Lou McDonald:** He was doing a comedy routine with his counterpart. May I pose my question?

**An Ceann Comhairle:** I ask the Deputy to, please, pose her question.

**Deputy Mary Lou McDonald:** Thank you so much. I ask the Taoiseach for a timeframe within which the recommendations will be delivered on. I thank the Ceann Comhairle. I will now resume my seat. I thank him for his courtesy.

**The Taoiseach:** To reply to the first question, the clerk to the committee is ringing around to make arrangements for this afternoon.

On the Magdalen redress scheme, the Minister for Justice and Equality, the Ombudsman and I met two weeks ago to resolve the matter. The Government fully accepts the four recommendations made by the Ombudsman. We will implement them without further delay. To date, some 700 women have received payments under the scheme, with enhanced health benefits and pensions. Much good has been achieved through the restorative justice scheme. We want to make sure the four issues raised by the Ombudsman will be dealt with. The first is where there

is a dispute about how long a woman spent in an institution. We have appointed an independent senior counsel, Mary O'Toole, who has been asked to review all cases and make recommendations. That will be done without unnecessary delay. Her work will start immediately. She will advise us on women who lack capacity due to dementia or other reasons, including being wards of court and unable to accept an award because of a lack of capacity. We will also ensure women who were officially recorded as having been admitted to a training centre or an industrial school located in the same building attached to or located on the grounds of a laundry are included in the scheme. We envisage having that work completed in the next three months. We accept the Ombudsman's recommendation in that regard. There is a difference of opinion between the Ombudsman and the Department of Justice and Equality as to whether this would involve altering or changing the scheme, but I do not think that really matters. What is important is that the women affected receive redress and they will.

**Deputy Brendan Howlin:** We are led to believe the Minister of State, Deputy Kevin Boxer Moran, is to rotate out of the Office of Public Works and be replaced by Deputy Seán Canney. We are told in this morning's edition of *The Irish Times* that this "Lanigan's Ball" arrangement is now in some doubt. As head of the Government, can the Taoiseach advise the House if there will be a change of Minister of State in the Office of Public Works? Will it be determined by a vote of the Cabinet as required by law or is it another toss of the coin?

**The Taoiseach:** It will be a matter for the Independent Alliance to decide.

**Deputy Brendan Howlin:** The law states it is a matter for the Cabinet.

**The Taoiseach:** The decision on the appointment of a Minister of State is a matter for the Cabinet but who is to be nominated to hold the position is a matter for the Independent Alliance.

**Deputy Bríd Smith:** I have an issue with how women are treated in this country. Women's Aid, the organisation that supports women and families affected by domestic violence, produced its report on Monday. What it tells us is shocking. We do not just need Women's Aid to produce statistics for domestic violence and abuse, we also need the State, as promised, to do so. Some 16 years after the first report on sexual abuse and violence in Ireland was commissioned, we still do not have a proper answer from the Taoiseach, his Department or the Department of Justice and Equality as to when we will hear from the Department about a second sexual abuse and violence in Ireland, SAVI, report. It is long overdue. Over 30% of women reported to Women's Aid that they had found the Garda unhelpful. Women's Aid clearly stated and showed statistically how the housing crisis was having a major impact on women and families in not being able to leave abusive and violent situations because they had nowhere to go. Surely, there must be urgency in terms of the need for a second report 16 years on, rather than having to repeatedly come back to ask the Taoiseach when we will have it.

**Minister of State at the Department of Justice and Equality (Deputy David Stanton):** I can report that the Minister is working on the issue and expects progress to be made in due course.

**Deputy Bríd Smith:** The Minister of State said that last October.

**Deputy Mattie McGrath:** In the context of the commitment in the programme for Government to transparency and accountability, does the Taoiseach, as Head of Government, think it acceptable that the Minister for Health, Deputy Harris, attended the launch of Amnesty International Ireland's repeal the eighth campaign? As the Taoiseach is aware, the Minister for Health,

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who he appointed, has a responsibility to all the people of Ireland under the Constitution. The Minister for Health might not be aware of that. Judging by the state of the health services, one would think he is not aware of it. It is totally inappropriate that he attended that launch because his duty is to defend the Constitution that is in place until it is changed by the people or otherwise. He attended the event and walked down the street with Mr. Colm O’Gorman of Amnesty, which has received €150,000 from George Soros. The Standards in Public Office Commission, SIPO, and An Garda Síochána are currently investigating that donation. If a Member of this House does wrong, he or she must be held accountable, and rightly so. For the Minister, in such a cavalier way, to attend the launch and walk around canvassing on Grafton Street with Mr. O’Gorman and his colleagues is downright to flout his Cabinet duties. Will the Taoiseach rein him in or are we going to have a free-for-all? Deputy Howlin mentioned musical chairs in the Independent Alliance. It is the Taoiseach’s responsibility as Head of Government under the Constitution to ensure that Ministers act properly and obey the Constitution.

**The Taoiseach:** I do not think the Deputy understands how the Constitution works.

**Deputy Mattie McGrath:** Is that so?

**The Taoiseach:** It is absolutely appropriate for the Minister for Health to be involved in such a campaign. The Government and the Oireachtas are proposing to change the Constitution. I do not know how many referendums we have had on constitutional amendments but it has always been the normal course of events for Ministers to campaign in favour of the change they propose. It is the logical thing to do.

**An Ceann Comhairle:** I call Deputy Connolly.

**Deputy Mattie McGrath:** What about the illegal funding that Amnesty received and will not pay back?

**An Ceann Comhairle:** Deputy McGrath should resume his seat.

**Deputy Mattie McGrath:** The Taoiseach has not answered the question.

**Deputy Michael Healy-Rae:** He only answered half the question.

**The Taoiseach:** That matter is before the courts.

**An Ceann Comhairle:** Deputy McGrath should resume his seat.

**Deputy Mattie McGrath:** What is the point in having a Taoiseach if we cannot get answers?

**Deputy Catherine Connolly:** Ba mhaith liom labhairt faoin bplean gníomhaíochta don Ghaeilge, go háirithe don tréimhse 2018 go 2022. Sé seachtaine ó shin thug an tAire Stáit óráid iontach sa Dáil agus gheall sé dúinn san óráid sin go raibh an Roinn ag cur bailchríoch ar an bplean ag an am sin agus go mbeidh sé le foilsiú sna seachtainí a bhí romhainn. Tá sé go díreach sé seachtaine an lá inniu ó thug sé a bhriathar go raibh an plean sin le foilsiú. Cá bhfuil an plean? Thug an tAire Stáit a bhriathar i rith Sheachtain na Gaeilge i mBliain na Gaeilge.

**Minister of State at the Department of Culture, Heritage and the Gaeltacht (Deputy Joe McHugh):** Tá nuacht dearfach agam anois. Bhí mé ag labhairt le mo chuid oifigeach inné fadúda an plean sin agus tá an chéad dhréacht socruithe. Anois tá na hoifigigh ag obair ar an

dara dréacht. B'fhéidir go bhfuil sé socruithe anois, ach ní bheidh sé foilsithe inniu. B'fhéidir go bhfoilseofar é go gairid.

**Deputy Eamon Ryan:** The Citizens' Assembly today published its report on climate change. Anyone who was present for its work on the issue would say it did a fantastic job. It got the best people in to give an overview of the relevant science and solutions, and came up with practical solutions in the areas of transport, agriculture and energy commensurate with the scale of the challenge we face. What does the Government intend doing with the report of the Citizens' Assembly and its recommendations? What effect will it have on the Government's legislative process, the national mitigation plan and Government budgets and actions? The Citizens' Assembly was very clear and practical and is very strongly supported by the environmental community and everyone interested in the climate issue. What will the Government do with it next?

**Deputy Danny Healy-Rae:** Fire the lot of them.

**The Taoiseach:** I thought the report was published some time ago as I recall reading it, although perhaps that was a draft and the report was only formally published today. The deliberations and outcome of the Citizens' Assembly consideration of climate change very much informed Project Ireland 2040, the largest single element of which is the €22 billion to be invested by the State and semi-State bodies in dealing with climate change. For example, it proposes taking coal off the grid by ending the burning of coal in Moneypoint in 2025, that all new buses bought by Dublin Bus and Bus Éireann from next year on will be low emission vehicles, and banning the sale of petrol and diesel cars from 2030.

**Deputy Michael Healy-Rae:** That is a great idea.

**The Taoiseach:** Those are examples of decisions the Government has made in this regard.

**Deputy Danny Healy-Rae:** In recent times, the Government has made much ado about encouraging emigrants to come home and work in the teaching, nursing and social work professions. If such people have been out of the country for more than three of the past five years, they cannot access postgraduate courses without paying for them. A girl of whom I am aware left Killarney in 2014 at the age of 24. She came back last June and wishes to access a course in Trinity College Dublin which should cost €6,300 but, because she was away for three of the past five years, will cost her €11,600. She has spent 24 and a half years of her life in this country. Why is a limit being put on her such that she must be in the country for the past three years? Is this rule intended to apply to immigrants from other countries? It should not apply to people who were bred, born and reared in our country and who spent the most part of their lives here and will not even be able to access a SUSI grant.

**Deputy Jonathan O'Brien:** Rubbish.

**Deputy Danny Healy-Rae:** What is the Government going to do about it?

**Deputy Jonathan O'Brien:** Rubbish.

**An Ceann Comhairle:** I call the Minister for Education and Skills, Deputy Bruton.

**Deputy Danny Healy-Rae:** What?

**Deputy Jonathan O'Brien:** That is rubbish.

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**Deputy Aengus Ó Snodaigh:** That is rubbish. Immigrants from abroad do not have access to-----

*(Interruptions).*

**An Ceann Comhairle:** The Deputies have not been called to speak.

*(Interruptions).*

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

*(Interruptions).*

**Deputy Danny Healy-Rae:** It is not rubbish. These are people who were bred, born and reared in Ireland, some of whom were born in Kerry. I ask the Government to get rid of that rule.

**An Ceann Comhairle:** Deputy Healy-Rae should resume his seat. Please do not bring the House into disrepute.

**Deputy Danny Healy-Rae:** Sorry, a Cheann Comhairle.

**An Ceann Comhairle:** Citizens of this country are watching this behaviour.

*(Interruptions).*

**An Ceann Comhairle:** Deputy Ó Snodaigh should control himself.

**Deputy Danny Healy-Rae:** Most of what Deputy Ó Snodaigh says is rubbish.

**Minister for Education and Skills (Deputy Richard Bruton):** There are restrictions on access to courses by persons who have lived outside the EU for a considerable period. The difficulty we face in arranging rules of access is that any such rule must apply to all EU citizens equally. The restriction that is in place has strictures which are uniformly applied. I will consider the case raised by Deputy Healy-Rae but there are difficulties in regard to people who have spent an extended period outside the country accessing third level because the rules must apply uniformly to all EU citizens.

**Deputy Michael Healy-Rae:** Groups from all over Ireland are petitioning outside the Oireachtas today for the FreeStyle Libre blood glucose monitor to be made available to all adults who have type 1 diabetes. The recent decision by the HSE should be changed to provide the monitor to all those who need it, rather than only to those under 21 years of age. It is an important health device which would greatly improve the health and quality of life of those with type 1 diabetes. Why are some people being asked to pay €120 per month for a device which has been made available to other groups with type 1 diabetes? I have raised this matter with the Minister for Health, Deputy Harris, through parliamentary questions but we are getting nowhere with it. It is a very serious issue. There are many people from throughout the country outside the Oireachtas today and they have the support of Members on all sides of the House. I ask the Taoiseach to deal with this matter, please, and give it the urgent attention which it requires.

**Minister of State at the Department of Health (Deputy Jim Daly):** I will arrange for Deputy Healy-Rae to be updated on the matter. I am aware of the issue and the gathering out-

side the gates of the Houses. There is concern on the issue and I will arrange for the HSE to forward an update on the matter to the Deputy.

**Deputy Jonathan O'Brien:** I ask that all Members be updated in that regard.

**Deputy Michael Collins:** It is stated in the programme for Government that efforts to increase access to safe, timely care as close to patients' homes as possible will be a priority for the Government. The Parkinson's Association of Ireland recently held a peaceful protest outside the Oireachtas to highlight the many shortfalls in the treatment of those with Parkinson's. Is the Taoiseach aware that there has been no Parkinson's specialist in Cork University Hospital, CUH, for more than two years or that the deep brain stimulation operations vital for many Parkinson's patients cannot take place in Ireland, meaning many patients have to go to Bristol for surgery? The Cork branch of the Parkinson's Association of Ireland has pleaded with the HSE to provide three specialised nurses, each of whom would be able to offer one-to-one care to up to 300 patients. The Parkinson's Association of Ireland is even offering to fund training for the nurses in the UK if the HSE will provide the nurses. I ask the Taoiseach to work with the HSE to ensure funding is put in place to provide such nurses.

**Deputy Jim Daly:** I recently facilitated a meeting between the Parkinson's Association of Ireland and the HSE in my offices in Bandon on that subject. The matter is being progressed with the HSE and we hope to be in a position to recruit in CUH in the short term.

**Deputy Carol Nolan:** Page 70 of the programme for Government states that this Government will improve services and increase supports for people with disabilities, particularly early assessments and intervention for children with special needs. I recently obtained a response to a parliamentary question on the number of children awaiting assessment under early intervention teams in Laois and Offaly. It showed that there are 105 children in Laois waiting more than six months, and 95 children are waiting more than 12 months while in Offaly, 125 children are waiting more than six months and 69 children are waiting 12 months or more.

The story does not get much better for occupational therapy. There are 350 children in Offaly currently waiting and 461 children in Laois are awaiting occupational therapy assessments. The long waiting times are having a serious impact on children's well-being and education. I have been contacted by many parents and teachers about this issue in Laois and Offaly. What action will the Government take in order to address this situation and end the unacceptable waiting times for children accessing basic services such as occupational therapy and assessments for early intervention?

**The Taoiseach:** The Minister of State with responsibility for disability is on his way to New York to formally ratify the UN Convention on the Rights of Persons with Disabilities. On his return, I will ask him to furnish a reply to the Deputy detailing the actions the Government is taking to reduce the waiting times.

**Deputy Martin Kenny:** As the Taoiseach is aware, there is a commitment in the programme for Government on children with autism. Autism units were put in place in many primary and secondary schools. An issue arises in regard to the primary sector in Sligo and Leitrim in that there are not enough such units in place and many schools are hesitant about putting them in place because they do not receive adequate funding. A significant problem is evident in this regard across the country, especially due to the lack of spaces in post-primary schools when children move on from primary school. The issue must be addressed. I urge the Minister for

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Education and Skills to carry out a review of the system and to come up with a solution because parents are very worried. Every child with autism does not need to get into a special unit, but there are not enough places for the children who require the service.

**Deputy Jonathan O'Brien:** The situation in Cork is so bad at present that a six-year old, non-verbal, severely autistic child has no place in a unit and cannot get any education. The parent was given a list of home tutors which she could avail of. The difficulty is that she does not have a home. She is staying in bed and breakfast accommodation as she is homeless. The situation is that a six-year old, non-verbal, severely autistic child is living in bed and breakfast accommodation with no access to education, and that is happening under the Taoiseach's watch. That is simply not acceptable.

That is just one case. I could give the Taoiseach a dozen other similar cases where there are no places available for children with severe autism in Cork city, the second largest city in this State.

**Deputy Pearse Doherty:** I support what was said by my two colleagues. This issue does not just affect Sligo and Leitrim or Cork but is nationwide. In Donegal, unfortunately, there is a similar situation. Children with autism and their families must undertake a lengthy journey to access services given that early intervention is not early and assessments are not provided. I have spoken to parents who had to pay for private assessments having waited for two to three years in order to find out that their child is on the spectrum. They then have to identify a different type of classroom environment where their child can flourish and grow, only to find out that such an environment does not exist within any reasonable proximity to their family life. It is simply unacceptable. This Government is failing the parents of children with autism. A joined-up approach is needed from the Department of Health and the Department of Education and Skills to make sure that the services are in place to support those children and their families.

**Deputy Richard Bruton:** There is a massive expansion in the resources being put into supporting children with special needs. We have increased the resources by more than 50% since 2011 in terms of teaching and special needs assistants, SNAs. We have more than doubled the number of special units in schools. Last September we opened approximately 150 and we will open another 150 next year. We are providing funding for such units where they are recommended by the National Council for Special Education, NCSE. There is not a difficulty in access to funding as they are given priority access.

In this House, we also propose to provide legislative power to give the NCSE the power to require a school to both take a child and to open a unit should the NCSE deem that is necessary. This is an area where we are getting extra resources. We recognise the need and we are giving additional powers to ensure that no child would be left out where the NCSE identifies a need.

**Deputy John Curran:** Page 54 of the programme for Government commits to increasing on an annual basis the funding for home care packages. Earlier this year I noticed a significant increase in the number of elderly people contacting my office who were concerned that they were on a waiting list for home support. They had been assessed and were then put on a waiting list. I informally mentioned it to the Minister for Health who at the time was surprised that funding issues should arise so early in the year. However, when I delved a bit deeper and got replies from both the Department and the HSE the problem seemed to be as follows. The service plan adopted for this year provides funding for 50,500 people to receive home support. At the end of February this year there were 52,000 people in receipt of home support, with more

than 6,000 on a waiting list. It is worth noting that in February 2017 the home support service provided for the needs of more than 51,000 people. The problem seems to be that the figure in the service plan this year of 50,500 is grossly inadequate.

I will make one final point, a Cheann Comhairle, because this is important. I also refer the Taoiseach to the fact that the confidence and supply agreement clearly states that HSE service plans would be based on verifiable and measurable outcomes and projections, which clearly is not the case with these figures.

**Deputy Jim Daly:** The reporting structure this year has changed in the presentation of the figures because they have combined home care packages and home care hours. Notwithstanding that, on the substantive issue, 17 million home care hours are being provided. I appreciate that is no good to somebody who is looking for an hour of home care. The hours provided have increased from 16.36 million home care hours last year. The budget is €409 million. We cannot keep up with the demand which is surpassing-----

**Deputy John Curran:** There are 6,000 people waiting.

**Deputy Jim Daly:** Yes. I appreciate and understand that. The only way we can proceed is to look at how we do what we do and look at doing it differently. That is the reason we launched a consultation last October which is due on my desk before the end of this month. We are going to have to revise the home care scheme which is not working as it is, given that we cannot meet the demand that is growing incrementally. Issues arise on two fronts. A total of €409 million is being invested in home care this year. However, we cannot get enough people to work as home helps to deliver the services in many areas. That is the challenge in my area of west Cork; it is not about money. The challenges are multifaceted. We must examine the scheme and we are in the process of doing so. The consultation has closed and has been finalised. As soon as it gets to my desk I will begin the process of revising the scheme and seeking to fix the flaws. It took seven to eight years to address the fair deal scheme and it will take two to three years before we have a system that is fit for purpose.

**Deputy Tony McLoughlin:** My question is for the Minister for Education and Skills and relates to funding for an extension to St. Angela's College in Sligo. I attended a meeting with colleagues in the college with the president, Dr. Anne Taheny, on Monday and we were given a brief on the outstanding funding that is needed for the link building and other areas. The classroom size is inadequate given the increased demand for student places. More than 100 students seek to get into the college on an annual basis. I draw the Minister's attention to the fact that it is vitally important that funding is made available immediately.

We had announcements recently on additional funding and that is vitally important for St. Angela's. The Minister is aware of the college's track record and what the president and all the teaching staff and students achieve there. It is vitally important that funding is made available under this plan.

**Deputy Richard Bruton:** As the Deputy is aware, in the mid-term review, the Minister for Public Expenditure and Reform trebled the money available for higher education investment over the next three years.

It was at an extremely low level. While I am not up to speed on this application, I will get an update for the Deputy. We are in a phase of expansion of investment in higher education after many years when none was done. I recognise that there is a scarcity of home economics

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teachers and the fact that St. Angela's college has expanded provision is an important element in meeting the need for such teachers.

**Deputy Fiona O'Loughlin:** Two weeks ago we had organ donor awareness week when we heard the good news that in 2017, 308 successful transplants were carried out thanks to the generosity of 98 individuals and their families. However, there are many people on the transplant waiting list and time is running out for them. We know that the greatest possible act of generosity is the donation of organs following a sudden death. Page 57 of the programme for Government refers to the setting up of an opt out register for organ donation before the end of 2017. The report of the public consultation on this matter was published in 2017, with support for such a register from a very large majority of people. When can we expect legislation to be enacted to put such an opt out register in place?

**The Taoiseach:** A record number of transplants were performed in Ireland last year. As the Deputy knows, for the first time more than 300 transplants were performed. I want to pay tribute to the extraordinary staff in our hospitals who made that possible and of course, to the people who donated their organs and their families. It is intended that we will have the heads of the Bill this month or next month at the latest. Obviously, the legislative timeframe is not under my control but we will have the heads by then, certainly.

**An Ceann Comhairle:** That concludes questions on promised legislation. Some Members have expressed dissatisfaction with the time being provided for these-----

**Deputy Kevin O'Keeffe:** On a point of order, would it be possible to get an overnight here?

**An Ceann Comhairle:** Maybe-----

**Deputy Kevin O'Keeffe:** I ask that because when I came in to the Chamber this morning, a number of Deputies were already here before me. They were at a function that I also attended. I left before them but they were able to get here before me. I do not know what way the numbers are given out but-----

**An Ceann Comhairle:** The system is completely transparent. I cannot be held responsible for who is in the Chamber first or who picks numbers in advance. On the issue of timing, however, if Members are unhappy with the time provided, I ask them to come forward with proposals to change it. As long as the rules of the House provide for a specific amount of time, my responsibility is to ensure that all Members adhere to the rules. The rules are for all 158 of us and no individuals are exempt from them. If the time is not adequate, Members can change that and provide more time.

### **National Infrastructure Bill 2018: First Stage**

**Deputy Dara Calleary:** I move:

That leave be granted to introduce a Bill entitled an Act to provide for the establishment of a body to be known as the National Infrastructure Commission to advise Government on all sectors of economic infrastructure and to provide for related matters.

This Bill will establish a new national infrastructure commission that will be tasked with planning ahead over a 25 year period, which is far beyond the current very limited cycle of

capital plans. We propose that the commission would draw from the expertise of a reformed Transport Infrastructure Ireland, TII, the Department of Transport, Tourism and Sport, the National Transport Authority, NTA, the Sustainable Energy Authority of Ireland, SEAI, and all of our local authorities, as well as the Departments of Housing, Planning and Local Government and Education and Skills. The commission will set out a new framework for the development of infrastructure in Ireland over the coming years and decades. Some of the priorities we propose for the commission include infrastructural investment amounting to 4% of our GDP; decarbonising Ireland; developing a strong transport network that balances the economic needs of the country and the development of our regions; making Ireland an IT nation with proper telecommunications connectivity in all parts of our island; and attaining a secure and balanced energy mix.

The commission's reports will be laid before the Oireachtas and subject to scrutiny. Government Departments will be required to draw up plans based on the commission's recommendations, as endorsed by the Oireachtas. The commission will be an independent body, organised on a similar basis to the Fiscal Advisory Council and will advise the Government on all sectors of economic infrastructure, defined as follows: energy, transport, water and waste water, drainage, sewerage, waste, flood risk management and digital communications. The commission will also consider all of the interactions between infrastructure recommendations and housing supply.

In carrying out its role, the commission will produce a national infrastructure plan once every five years, setting out its assessment of long-term infrastructure needs over an ongoing 25 year period, with recommendations to the Government and the Oireachtas. It will also produce specific studies on pressing infrastructure issues and challenges which will set by the Government and the Oireachtas, taking into the account the views of the infrastructure commission and stakeholders. The commission will produce an annual monitoring report that will take stock of Government progress in areas where it has made commitments relating to infrastructure and relating to recommendations of the national infrastructure commission.

This is a new way of doing capital planning. It will take politics and politicisation out of capital planning and is based on a very successful model that currently operates in New Zealand. I look forward to the discussions at pre-legislative and committee stages with a view to improving the Bill over the coming weeks and months.

**An Ceann Comhairle:** Is the Bill opposed?

**Minister for Finance (Deputy Paschal Donohoe):** No.

Question put and agreed to.

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

**Deputy Dara Calleary:** I move: "That the Bill be taken in Private Members' time."

Question put and agreed to.

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## **Death of Former Member: Expressions of Sympathy**

**An Ceann Comhairle:** In accordance with the Order of the Dáil on Tuesday, 17 April, we will now hear expressions of sympathy on the death of Mr. Peter Mathews, former Fine Gael member and Independent Deputy for the Dublin South constituency. At the outset I want to welcome Mrs. Susan Mathews, widow of our late colleague, Deputy Mathews and their sons James, John and David, their daughter Maria who are in attendance today with their partners. They are all very welcome to Leinster House. As it is just over a year since the passing of Peter Mathews, it is appropriate that the House avails of this opportunity to pay tribute to him.

Over the course of his membership of the 31st Dáil, I enjoyed many conversations - very long conversations, very often - on a great deal of issues with Peter. In fact, the only thing longer than the conversations were the text messages that I got from him from time to time. In all of those communications, he always mentioned his wife Susan. In my mind, Peter was first and foremost, a family man. As we all know, he was by no means a conventional politician, though his membership of the 31st Dáil certainly enriched that assembly. In his contributions and in his actions, whether addressing the consequences of the financial meltdown, the critical matter of corporate responsibility or any of the other important issues he raised, he consistently demonstrated the fact that he was a man of deeply-held convictions. Decency, integrity and respect were hallmarks of the man. He was brave, could never be accused of groupthink and was someone I will remember with great fondness and genuine respect. Ar dheis Dé go raibh a anam dílis.

**The Taoiseach:** I am grateful for this opportunity to pay tribute to our former colleague, Peter Mathews, who died a little over a year ago. I would also like to offer a very special welcome to Susan and his family members who are here today. Peter was a true gentleman, a colleague and a friend and we miss his company and his counsel. I first got to know Peter a few years before he entered this House as we were both regular panellists at that time on the “Tonight with Vincent Browne” show. I quickly came to admire him for his courage, analytical ability and his ability to argue the issues without ever making it personal. We often discussed things - everything from banking, the optimal design of swimming pools and, of course, medicine - in person and sometimes by phone. Peter was a man after my own heart and very often those discussions were through detailed, long and regular text messages. The Peter I remember is somebody who was very passionate, very determined and deeply caring about this country and its people. While we did not see eye to eye on many issues, I always enjoyed being able to exchange views with him. I have to say that I regretted that he had to leave Fine Gael over what was very much an issue of personal conscience for him. That experience helped to convince me that we should not impose a whip on such issues again. I believe that on issues on which people hold passionately differing views, debates can be conducted in a respectful way and in a way that is not personalised. That was Peter’s way and it should be our way too.

He was fearless when it came to standing up for what he believed in. I remember very well a heated occasion about three years ago when he was expelled from this Chamber by the Ceann Comhairle’s forbear after he challenged the Order of Business and attempted to raise some genuine concerns about the banks and the pressure that people were under. As he left the Chamber, he was told to “get a copy of the Standing Orders on the way out and read them for the afternoon”. He replied confidently that he knew them already. Peter was not grandstanding or playing to the Gallery on that occasion. He was genuinely heartbroken about what some people were going through at the time. He wanted to help. Today, I am proud to honour Peter

Mathews as someone who reminded us that politics is a noble profession. Ar dheis Dé go raibh a anam.

**Deputy Micheál Martin:** Ba mhaith liom i dtús báire mo chomhbhrón a dhéanamh arís le bean Peter Mathews, Susan, agus lena chlann as ucht a bháis. Duine cneasta, lách agus macánta ab ea Peter. D'oibrigh sé go dian dícheallach, Domhnach is dálach, ní hamháin ar son mhuintir a Dháilcheantar féin ach freisin ar son mhuintir na tíre seo go forleathan. Fear cumasach in-tleachtachúil ab ea é. Ó thaobh cúrsaí eacnamaíochta de, agus go háirithe maidir le fadhbanna na mbanc, bhí sé deacair é a shárú.

We were all deeply saddened to learn of the death of Peter Mathews following his battle with cancer. He was a considerate and compassionate gentleman and a very diligent worker. He was a man of great integrity and sincerity. He showed unfailing courtesy in everything he did. I often thought that Vincent Browne owed him a great debt. Between 2008 and 2010, before Peter came into politics, he was a regular guest on “Tonight with Vincent Browne”. He became very well known due to his regular media appearances, during which he provided detailed and insightful analysis on economic and financial issues. He was very well respected in his field. He continued to play an analytical role during his time in politics.

Peter Mathews was fearless. He did not really worry what anybody thought of what he said or of his views. Unlike many politicians, he did not try to calculate how his views would be interpreted by his constituents or others. He had the intellectual self-confidence and capacity to take on anybody, even in the German Parliament or among the intelligentsia of the European elite. He had confidence in his intellectual capacity to argue the point and make the case.

When Peter was elected to the Dáil on his first attempt in 2011, his then party, Fine Gael, took three seats in the Dublin South constituency. I think it was the first time that had happened in a general election since 1982. He was clearly determined to make his mark on Irish politics. While he was honoured to represent the people of his constituency, he saw himself as a national representative at a time of crisis. He wanted to bring his abilities and insights to bear on the national scene.

We all know that for a time, Peter was quite the competitor during Taoiseach's Questions. There is no doubt that if the card system which now exists had been in place during his period as a Deputy, he would have been in early to secure a card and get his say. Peter's enthusiasm to participate was a source of challenge to your predecessor, a Cheann Chomhairle. It was a challenge to accommodate him from time to time. Indeed, there may have been a similar pattern at meetings of the Fine Gael Parliamentary Party.

Peter Mathews was a principled man who was not afraid to stand up for what he believed in. It is interesting to note that he was ahead of his time on conscience issues. It is now becoming more acceptable to give people the freedom to pursue their personal positions, in accordance with their informed consciences, on issues like the termination of pregnancy. As the Taoiseach has outlined, that is a legacy of Peter's contribution to this House.

Peter was very sociable. Even though he was independent-minded, people enjoyed meeting him. He would occasionally visit the Fianna Fáil offices on the fourth floor. One Friday morning in 2014 - Deputies will be aware that there are very few parliamentarians around on a Friday morning - Peter engaged one of our researchers in a lengthy debate and discussion across a miasma of issues. He had great time for everybody in the House, irrespective of his or her

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status. I noticed his politeness and good manners to everyone in here, regardless of his or her position. He charmed the staff in the canteen, for example. He will be remembered as a very pleasant and kind man.

Unfortunately, Peter was sadly struck by illness just before the 2016 general election. His new independent status and the revision of the constituency boundaries in south Dublin would have made it a challenging election for him in any event. It was a real test of his mettle, courage and resilience to take to the hustings when he was afflicted by a serious condition. He met and easily passed that test. He was not successful in the election itself, given the challenges I have outlined. He was a unique politician who left his mark on Dáil Éireann and across the nation over his five-year term in this House.

Everyone in here shares fond memories of Peter. We experienced his great intellect, his great analysis and his great commitment to Ireland. I extend again my deepest sympathies to Peter's wife, Susan; to their four children, Maria, James, John and David; and to their extended family and friends. I have absolutely no doubt they will remember their late husband and father with great pride and affection.

**Deputy Mary Lou McDonald:** Ar mo shon féin agus ar son Shinn Féin, ba mhaith liom comhbhrón a dhéanamh le clann agus le cairde an iar-Theachta Peter Mathews, a fuair bás an bhliain seo caite. On my own behalf and on behalf of Sinn Féin, I want to extend our heartfelt sympathies to the family and friends of Peter Mathews, who sadly passed away in February 2017. As has already been alluded to, Peter had a relatively short but eventful and colourful political career. Of course it all started on "Tonight with Vincent Browne". It is unquestionably the case that Vincent Browne met his match in Peter Mathews, and perhaps *vice versa*.

Peter Mathews had a colourful career in national politics. He served the people of the Dublin South constituency with honour and commitment. As we know, before Peter was elected to this House he had a long and distinguished career in business and finance. While there were many things that Peter and I would debate and disagree on, we also shared an enormous amount of common ground. He was not just a very learned and intellectually gifted man; he remained a very curious person and was always open to having a debate. Sometimes, a Cheann Comhairle, he was willing to have the debate at length.

Peter was always in good humour. I always enjoyed speaking to him. Above all, he was a very kind person. He would be the first to extend condolences, solidarity or good wishes to colleagues as the circumstances dictated. I was the recipient of such kindness from him. He regularly quoted Susan, who was like the oracle advising him from afar. He was not slow to tell us that she sometimes chastised him as well.

The last time I met Peter was the Christmas just before he died. He bore his illness with considerable dignity. Although he was unwell, he remained defiant, determined and unrepentant in his strongly held views on the need for reform in Irish politics and the need for people outside the sometimes claustrophobic political circle to have a say and an influence. It is with great sadness at the passing of Peter Mathews that I join everybody here in extending our sympathies and condolences to his family. For his wife, Susan; his sons, James, John and David; and his daughter, Maria, he was a person of whom they are quite rightly very proud. Ar dheis Dé go raibh a anam dílis.

**Deputy Brendan Howlin:** On behalf of the Labour Party and very strongly on my own

behalf, I am delighted to have an opportunity to say a few words about the late Peter Mathews. Peter was a principled and determined Member of this House. His views were fully and very carefully formed on every significant issue that we encountered in a most turbulent period during his membership of the House. He certainly was not shy in promulgating those formed views with Ministers, colleagues, his own electorate and the general public through the media. A chartered accountant by profession, he had plenty of advice to give, particularly during the period of the economic crisis.

Many times - I cannot recall the number because there were so many - during my period as Minister for Public Expenditure and Reform I had the privilege of engaging with Peter on fiscal policy, the implications of our monetary strategy and what we should do differently and better. Not only did he engage me in that fashion but he also engaged with officials of the Department in which I worked, as well as the Minister for Finance and his officials. He brought those views to the Bundestag where he argued them trenchantly. On more than one occasion, with quite strong vigour, he sought access to the bilateral discussions between the Government and the troika because he felt he had a unique view to bring to bear in his analysis of what needed to be done, not only from an Irish but also from a European perspective. One had to be respectful of his views on all of these matters. I recall being here for the graveyard shift when we had sittings on a Friday and there were very few Members about. I was having a sandwich in the canteen and Peter felt he had a captive audience. It was a long luncheon and took some time to eat the sandwich, but I certainly left that encounter much better briefed on a range of issues than when it began.

At all times in all of those interactions he was a man of extreme courtesy. He was what used to be described as a gentleman. There are probably fewer people in these Houses about which such phrases can now be used, but they could be used with absolute certainty about Peter. He had innate respect and courtesy with which he promulgated very strong views and that always struck people. His views were made known with strength but never with rancour.

As others said, his illness ended his career and life prematurely. On behalf of my party and all those who were privileged to interact with Peter in his five years in this House, I extend my profound condolences to Susan, whom he loved passionately and deeply, as well as his family and friends. Ar dheis lámh Dé go raibh a anam uasal.

**Deputy Richard Boyd Barrett:** I too am very glad to offer my condolences to Susan and all of Peter's family on his passing. I pay tribute to him as a public representative, a Deputy and somebody I got to know quite well in my time here. I had heard about Peter Mathews before I met him. I remember receiving a telephone call before either of us was elected when I was told there was a fellow called Peter Mathews who had some really good ideas that I would like about what was going on with the banks and the bailout. I was told that many of those ideas would chime with my own. I saw him once or twice on the Vincent Browne television show. I was surprised in a way when I saw him pop up as a candidate for Fine Gael, as he was certainly not somebody who was toeing the Fine Gael line. I say this without making a partisan or political point. He was absolutely committed to putting across things as he saw them and with a particular passion about the banking crisis, the bailout and the costs he saw being inflicted on the people of the country. That fed into a particular passion about the housing crisis and the impact he saw as directly connected to the policies on the bank bailout.

Despite the fact that he came from a very different part of the political spectrum, we had many discussions and conversations. We were on the finance committee together and, as Dep-

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uty Brendan Howlin mentioned, we travelled to the Bundestag. If I remember correctly, he certainly offered to pay to travel to the Bundestag because only a limited number could travel.

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

**Deputy Richard Boyd Barrett:** I do not know if he had to do so in the end, but he was absolutely determined to go. He was particularly incensed in his very pleasant way that the German budget committee got to see our budget before we did. He wanted to take up the issue and did so very passionately with the budget scrutiny and finance committee of the Bundestag.

As others mentioned, he was constantly referring to Susan. On one occasion I had a chat with him when Susan was in the car. He was travelling to the west and referred constantly to Susan beside him. His love and passion for her and the family were self-evident.

Peter was completely non-partisan in his desire to debate issues, regardless of where one was on the political spectrum. It was a regular occurrence for him to send a text message after a Member had made a speech stating “well done”. He wanted to discuss it and analyse the ideas in it afterwards. That is an unusual type of politics and politician; he was somebody who did not feel constrained by party allegiance and was willing to debate and disagree with people on all sides, including in his own party. I radically disagreed with him on some matters, most notably on the issue that led him to leave Fine Gael - abortion. I have no doubt that we would now be debating very robustly our different views if he was here. As said by others, his views were always genuinely held. He was driven by conviction and a decent and honourable human being. He is a loss to this House but much more to his family. I again offer my deepest sympathy to Susan and his family. I am sure he will be long remembered in this House.

**Deputy Mick Wallace:** The Ceann Comhairle started by saying Peter was not a conventional politician.

**An Ceann Comhairle:** He was in the same mould as the Deputy.

**Deputy Mick Wallace:** I would like to think it was to his credit that he was not deemed to be conventional.

**Deputy Bobby Aylward:** He had a different dress code.

**Deputy Mick Wallace:** He was a bit fancy with the dress all right. We all agree that he was incredibly idealistic, but it came as a bit of a shock that he was so idealistic that he would go to Fianna Fáil and think he could change the way it looked at things. That was a new one on me. I am amused that the Taoiseach was receiving the long text messages along with the rest of us. I do not know how he found time to do so many things as the text messages were so long. It was mad, but they were always very interesting. We had many discussions about NAMA and both agreed that it was a horror scene. His experience in the banking world meant that much of the time he knew where the bodies were buried. It gave him great insight and he understood the gentlemen about whom we were talking better than most of us here.

There is a lot we could say about Peter. We miss him and were very close to him here in a strange way. In the 17th century a fellow by the name of Francis Bacon defined a gentleman as one who treated all others as he would like them to treat him. It goes without saying they are pretty rare, but for me Peter was a gentleman.

**Deputy Mattie McGrath:** Cuirim fáilte roimh Susan agus roimh an chlann anseo inniu.

I am delighted on behalf of the Rural Independent Group to be able to pay tribute to an t-iar-Theachta Peter Mathews, a man of principle above anything else. He was principled to his fingertips. He was quiet but determined. Above all, he was respectful of all sides and of all people. He died aged 65, unfortunately. He had fought a brave battle even during the election.

Peter was elected as a Fine Gael Deputy in the 2011 general election for the Dublin South constituency. His constituents meant so much to him. He met and listened to so many families who had been horribly affected by the banking collapse and he was deeply passionate about helping them make some headway. The number of times he stood up on the Order of Business has been mentioned and he was intent on raising it every other day with the then Taoiseach, Deputy Enda Kenny, because he was so disturbed by the banking situation. Indeed, the legacy remains today. I do not know how many times he went down to Ballyhay. I can say to my shame that I never went down but he travelled there on several Sunday mornings. He knew what the construct of National Asset Management Agency, NAMA, was and he did not like it. He knew there had to be other ways. He always maintained his dignity when he was meeting people about that issue.

I travelled to the United States with him and there was not be a finer person to be with. He was a qualified chartered accountant who worked for companies such as Coopers and Lybrand, now PwC, and the ICC Bank. He knew what we did not know. We were here talking about a monstrosity of a situation but Peter understood it. To be fair, very few people listened to him in here but he knew it. It was in his being. He was educated, smart, straight and above all honest.

He was deeply concerned with issues of conscience. It hurt him greatly to have been expelled from his party for voting with his conscience, having made up his mind on those issues.

He cared passionately about Susan and his four children. Any time we were in company with him, he always talked about them fondly and proudly. Some had gone to Australia and different places. He was passionate about and proud of them at all times.

He was always interested in doing good and would not countenance anything critical. He could have fun in banter. I remember I had an intern working for me who was from a foreign land. She invited us to her house and five or six of us agreed to go. She invited us for a meal and it took several hours. We had plenty of time to talk about her own traditions. Peter made a commitment to go and he honoured that. We had a wonderful night. To be in his company at any time was refreshing and inspiring. He is a huge loss to his family. It is nearly a year since he passed away. They miss his advice, his care and his wisdom.

I hate to bring this up but I was horrified when he succumbed to illness and awful things were said on Facebook and social media. We must deal with that because there is no place for that in any democracy. He was a decent man. I was horrified that the Minister, Deputy Madigan, was going to share a platform last week with one of the people who said those things. We have to think of our colleagues, of respect, of dignity and of the family, and be proud. If he was here today, he would be overwhelming in his campaign to retain the eighth amendment. Ar dheis Dé go raibh anam dílis Theachta Peter Mathews.

**Deputy Eamon Ryan:** I knew Peter for some time. We had been to the same school and had done the same course in university. However, like many people here I got to know him during the financial crash. It feels like a bit of a therapy session. I refer to the numbers Peter had. When it came to the financial crash and managing it, he was passionate - there are no two

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ways to describe it. He would engage in conversation at length. We heard about this earlier on. I remember one particular occasion - I cannot remember what the issue was, but my wife was with me - when Peter's argument was along the following lines: Gonzaga boy to Gonzaga boy, I plead with you not to do some something or other. My wife looked at us and said it was a long time since either of us was a boy. He had that boyishness, uplifting, optimistic and engaged way. He was a relic of old decency and a gentleman. However, with it was passion.

I was beaten by Peter in Dublin South in the 2011 general election. In a number of different ways, it was not a bad experience. One of the ways was to see the Mathews family in action on the election trail. People do not really understand urban Ireland or South Dublin maybe as well as they should. They think it is different from rural Ireland but it is not. Just as they say down the country that they are waiting to open up the Mullinahone box to see what happens, it is pretty similar in Dublin Bay South in the sense that we vote in tribes. We are tribes. The Mathews's are a tribe. Mount Merrion is a tribe. That tribe swung to victory that time and it was good to see because there is a recognition in the closed community world that the Mathews tribe have that decency and the same boyishness and uplifting character. There would be the same enjoyable conversation and one would come away from it richer for the experience. It is a real loss that he is not involved in Irish public life and a far greater loss for his family. It is lovely that we remember him and them today.

**Minister for Culture, Heritage and the Gaeltacht (Deputy Josepha Madigan):** I am very pleased to have this opportunity to talk about Peter Mathews. I only found out about a half hour ago that these statements were happening today and I am glad I am in a position to say something. I met Peter Mathews back in 2011 when I joined Fine Gael. He was at my first constituency meeting. I should say I saw him first at the count, which, if I remember correctly, was in the basketball arena in Tallaght. I have a visual memory of him standing and surveying all the count from the top of the hall. It is a memory I will always have. It was my second time meeting him. I could not believe that he pronounced my name correctly. He said "Hello, Josepha". I asked him, "How did you get my name right?". That was Peter. He had wonderful attention to detail and he was wonderfully personable. When we used to go to our constituency meetings, apart from talking about economic matters, which he did so well, he would also give us book lists because he was a bibliophile. I always took down the books that he recommended because he was so well read and so well briefed on current affairs and everything that was going on around him.

He was also very kind to me when both my sister and my father died from cancer. He sent me beautiful mass cards that he got in Jerusalem and he texted me and rang me. I went to Peter's funeral and met Susan and his family and it was such a fitting funeral for a man of such deep faith. I really respect that and his integrity. The *Oxford English Dictionary* defines a man of honour as a man who adheres to a high standard of conduct, and Peter did that. He was a hard worker. I loved his sartorial style, his elegance and his fizzling, engaging personality. I know his death is an absolutely devastating loss to Susan, Maria, James, John and David. I can only imagine what they are going through. They have my utmost sympathy. He was well loved, not just by the whole of Dublin Rathdown but also in Mount Merrion where I live and where Peter lived. He will never be forgotten, certainly by me. Other speakers talked about his kindness, which was absolutely the case. Ar dheis Dé go raibh a anam.

**Deputy Alan Farrell:** I appreciate the opportunity to remember Peter. I first met him outside the Mansion House in 2010 or early 2011 at the launch of the Fine Gael candidates. I remember it well because Peter, as many, including the Taoiseach, said, spent a lot of time on

the “Vincent Browne Show”. I had watched him and he gave me a few tips and pointers. I was seven years a councillor at that stage. Peter had no experience in public life but he nonetheless had his views and made them well known. I remember quite a lot of his advice, which turned out to be completely accurate. Like so many, he sent an awful lot of text messages. One of the things I remember fondly was the snippets from the *Financial Times* that he used to photocopy, or rather Colm from his office would photocopy, and he would hand them out to various people at parliamentary party meetings, on the corridor or wherever one might bump into him. More often than not they were referencing the financial crisis and all the other issues that we were beset with at the time.

My fondest memory of Peter, one I want to put on the record, is from the Fine Gael parliamentary party think-in back in Mayo in 2012. We were set an unofficial challenge, which we all took up nonetheless. It was to go up Croagh Patrick at the end of our think-in. Off we set on what was a beautiful day. Peter was in khaki pants, a short-sleeved T-shirt and a summer hat. I remember it well because I have a photograph from the day in my office. Off he took up Croagh Patrick with the rest of us. Of course I was more sensibly dressed in jeans and desert boots. There was a big group of us. Peter paired off with the then Deputy and now Senator Joe O’Reilly. More illustrious members ran up and then ran down. They have no names but we all know Eoghan well. We got to the top. On our way down we met Peter and Joe. They were still on their way and still determined. The weather was closing in with mist, rain and all manner of different horrible weather that the Atlantic can throw at people. We got down to the car park. I think we might have had a beverage or two in the local pub. We were ferried back to Westport.

Then we were all sitting at dinner. I remember it distinctly. There was a little disquiet because Peter and Joe were still up the mountain. We were concerned, so much so that all of the Ministers and members stayed at the table. Deputy Patrick O’Donovan and I decided that we had better go back and check on them because they were not answering their telephones. I was concerned to think of Peter and Joe up the mountain on their own in the weather and the dark. Anyway, Patrick and I got to the car park at the foot of the reek. Off we went up to try to find them. Out in the distance we could hear voices. Lo and behold there was Peter and Joe coming down to the car park. I said to them that they had not answered their telephones and that we were getting worried. They said they were okay. At the time Peter would have been 60 years of age and Joe was 56 or 57. Peter turned to me and said he was getting a little worried about Joe because he was getting on a bit. Anyway, he survived and we all survived.

It is a great testament to the man he was that we remember him so well not only in these corridors or in Mount Merrion, as Deputy Ryan and the Minister for Culture, Heritage and the Gaeltacht, Deputy Madigan, mentioned but everywhere. He was a great man and our memories are testament to that for his family. May he rest in peace.

**An Ceann Comhairle:** Let us stand for a moment’s reflection.

*Members rose.*

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## Ceisteanna - Questions (Resumed)

### Cabinet Committee Meetings

1. **Deputy Brendan Howlin** asked the Taoiseach when Cabinet committee E, health, last met; and when it will next meet. [13845/18]

2. **Deputy Mary Lou McDonald** asked the Taoiseach when Cabinet committee E, health, last met; and when it is scheduled to meet again. [13848/18]

3. **Deputy Richard Boyd Barrett** asked the Taoiseach when Cabinet committee E, health, will next meet. [13944/18]

4. **Deputy Michael Moynihan** asked the Taoiseach when Cabinet committee E, health, last met. [16525/18]

5. **Deputy Micheál Martin** asked the Taoiseach if Cabinet E, health, met in April 2018. [16806/18]

**The Taoiseach:** I propose to take Questions Nos. 1 to 5, inclusive, together.

Cabinet committee E covers issues relating to the health service, including health system reforms. Cabinet committee E last met on 11 April. The next meeting has yet to be scheduled.

In addition to meetings of the full Cabinet and of the Cabinet committees I meet with Ministers on a bilateral basis as required to focus on particular issues. In this regard I meet regularly, most recently last Monday, with the Minister for Health, Deputy Harris, to discuss the challenges facing the health service.

Government is committed to modernising and streamlining our health service. This is evidenced by the record allocation of €14.5 billion to the health service this year and the recently launched national development plan, Project Ireland 2040. We have provided for significant capital funding of €10.9 billion for the health service over the next ten years. This will allow for implementation of new models of care and for delivery of services in high quality modern facilities.

Investing in new capacity alone will not deliver the improvement in our health services that we need. The health service capacity review published in January makes clear that investment and reform must happen in tandem and must be mutually supportive. The Government has affirmed its commitment to implementing a significant programme of reform following the publication of the Sláintecare report by the Oireachtas Committee on the Future of Healthcare last year.

A number of actions are currently under way. They include the recruitment of the lead executive of the programme office - this is well advanced and interviews have now been completed; the work of an independent group, as recommended by Sláintecare, chaired by Donal de Buitléir to examine the impact of removing private practice from public hospitals; and a recently-launched public consultation on the geographical alignment of hospital groups and community healthcare organisations.

The Minister for Health, Deputy Harris, is committed to early engagement with general practitioner representatives on the reform of the GP contract and that is expected to commence in the coming weeks. All this work will be taken forward under the auspices of Cabinet committee E.

**Deputy Brendan Howlin:** Obviously, the work of the Cabinet committee is broad. I wish to ask the Taoiseach about two areas. The Taoiseach will be aware of one because I raised it previously. In February a total of 2,000 people protested in Waterford over cardiac care facilities in the south east. As the Taoiseach is aware, this is a major important burning issue for all the people of the south east. The campaign continues for a second catheterization laboratory and for 24-7 cardiac care to be based at University Hospital Waterford. Unfortunately, another incident occurred in recent weeks that underscored again the absolute and essential need for improvement in cardiac care and intervention facilities in the south east.

I am aware that everyone has focused on the national review that is ongoing. In the interim, can the Taoiseach fulfil the commitment that both he and the Government have made to provide at least a modular second cath lab until such time as the national review is complete?

On Saturday a group of geneticists wrote to *The Irish Times*. As the Taoiseach is aware, Ireland has the highest *per capita* rate of cystic fibrosis in the world due to the genetic make-up of our population. In their letter to *The Irish Times* the geneticists highlighted the fact that last Tuesday 16 EU ministers signed a declaration in Brussels to pursue a publicly-funded project to sequence 1 million European genomes. With the prevalence of cystic fibrosis in Ireland it struck me as odd that we were not one of those 16 nations.

Perhaps this is something the Taoiseach is not briefed on, but he might undertake to examine the matter to see if Ireland can be part of the analysis of the European genome that might find a cure or a better way of dealing with the high prevalence of cystic fibrosis in Ireland.

**Deputy Mary Lou McDonald:** Go raibh maith agat agus gabhaim buíochas leis an Taoiseach as ucht a chuid freagraí. I want to raise with the Taoiseach the very serious issue of non-specialist doctors operating as consultants, even though they are not on the Medical Council's specialist register. It was reported by Susan Mitchell in *The Sunday Business Post* at the weekend that 650 of the 4,373 medical consultants in the State are not on the specialist register. Those are 2015 figures. Those figures show that one in seven consultants employed in private and public hospitals in the State have not completed their specialist training. I find that very worrying from a patient safety perspective and from a medical-legal perspective. I ask the Taoiseach for an explanation of this. What action does he and the Minister, Deputy Simon Harris, intend to take to address this?

The other issue I wish to raise with the Taoiseach is the trolley crisis. In that respect, 2018 has been shocking to say the least. A month ago there was a record 714 patients on trolleys. We cannot stand by and pretend that is normal. That should not be normalised. Since the start of the year there have been two significant developments to address the trolley crisis, namely, the publication of the bed capacity review and the passing of a Sinn Féin motion proposing solutions to this crisis, and yet we have had no action to support these matters. We need the implementation of the recommendations of the bed capacity review in tandem with the Sláintecare report. When will the Taoiseach honour both of those?

**Deputy Richard Boyd Barrett:** There are 526 people on trolleys today. As was mentioned,

we have had up to and more than 700 people on trolleys on certain days. Having more than 500 people on trolleys on a daily basis is becoming the new norm, which is shocking. St. Vincent's University Hospital ran out of trolleys this week. People had to be accommodated on seats because they could not even get a trolley. That is how bad it is. We have 502,482 people on outpatient waiting lists. I will give the Taoiseach an example of what this means. I know of one lady who needs a knee operation. She will have to wait a year and a half for her operation and she cannot work as a result of needing the operation. She is employed but cannot work. She will be dependent on social welfare for a year and a half. How many of the more than 500,000 people on outpatient waiting lists are also costing the State social welfare expenditure in addition to their not being able to get urgently needed treatment because of these waiting lists?

Are there any radical plans to deal with this? I point to the issues that are being screamed at the Taoiseach. If we are going to open the beds we need, we must pay the nurses if we are to recruit the number that are necessary. That means giving the pay equality for which nurses have been asking. Tara Nic Chormaic's letter, which I quoted a few times this week, referred to the pay issue and the housing issue. Unless pay is increased and the Government provides affordable accommodation, we will not be able to recruit the nurses we need to open the beds to deal with these crises.

**Deputy Michael Moynihan:** My major concern is what is happening in our accident and emergency departments. Unfortunately, in the last while we have had numerous occasions to visit them. The accident and emergency departments in the smaller hospitals such as Bantry and Mallow have been closed and those services have been transferred to the accident and emergency department in Cork University Hospital in Cork city, where the conditions are appalling. People can be in the accident and emergency department for two, three or four days and they tend to be predominantly elderly people in their late eighties or early nineties. The Taoiseach referred in his reply to resources and so forth and to the Sláintecare report, which has been agreed by all politicians in this House.

As we face into the third week of April 2018, there is a crisis across the system that has been there since the first week of January. A consultant made the point to me earlier this year that almost four weeks of elective surgeries have been cancelled in 2018 alone. He and I had that discussion prior to St. Patrick's Day. The consultant said that in the first two weeks in January there was the closure of elective surgeries to ensure there was proper capacity in place to deal with the flu epidemic immediately after Christmas. We had another closure of elective surgeries during the snow event and there were other closures of elective surgeries when the crisis hit in early February. Four weeks of elective surgeries have been cancelled. The cancellation of those patients' surgeries is adding to the overcrowded lists. There does not seem to be any recognition of the logjam that has been created across the system. While the Taoiseach can use fancy language and throw resources at this issue, the crisis in health is staggering. We need to wake up in terms of what is happening here and now and how we can deal with it.

**Deputy Micheál Martin:** Morale is very low within the health service. Human resources management within the health service is very poor. There is severe, consistent and sustained overcrowding now in accident and emergency departments. Waiting lists both for outpatient and inpatient services are very long. There is a sense that the Government does not have a handle on health policy or the health service, notwithstanding the number of times the Cabinet committee on health meets. Nine months ago, the Taoiseach promised an urgent and comprehensive Government reply to the Sláintecare report, and money was assigned to the strategic communications unit at the time to market whatever the response to that was going to be. Why

is the delay continuing? There is a growing belief within the health service and system that the Taoiseach is delaying committing to a strategy so that implementation does not actually happen or does not have to start until next year. When will the comprehensive implementation of the Sláintecare report commence?

Can the Taoiseach explain the reason members of Government are tripping all over the place to announce building projects which might start in ten years time but refuse to make themselves available on days when waiting lists are published? While this is an approach which first appeared in 2015, can he honestly stand over a situation where officials are sent out to answer on bad news days but Ministers elbow them aside when they believe there is something positive to sell?

Regarding health projects generally, I have asked on a number of occasions about the origins of the specific list of projects. Can the Taoiseach give us an assurance that in no case were ministerial pet projects put ahead of clinically identified urgent priorities?

Today the Minister will meet with patients on Respreeza; I hope to join that meeting. That whole story illustrates a dysfunction at the heart of how we operate our health service. People who were on the clinical trial for many years were taken off the medication last year. Two people died when they came off the medication. As a response to that, 19 were  
*2 o'clock* put back on the medication. It is incomprehensible to me that if a country hosts a clinical trial in accordance with clinicians working in our tertiary hospital and in accordance with a company's responsibilities, it is unthinkable and incomprehensible that the patients would be left to drift and taken off the medication without any due consequence of it. I want an assurance that this will not happen at the end of May when this interim arrangement between the company and the patients runs out.

**The Taoiseach:** I will take the questions in the order in which they were asked. Regarding cardiology services in the south east, there is a second mobile catheterisation laboratory, cath lab, in place at present and that has helped to reduce wait times for people awaiting cardiology procedures in the south east. That will remain in place for the interim. The hospital there has also been funded to increase staffing and extend the hours of the existing permanent cath lab, but it has not yet been able to do that. I am not sure if that has been due to a problem with recruitment but the funding is in place to extend the hours and increase the capacity of the existing permanent cath lab by 20%.

I understand the HSE is examining proposals for a modular build, but, as we have found out with a lot of modular builds, they can take a long time, perhaps as long as a permanent build. What is important is that in the meantime while we await the outcome of the national review we continue to have the mobile cath lab in place, thus allowing waiting times to be reduced and people to have the procedures they need-----

**Deputy Brendan Howlin:** The second cath lab cannot make the intervention. That is the issue.

**The Taoiseach:** -----and actually action the decisions that have already been made and spend the money that has already been allocated to extend the working hours of the existing permanent cath lab.

**Deputy Brendan Howlin:** As the Taoiseach knows, it does not carry out the procedures.

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**The Taoiseach:** As we all acknowledge, there has been an enormous improvement in recent years in care for patients with cystic fibrosis. The report produced by Cystic Fibrosis Ireland lays out very clearly and starkly how much services have improved. The next big step, of course, is the provision of the unit in Beaumont Hospital which will improve services for cystic fibrosis patients in north Dublin, in particular, including my constituency. The Government is very committed to doing so.

On the genetics issue, I have not been briefed on it, but I will check it out and get a reply for Deputy Brendan Howlin. It sounds like the kind of thing in which we ought to be involved, but I do not know enough about it to say that definitively.

With regard to consultants not on the specialist register, I will have to be briefed on that matter or get a more detailed reply on it for the Deputy. I am not sure whether they are new or long-standing appointments. I am around long enough to remember when the specialist register was put in place. It might have been about 15 years ago. Therefore, it is possible that some of the consultants are people who were appointed to their positions before the specialist register was created, but that may not be the case. They may also be new consultants and, in some cases, they might potentially be temporary. They might be locums filling posts. Obviously, it is better to have somebody filling a post on a locum basis than to have nobody, although obviously it is not ideal that such a person would not be on the specialist register.

On the overcrowding in emergency departments, the HSE records 345 patients as being on trolleys this morning, but obviously that number falls throughout the day and will be substantially lower by now. It peaks at around 8 a.m. We have added additional beds this year. In the past six months an additional 204 hospital beds have been opened, including 22 in St. Vincent's University Hospital; 25 in Our Lady of Lourdes Hospital; 17 in Limerick; 28 in Galway; 19 in Waterford; 20 in Beaumont Hospital; 23 in St. James's Hospital; 14 in St. Luke's Hospital in Kilkenny; 24 in the Mater Hospital; and 11 in Naas. Deputies will be aware that the decision was made by the Fianna Fáil and Green Party Government back in 2009 or 2010 - a political decision, not one linked with finance - to reduce the number of acute hospital beds in the country. I reversed that decision when Minister for Health and we have since been adding acute bed capacity.

In terms of additional beds, in CUH there will be an additional 30 beds this year. There will also be additional ICU and HDU beds in the Mater Hospital. An extension to the new emergency department in Drogheda will come online in 2018. There is also a modular build planned for South Tipperary General Hospital, which should be in place by the end of the year, most likely in the third quarter. As Deputies can see, we are increasing hospital bed capacity, but we are going to need to do a lot more.

It is also evident to me - I have said this before and it is important to say it again - that it is not just a question of capacity.

**Deputy Micheál Martin:** What about Respreeza?

**The Taoiseach:** If it was as simple as providing extra beds, extra staff and extra money, we would have solved the problem by now because we are spending €3 billion more per year this year than we did in 2011, have lots more staff and are adding beds. Let us take doctors, for example. Even though we are still below the European average, we are up to about 10,000 doctors working in the public health service, the highest ever. Even when it comes to GPs,

there have never been more on the specialist register and never been more with HSE contracts. Often, when one sees these facts - they are facts - they jar with what one hears in the media and commentary, but they are facts over which I can stand.

To give a small example, on overcrowding in two hospitals - Beaumont Hospital and in Mayo - there was no one on a trolley this morning awaiting admission to a bed. In others there was none on a trolley for more than eight hours, including in Wexford, Mullingar, Portlaoise, Cavan and Kerry. Meanwhile, at the other end of the table, there were over 30 patients on trolleys in Tallaght, the Mater Hospital, Sligo and Galway. One can see the huge variations from hospital to hospital. A couple of years ago, Beaumont Hospital used to top the league table when it came to overcrowding, but now it is regularly at the bottom, with the bottom being the good place to be, needless to say. It has some additional beds, but it was a lot more than that that helped to improve the position.

The difficulty we so often have in the health service is that, while there are pockets of best practice and good management, it has been a struggle to mainstream them and make best practice the norm across the health service. That would make a huge difference in patient care and might even save money, or at least achieve for us better value for money.

Nurse recruitment is going reasonably well. I do not know the exact figures, but I think there are about 900 more nurses employed by the health service than there would have been a year or so ago. As I explained, that has enabled us to open additional hospital beds, including more than 200 additional acute beds in the past six months. In part, it is probably down to pay restoration. It may also in part be down to Brexit, with fewer nurses migrating to the United Kingdom. The fall in the value of sterling has probably also had some effect. However, there are certainly issues with retention. There is a high turnover of staff for lots of reasons, including terms and conditions and the pressure and stress staff are under. That issue is being examined by the Public Service Pay Commission to see how we can improve retention.

We have 1,509 people waiting for knee operations, but the waiting list is starting to trend downwards largely because of the additional resources provided for the National Treatment Purchase Fund, NTPF. Of the 1,509, 1,200 are waiting less than nine months; therefore, the median waiting time for a knee operation is about nine months. I do not know the particular case to which the Deputy referred, but certainly most people are having the operation carried out in a shorter period. About 430 have been waiting less than three months; 416 have been waiting between three and six months, while 336 have been waiting between six and nine months. I hope that, as we continue to do the work we are doing with the NTPF, the lady in question will have her operation carried out, I hope sooner than she expects or has been advised of.

On Sláintecare, I discussed the draft implementation plan with the Minister and his team on Monday and also with the Minister for Finance, Deputy Paschal Donohoe, and his team. We had a good look at it and I expect it to come before the Cabinet in the next couple of weeks. I argue that, even though we do not yet have an implementation plan, implementation has started. There is a lead executive being recruited and they should be appointed within weeks. The implementation office for Sláintecare is being established in the Department of Health. Dr. Donal de Buítléir has been appointed to head up the group, as recommended by the Sláintecare committee, to examine taking private practice out of public hospitals, what it would cost, how it might be done and what the impact would be.

We are expanding access to GP care. Deputies will know that the legislation is pending to

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extend GP visit cards to all carers in receipt of carer's allowance and carer's benefit and change the income limits for people with disabilities in line with what was recommended in the Make Work Pay report. There are other measures to extend free GP care. The Sláintecare report recommends that we extend it to an extra 500,000 people per year. I think the Government has come to the conclusion that that would be too fast, that we would not have the capacity in general practice to add that many people every year, but we do intend to settle on a figure by which we will increase the number with access to free GP care every year.

We have also begun the process of reducing prescription charges, both for those who have medical cards and those who do not under the drugs payment scheme. Again, that was a recommendation made in the Sláintecare report. Also, the capacity review has been undertaken and we have begun its implementation. I have mentioned the beds that are being put in place.

On Respreeza, I share the Deputy's concerns. It is normal practice, when something is on trial or provided for patients on a trial basis - even if the HSE decides not to approve it as a reimbursable treatment - for those patients who have been on it and benefiting from it to stay on it. What happened with Respreeza was not what has happened with other medicines of this nature. I will certainly keep a very close watching brief on it.

### **Cabinet Committee Meetings**

6. **Deputy Brendan Howlin** asked the Taoiseach when Cabinet committee F, national security, will next meet; and when it last met. [13847/18]

7. **Deputy Mary Lou McDonald** asked the Taoiseach when Cabinet committee F, national security, last met; and when it is scheduled to meet again. [13849/18]

8. **Deputy Micheál Martin** asked the Taoiseach when Cabinet committee F, national security, last met. [16495/18]

**Deputy Brendan Howlin:** I would prefer to hear the answer first.

**Deputy Mary Lou McDonald:** That is a bit optimistic.

**The Taoiseach:** I propose to take Questions Nos. 1 to 5, inclusive, together.

Cabinet committee E covers issues relating to the health service, including-----

**Deputy Mary Lou McDonald:** No.

**Deputy Brendan Howlin:** That was the previous group of questions.

**The Taoiseach:** My apologies.

**Deputy Micheál Martin:** This one is about national security.

**Deputy Brendan Howlin:** The Taoiseach cannot tell us about it.

**Deputy Mary Lou McDonald:** A Cabinet secret.

**Deputy Richard Boyd Barrett:** It is a secret.

**The Taoiseach:** Some of it is. I propose to take Questions Nos. 6 to 8, inclusive, together.

The committee last met on 8 February and was attended by Ministers and senior officials from the Departments of Finance, Public Expenditure and Reform, Foreign Affairs and Trade, Justice and Equality, Health, Communications, Climate Action and Environment, Transport, Tourism and Sport, Housing, Planning and Local Government, and Defence. Arrangements are being made for the next meeting of the Cabinet committee but a date has yet to be finalised. The role of the Cabinet committee is to keep the State's systems for the analysis of, preparation for and response to threats to national security under review and to provide high-level co-ordination between relevant Departments and agencies on related matters.

**Deputy Brendan Howlin:** The Taoiseach will recall in the immediate aftermath of the chemical attack in Salisbury, the Government made a number of announcements. One was to expel a diplomat in the Russian Embassy. The Government also announced that weekend that it was undertaking a full security assessment of the risks Ireland faces from Russian activity in Ireland. Has that review been concluded? Is it still in train? How will the results of that assessment be conveyed to the House?

I will also ask about the concerns voiced at the time about the proposed size of the extension to the Russian Embassy and the fact it was being built by Russian builders, all of whom were coming in here with work permits provided by Irish authorities. Has that concern been assuaged by discussions with the Russian authorities? Where stands that extension?

I will raise an important matter I have raised on a number of occasions. Have we as a nation determined, or has the Government determined, we should have a bespoke security agency bringing together the best expertise in military intelligence and cybersecurity in the Department of Justice and Equality and An Garda Síochána? We are almost unique in not having such an agency. Is it time for one? Has the Taoiseach given consideration to establishing such an agency?

**Deputy Mary Lou McDonald:** Go raibh maith agat a Chathaoirligh agus arís gabhaim buíochas leis an Taoiseach as a chuid freagraí.

I will take this opportunity to raise the issue of Syria with the Taoiseach. On Saturday, the United States, Britain and France launched airstrikes there, which all reasonable and right-thinking people will find abhorrent, just as they would find abhorrent the use of chemical weapons by anybody. Such intervention is wrong and has represented a very significant escalation of tension in the region. The intensification of the military conflict is not a credible way to save Syrian lives. The deployment of more western forces in Syria or any further bombing will not bring an end to or shorten the conflict in any way. The international community has to be consistent in its application of international law and policy in which peace and protecting civilian life has to be the absolute priority. That holds for Syria, Palestine and all other conflict areas. There has to be a political solution. What we need to see in Syria is a lasting ceasefire and a political process to bring about the end of conflict. That is what the Government and all Governments should be seeking to do. Will the Taoiseach make this point and raise the issue with his counterparts in the US, Britain and France? Will he raise it at an EU and UN level?

On 27 March, the Taoiseach took the decision to expel a Russian diplomat based on British military intelligence. Only three days after he took that decision, 750 innocent Palestinian protestors were wounded by Israeli soldiers at a peaceful planned march in Gaza. Fifteen civil-

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ians were killed. Over the two weeks which followed, that death toll reached 31, with more than 1,000 injured, yet not one Israeli diplomat was challenged, much less expelled. Why the double standards?

**Deputy Micheál Martin:** The Taoiseach will be aware that since the Cabinet security committee last met, there appears to be a sustained cyberattack under way directed specifically against countries that have recently imposed sanctions against Russia. The reported targets go beyond general databases and extend to critical infrastructure. For example, it appears the British power grid has been attacked, as have various air traffic control systems. While there are parties here who seem to believe that Russia is an innocent bystander which has, at the very worst, been forced to behave like this, the majority are deeply concerned about what is going on. It is noteworthy that the Russian Government has acknowledged the behaviour of the cyberattack group, which was recently subject to US sanctions, though of course it also claims to have known nothing about its work. As I said before, a series of our national risk assessments have identified cyberattacks as potentially the most damaging risk to Ireland. The response has been highly complacent, with no real sense of urgency.

Is the Taoiseach happy that the systems are in place to identify quickly any such attacks against our critical IT infrastructure and that we have in place the expertise to protect ourselves in such cases? Given the rising number of countries being targeted, it seems unlikely that Ireland will remain untouched.

**The Taoiseach:** Deputy Howlin referred to a full security assessment of Russian activities in Ireland. I may be wrong but I am not aware of any such assessment being carried out. The Tánaiste may be aware of it but it is not something I am aware of being carried out. A security assessment was carried out on what diplomat would be expelled. That was the extent of it. We are not, to my knowledge, carrying out a wider security assessment of Russian activities in the State or with regard to the embassy. I understand the extension to the embassy will largely be used for accommodation for offices and also sleeping quarters for staff.

**Deputy Brendan Howlin:** There are no issues with that as far as the Government is concerned.

**The Taoiseach:** I did not say there are no issues. There are always issues with any nation. In terms of establishing a bespoke security agency, which I imagine would be an Irish version of MI5, MI6, Mossad or the CIA, or something along those lines, it is one of the matters that the Commission on the Future of Policing, headed by Kathleen O'Toole, is considering. We are expecting its report in September. We will take it from there. On the face of it, it sounds like a good idea but when one looks at it more closely, there are definitely upsides and downsides. The transitional period would be quite difficult. We would have to legislate and transfer staff over from the Garda, military intelligence and other places. There would not be a straightforward period to move to that.

**Deputy Brendan Howlin:** Which is like the Criminal Assets Bureau, CAB, was when it was pending legislation.

**The Taoiseach:** We would also need to consider the costs as well. There are quite a lot of people who describe themselves as security analysts and intelligence experts who regularly crop up in the newspapers and on the news. I imagine many of them would very much like us to spend a lot of money setting up such a body. No doubt there would be contracts to be awarded

and all sorts of other things. I am cautious about it, to put it that way. We are a small, neutral country.

**Deputy Brendan Howlin:** We should not be naive though.

**The Taoiseach:** I am not entirely sure that we need to have something on the lines of a Central Intelligence Agency-----

**Deputy Brendan Howlin:** What about Sweden, Belgium or the Netherlands?

**The Taoiseach:** -----or a KGB or Mossad. It is something that is being considered by the commission, and if it recommends it, we will certainly give it detailed consideration, but we would need to weigh up the pros and cons. I do not think it is necessarily or naturally the case that just because other countries have it, we should have it too.

In terms of Syria, the Government unequivocally condemns the use of chemical weapons and biological weapons by anyone anywhere in the world. What we see in Syria is a conflict going on for seven or eight years that has caused enormous distress and hardship for people in Syria. It has caused a humanitarian crisis. It also caused the refugee crisis which has impacted on other countries. Syria was a middle income country with a relatively high standard of living. It is very sad to see a country go so far backwards so quickly. I have had the opportunity to meet some of the Syrians who have come to live in Ireland as part of the refugee programme and to hear a little bit about their lives. I met some of them when they came to the airport at Baldonnell a few weeks ago with the Minister of State at the Department of Foreign Affairs and Trade, Deputy McEntee. When one talks to them it makes any problems one has pale into insignificance. We very much condemn the abuse of human rights and the denial of democracy by the Assad regime in Syria.

We understand that the UK-US-France action was targeted at chemical facilities and that prior warning was given, as a result of which there were no civilian casualties. Ireland was not consulted about the operation in advance and our approval was neither sought nor given. We stand by the EU statement, agreed by foreign Ministers this week, that there is no military solution to the conflict in Syria. The intervention by outside powers, whether European powers, America, Iran, Turkey or Russia, will not bring this conflict to an end. What is required is a ceasefire and a peace process. We support that and are willing to assist in any way we can. We have troops with UNDOF in the Golan Heights, which is on Syrian territory, and in south Lebanon, so the Irish Government has an interest in the region. We want to support any peace process that might take place. Deputies will be aware that the current structure of the United Nations, which gives Russia and other countries veto powers, means the UN is largely paralysed in the context of acting in Syria, and that is a real difficulty.

I assure Deputies that we regularly challenge the Israeli Government and its diplomats about the occupation of Palestinian territories. The difference between what happened as regards the protests in Israel and Palestine and what happened in Salisbury is that the latter was an attack on EU soil and the violation of the sovereignty of an EU state.

I am happy with where we stand in respect of cyberattacks at the moment, though there is always room for improvement. I recently met the head of the National Cyber Security Centre, which is based in UCD and which we have been building up for a number of years. It is doing a good job in monitoring the situation and in preventing attacks, but it is having some difficulty recruiting specialists with the skills that are needed in this area. We will need to beef it up in the

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years ahead because cyberattacks will be a feature of security in years to come. The WannaCry attack did a lot of damage to the NHS but did not do a lot of damage to the IT systems in the HSE because it was more prepared to deal with the attacks than the NHS. That is not often the case but it was the case on this occasion.

### **Taoiseach's Meetings and Engagements**

9. **Deputy Joan Burton** asked the Taoiseach if he has held recent meetings with church leaders and faith communities. [15156/18]

**The Taoiseach:** On 31 August last, I held a formal meeting under the structured dialogue process with representatives of the Catholic Church, led by Archbishop Eamon Martin. I was accompanied at the meeting by the then Tánaiste and Minister for Business, Enterprise and Innovation and by the Ministers for Education and Skills, Health, Transport, Tourism and Sport, and Employment Affairs and Social Protection. A wide-ranging discussion took place on a range of important national and international issues, including the World Meeting of Families which will take place in Dublin in August 2018, the possibility of a visit to Ireland by the Pope, which has since been confirmed, education issues such as enrolment policies, the eighth amendment to the Constitution, Northern Ireland, overseas development aid, and social and justice issues. I also received a courtesy call from Archbishop Diarmuid Martin, as is traditional around Christmas time and the New Year.

I met representatives of the Church of Ireland and the Presbyterian and Methodist churches on 22 January 2018. I was accompanied by the Ministers for Justice and Equality, Business, Enterprise and Innovation, Education and Skills, Health, Transport, Tourism and Sport, and the Minister of State at the Department of Foreign Affairs and Trade. This was the second in a series of meetings that I will be holding with dialogue partners. We discussed important social and economic issues facing society, including Brexit, education issues and the eighth amendment to the Constitution, as well as international issues.

Churches and faith communities play an important role in Irish life and I think it is very beneficial that Government should engage with them in a structured way. Some of the issues we discussed at these meetings were challenging. They are issues on which people have deeply held views and which are matters of conscience. Our discussions were valuable, not just because they dealt with important issues but particularly because they were conducted in an atmosphere of respect for the views of others, where everyone sought to be constructive.

I also had the opportunity to attend a Passover seder on Good Friday in the home of Maurice Cohen, the head of the Jewish Representative Council of Ireland, and discussed similar matters with him and his people.

**Deputy Brendan Howlin:** I thank the Taoiseach for the update and commend him on participating in the Passover seder. It was a good initiative. Is a formal process in place for the Department of the Taoiseach to engage with church leaders and faith communities? How is it constructed and organised? Is it done by Civil Service staff or political staff? Will the Taoiseach give us any more detail on the programme for the visit of His Holiness, the Pope? Do we know for how long the visit will take place? Do we have the exact locations which the Pope will visit? Has any view been expressed by Government to the Holy See on the desirability of a visit to Border regions or to Northern Ireland?

**Deputy Mary Lou McDonald:** I raised the question of a visit by the Pontiff to the North of Ireland with the Taoiseach on a previous occasion. I raise it again, mindful of the fact that it is for the Pope and the Vatican to set the parameters of his activity. I do not wish to be intrusive but wish to reflect a very wide appetite North of the Border for the Pontiff to visit.

Encounters between faith communities and Government are very valuable. They have to be held in a spirit that is respectful and which recognises the delineation between churches, faith and theology on one hand and the State, with its obligations to support and respect all citizens, on the other.

Was the forthcoming referendum on the issue of the eighth amendment among the sensitive issues discussed by the Taoiseach with faith leaders? In the context of the World Meeting of Families, did family diversity, in Irish society and internationally, arise?

**Deputy Micheál Martin:** The warm welcome which other faiths have given to the Pope's forthcoming visit is a great testament to the strength of interfaith relations at the moment and it is particularly welcome that this has extended beyond Christian churches. Given the anniversary of the Good Friday Agreement, it is worth remembering the statements of the late Pope John Paul II when he attacked sectarianism during his visit in 1979. In Drogheda, he said to the illegitimate armies who were then waging war: "On my knees I beg you to turn away from the path of violence and return to the ways of peace." That was a very important moment in building trust between religions in the fight for peace and it was a key dynamic in the victory of democracy and the ultimate end of violence, although it took a long while for a number of men of violence to heed his words. In this spirit, I hope our Government will seek to ensure that there is space in the Pope's itinerary to reaffirm the anti-sectarian sentiments with which he is so strongly associated and to encourage the work of different faith leaders here on this very point.

**The Taoiseach:** The structured dialogue with churches and faith communities is arranged and organised by civil servants. It is something that my forebear as Taoiseach, Deputy Enda Kenny, did also. I decided to continue to do it.

**Deputy Micheál Martin:** I believe former Taoiseach Bertie Ahern initiated the process.

**The Taoiseach:** That may well be the case.

**Deputy Micheál Martin:** He did certain things.

**Acting Chairman (Deputy Bernard J. Durkan):** The time left is limited. We will not have any argument about it.

**The Taoiseach:** The former Taoiseach, Deputy Enda Kenny, attached a lot of value to it. I attended some of the meetings as a Minister and I decided I would continue with the practice when I became Taoiseach. I have no doubt that previous taoisigh, including Mr. Bertie Ahern, saw value in it also. We generally meet in round-table format, with many Ministers around the table and many representatives from the church. The latter are mostly clergymen but also include laity. On some issues, we agree to disagree, such as on the eighth amendment. Obviously, the Catholic Church gave us a very clear position on that. We agreed to disagree on it. The Protestant churches had diverse opinions. Some of them were open to removing the eighth amendment from our Constitution but were not well disposed towards the Government's legislative proposals, for example. Each church will make its own statement on that in due course, if it has not done so already. We have agreed to follow up on a few issues on a bilateral basis. We

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agreed to follow up on some of the education issues with the faith communities and the Department of Education and Skills. I envisage meeting each of the major faith groups once per year in round-table format, with bilateral discussions happening in the interim at ministerial level.

With regard to the papal visit, the primary focus will be to attend the World Meeting of Families. The Pope will attend the Festival of Families event in Croke Park and will be the chief celebrant at a mass in the Phoenix Park, which will include the World Meeting of Families. The programme will also include those elements that are normal for the visit of a Head of State — for example, a brief engagement with the Taoiseach and the President. In addition, there will be a number of Church-related projects.

As I mentioned, the full programme details outlining where the Pope will visit have not yet been confirmed. The State's involvement, as appropriate regarding an official visit by a Head of State, will be similar to its involvement in previous high-profile visits to Ireland, such as that of Queen Elizabeth of England. In particular, it will support those events where the public will be in attendance in large number, taking on board all the health and safety requirements in addition to the security measures to which such a visit gives rise. The costs associated with the visit will be similar to those of previous official visits by a Head of State. The visit must be seen in terms of its historic nature - the first in 40 years by a pontiff - and in terms of the opportunities it presents as regards announcing Ireland's visibility and international reputation.

With regard to the programme for the papal visit, I am very much aware that this is primarily a pastoral visit. I do not believe it is the role of the Government to tell Pope Francis what he should or should not do, whom he should or should not meet, or what he should or should not visit. We have said, however, that we would like to facilitate, if possible, a visit to Northern Ireland. We suggest it would be appropriate to meet some of the victims and survivors of clerical abuse or abuse by State and Church authorities. In addition, we have expressed our view as a Government that families should be respected and seen in their diversity. There are families of all different shapes and forms, whether they include children being brought up by grandparents, same-sex couples with children, or lone-parent families. We have expressed our view as a State that this is how we see the family. That view has been put across to the Church authorities. Having said that, however, we fully respect the separation between church and state. Religious freedom applies to this also.

*Written Answers are published on the Oireachtas website.*

### **Business of Dáil**

**Acting Chairman (Deputy Bernard J. Durkan):** I call the Government assistant Whip, Deputy Seán Canney, to issue a statement regarding the Order of the House.

**Deputy Seán Canney:** It is proposed, notwithstanding the Order of Business of the Dáil of yesterday, 17 April 2018, that immediately following the taking of the Topical Issue Debate today, No. 26a, a statement by the Minister for Communications, Climate Action and Environment, shall be taken. The statement of the Minister shall not exceed ten minutes, following which each party or group in opposition shall have six minutes. The six minutes shall consist of alternating questions and answers, each of which shall not exceed one minute. The Minister shall have five minutes for a statement on the conclusion of the debate. The opening statement, questions, answers and the concluding statement shall not exceed 57 minutes, in total. Private

Members' business shall take place on the conclusion of this item for two hours.

**Acting Chairman (Deputy Bernard J. Durkan):** Is that agreed?

**Deputy Micheál Martin:** No. I have some concerns about that format in that it does not allow for a genuine session of questions and answers. First, six minutes for a party with 45 Deputies is wholly disproportionate with six minutes for a party of five or six. I am not saying all 45 members will be speaking. I have no problem with anyone getting six minutes or more. I would have believed ten minutes should be a minimum for a party.

My real point is that if a Deputy asks a question, it is more useful if the response follows it. It seems to me that what is happening here is that any amount of questions will be rolled in, with six minutes-----

**Deputy Brendan Howlin:** It is a question and a reply.

**Deputy Micheál Martin:** Is it a question and reply, followed by a question and reply? Deputy Canney said five minutes at the end to sum up.

**Deputy Seán Canney:** No.

**Deputy Micheál Martin:** That is fine, once I know there is a facility for questions and replies. I do believe, however, that six minutes is very tight.

**Acting Chairman (Deputy Bernard J. Durkan):** I suggest we wait to see how it progresses.

**Deputy Seán Canney:** To clarify, the allowance of six minutes each involves a question for one minute and a reply for one minute, a question for one minute and a reply for one minute, and a question for one minute and a reply for one minute. The five minutes at the end are for concluding remarks.

**Deputy Brendan Howlin:** Everyone gets three one-minute questions.

**Deputy Seán Canney:** This formula has been used before and it worked well.

**Deputy Micheál Martin:** There was a time in the Dáil when one could be 35 minutes answering.

**Acting Chairman (Deputy Bernard J. Durkan):** I know. We are not going to go there now. We must take the sos. Is the proposal agreed? Agreed.

*Sitting suspended at 2.40 p.m. and resumed at 3.40 p.m.*

### **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) Deputies Bríd Smith and Catherine Murphy - implications of investigations into data protection breaches; (2) Deputy Donnchadh Ó Laoghaire - to discuss the announcement of new schools in the Cork area; (3) Deputy Pat Casey - to discuss when the schools at project brief stage in the schools building programme in County Wicklow will progress to the next stage; (4)

Deputy John Curran - the reduction of resources at Rathcoole Garda station; (5) Deputy Declan Breathnach - the need for learning for life education at primary and second level; (6) Deputy Peter Burke - to discuss the practices of the HSE in nursing homes while a ward of court process is being adjudicated on; (7) Deputy Seán Crowe - to discuss the killing of Palestinian civilians in Gaza in recent weeks; (8) Deputy Sean Fleming - the future of services at the Midland Regional Hospital, Portlaoise; (9) Deputy Kevin O’Keeffe - the need to fill the medical officer post at St. Patrick’s Hospital, Fermoy; (10) Deputies Carol Nolan and Barry Cowen - to discuss the GP shortage, the closure of the out-of-hours services in County Offaly and the discontinuation of clinics in Birr and Edenderry; (11) Deputies Seamus Healy and Mattie McGrath - the need for additional acute mental health in-patient beds for the paediatrics ward at South Tipperary General Hospital; (12) Deputies Dessie Ellis and Mary Lou McDonald - to discuss the impact of proposed plans for the construction of MetroLink; (13) Deputy James Browne - to discuss plans for the future of Rosslare Europort; (14) Deputies Fiona O’Loughlin and Martin Heydon - the need to deliver the new school in Monasterevin and increase capacity at second level in Athy, Kilcullen and Newbridge; (15) Deputy Mary Butler - to discuss the unique south-eastern model in residential care homes; (16) Deputies Martin Kenny, Martin Ferris and Kathleen Funchion - the depletion of fishing stocks and pollution of the River Barrow; (17) Deputy Maureen O’Sullivan - Irish Naval Service involvement in the Mediterranean Sea and the situation in Libyan reception centres; (18) Deputies Marc MacSharry and Tony McLoughlin - to ask the Minister of State with responsibility for tourism and sport for an update on his Department’s reasons for making the decision to stop allowing boat access for tourists to Innismurray, County Sligo and the efforts being made to address this problem; (19) Deputy Lisa Chambers - to discuss the impact of the removal of projects in the north west from the Trans European Transport Network, TEN-T, funding programme; (20) Deputy John Brassil - to ask the Minister of State with responsibility for the Office of Public Works to take action to address the issue of flooding on the R551 at Ballyheigue, County Kerry as a poorly maintained drainage network at Lough Arkeragh by the OPW and Kerry County Council in the past 50 years has resulted in persistent flooding during times of heavy rainfall and high tide, making the road impassable and flooding adjacent land and homeowners’ properties, as Ballyheigue is a tourist town and access to it is essential for local businesses; (21) Deputy Paul Murphy - the recent closures of the Tallaght and Clondalkin intercultural centres; (22) Deputy Clare Daly - to discuss the prescription of Lariam to Defence Forces’ members as the anti-malarial drug of first choice; (23) Deputy Niamh Smyth - the need to invest in hospital services in Cavan; (24) Deputy Frank O’Rourke - to discuss the HSE programme, Progressing Disability Rights for Children and Young Adults, in terms of the delivery of key services and resources in Kildare North; (25) Deputy Mick Wallace - to discuss the leaking of information by NAMA staff and the implications for data protection; (26) Deputy Pat Buckley - to discuss the need to expand rent pressure zones to include east Cork to deal with continuing unaffordable rent increases; and (27) and Deputies Anne Rabbitte and Sean Sherlock - to ask the Minister for Children and Youth Affairs for clarity on the withdrawal of funding from Scouting Ireland.

The matters raised by Deputies Bríd Smith and Catherine Murphy, Dessie Ellis and Mary Lou McDonald, Lisa Chambers and Fiona O’Loughlin and Martin Heydon have been selected for discussion.

*Dáil Éireann*  
**Topical Issue Debate**

**Data Protection**

**An Leas-Cheann Comhairle:** On the first matter to be taken, I refer Members to Standing Order 59(3) which states, “A matter shall not be raised in such an overt manner so that it appears to be an attempt by the Dáil to encroach on the functions of the Courts or a Judicial Tribunal”. I know all Members will take this into consideration.

**Deputy Bríd Smith:** I am disappointed that the Minister for Communications, Climate Action and Environment is not present. I am a member of the joint committee which is shadowing his Department and wanted to refresh his memory regarding a number of discussions we had about the proposed takeover of Celtic Media early in 2017. It is obvious to everybody that the implications of what is going on in respect of the operations of the Office of the Director of Corporate Enforcement, ODCE, and the proposed takeover by Independent News & Media, INM, are huge and will probably mean that in the long run there will be a serious outcome for the State and the Government. This is not just down to an individual, whether he or she is on the side of corporate media or a Minister in the Government, it is also reflective of a culture in which the State and corporate bodies work for, and in protection, of each other. This should emerge from the current investigations. Rather than just the detailed finger wagging at each individual incident, it is important that the investigations expose to the people and the body politic what many instinctively know, that the wealthy and powerful who hold huge influence, particularly in media circles, get favourable treatment from the State, not just from the current Administration but also from previous Administrations and many people in the body politic in general. I would like the Minister to address these comments.

**Deputy Catherine Murphy:** When I tabled the matter, I referred to the implications of recent and escalating developments regarding INM based on the ODCE’s investigation into the company. At the time I was referring to the significant concerns about what could only be considered as the hacking of emails, which potentially compromised huge numbers of journalists and their sources, and had major implications in terms of damage to the independence of media and the protection of journalism. However, I cannot ignore the most obvious escalating development, the involvement of the Minister for Communications, Climate Action and Environment in this issue. On 6 December 2016, in reply to a priority question, he told me that he had only commenced the phase one assessment of the takeover on 24 November 2016, that his officials had not yet made any decision and that he had 30 days in which to make a decision on three options, one of which was potential referral to the Broadcasting Authority of Ireland, BAI. He stated: “I have not received the report from my officials yet.” The Director of Corporate Enforcement’s affidavit states a month earlier, on the afternoon of 11 November, the Minister personally told a representative of Heneghan PR that he would refer the proposed merger to the BAI based on the advice of his officials. Heneghan PR which is headed by Nigel Heneghan is an adviser to Leslie Buckley and spokesman for INM and a member of the BAI’s compliance committee. A PR firm employed by INM with close ties to all of the main protagonists in INM made direct contact with a Minister and was made privy to a decision, about which I as a parliamentarian was told weeks later had yet not been made. The repercussions are stunning, not least in respect of the implications for potential market manipulation and insider dealing but also the questions it raises about corporate governance within INM and the axis of power

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between major shareholders of INM and the Minister's Department.

**Minister for Justice and Equality (Deputy Charles Flanagan):** I echo the Taoiseach's remarks about the importance of a free media in a functioning, healthy democracy. Furthermore, I must clarify that, as Minister for Justice and Equality, it would be highly inappropriate to refer to matters currently under investigation by relevant authorities or connected to the subject matter of ongoing court proceedings, to which the Leas Cheann-Comhairle referred.

The Data Protection Commissioner is the independent supervisory authority with responsibility for upholding the EU fundamental right of the individual to have his or her personal data protected. The Office of the Data Protection Commissioner was established under the 1988 Data Protection Act. The commissioner holds the responsibility for upholding the rights of individuals, as set out in the Data Protection Acts, and also for enforcing the obligations that arise from the legislation on data controllers. While the commissioner is appointed by the Government, she is independent at all times in the exercise of her functions. Individuals who feel their rights are being infringed can complain to the commissioner who will investigate the matter and take whatever steps may be necessary to arrive at a resolution. The commissioner has statutory powers to undertake investigations into complaints from individuals and enforce compliance with data protection requirements. The office also conducts on-site inspections and audits of data protection in both public and private sector organisations.

The Data Protection Bill 2018 is before the Oireachtas, with Second Stage being debated in the House this week. The purpose of the Bill is to give further effect to the general data protection regulation, GDPR, in areas in which the regulation gives member states a margin of flexibility and to transpose the accompanying law enforcement directive into national law. It will take effect on 25 May. The legislation will strengthen the independence, structures, functions and powers of the data protection commission. The new EU legal framework confers significant responsibilities for the protection of personal data on both data controllers and data processors.

In her most recent annual report the Data Protection Commissioner outlines that a total of 2,795 valid data security breaches were recorded by her office last year, representing an increase of almost 26% on the numbers of breaches reported during the previous year. The GDPR provides for mandatory reporting of personal data breaches to data protection authorities, unless a breach is unlikely to result in a risk for the rights and freedoms of individuals. The controller must report such data breaches without undue delay and, where feasible, not later than 72 hours after becoming aware of it. The report must identify the likely consequences of the breach and the measures taken, or to be taken, to mitigate adverse effects for individuals. Under the GDPR and the new legislation, public and private enforcement of data protection is set to increase. The scope of compensation claims arising from infringements of data protection rules will also increase, resulting in higher levels of private enforcement activity.

I welcome the legislation and seek the co-operation of Members in passing it. I am not in a position to comment on issues before the courts or related to a legal investigation, either inside or outside the House.

**Deputy Bríd Smith:** That is the best exercise in deflection that I have ever seen. The question here is not about the new legislation coming in on 25 May but what has gone on in the recent past in this House. The Minister started by saying that he, like the Taoiseach, believes in the free media and a functioning, healthy democracy. There are two things I would like to say

about that. The media are not free and this democracy is not healthy. It does not even function as a democracy. If the media were free, why does Ireland have a higher concentration of media ownership than most other countries with one key individual, whose name can never be mentioned, whether at committee or in this Chamber, owning the *Sunday Independent*, *Sunday World*, *Evening Herald*, and having a stake in the *Daily Star*, *The Kerryman*, *Drogheda Independent*, *Wicklow People*, *Wexford People*, *Waterford People* and many radio stations such as Newstalk and Today FM? That is power and control. That is a very wealthy individual whose name cannot be mentioned in these Chambers who has strong links with the State, so much so that every time there is an important function happening, such as at Davos, or the New York Stock Exchange, he appears with key members of this Government. That friendly relationship has helped him to secure influence and has continued to help him exist. That needs to be challenged.

**An Leas-Cheann Comhairle:** The Deputy is infringing on Deputy Murphy's time. Deputy Murphy has one minute.

**Deputy Catherine Murphy:** The Social Democrats believe that the Minister, Deputy Naughten, has no choice but to recuse himself from any role in media regulation. Legitimate concerns have been raised regarding the relationship between key players and media business in Ireland. The Minister has a quasi-judicial function in this. It is part of the reason he would not reply to me in this House when he was giving information to somebody on behalf of one of the key players. That requires an answer here. I also take exception to being misled yet again in this Dáil when I asked a parliamentary question. I believe I was misled in respect of those replies on 6 December 2016 when someone else was told that the decision was already made. The Minister needs to address that.

**An Leas-Cheann Comhairle:** Members should refrain from being misled.

**Deputy Charles Flanagan:** I want to make it clear that the issue which I am addressing is what is before me, which is the Office of the Director of Corporate Enforcement, ODCE, investigation into a potential data breach within the company. I take it the company is Independent News & Media, INM. I have already stated that these are issues that are under investigation from a number of sources, in particular the Data Protection Commissioner. As Minister for Justice and Equality, I respect the independence of the Data Protection Commissioner. I assure the House that the Government of which I am a member has steadily increased the resources allocated to the Data Protection Commissioner. Funding has increased to approximately €11.7 million for this year, up from less than €2 million in 2014. This additional funding has facilitated the recruitment of additional staff, both legal and technical, and experts of an investigative nature. Staff resources have tripled from 30 in 2013 to almost 100 in 2014.

Ireland became the first member state of the European Union to appoint a Minister with special responsibility for data protection. This portfolio is held by the Minister of State, Deputy Breen. Further, an interdepartmental committee on data issues was set up two years ago to provide a platform for Departments to discuss issues of a legislative nature and implementation challenges arising from European legal advances in this area. Meetings are held regularly in the Department of the Taoiseach, and that committee's work is ongoing. It is important to understand that proposals for legislation respond to evolving jurisprudence in this country and across the European Union. I wish again to respect the independence of the offices that are undertaking investigations and it would be entirely imprudent, as the Leas-Cheann Comhairle would be the first to inform me, if I were to depart from that very important legal directive.

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## Light Rail Projects

**Deputy Dessie Ellis:** Sinn Féin has always supported metro north. It will benefit the environment as it will remove thousands of cars from our streets every week and carry more than 50 million passengers per year. There are major benefits relating to employment, not just during the construction phase, which would provide 4,000 jobs, but afterwards, with the creation of new jobs and businesses all along the area served by metro north. It will also help in regenerating areas and provide badly needed access to Dublin Airport.

We must also be conscious of the impact that long-term construction work will have on our communities. Some real concerns, for example, are plans to requisition the grounds and lands associated with Na Fianna GAA Club and Home Farm Football Club on St. Mobhi Road as a staging post for the underground boring machinery and other works associated with the project. This has the potential to cause untold and irrecoverable damage to both clubs. I would like to offer my condolences to the family and Na Fianna on the passing of their club secretary, Deirdre Lambe. Ar dheis Dé go raibh a anam. This plan will also impact greatly on residents and three local schools, Scoil Chaitríona, Scoil Mobhí and Whitehall College, affecting hundreds of children and their families daily.

I have a suggestion that I believe will have the least impact on the community and surrounding areas. There are virgin lands just north of Ballymun where this heavy boring equipment could be stored and utilised and works could be commenced from there. Will the Minister give this suggestion some consideration as a more viable and sensible option in place of the existing proposals, which have huge implications for our communities?

**Deputy Mary Lou McDonald:** I also extend our condolences to the family, friends and indeed club colleagues of the rúnaí of Na Fianna GAA Club, Deirdre Lambe, who passed away on 14 April. I know she is greatly missed and lamented by all who knew her.

As Deputy Ellis has said, we acknowledge that metro north is vitally important transport infrastructure. We also accept that it is important that work begins on its construction as soon as possible. I set those two points out clearly because I do not want us to have a diversionary or false debate. This is not a matter of opposition to the metro. However, the current proposals would see Na Fianna GAA Club, which has 3,000 members, moved off its grounds for up to seven years. That would be catastrophic for the club. It cannot be allowed to happen. An alternative must be found. Na Fianna is not only a GAA facility but it is used widely by local schools and the community, as is normal with clubs of Cumann Lúthchleas Gael. The current proposals make no sense. It provides an impossible situation for Na Fianna GAA Club. Its members will be in Leinster House next Wednesday to address the Joint Committee on Transport, Tourism and Sport and put forward their case. They are not here to have a row or fall out with people. They are looking for a resolution that protects this important community facility.

What other locations were considered? Will the Minister consider the proposal put forward by my colleague, Deputy Ellis? As has been said, I am focusing on Na Fianna GAA Club, but equally I could cite Scoil Chaitríona, Scoil Mobhí and Whitehall College, all public facilities. Members of the public are beside themselves with worry about this.

**Minister for Transport, Tourism and Sport (Deputy Shane Ross):** I thank the Deputies for raising this important issue and acknowledge the support of Sinn Féin for the metro project. That should not be forgotten with what is happening, which they have addressed today. I join

them in expressing sympathy to the family of Deirdre Lambe, who passed away.

The MetroLink project is the development of a north-south urban railway service that will run between Swords and Sandyford and connect key destinations along the 26 km route. There will be 25 stations in total, 15 of which will be brand new. A large proportion of the route will be underground, including where it passes under the important city centre area and Dublin Airport. The underground section will terminate close to the Charlemont stop on the Luas green line in the south city area and the metro will then run southwards above ground on the existing Luas green line, which will be upgraded to metro standard as part of the project.

I wish to directly address the issue of Na Fianna as I acknowledge that the controversy has arisen because of the potential difficulties foreseen by it and Home Farm, along with the fears and apprehension of the three potentially affected schools. I also wish to thank Deputy Ellis for his suggestion. I suggest that he submit his points to the ongoing consultation process. There is a temptation for Deputies to make suggestions to me but such suggestions should be made to the National Transport Authority, NTA. However, there is an opportunity to make such suggestions in the House and there is no doubt that the NTA will be aware of what Deputy Ellis has stated in the House as well as his direct submission.

The MetroLink project can bring many benefits. I am confident that the NTA and Transport Infrastructure Ireland, TII, through the consultative process that is under way, will find a way of delivering the MetroLink project and maintaining good routes that interchange with other public transport in a way that respects the social, community and sporting life of our city. The NTA has committed to work collaboratively with Na Fianna to address the concerns identified and develop mitigating proposals for discussion within three to four weeks of the consultation deadline. That attitude and willingness to talk and consult and find a better solution if there is one will apply to all other parties concerned. As the Deputies are now aware, the proposed route is not set in stone and it would be wrong if it were.

It is predicted that capacity for 15,000 passengers per direction per hour during the busiest peak times will be required along the corridor I have addressed. MetroLink will have the capacity for 30 trains per hour in each direction and will greatly enhance the public transport offering in Dublin. The creation of about 4,000 jobs during construction is also envisaged, which is significant for the economy in the region. The NTA, in conjunction with Transport Infrastructure Ireland, TII, recently launched the public consultation to which I have referred on the emerging preferred route. It is appropriate that we continue to refer to it as the emerging preferred route. It is a proposal which has been identified as the likely optimal scheme from a technical design perspective but without the benefit of public consultation and input. It is not a finalised and selected scheme. The final layout will only be determined after consideration and evaluation of the issues raised during the consultation process, including the representations made by Deputies McDonald and Ellis.

**Deputy Dessie Ellis:** I thank the Minister for his reply. There has been a huge amount of consultation on this project over the years. There were very contentious consultations before the project was scrapped and put on the long finger in 2011 but the current proposal regarding the land of Na Fianna is the most contentious I have seen. It does not make sense. When I met the NTA and other parties at the recent consultation, I immediately raised the concern that using these grounds was going to be a non-runner. Albert College was previously identified as a potential route, which raised very contentious issues. I have suggested that the virgin lands north of Ballymun could be utilised. There is no reason boring machines could not be used on

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those lands. The consultation process is in train and accepting submissions. I will be making a submission and it is important that it is taken on board. I hate when this is described as the optimal decision. It sends out the wrong message regarding this being the way we are going. We must hope that the NTA will be sensible in its approach to the consultation.

**Deputy Mary Lou McDonald:** I thank the Minister for his response. I take his point that this is not a finalised scheme and that a process is under way. However, it is clear this is likely to be the optimal scheme from a technical point of view, as he has stated. The deep concern of the clubs - the Minister correctly also referenced Home Farm - and schools is that the technical optimal position will supersede and take preference over the considerations to which the Minister referred in terms of social and community life of the city. I seek reassurance from the Minister that the consultation process will not be a case of simply going through the motions. I have no doubt that all stakeholders will work collaboratively with him but they need to know that the social and community dimension will have equal or greater billing than a simple technical view of the route.

**Deputy Shane Ross:** I assure the Deputies that the NTA will consider the obvious social consequences of the project with equal enthusiasm. The words were carefully chosen in terms of it being referred to as the optimal technical route. I suspect those words were left out deliberately because they would give the impression that it is optimal in the technical sense, which is a very crude way of judging a project such as this. I will convey the Deputies' wishes that the social consequences of the project be taken into account to the NTA. They should also do so themselves. I will not interfere in the process. There is a tendency to ask me to draw every route of every road and railway line. I will not do that but I am conscious that the sensitivities of communities must be balanced against the need to go ahead with this very necessary project. I assure the Deputies that what they have said will be taken on board, that there is a serious consultation process under way and that the NTA will work collaboratively with Na Fianna.

### **Trans European Transport Network Programme**

**Deputy Lisa Chambers:** I raise the issue of the exclusion of the north west from Trans-European Transport Network, TEN-T, core funding and seek answers from the Minister on a grave injustice perpetrated against the people of the north west by his Government and a decision taken by Fine Gael in government which has massively disadvantaged the economy in the north west for decades to come.

The Trans-European Transport Network is a European Commission policy directed towards the implementation and development of a Europe-wide network of roads, railway lines, inland waterways, maritime shipping routes, ports, airports and railroad terminals. It consists of two planning layers, the first being a comprehensive network covering all European regions and accounting for 5% of the funding available. The second and most important part is the core network, consisting of the most important connections within the comprehensive network, linking the most important nodes and accounting for 80% of funding available. The remaining 15% is reserved for projects of common interest. To complete the TEN-T core network corridors by 2030 will require approximately €750 billion. However, the north west is precluded from applying for that funding.

The key issue is that to qualify as a core network and receive core funding, an area had to have both a road and rail link. Information I have received shows that in 2011 the Taoiseach,

Deputy Varadkar, who was then Minister for Transport, Tourism and Sport, purposely removed key transport projects in the north west from Ireland's application to the European Union's TEN-T funding programme and effectively wiped the north west off the core map. The western rail corridor was removed from the core network map by the then Minister, now Taoiseach, Deputy Leo Varadkar. That relegated the western arc, the road running from Cork to Derry, to the comprehensive funding box because without the rail link, the road network could not qualify for core funding. Remarkably, when the western rail corridor was taken off the map, Shannon Foynes Port was added and the rail link between Limerick and Foynes was put in in order that Shannon Foynes Port could qualify for core funding. The Navan to Dublin rail link was also included. It is clear, therefore, that there was money for some projects but not for all. The effect of removing the western rail corridor and relegating the western arc road to the comprehensive funding box meant that key transport infrastructural projects in the north west were also precluded from receiving funding up to 2030. That affected Galway Port, Ireland West Airport Knock, Killybegs Port and Sligo Airport in applying for core funding under the TEN-T programme. It is hard to believe all this happened on the watch of a Mayo Taoiseach, Deputy Enda Kenny, and a Fine Gael Minister, Deputy Michael Ring, who was a Minister of State at the Department of Transport, Tourism and Sport at the time.

The projects had been included by the previous Fianna Fáil Government prior to leaving office in 2011. The western rail corridor which was to extend into Claremorris, County Mayo had been completed from Limerick to Galway and was to be extended to County Mayo in two phases. Ballina is the busiest freight location in the country and it beggars belief that the line was not prioritised, given the hugely positive economic impact it would have had on the county and the region. The maps initiated by Fianna Fáil when in government which included the north west and County Mayo were redrawn by Fine Gael and the then Minister, now Taoiseach, Deputy Leo Varadkar, in 2011 and prioritised road, rail, port and airport infrastructure for Dublin, Cork and Limerick, with a link to Belfast, while everything north of Limerick - the entire north-west region - was excluded. There really are few words to describe the devastating impact that has had on the region's economic development. Remarkably, at the time the then Fine Gael MEP for the north west, Jim Higgins, warned his colleague, Deputy Leo Varadkar, that it could close off the projects to future EU funding for good. It is a warning the now Taoiseach chose to ignore.

The western economic arc, the road from Cork to Derry, is still included on the comprehensive funding map which only accounts for 5% of funding, but if one looks at Ireland 2040 - it was called the fantastic plan - that was launched by the Government, the road is not mentioned. How does the Minister explain this? Where is the Government's commitment to this road network? It seems that all we are getting is a small section upgraded around Collooney in County Sligo. Perhaps we should be satisfied with the small crumbs we in the north west get from the Government.

**Deputy Michael Fitzmaurice:** On a point of order, I commend the Deputy for raising this matter.

**An Leas-Cheann Comhairle:** There is no point of order during a Topical Issue debate.

**Deputy Michael Fitzmaurice:** Just one second-----

**An Leas-Cheann Comhairle:** No. There is no point of order.

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**Deputy Michael Fitzmaurice:** I sat at the table with the Minister when the programme for Government was being agreed to.

**An Leas-Cheann Comhairle:** I call on the Minister to respond.

**Deputy Michael Fitzmaurice:** The first thing that was agreed to was that the west would be included in the submission for TEN-T funding. I ask the Minister for a commitment in that regard.

**An Leas-Cheann Comhairle:** The Deputy knows that he is out of order.

**Deputy Shane Ross:** I thank Deputy Lisa Chambers for raising this issue. I acknowledge the presence of the Deputy who spoke last, whose name is not mentioned because he is completely out of order.

**Deputy Fiona O'Loughlin:** Is Deputy Fitzmaurice not a former member of the Minister's group?

**Deputy Shane Ross:** The trans-European transport network, TEN-T, is a Europe-wide network of roads, rail lines, ports, airports and rail-road terminals throughout the 28 EU member states. It comprises the comprehensive network and a subset called the core network. The core network is required to be completed by 2030. It is the most strategic part of this European transport network, with the objective of TEN-T being to address the most strategic aspects of the comprehensive network with the highest European added value, in particular cross-border sections, missing links, multimodal connecting points and major bottlenecks. The network builds on existing and planned infrastructure in EU member states and was identified on the basis of the European Union's planning methodology which has to comply with common requirements or standards. Ireland's agreed core TEN-T network runs from Belfast to Dublin to Cork and includes the core ports of Dublin, Cork and Shannon Foynes. The proposal for the TEN-T network included technical specifications which must be achieved by member states within specified timeframes. That had to be taken into account in considering the draft network in 2011. For example, the proposed specifications at the time included a requirement for full electrification of all railways on the proposed core network. In fact, it was only when, during the subsequent EU co-decision process, Ireland obtained an exemption from the need to roll out ERTMS - a European wide telematics control system for rail traffic - and electrification on its rail network.

Against the backdrop of a very difficult economic climate in 2011, Ireland was required to consider the specific implications of the proposed network for its transport infrastructure, as well as our financial capacity to complete the technical specifications of our portion of the network within the timeframes proposed, namely, 2030 for our core network and 2050 for our comprehensive network. Inclusion of transport routes in the TEN-T network could potentially allow projects on those routes to be part-funded by the European Union. However, that could only be done through competitive EU-wide processes which were expected to be and were and continue to be considerably over-subscribed. The majority of costs of any capital project being funded by the Exchequer would still be borne by the Exchequer, with just the potential, if applications were successful, of a minority of grant funding coming from EU sources. All projects would also require accompanying cost-benefit analyses to be approved by the European Commission.

It was in that context that Ireland, like other EU member states, liaised with the European

Commission on its views on the appropriateness of the draft TEN-T network in line with the proposed methodology and the affordability of completion of the network at the time. That resulted in sections of the proposed network not ultimately being included in the final TEN-T maps agreed to by all member states in 2013. Despite the economic challenges the country has faced, priority has been placed on access to and within the north west. The most notable demonstration of this is the Gort to Tuam motorway, the largest transport investment completed anywhere in the country since 2011. That priority is further maintained in the national development plan, Project Ireland 2040. Project Ireland 2040 places a strong emphasis on further improving connectivity, including the development of the strategic Cork to Limerick road link. There will be a review of implementation of the core network by the end of 2023. The Commission will consult member states and evaluate progress made in implementation of the TEN-T regulation, as well as the impact of evolving traffic patterns and relevant developments in infrastructure investment plans. The regulation further sets out that the Commission, in consultation with EU member states, will evaluate whether the core network should be modified to take into account developments in transport flows and national investment planning.

**Deputy Lisa Chambers:** I thank the Minister for repeating the wholly inadequate response he gave me in reply to a parliamentary question. The excuse from the Government is “Brussels made me do it”. The then Minister, now Taoiseach, Deputy Leo Varadkar, said he was being directed by Brussels on the projects that were to be included. We now know that to be false because the then MEP, Brian Crowley, wrote to the EU Transport Commissioner at the time and her response was that member states retained “substantial sovereign rights” to decide on projects. The second excuse is that we did not have the money, that we had to cut projects and that we had to provide matching funding. Again, that is false. I direct the Minister to Decision No. 1692/96/EC of the European Parliament and the Council of 23 July 1996 which stated: “These projects shall form a common objective, the implementation of which depends on their degree of maturity and the availability of financial resources, without prejudging the financial commitment of a Member State or the Community”. It is there in black and white. The Minister did not need to have the money in the bank to make the application. To date, no Government representative has explained why Fine Gael redrew the maps when it took over in government in 2011; why the north west was wiped off the map and the western rail corridor was taken off it. The Minister said the rail network had to be electrified. Once he realised that was not the case, did he go back to the European Union and ask for the western rail corridor to be included and if not, why not? I have still not received a response to my question on the criteria used by the then Minister to decide what projects would remain on the list and what projects would get the axe. From the maps at which I am looking, it was projects in the north west that got the axe, while everyone else was left alone.

The Minister has referred to the review of the TEN-T funding programme under way. It is due to be completed in 2023. We do not have five years to wait. In the context of Brexit, there is a renewed impetus to bolster transport infrastructure. Will the Minister seek to have the review conducted at the earliest possible opportunity?

**Deputy Shane Ross:** I thank the Deputy for going back to those questions. I find it difficult to answer the political charges she made because I was not in office at the time.

**Deputy Éamon Ó Cuív:** The Minister has access to the file.

**Deputy Shane Ross:** I fully support the decision of the current Taoiseach when he was Minister in 2011.

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**Deputy Lisa Chambers:** If the Minister has not read the file, how can he support the decision?

**Deputy Shane Ross:** The reason he made it was very simple; there was not enough money in the kitty at the time.

**Deputy Lisa Chambers:** The Government did not need to have money to apply.

**Deputy Michael Fitzmaurice:** The Minister was able to spend €500 million in Navan.

**Deputy Shane Ross:** It was not just a matter of applying for the grant. He would also have had to produce money out of the air. There is only one thing easier than spending money in the future, at which Fianna Fáil is very good, and that is spending money in the past, at which it is becoming even better. Fianna Fáil is rewriting history and stating the money was available, but we know what the financial position was in 2011. We also know why it was thus in 2011 and it had nothing to do with the then Minister, Deputy Leo Varadkar.

**Deputy Michael Fitzmaurice:** What was the point in including it in the programme for Government?

**Deputy Shane Ross:** He was picking up the pieces in the situation in which he had been landed and had to make cuts-----

**Deputy Lisa Chambers:** He did not.

**Deputy Shane Ross:** The Deputy cannot possibly suggest-----

**Deputy Lisa Chambers:** He did not need to have money in the bank. He could have made the application without having finance.

**An Leas-Cheann Comhairle:** Will the Deputy, please, allow the Minister to respond without interruption?

**Deputy Shane Ross:** The Deputy cannot possibly suggest that at the time the then Minister, Deputy Leo Varadkar, wanted to make decisions of that sort.

**Deputy Michael Fitzmaurice:** It is included in the programme for Government.

**Deputy Lisa Chambers:** He did make them.

**Deputy Timmy Dooley:** At the time the Minister was telling everybody what a great man Seanie Fitzpatrick was, if he wants to go back that far.

**Deputy Shane Ross:** The reality was that the then Minister was forced to make decisions of that sort because there was absolutely no money left for him to spend on projects of the sort proposed by the outgoing Fianna Fáil Government.

**Deputy Lisa Chambers:** He did not need to have money to make the application.

**Deputy Shane Ross:** If the Deputy is going to raise political hares-----

**Deputy Michael Fitzmaurice:** The Minister should deal with the situation as it is now.

**Deputy Éamon Ó Cuív:** He should deal with the issue.

*(Interruptions).*

**An Ceann Comhairle:** May we have one speaker at a time, please?

**Deputy Shane Ross:** If Deputy Lisa Chambers is going to raise political hares, she must accept the reasons we were in that position-----

**Deputy Lisa Chambers:** The Minister has not provided them.

**Deputy Shane Ross:** -----and that decision had to be made.

### **Schools Building Projects**

**Deputy Fiona O'Loughlin:** I refer to the very frustrating situation at St. Paul's in Monasterevin. As we had the opportunity to speak about this issue at length yesterday at the meeting of the Joint Committee on Education and Skills, I will be brief today.

The school was declared structurally unsound in 2004, but it is still in place, in all of its glory, with more than double the numbers. There are only two toilet cubicles for 207 boys; there is no staff room; the prefabs are damp; the heating system is erratic and there is no gym. I commend the staff, principal and school community for the wonderful work they do. The principal, Mr. Brian Bergin, gave a great account of the excellent school community, but it is incredibly frustrated. Can the Minister say whether the process of acquiring a site has been finalised? A site has been on the horizon for the past 15 years. Can he say when the design element will be finalised? The people of Monasterevin are being served very well by the principal and staff of St. Paul's, but, sadly, they are not being served well by the State.

Last week the Minister announced the provision of 16 new second level schools, but Kildare South, despite having been on the 2015 list, was left off the new list, which is incredible. The figures supplied by the Department do not stack up. There is no political will on the part of the Fine Gael Government to deliver a new second level school in south Kildare, despite the figures that have been provided. South Kildare is the fastest growing region in the country. Between 2011 and 2016, the population of the area grew at 143% of the growth rate for the State. In the south Kildare Educate Together report sent to the Minister last August it was noted that in seven years there would be more than 400 students without a school place, but the Minister does not see this as a problem. I understand numbers come into it, but yesterday at the aforementioned committee meeting officials told members that the Department was seeking to provide 1,250 extra places in existing schools to meet the demand. Surely, the answer to the problem is to provide a new second level school in south Kildare.

**Deputy Martin Heydon:** I thank the Ceann Comhairle for giving us the opportunity to raise this very important issue on the floor of the House. Last week's announcement by the Department of 16 new second level schools was met by real disappointment in Kildare South. An Educate Together campaign has highlighted concerns about future capacity at second level in Kildare South. The campaign has been running for the past four years, but there is obviously a belief within the Department that proposed extensions and a new build at St. Paul's in Monasterevin will suffice in addressing increased demand. However, many people in south Kildare disagree with the Department. What nobody disagrees on is that there will be increased future demand in County Kildare. The disagreements centre on the level of that demand, where it will

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be and how it should be met. It is important that we move quickly to deal with the matter. Following last week's announcement, the focus must be on expediting the proposed extensions as quickly as possible and the new build at St. Paul's in Monasterevin which has been delayed for far too long. It is only then that we will be able to determine whether we can meet the need for second level places in the area and, as I hope, push for a new school down the line.

A new school building for St. Paul's in Monasterevin is even more critical than this time last week. We spent hours with departmental officials yesterday at the Oireachtas Joint Committee on Education and Skills going through the history of this case which I have highlighted with the Minister on previous occasions. We spoke about the conditions students and staff had to endure, the history of the case, from the explosion in 2000 when prefabs were provided, inclusion in the 2005 building list and the fact that the Department and Kildare County Council had worked together in sorting out a site which had hit an awful lot of problems. Site selection is something which will have to be reviewed.

According to the Department's profile, construction will start in quarter three of 2019, but the design team for St. Paul's is confident that the project could be ready for construction by quarter one of 2019, a good six months earlier. Six months is a long time in the context of the school year. Departmental officials said there would be no delay in that regard. I urge the Minister to ensure every effort will be made to see construction starting at the beginning rather than the end of next year. I also ask him to ensure the plan submitted by the design team last week will be turned around by the Department by the end of this month, if possible. I know that such a turnaround normally takes eight to 12 weeks, but priority must be given to St. Paul's and the delivery of the extensions at Cross and Passion College in Kilcullen, Athy community college, Patrician secondary school in Newbridge and the 500 spaces at St. Conleth's community college that are being constructed.

**Minister for Education and Skills (Deputy Richard Bruton):** I thank the Deputies for raising this issue. I can understand their concerns. I assure Deputy Fiona O'Loughlin that decisions on the location of schools are not political. Such decisions are not made by Ministers but by the Department. Every one of the 314 planning areas is treated in the same fashion. Areas are evaluated fairly against the demographic profiles available which are based on existing child benefit payments, school enrolments and local authority plans for housing developments. Decisions are based on the best available information and every area is treated equally.

There are five schools that have projects in the Department's plan for the next six years and that forms the background to the assessment of needs that has occurred. I can understand the Deputies' concerns about St. Paul's in Monasterevin and know that the Ceann Comhairle shares them. It has been in the six-year programme and is currently at stage 2b, detailed design stage, where the planning applications, fire certificates, disability access certificates and so on are provided. The design team submitted its completed stage 2b report on 10 April and it is envisaged that the review of same will be completed by the end of April. In February, the Department wrote to the school and the design team to give them an outline of the projected timeframe because it was acutely aware of the concern that the project should be subject to no further delays. It outlined that the pre-qualification element normally took eight to 12 weeks and explained the steps required to ensure the school would be a near zero energy building. This will be followed by progression to the tender stage which normally takes between seven and eight months. The Department has projected that construction will commence in the third quarter of 2019. In response to Deputy Martin Heydon's query, I can confirm that if the design team can deliver the project to proceed to construction at an earlier time, the Department will re-profile accordingly.

The Department is in the process of acquiring a site at Moore Abbey, Monasterevin. Agreement in principle was achieved in April 2013, but the vendor insisted on full planning permission being obtained prior to the sale being completed. Full planning permission was secured in July 2017 and the current state of play is that the Chief State Solicitor's office is working with the landowners' legal representative with a view to concluding the conveyancing. The Department is absolutely committed to completion of the school.

As regards the project at St. Conleth's community college in Newbridge, builders are on site and student intake is due to begin in September. The Athy College project has been devolved to Kildare-Wicklow Education and Training Board. The delivery of that building project will increase the capacity at the school by 600 pupils, with a long-term projected enrolment of 1,000. The Cross and Passion secondary school in Kilcullen is progressing. A technical site visit has been undertaken at that site. The delivery of this project will increase the capacity at the school by 200 pupil places. It is at project brief stage. The project at Patrician College in Newbridge is also at project brief stage. A site visit to the school has been undertaken. The Department will be in contact with that school in this regard. When the project is complete, it will provide capacity for approximately 900 students. It is against that background that I understand the Department has assessed that 1,700 additional school places are planned to be delivered as I have set out. The Department expects that there will also be some growth in the Kildare town planning area. It anticipates that it will be possible to meet the level of demand there by extending the capacity of existing provision. These assessments are kept under continuous review by the planning section of my Department. That is the basis on which the decision was made by the Department. Obviously, the data on which that decision was based is objective and assembled from independent sources.

**Deputy Fiona O'Loughlin:** I thank the Minister for his response. While I welcome the delivery of school accommodation in Newbridge, Kilcullen and Athy, I am confused about why south Kildare was on the list in 2015 but not on the list in 2018. Is there a suggestion that the political will which existed three years ago is now gone? Given that the population of County Kildare is growing exponentially, I cannot understand why it has gone backwards on the list. County Galway was included in the 2015 review and is included in the new-build list. Can the Minister provide figures that illustrate why County Galway was chosen and County Kildare was not chosen? We had a long conversation with the officials about the geographic information system yesterday. I certainly believe it is outdated. It is not as accurate as one would hope. While I am pleased to hear that the Minister will continue to review the position in south Kildare, I would like to hear the rationale for the decision not to include it. The provision of ASD units is a particular issue. We have 64 such units at primary level but just 18 at secondary level. I do not see where provision for additional ASD units has been included in the current plans. The position at St. Paul's secondary school in Monasterevin must be addressed with absolute urgency because the staff and students are operating in a difficult and challenging educational environment. Morale is really low. We need to have very fast delivery in relation to this school.

**Deputy Martin Heydon:** I thank the Minister for his response. I particularly welcome his important clarification that if the design team for St. Paul's secondary school in Monasterevin can deliver a new school building more quickly, the Department will roll with that. His confirmation that the school will be contacted on its latest design submission by the end of April is absolutely crucial too. The matter of choice is a very important one in this respect. People in the south Kildare area want increased choice of educational provision. That was the pre-

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dominant factor that led to the Educate Together campaign. I know there have been discussions between the Educate Together movement at national level and the school authorities at St. Conleth's Community College in Newbridge. I ask the Department to look at that because there are people who want increased choice to be provided in the south Kildare area. I welcome the decision of the patron of Brannockstown primary school, which has closed, to divest the school. I have been involved with the committee of Save the School Brannockstown. There is an opportunity for more choice in the provision of primary education in Brannockstown. It is a real possibility for the broader community there.

There has been a substantial increase in the population of south Kildare over the last couple of decades. The population of the county has increased by over 100,000. As the Government's Rebuilding Ireland policy takes hold, building sites are opening up. The increase in the number of planning permissions being granted is going to lead to further demographic pressures. We disagree with the Department's decision not to grant a new school in south Kildare, as announced last week. We will continue to ask the Department to ensure the ongoing analysis that has been mentioned by the Minister is expedited so that the proposed extensions that are needed at Patrician College in Newbridge, St. Conleth's community college in Newbridge, Cross and Passion College in Kilcullen and Athy community college are delivered as soon as possible. Each of these projects would provide the additional ASD classes that are badly needed in the south Kildare area. Even if these projects go ahead, the Department needs to keep an open mind regarding the provision of a new school. I believe such a school will be needed down the line.

**Deputy Richard Bruton:** I understand the Deputies' frustration. Approximately 30 planning areas, from a total of 314 such areas, have been approved for new schools. In some cases, the need is being met by programmes that are already under way. In the area we are discussing, five school projects are already under way. In other cases, the need is being met through the potential expansion of existing schools. As the Chairman of the joint committee, Deputy O'Loughlin has had access to the officials who advise me on these matters. I think they have made themselves available to assure her of how they are applying these rules. People can criticise the rules. I understand why people put the rules under scrutiny when decisions that are unfavourable to them are made. I assure the House that they are applied even-handedly and fairly across all areas.

As Deputy Heydon has said, we factor additional ASD units into our school programmes and they are being factored into these plans. Over recent years, we have more than doubled the number of ASD units at second level. The number of such units is growing more quickly than the number of such units at primary level. That reflects the success we are having in enabling students to continue on to second level. I assure the Deputies that I regard educational provision in south Kildare as extremely important. I will seek constant updates from the Department on the progress of St. Paul's secondary school in Monasterevin, in particular.

### **Revised Estimates for Public Services 2018: Messages from Select Committees**

**An Ceann Comhairle:** The Select Committee on Justice and Equality has completed its consideration of the following Revised Estimates for public services for the service of the year ending 31 December 2018: Votes 20, 21, 22, 24, 25 and 41.

The Select Committee on Transport, Tourism and Sport has concluded its consideration of the following Revised Estimates for public services for the service of the year ending 31 De-

cember 2018: Vote 31.

**Statement by Minister for Communications, Climate Action and Environment**

**An Ceann Comhairle:** The Minister for Communications, Climate Action and Environment has ten minutes in which to make his statement.

**Deputy Mary Lou McDonald:** Can we get copies of his statement before he proceeds?

**Minister for Communications, Climate Action and Environment (Deputy Denis Naughten):** I am sure they are on the way.

**Deputy Mary Lou McDonald:** It would be preferable to have them before the Minister starts.

**An Ceann Comhairle:** We will arrange to get it for Deputies.

**Deputy Denis Naughten:** In early September 2016, Independent News & Media, INM, announced that it had agreed a deal to purchase the portfolio of regional newspapers owned by the Celtic Media Group. The titles that were to be included in the deal were *The Anglo-Celt*, *The Meath Chronicle*, *Forum*, the *Westmeath Examiner*, the *Westmeath Independent*, *The Connaught Telegraph*, and the *Offaly Independent*. On 3 September 2016, after the public announcement by INM, the National Union of Journalists, NUJ, issued a statement calling on me, as Minister for communications, to investigate the implications of the proposed acquisition. According to Mr. Séamus Dooley of the NUJ:

In approving the acquisition the minister is required to consider the issues of media diversity and plurality. This is the first time these powers can be used by the minister, in addition to the powers of the Competition and Consumer Protection Commission.

In a further statement on 5 September 2016, Mr. Dooley called on me as Minister “to set up a panel of experts to investigate the acquisition and to ask the Broadcasting Authority of Ireland to carry out a fully statutory inquiry, as provided for in guidelines”. He argued that in light of “INM’s dominant position in the national newspaper sector and the dominant role of the chief shareholder in the independent broadcasting sector there are compelling reasons for an investigation into the full implications of this proposed acquisition”.

On 26 October, Deputy Brian Stanley said in this House that “the media landscape [was] on the verge of losing more diversity owing to the possible purchase of Celtic Media Group by Independent News & Media which is controlled or owned by Mr. Denis O’Brien”. He also raised media concentration concerns on foot of a European Parliament report, compiled by Lynn Boylan, MEP, which found that Ireland had one of the most concentrated media markets in any democracy. On 10 November, the NUJ said in a statement that I as Minister had power “to examine every aspect of the proposed acquisition” and urged me “to display political leadership and courage”. It went on to say: “failure to do so would represent an act of political cowardice, something we have experienced many times when it comes to challenging media interests”.

The Competition and Consumer Protection Act 2014, which sets out the powers of the Minister with regard to media mergers, states: “the undesirability of allowing any one undertaking

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to hold significant interests”. The guidelines define “significant interests” as interests in excess of 20% within a sector, or across different sectors of the media business in the State. Independent News and Media, INM, publishes the *Irish Independent*, the *Sunday Independent*, the *Herald*, *The Sunday World* and the *Belfast Telegraph*, and it has a 50% stake in the *Irish Daily Star*. Communicorp Group Limited, which is owned by the same shareholder, controls News-talk, Today FM, 98FM, Spin 1038 and Spin South West, and this was approximately 20% of the entire market. The Minister, in making his initial assessment, must have regard to the relevant criteria provided for in the Act and the guidelines on media mergers, among other matters.

The Independent News and Media decision to purchase a further seven regional titles with a significant online presence was always likely to lead to a phase 2 assessment. I would have failed in my responsibilities under the law if I did not do so and I would have been criticised in the House for not doing it. I have not seen the contents of the affidavit referred to in *The Irish Times*, nor am I aware of its specific contents other than the manner in which it is dealt with in the article. As this is a matter that is before the courts I cannot comment on the affidavit itself. However, I confirm that I received a phone call from Mr. Eoghan Ó Neachtain, former press secretary to a number of Governments, on 10 or 11 November 2016 informing me that the Competition and Consumer Protection Commission had approved the Independent News and Media acquisition of the Celtic Media Group. This was in advance of the Competition and Consumer Protection Commission communicating the decision to me.

It was common knowledge that this was a very significant acquisition with a significant geographical impact. I expressed a purely personal view that the likely course of action would be a referral to a phase 2 assessment in accordance with the guidelines in light of the diversity and media plurality assessments required and in light of the scale of the proposed acquisition, its geographical concentration and the extent of ownership of regional media by Independent News and Media at that point. According to advice from the Office of the Attorney General, in the context of there being a decision by the Competition and Consumer Protection Commission, the legislation about such referrals to the Broadcasting Authority of Ireland is clear that referral is an option to me as Minister when there is a planned media merger. If this is so, there is nothing wrong or inappropriate with me as Minister saying to anyone or to the public that if the plan for the merger continued I would take advice on sending it to the Broadcasting Authority of Ireland, BAI. This is not inside information but simply a reflection of the legislation. I had no inside information to give.

It may have been preferable if the conversation had not taken place but I was by no means expressing a definitive view, nor could I do so at that time. Nor did I state that the view expressed was a confidential one as the article seems to assert. I clearly stated that I had made all previous decisions solely based on the advice provided to me by my officials and I reiterated that I would adhere to that approach in this case as well.

There seems to be a misunderstanding about the nature of the media merger process. It is not a secret process. Guidelines on the process are publicly available on my Department’s website. The same guidelines were subject to a detailed public consultation prior to their finalisation. Prior to the phase one decision I answered six parliamentary questions in the Dáil on the acquisition and was, for example, exhorted by the National Union of Journalists and certain political parties to use all powers available to me to examine all aspects of the acquisition. The mergers process went through the full rigour required by the Act and the guidelines after it was received by me on 21 November 2016 and a recommendation was made by my officials on 4 January 2017 that the acquisition be referred to a phase 2 examination. This was approved by

me on 10 January 2017. The vast majority of the documentation has been on my Department's website since last July but I would be very happy for any Member of Dáil Éireann to come to my Department and view the full file on this merger as I have acted to the letter of the law throughout this process.

**An Ceann Comhairle:** We will now have a question and answer process, with one minute for a question and one minute for an answer. Six minutes has been allocated to each group.

**Deputy Timmy Dooley:** On 6 December 2016, in response to a question as to what the Minister's intentions were in response to the proposed Celtic media takeover, he stated "I have not made my views known and I am not going to." He said it would be "not appropriate for me to provide any further comment while this case is under consideration". By his own admission, on 12 November the Minister communicated information to a public relations executive. The information was sufficient enough, we understand from what is reported in today's *The Irish Times*, to allow the company to communicate to one particular shareholder the understanding that the Minister would refer the decision to the BAI. Is that correct? If it is, how can the Minister not understand that this provided privileged information?

The Minister is trying to conflate two issues. He is trying to suggest on one hand that the process is not secret. We know the process is not secret and it is set down. There are three options. What is secret or at least just something known to the Minister is which option the Minister will pick. Will the Minister please explain to us with some clarity how on the one hand he refused to tell the House what his intention was but he was prepared to provide appropriate - as he saw it - information in a secret phone conversation with a public relations executive?

**Deputy Denis Naughten:** The application came to my Department on 21 November. The phone call I had with Mr. Ó Neachtain was in early November. The only new information I gave at that time was that I would take the advice of my officials in making whatever decision I would make. I said in the House on 6 December that I had not received the report from my officials, and I had not at that stage. I said I would consider the report from my officials. At all stages throughout this process I have taken the full advice that has been provided to me by my officials. I did not have any insider information relating to it. I had nothing to give. The guidelines and the processes are in the public domain and I applied those to the letter of the law.

**Deputy Timmy Dooley:** Is the Minister disputing the reported contents of the email that now forms part of the affidavit? Is he disputing that Mr. Ó Neachtain understood from the Minister that he intended to refer the decision to the BAI? Is he disputing those facts?

**Deputy Denis Naughten:** I do not know what is in the email. I have not seen the email or the affidavit. I can without contradiction clearly state that I made it crystal clear on that occasion that I would be taking the advice of my officials and applying it to this decision, as I had done with all previous decisions to that point. The file will clearly show with each hurdle along this very complicated process that I took absolutely all the advice given to me. I made no alteration to any of that advice and I approved the recommendations presented to me.

**Deputy Timmy Dooley:** It is not credible that a public relations executive hired by a company of the size and scale of INM would attempt to mislead his client. It seems very clear to me from what is reported today that the email communicated with some considerable level of a definite understanding that the Minister would ultimately send the decision to the BAI. As I understand it, the Minister is disputing this, which is where the crux seems to lie. Will the Min-

ister clarify for us that he is not accepting the position that seems to be contained in that email?

**Deputy Denis Naughten:** I do not know what is in the email and I have not seen it. Let me be crystal clear that what I stated was my own personal view that based on what was already in the public domain and the guidelines and criteria there, it was likely to go to a phase 2 assessment. I also put in a caveat relating to it. I made it crystal clear that I would be guided by the advice of my officials. At that stage I was not even aware that the Competition and Consumer Protection Commission had made its decision. The application did not come into our Department until later that month. When I came into the House on 6 December, there was an active file being assessed in the Department. It was received in my private office on 4 January 2018. On the advice of my officials, I made the decision subsequently to refer it on. The file will clearly show that I in no way interfered at any stage in this process. That file is open to any colleague here to inspect.

**Deputy Timmy Dooley:** The Minister said an interesting thing - that he communicated his personal opinion to Mr. Ó Neachtain. How does he think that his personal opinion is relevant here? Does he not see himself as a Minister or is that sometimes his personal opinion does not coincide with his opinion as a Minister? I find that rather bizarre. It is almost like the Minister is attempting to throw out this notion that he did something in a personal capacity. His thoughts and ramblings were his views as the Minister who would ultimately have to take that decision. He is being accused of providing information to one party as to where he expected this to go or how he intended to deal with it. Yet, he came in here on 6 December and told us he had no intention of giving us any information.

**Deputy Mary Lou McDonald:** There is an initial contradiction between the Minister's statement and his commentary. He did know the decision of the Competition and Consumer Protection Commission because Mr. Ó Neachtain informed him of it. It is not correct to say he had to wait until 21 November to know that. Time is limited. The Minister has confirmed for us that the call in question happened, that it happened with Mr. Ó Neachtain, that he spoke to him in the full knowledge that Mr. Ó Neachtain was acting on behalf of Independent News and Media and the Minister was aware from September that INM was looking to acquire, or to merge with, Celtic Media Group. All of that information was in the Minister's possession.

The Minister contends that was appropriate. I can tell him that it absolutely was not. The process of media mergers is not secret. It is statutory, regulatory and the Minister is responsible for it. Which official in the Minister's Department knew that he was speaking to Mr. Ó Neachtain? Is there a verbatim note on or log of that telephone conversation?

**Deputy Denis Naughten:** No, there is not because I did not, and still do not, see the significance of it. It was a conversation I had based on the information in the public domain. I had been provided with no detail. My Department had been provided with no detail of the acquisition. That did not come into the Department until later that month. I was not in possession of any information other than the information that was in the public domain. If the information in the public domain was matched with the guidelines and processes on the website, it was clear for anyone that this was likely to go to a phase two assessment.

**Deputy Mary Lou McDonald:** The Minister is being disingenuous. He should not add to his woes. He needs to be clear and upfront when answering questions. He has, in my view, previously misled the Dáil. Even according to his own statement today, the Minister told Mr. Ó Neachtain what his course of action would be and that there would be a phase two examination.

The Minister says this was a personal view. He is the Minister. He was speaking to somebody acting on behalf of the party that wished to carry out this takeover. That is not a personal view. The phone call happened. It happened in the way described in this affidavit. The Minister gave inside information to Mr. Ó Neachtain. He conceded as much in his opening statement. When he takes to his feet, the Minister needs to accept that was outside of the law, inappropriate and that that call should not have taken place.

**Deputy Denis Naughten:** I said in my opening statement that it would have been preferable if the conversation had not taken place and I reiterate that. It was by no means a definitive view and nor could I have done so at that time. I said it would likely that it would go to a phase two assessment, but I also made it crystal clear that I would be guided by the advice of my officials when the application came before us. The file had not come to our Department at that stage. It did not come to our offices until the end of November and it was dealt with appropriately at that stage. The fact is that-----

**Deputy Mary Lou McDonald:** The Minister is waffling now.

**Deputy Denis Naughten:** -----the information, and the commentary I made, was based on the information already in the public domain.

**Deputy Mary Lou McDonald:** It was not in the public domain. In fact, the Minister was very careful not only not to put it in the public domain but not to put it on the record of the Dáil. As the Minister knows, and this has been well rehearsed, on 6 December my colleague, Deputy Brian Stanley, asked him what his course of action was going to be. The Minister said that he had not made up his mind. However, the truth is that he had decided on his course of action. He was not prepared to share that information with the Dáil but he was perfectly prepared to share it with a person who he knew was acting on behalf of INM. If ever there were inappropriate actions, and I would go so far as to say a dereliction of duty by the Minister, there we have it. The call should not have happened and he should not have given what the Office of the Director of Corporate Enforcement regards as insider information. It was not a personal view. The Minister gave a response as Minister. Was this the first conversation he had with Mr. Ó Neachtain? Was it the last conversation he had with Mr. Ó Neachtain? Why did the Minister wilfully and deliberately mislead the Dáil on 6 December?

**Deputy Denis Naughten:** I did not wilfully or in any other way mislead the Dáil. On 26 October, Deputy Brian Stanley questioned me in the House on the Celtic Media Group acquisition. At that stage, it was with the Competition and Consumer Protection Commission. Deputy Stanley made the point that there was a question mark over losing more diversity owing-----

**Deputy Mary Lou McDonald:** He is talking about the past.

**Deputy Denis Naughten:** -----to the possible purchase of-----

**Deputy Mary Lou McDonald:** I have asked about 6 December.

**Deputy Denis Naughten:** -----the Celtic-----

**Deputy Mary Lou McDonald:** I have the verbatim script here and I am happy to read it into the record of the House again.

**An Ceann Comhairle:** The time is up now. I am sorry. The Minister can conclude.

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**Deputy Mary Lou McDonald:** The Minister needs to answer as to why he misled the Dáil.

**Deputy Jonathan O'Brien:** How many conversations?

**An Ceann Comhairle:** No, he does not because he has not been given time. I call Deputy Howlin.

**Deputy Brendan Howlin:** There is no record of a phone call on 11 November in the lobbying register. This was a private call relaying private information that was not publicly available. In response, as others have said, to the parliamentary question from Deputy Murphy on 6 December, the Minister said that the case was under consideration. He told Mr. Eoin Ó Neachtain 25 days previously that he would be referring it to the BAI. This information was not on the public record. There was a clear statutory process in place. In his reply, the Minister said that it would not be appropriate for him to provide further comment while the case was under consideration. That is what he told the Dáil. Yet, he was happy to provide that information previously to a lobbyist. Why?

**Deputy Denis Naughten:** When I spoke to Mr. Ó Neachtain, I gave a view that it was likely to go to a phase two. I was not in any way definitive in regard to that. What I was definitive about, and the only new information Mr. Ó Neachtain received on foot of that conversation, was that I would be taking the advice of my officials and applying their recommendations to my decision. That was what I did both in terms of the phase one assessment and the recommendations made to me. I made absolutely no alteration whatsoever to those. I complied with the recommendations made to me by my officials and in regard to the other stages throughout this process. I made it crystal clear to Mr. Ó Neachtain at the time that that would be the view that I would take. I did not have any insider information to provide to Mr. Ó Neachtain at the time. The only information I had was based on what was already in the public domain.

*(Interruptions).*

**Deputy Brendan Howlin:** The Minister had three options under the Act. Referral to the BAI was one of them.

Why did the Minister reveal his intended choice, before the process even got under way, to an interested party on a matter that obviously was price sensitive to the share price involved? Does the Minister consider that to be an appropriate or proper act of a Minister?

**Deputy Denis Naughten:** I did not give any definitive view to Mr. Ó Neachtain. I made it quite clear to him that it was likely to go to phase two. That was my own opinion but I also made it crystal clear to him that I would be going on the advice that was provided by my officials. As I have said, the only new information that I gave him was that I would be taking the advice of my officials, and that is what I did.

**Deputy Mary Lou McDonald:** That is not true. That is not what the Minister said in his statement.

**Deputy Brendan Howlin:** What advice did the Minister's officials give him subsequent to the Minister having this telephone call? Presumably, the Minister advised his officials that this telephone call had taken place. What did the Minister's officials tell him in respect of the appropriateness of this? Did the Minister conceal the fact that he had had this conversation from

his own officials? Is that why incorrect information was given in a reply to a parliamentary question subsequently? Was it because the Minister's officials were not aware that this conversation had taken place and that the process - it is a statutory process and public, but elements are obviously confidential because they are price sensitive - had been undermined by the Minister's actions?

**Deputy Denis Naughten:** My officials were not aware of this conversation because this was a conversation that I had with Mr. Ó Neachtain based on the information that I had at that time, which was information that was in the public domain based on the criteria clearly laid out in respect of media diversity and media plurality. The file and application had not come in to our Department at that stage. When I did address the House on 6 December, that was an active file within my Department at that stage. I pointed out at the time that I had not received the report from the officials. I had said previously that I would be guided by the advice of my officials and that is what I did.

**Deputy Brendan Howlin:** The Minister told no officials about this call. Therefore, I presume the call did not come through on an official line. Was the Minister contacted then on his private line at home or on his private mobile telephone by Mr. Ó Neachtain directly? Is that what the Minister is telling us? Is he saying nothing of that discussion ever was communicated to the officials dealing with this issue in his Department?

**Deputy Denis Naughten:** No, it was a mobile phone call. Yes, it was a mobile phone call that I received from Mr. Ó Neachtain. As I have said, I was not aware at the time until he pointed it out to me that the Competition and Consumer Protection Commission had made its decision. I expressed my personal view that it was likely to go to phase two. That was based on the comments of Deputy Stanley, the report of Lynn Boylan, MEP, the National Union of Journalists views in the public domain and the scale of this acquisition based on the guidelines laid out and published on my Department's website.

**Deputy Brendan Howlin:** Was this the only communication the Minister had with representatives of the public relations agency or agents of Independent News & Media? Were there any other telephone calls?

**An Ceann Comhairle:** The answer is "Yes" or "No", Minister.

**Deputy Denis Naughten:** I have had probably hundreds of journalists question me on this particular issue.

**Deputy Brendan Howlin:** I did not ask about that.

**An Ceann Comhairle:** Time is up, Minister, I am afraid.

**Deputy Denis Naughten:** I want to be comprehensive on the matter.

**Deputy Alan Kelly:** Let him answer.

**Deputy Denis Naughten:** Colleagues in the House had raised the issue with me on a regular basis.

**Deputy Alan Kelly:** What about the PR agency?

**Deputy Denis Naughten:** The staff of the *Westmeath Independent* had raised it with me

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following an on-the-record interview.

**Deputy Brendan Howlin:** My question was about Independent News & Media or representatives of the company.

**Deputy Denis Naughten:** With regard to Independent News & Media, I did have a conversation with Leslie Buckley on 3 May 2017 at the data summit. That was the only other engagement that I had with staff of Independent News & Media.

**Deputy Mary Lou McDonald:** Why was that information not in the Minister's statement?

**An Ceann Comhairle:** Thank you, Minister. We have to move on. Solidarity has the next question.

**Deputy Mary Lou McDonald:** The Minister's statement was lacking in detail.

**An Ceann Comhairle:** Deputy Mick Barry is next.

**Deputy Mick Barry:** They say that when a person ascends into the Cabinet it is time to start playing senior hurling, but I think when a Minister is being lobbied by big business-----

**Deputy Michael Creed:** It is a matter of standing up to them.

**Deputy Mick Barry:** -----it is less a case of senior hurling but sumo wrestling in the mud in reality, because this is very murky.

The Minister said that at the start of the telephone conversation the lobbyist gave him some information that he was not aware of, that is, the result from the Competition and Consumer Protection Commission. He gave the Minister something. The Minister responded by giving him something back, did he not? The Minister responded by giving him back a little information that he did not know. The Minister told him that it was likely that the Minister would be referring the matter, as he has explained. He was the first person to get that information. The National Union of Journalists was knocking on the door of the Minister looking for a meeting to find out what would happen next, but the first person to get the information was the big business lobbyist. There was a trade of information. In my opinion insider information was given to him. Is that not exactly how it happened?

**Deputy Denis Naughten:** The National Union of Journalists said of me on 10 November that I had the power to examine this acquisition. The union urged me to display political leadership and courage. The union went on to say that failure to do so would represent an act of political cowardice, something we have experienced many times when it has come to challenging media interests. The only new information that I gave Mr. Ó Neachtain in that conversation was that I would be taking the advice of my officials-----

**Deputy Pearse Doherty:** That is not true. That is not what the Minister said in his statement.

**Deputy Denis Naughten:** -----and that is exactly what I did. I did not have insider information. I did not have confidential information, so I could not have disclosed it to him.

*(Interruptions).*

**An Ceann Comhairle:** Can we have order please for Deputy Barry?

**Deputy Mick Barry:** It is not correct that the only thing the Minister said to him that was new was that the Minister would be following the advice of his officials. The Minister told him that in his opinion this was going to end up being referred to the Broadcasting Authority of Ireland. That was new information for him. That information was quickly relayed to Denis O'Brien. It was information which had an effect on the share price. It was information which others outside, who are better placed to judge, believe was insider information.

What did the Minister talk about with Leslie Buckley in May 2017? Why was that not included in the Minister's statement? Why did it have to be dragged out of the Minister in the course of this debate? What was said in that conversation? Can the Minister tell the House?

**Deputy Denis Naughten:** I met with Leslie Buckley on 3 May 2017 at a data summit in the RDS organised by Independent News & Media. I was a speaker at it. Leslie Buckley greeted me and we exchanged small talk before I actually addressed the event. I left immediately after that event. At that stage the Broadcasting Authority of Ireland was still considering the matter in respect of its determination.

The reality is that at that stage if any Member here in the House was asked what his perspective was, based on all the information that had been in the public domain, he would have said that this was an application that would have to go to the BAI.

**Deputy Pearse Doherty:** Everyone bar the Minister.

**Deputy Denis Naughten:** Everyone would have been of that view. In fact, had I not done that and had that not been the advice, I would have been grilled here in the House as to why I did not take that approach.

**Deputy Mary Lou McDonald:** Did Leslie Buckley subsequently-----

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

**Deputy Mick Barry:** Sorry, it is my question. On 6 December the Minister did not give that answer to the House. The Minister did not say that the dogs on the street and every Deputy in the House - presumably including the Minister - knew that this was where it was going to go. The Minister said that there was a whole menu of options. That is very different from the information the Minister provided to the lobbyist four weeks previous to that.

By the way, what about the conversation on 3 May 2017 at the data summit? There was small talk. There would be a little small talk. I am asking the Minister to indicate that all that happened in that conversation was small talk. Does the Minister believe that it is entirely credible that a conversation between the Minister and a senior executive of Independent News & Media at that stage in the process would simply be confined to small talk? Was that all it was? The National Union of Journalists, NUJ, has just called for the 2012 finding that the 29.9% stake of Denis O'Brien in Independent News and Media, INM, is not a controlling interest to be reviewed. Does the Minister support that call? Does he believe there would have been a conflict of interest for Mr. Heneghan's company? He was lobbying for INM, was he not? Is he not on the compliance board of the Broadcasting Authority of Ireland? Is there an issue there, in the Minister's opinion?

**Deputy Denis Naughten:** First, on the conversation I had with Leslie Buckley, I am trying to recall the detail of that, but I do not recall him raising with me at that stage the issues that are

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currently before the House. If he had, I would have been quite consistent, as I was with every other individual who raised this issue with me, that it was part of an ongoing process and that I was not prepared to comment any further on it.

I want to answer the question on the BAI because it is a very valid question. Nigel Heneghan is the chairperson of Heneghan PR. Nigel was appointed to the BAI compliance committee on 17 February 2015 by the then Minister with responsibility for communications, Alex White. His term of appointment is for five years, ending on 16 February 2020. The BAI has confirmed that the compliance committee has no functions under the Competition and Consumer Protection Act 2014 and played no part in the consideration of the proposed acquisition of Celtic Media Group by Independent News and Media. The consideration of this proposal was undertaken by the authority following the referral by me in January 2017.

**An Ceann Comhairle:** I call Deputy Broughan.

**Deputy Thomas P. Broughan:** The Minister said that it may have been preferable if the conversation had not taken place. Is he saying then that he deeply regrets that the conversation took place, that it should not have taken place and that, in that case, he did not carry out his function as Minister appointed by this House?

The Minister was interrupted when he was responding to Deputy Howlin regarding other groups, obviously journalists, the trade union and other representatives who had contacted him in that period, particularly the mid-November period. Was he contacted by other stakeholders in the industry, other media groups, *The Irish Times* or whoever?

**Deputy Denis Naughten:** The reason I believe it would have been preferable had I not had that conversation is that I would not be in here answering these questions, but the reality is that I did not have any sensitive or confidential information to impart at that time, and I did not. As I said, the only new information that I gave was that I would be taking the advice of my officials, and that is what I did do.

To return to an earlier question, the Broadcasting Authority of Ireland will be reviewing the ownership and control policy later this year and producing a report on it.

To answer Deputy Broughan's question, there was an array of journalists. In respect of every interview I did over this period, journalists from every single media outlet asked me questions. As I said, colleagues in the House asked me as well about it. I consistently told them the exact same answer, that this was an ongoing file and that I would consider it once the report was put in front of me.

Following an on-the-record interview with the *Westmeath Independent*, I was approached by a number of journalists and staff employed there who were anxious about their jobs in light of the proposed acquisition. While there was a discussion regarding the possibility of meeting the editor of the *Westmeath Independent*, I made a decision not to meet him. Regarding anyone else, I cannot recall anyone specifically whom I met, but everyone across the media sector would have raised this issue with me. I was consistent in my reply that it was an ongoing process and that I would consider it once the report was put in front of me.

**An Ceann Comhairle:** Does Deputy Connolly have a question?

**Deputy Catherine Connolly:** Go raibh maith agat, a Cheann Comhairle. Regarding the

phone call from Eoghan Ó Neachtain, and the Minister referred to the fact that he was a former press secretary, the Minister did not include in what capacity he was acting on that day. We will probably know that from the media but the Minister left that out of his statement. What was the purpose of the call? Was it simply a friendly call to tell the Minister that this decision had been made, which he was not aware of as Minister? Will the Minister put the phone call in context for me, please? The Minister then said he was not sure which date that was. Clearly, it will be recorded on the phone which date it was. Is that not right? That would be a simple factual matter.

**Deputy Denis Naughten:** I am not definitive whether it was either the 10th or the 11th. I just cannot recall. I think Mr. Ó Neachtain, from media reports, seems to think it was the 11th and that may very well have been the case. That was the first that I had heard of the Competition and Consumer Protection Commission, CCPC, announcement. I had not made that. It was a very brief conversation with Eoghan Ó Neachtain to say that this file would now be coming to me, that the CCPC had made its decision on it and I made it crystal clear that I would be going strictly on the advice that was provided to me by my officials, and that is exactly what I did.

**An Ceann Comhairle:** Does any member of the Social Democrats or the Green Party have a question? I call Deputy Catherine Murphy.

**Deputy Catherine Murphy:** I asked the Minister a priority question on the 6th of that month and he responded on the record and set out the process, but he had already spoken to a lobbyist on behalf of INM on the 11th, and that is what he has told us on the record. Did it not strike him as strange that this lobbyist was telling him what the Competition and Consumer Protection Commission was going to do? Given that the Minister has a quasi-judicial function in this particular matter, would he not have realised that he needed to say, “I cannot talk to you on this issue because this decision is part of a process”, the process that the Minister outlined to me? Does the Minister accept that by talking to him and telling what he did tell him, namely, that it would probably go to the BAI, he misled the Dáil when he came in here on the 6th and outlined the process without telling us that?

**Deputy Denis Naughten:** No, I did not mislead the Dáil. What I told the Dáil was that when I received the report from my officials, I would make a decision based on that report, and that is what I told Mr. Ó Neachtain in that telephone conversation. That was the only new information that Mr. Ó Neachtain would have received about that. I did not have any insider information. I did not have any information provided to me at that stage. I have said that it would have been preferable had the conversation not taken place, but I again reiterate that by no means was I expressing a definitive view, nor could I at that time because there was nothing in front of me or with the Department at that stage.

**Deputy Eamon Ryan:** Countless journalists, rightly, asked the Minister a question on this issue, as did Members of this House, and on 6 December he answered the Dáil and stated: “I have not made my views known and I am not going to. I have a decision to make”. I do not know what the Minister said to any of the other journalists. I presume they will check what he said at that time. Surely, however, there was a difference in what he said to Mr. Ó Neachtain in that he indicated to him that he would likely make the decision, and that is the difference.

What is the Minister’s personal relationship or connection to Eoghan Ó Neachtain? How did he get to know him or how long has he been working with him over the years? How could Eoghan Ó Neachtain ring the Minister and he take the call. I know Eoghan Ó Neachtain very

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well. Most people here would as well. Has the Minister had a particular relationship with him, was this the first time he may have been talking to him, would he have been talking to him regularly, or would they have worked together in the past?

**Deputy Denis Naughten:** I know Eoghan Ó Neachtain like the vast majority of the Members of this House. He worked here for a long number of years. He was a Government press secretary to, I think, three different taoisigh, both Fianna Fáil and Fine Gael taoisigh, and that is how I would have known him. I would have had conversations with him not that regularly, mostly about rugby, believe it or not, because we both have an interest in Connacht Rugby, and both of us would have marched together a number of years ago to save Connacht Rugby at that stage. That is my affiliation with Eoghan Ó Neachtain. I think most colleagues here would have had some contact with him. I think quite a number of colleagues would have had communication with Heneghan PR over the last period of time-----

**Deputy Ruth Coppinger:** Funnily enough, no.

**Deputy Mary Lou McDonald:** Strangely enough, no.

**Deputy Denis Naughten:** -----if one were to review the register. The only information, as I said, that I gave Eoghan Ó Neachtain was that I would be taking the advice of my officials, and I was quite categoric in relation to that.

**Deputy Pearse Doherty:** That is not what the Minister's statement indicates.

**An Ceann Comhairle:** Are there any further questions? I call Deputy Catherine Murphy.

**Deputy Catherine Murphy:** Does the Minister accept it was an error of judgment to continue with that phone call? Does he accept that not notifying his officials that the phone call had taken place was an error of judgment, or did he notify his officials that the phone call had taken place and the nature of the phone call? If the Minister did not notify his officials, was that not an error in judgment?

**Deputy Denis Naughten:** No, I did not inform my officials because, at the time, there was no active file within the Department. I had made it clear to Mr. Ó Neachtain that I would be following the advice of my officials. As I have already said, I would have preferred it had the conversation not taken place, but it did. However, I made it crystal clear at the time that I would be basing my decision on the advice that I would receive from my officials and that I would not deviate from it.

**Deputy Mary Lou McDonald:** That is not what he is saying.

**Deputy Denis Naughten:** The view that I gave was based on the information that all of us had and was in the public domain-----

**Deputy Jonathan O'Brien:** That is not what he says.

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

**Deputy Denis Naughten:** -----the guidelines and procedures that were in place and outlined on our website, and the scale of the issue.

**Deputy Jonathan O'Brien:** That is not what he said.

**Deputy Denis Naughten:** That is consistent with the commentary from Deputy Stanley in the House-----

**Deputy Brian Stanley:** No.

**Deputy Denis Naughten:** -----the National Union of Journalists and other commentators in this area outside the jurisdiction.

**Deputy Brian Stanley:** That is very disingenuous.

**Deputy Jonathan O'Brien:** He says the Minister told him based on the advice of the latter's officials.

**An Ceann Comhairle:** The Minister may now make his five-minute concluding statement.

**Deputy Denis Naughten:** I have absolutely nothing to hide in this regard. I encourage colleagues to look at the file that is available in my Department. Go through it-----

**Deputy Mary Lou McDonald:** Publish the file.

**Deputy Denis Naughten:** No. There is confidential information in it-----

**Deputy Brendan Howlin:** Then how can we look at it?

**Deputy Jonathan O'Brien:** That is all right. We will ring the Minister.

**Deputy Denis Naughten:** -----and it would lose value if it was redacted. The file is there for people to inspect for themselves the exact process that was followed. There is a large volume of paper and the majority of the file has been on our Department's website since last July. Any colleague who wants to see the full file is welcome to come to the Department and go through it page by page. It is there, it is clear and it is transparent. I applied the legislation as laid out and based my decisions solely on the views of the officials. I accepted in full the recommendations that were received by me from the officials.

**Deputy Pearse Doherty:** The Minister is missing the point. This is a publicly listed traded company. The share value is the issue.

### **Provision of Objective Sex Education Bill 2018: Second Stage [Private Members]**

**Deputy Paul Murphy:** I move: "That the Bill be now read a Second Time."

I wish to share time with Deputy Bríd Smith at ten minutes apiece.

When we announced that we were introducing this Bill, we were inundated with school students contacting us about the backward nature of the education they had received. I will cite a few examples to give a picture of how large a problem it is this country is facing. Sarah, a student from Dublin, stated:

We were basically told we should wait until marriage to have sex. To emphasise this point, the teacher took a piece of sellotape, stuck it to her hand, ripped it off and showed us the bits of dirt now stuck to it.

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She likened this piece of tape to each girl, and her sticking the tape down to her skin as each boy the girl kissed. She kept repeating this action, basically showing us that kissing many boys made you very dirty.

When the tape lost its stickiness, she proudly used this as an example of how we became emotionally unable to “stick” to one person if we keep “kissing all these different boys”.

Niamh stated: “I vividly remember the teacher referring to contraception as “the C-word”. She didn’t like saying it in the classroom as it was against the ethos of the school.” Eoin in Cork explained that a teacher briefly listed forms of contraception and noted that these did not always work. She told him and his classmates that they should abstain until they were willing to take on the responsibility of parenthood. No mention was made of homosexuality. I could go on and fill a 20-minute slot with the responses that we received. They are not isolated examples, as demonstrated by recently published research by NUI Galway on smart consent. While it made a number of findings, the headline figure was that 76% of students believed their school sex education left out a great deal of important information.

The truth is that sex education in Ireland is in the dark ages. We are behind the sex education introduced in Sweden in 1942. In 2018, we have sex education where LGBTQ+ people are often not mentioned, contraception is barely referenced, the notion of a need for positive, enthusiastic consent does not feature at all, and there is a contrast between what is taught to boys and what is taught to girls. The sexist so-called gatekeeper model is taught, with girls warned about sexual activity and boys taught nothing about consent.

The reason for this is contained in the importance given to the notion of religious ethos, which informs much of the relationship and sexuality education, RSE, given in our schools. When one reads the Irish Catholic Bishop’s Conference document, *Guidelines on Relationships and Sexuality Education*, one sees why our education is so inadequate. It reads:

Any attempt to communicate “the facts of life” as mere facts without reference to the religious and moral dimensions of human sexuality and without reference to the pupil’s need to grow in maturity would be a distortion. Scientific facts are not the whole truth about human sexuality and reproduction. To allow children to become aware of the mere facts without being helped to see them in their rich human meaning would be to deprive them of the truth.

According to the Irish Episcopal Conference’s document, entitled *Catholic Preschool and Primary Religious Education Curriculum for Ireland*, a “Christian practises the virtue of chastity by cultivating decency and modesty in behaviour, dress and speech” and sexual intercourse “is an act of love within marriage”.

Unfortunately, most school students receive RSE that is grossly distorted by the religious ethos of their schools. In many cases, it is provided by outside religious agencies. It is a model that is desperately failing young people and wider society. A transformation is needed.

Another NUI Galway report on sexual health and attitudes in 2017 showed that 45% of females and 41% of males reported their first sexual intercourse as having occurred at 17 years of age or earlier. It demonstrated the horrifying prevalence of sexual assault, with 12.5% of females and 2.5% of males reporting experiencing sexual assault where physical force or threats of physical force were used, and 20% of females reporting sexual contact being attempted unsuccessfully in that way. A transformation is necessary when one considers some of the back-

ward attitudes that are still prevalent in society, particularly among men. Of males, 37% agree with the statement that, if a girl acts like a slut, she will eventually get into trouble and 35% agree with the statement that guys do not usually intend to force sex on a girl, but sometimes they get too sexually carried away.

The worldwide prevalence of sexual assault, harassment and rape was seen in the #MeToo movement, where 4.7 million people posted #MeToo comments on social media within the first 24 hours. It expanded from there. It is linked to the pornification of mainstream culture. An article by Dr. Debbie Ging explains what that means very well. According to her, it is not about the greater visibility of sex, but of the greater visibility of sex as sex in which women are degraded, the sexual double standard still prevails and consent remains disputed.

There is a backlash on the street and on social media and in movements against that sexist culture. We saw the large protests in the aftermath of the Belfast rape trial around #IBelieveHer and #WeStandWithHer. Young people are leading that movement with an awareness of the problem of sexual harassment and sexism and an understanding of consent as something that needs to be explicit, mutual and continuous.

Societal change is needed. A key part of that is the giving of objective and factual sex education. Instead of being a laggard in terms of RSE, we want to see the world's best sex education. This Bill will remove the legal barrier to achieving that. We are not just discussing a few tweaks or minimal changes. Rather, we are discussing a fundamental change and the introduction of sex education that is factual, impartial, objective and responsive to the needs of young people. We are discussing sex education that is LGBTQ+ positive and which teaches in a positive way about all sexualities, including heterosexuality, homosexuality, bisexuality and asexuality, and one that covers all genders - male, female, gender fluid people and non-binary people. The desperate need for this can be seen in the crisis of mental health for LGBTQ young people. A GLEN survey in 2016 found that 56% of LGBT people aged 14 to 18 had self-harmed and 70% had suicidal thoughts.

We need sex education that covers methods of contraception comprehensively and educationally. Currently, there are students who are not taught anything other than abstinence and the model advocated by the Catholic Church. Sex education that covers the termination of pregnancy in an objective manner is needed due to the experience teenagers have where outside anti-abortion groups are brought into schools to give their views. Sex education that teaches about sexual health is needed. STIs in Ireland are rising among young people at an alarming rate; there was an 11% rise in STIs among 15 to 25 year olds between 2016 and 2017. We need young people to be taught about regular testing for STIs and for them to learn that HIV is not only preventable but also treatable. Crucially, we need a sex education that has consent at its very core - consent that has to be explicit, mutual and continuous. It should teach young people that relationships and sexual activity should make them feel good and that pleasure is a measure of consent.

I want to send a very clear message to the Government that this Bill being left languishing on Committee Stage will not be accepted. It is being supported by a wide range of organisations, many of which are here. They and the school students who have pushed it will not accept it simply not going anywhere. They will not accept the Government proposing minimal changes to our current RSE programme. The Bill points to a key issue in Irish society, that is the contrast between the influence of the Catholic Church over our schools, healthcare and society and the attitudes of young people and their aspiration for objective, factual sex education and a

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modern society. There is no problem with the Catholic Church or other churches propagating whatever beliefs they have about sex but there is a problem with those beliefs being imposed on young people in schools. We need a separation of church and State. It is only a year ago the Government wanted to hand over the national maternity hospital to a religious order. It was forced back by a movement of protest. We are now having a referendum to repeal the eighth amendment which puts the view of one particular religious belief into the Constitution meaning those who are pregnant are restricted in their choices. There is a long, dark history in this country of religious-based laws on contraception, censorship, women's position in workplaces and homes and on same sex relationships. Those laws have been fought against and there have been important victories after campaigns and struggles. All of that points to the need for the separation of church and State.

This is the third Bill we have had on the issue of school ethos. The issue is not going to go away. People will force it and demand that the Bill becomes law and that the movement will develop and grow. There is nothing the Government will be able to do to stop it until we have a full separation of church and State and a secular society.

**Deputy Bríd Smith:** I congratulate Deputy Coppinger on the Bill. In its simplicity, it does what we have needed for a long time in the State. The Bill complements the campaign to repeal the eighth amendment. All of us who were engaged in the process of watching and learning from the Citizens' Assembly and who were engaged in the Joint Committee on the Eighth Amendment of the Constitution will be aware that one of the strong recommendations from that process, which is connected to the question of crisis and unwanted pregnancy, is the question of non-ethos founded, factually based sex education in our schools. Sex education has been mandatory in Ireland for the past 30 years. It is a crucial element in fertility control and sex control. Research confirms that in Ireland and elsewhere, those who have received proper, factual sex education are more likely to use contraception, more likely to be clean of sexually transmitted diseases and are less likely to experience crisis pregnancies in their teenage years and often later in life. The contribution this measure could make to improving sexual and reproductive health in Irish society will be enormous.

What was formerly called the crisis pregnancy agency of the HSE commissioned research in this area some time ago but it needs to be updated. Much more is needed, particularly from the Department of Education and Skills, not just from the Department of Health.

Sex education works. It could work much better if it was better. We learnt from the deliberations of the Committee on the Eighth Amendment of the Constitution that in Holland age-appropriate sex education was made compulsory from the age of ten in 2012. Between 2012 and 2016, statistics show that crisis pregnancies in teenagers decreased by 30%. It is quite a startling result. Considering that change in terms of crisis pregnancy, one could extrapolate that a similar result would be shown in the health of relationships, the issue of consent and the question of how young people deal with their sexuality and the issues surrounding it. If one was to extrapolate from the figures in Holland, at least 5,000 or so crisis pregnancies could be avoided in Ireland every year if we were to deal with sexual education in a correct way. It would also curtail the rising levels of sexually transmitted diseases among young people. I learnt today from a group that represents the LGBT+ community that the biggest rise in HIV among men is in teenage young men who are not being educated about protection or about their own sexuality and who face the sort of mental and personal crises Deputy Paul Murphy has talked about.

As has been pointed out, the school ethos trumps all other considerations in the delivery of

sex education. The delivery of the relationships and sexuality education, RSE, programme, as it is called, to students at both post-primary and primary level is trumped by the consideration of the school ethos. The RSE programme has been described as too little, too late. Age-appropriateness has been determined largely by the Catholic Church and very little of the primary school programme prepares children for their approaching adolescence and its challenges. At post-primary level, the situation gets even worse, with some of the most vulnerable children, such as early school leavers, missing out on lessons that deal with aspects of RSE most relevant to their needs because such lessons are delayed until the final year.

As a community activist, I can tell the Minister the best sex education is delivered by youth groups in the community. The numbers of young people who go through that service are much more limited than the numbers of young people who go through schools. Most youth services capture the children most at risk, but not all of them. A very limited number of young people get the delivery of proper sex education through the youth services which includes discussion and non-ethos based, factual, biologically correct education. Hats off to the youth services and youth workers who deliver those services in the community. Children with special needs, as a result of disability and challenging behaviours, or children from ethnic minorities, Traveller backgrounds or new communities are very poorly catered for in our system. A very worrying aspect of RSE particularly at post-primary level is that it is contracted out, often to visitor or outside facilitators. The vast majority are from agencies run by or strongly associated with the Catholic Church. When asked at the committee about what regulation the Department imposes on these agencies, we were told by the Department official, Ms Emer Egan:

There is no regulation of such agencies. If an agency has an approach inconsistent with good educational practice and at variance with the policy of a school, the school should not engage it.

The Department does not regulate them. That is quite a shocking fact.

There is very little monitoring or evaluation of what these visitors do in the classroom in practice and there is no national audit of the extent to which they are used or how effective they are. The limited research available indicates around 40% of our schools use them and in some schools, particularly at senior level, 90% of RSE classes are given by outside facilitators or visitors, most of them with a strong Catholic ethos. The challenges facing our children as they try to develop a healthy attitude to sex and relationships are enormous, particularly in the age of online pornography, sexual predators and widespread misogyny, as has been witnessed in the #MeToo campaign and the recent Belfast rape trial which has brought an admission from young people that they are faced with misogynistic attitudes daily and do not know how to handle them because they are not being educated properly and factually to deal with sex and sexuality.

Our children need and deserve the best preparation for adult life and they are very unlikely to receive it from an institution that has historically shown more concern for its own institutional power than for the children over whom it wielded that power. As Deputy Paul Murphy said, it is about time we stopped paying lip service to this and saw it through to the end so that we have full, proper, non-ethos based education for all children in all our schools and that sex education is made compulsory, as it has been in other European countries. We do not have to look very far for this. Results in Britain, where sex education was made compulsory from an early age in 2012, and in the Netherlands show the positive outcomes when it is removed from an ethos-based system and delivered to children at appropriate levels and appropriate ages and when it is inclusive of all gender and sexual preferences.

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It is amazing we are even having this frank conversation in this House and God be with the days one would not be able to say the word “sex” in Dáil Éireann. The fact that we can have this open discussion is a tribute to the Bill and to Deputy Coppinger for bringing it forward. I appeal to the Minister and the Cabinet to see this through as soon as possible and stop delaying giving our children what they deserve.

**Minister for Education and Skills (Deputy Richard Bruton):** I thank Deputies Coppinger, Barry and Paul Murphy for tabling this Private Members’ Bill. The Government will not be opposing the Bill. This is a very important area in which we need to make progress.

I have requested the National Council for Curriculum and Assessment, NCCA, to undertake a review not just of the content of the curriculum but of how it is taught, and in particular how it is taught in terms of ensuring the right young people have to get factual information about sexual behaviour, sexual orientation, consent, contraception and all of these topics, which must be done on a factual basis. It is the wish of all parents that that would be done. We need to look at the content of the curriculum because some of it, while it was probably progressive in its time in the late 1990s, has certainly been superseded by a lot of changes in the intervening period. For example, the revolution in access to the Internet is a dramatic change to the environment in which all delivery of education in this area needs to be thought of. The change in regard to marriage equality and the change in attitude in this country and in the law must be reflected. The change in the definition of consent in recent years recognises changes in society and needs to be reflected accurately in the curriculum. The curriculum must be taught in an age-appropriate manner so that young people receive factual information appropriate to their age and stage of development.

I have asked the NCCA to look at a number of specific issues in respect of the curriculum, in particular at consent, what that means and its importance. I have asked it to look at developments in contraception and at healthy, positive, sexual expression and relationships. I have asked it to look at the safe use of the Internet, at social media and its effects on relationships and self-esteem and on LGBTQ+ matters. I have put a comprehensive request to the NCCA to look at the extent to which these are dealt with. Some are dealt with well and there have been comparatively recent good developments in the content of the curriculum while others are older and need additional content provided.

I have also asked the NCCA to look specifically at how content is taught. As the committee dealing with the eighth amendment pointed out in its report, there are concerns in the context of its work. The committee raised a number of concerns that because it is delivered as part of a religious education some elements of the curriculum might be missed. It is only fair to point out, though, that all elements of the curriculum must be delivered regardless of the ethos of the school. That is already a requirement. The committee also found that many teachers are uncomfortable with teaching RSE, which raises issues about their own preparedness and planning and the support we provide to them in terms of continuing professional development, CPD, to equip them to deliver. A legitimate concern was raised about the fact that, in some cases, the teaching of these programmes is not led by the teacher but is outsourced. Best practice is that teachers lead, but that does not preclude them from using other sources and materials. The committee was right to ask for a thorough review of sexual health and relationship education and that is what I have undertaken.

It is true and a number of Deputies commented on the absolute revolution that has occurred in Internet access since this curriculum was first conceived. The concerns about Inter-

net safety and the types of abuses that have developed in terms of the Internet are genuine. I commend Webwise, an agency under my Department, for the fantastic progress it has made in developing material such as Be in Ctrl, and Internet safety lockers on sexting, and a number of very worthwhile programmes, the most recent of which involved 80 student ambassadors taking material developed by Webwise but delivering it by student led interventions in their own schools. These are very worthwhile developments and there is excellent material available. I was pleased that the recent all-party committee on children had a discussion on Internet safety. There was general acknowledgement on all sides of the House that the quality of the material being developed by Webwise was of a very high standard. Of course, our main concern is to ensure that high quality material is delivered in an effective way in all schools. That is really important.

Many have commented on the coarsening of relationships through the presence and easy access to pornography. This is a genuine concern. Therefore, it is crucial we equip young people with the appropriate capacities and to be discerning and respectful and to have proper and healthy relationships. As many Deputies have said, it is really important that schools play their part in providing this in an effective way and that we see to it that young people get access to factual and objective information regardless of the ethos of their school. Ethos is important and it does provide young people with a very strong moral anchor in their own attitudes to sexuality and relationships. I do not deny its importance. For many people it provides a very wholesome and strong anchor in their personal development and I respect that, but equally from the point of view of the State, and as Minister for Education and Skills, I am determined that we have a programme of education on sexuality and relationships that is modern, recognises the realities and diversity of our communities, respect for that diversity and the importance of informed consent in all relationships. These are issues of major concern. The NCCA is best placed to undertake this work. It will have access to consultations carried out on the broadest possible basis. It will have regard to research being carried out in second level schools by the Crisis Pregnancy Agency, for example, and it will benefit from the input of many stakeholders in the education world.

We could quibble about some of the content of the Bill. A criticism I have is that providing in primary legislation the material that should be covered in a programme could be limiting in the longer term as issues such those in question develop. We would not want to have to go back to primary legislation every time we wanted to update a curriculum. That, however, is an issue that can be discussed. There are constitutional considerations that must be borne in mind in enacting any legislation. We must make sure we stay on the right side of those because there are constitutional requirements in Articles 42 and 44. It is important that any legislation, as it develops, respects these.

I fully respect, however, the spirit in which this legislation has been tabled by the Deputies concerned. I hope the review the NCCA is undertaking will become available in a timely manner. It is important that the council be given the time to consult those who have a legitimate right to have their say, and it is important that the best professional input be received because the curriculum ought to be designed by people with experience in curriculum development, continuous professional development and teaching. With respect to all the drafters of the Bill, some of whom are education experts, we have to ensure in primary legislation that we respect others who have a role to play, and that is why I believe the appropriate way of proceeding is to get the report back from the NCCA. It will be available to us as we work on this legislation in due course.

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I thank the Deputies for introducing this Bill. The Government will not be opposing it.

**Deputy Thomas Byrne:** I am sharing my time with my colleagues, Deputies Fiona O'Loughlin and Declan Breathnach. We in Fianna Fáil acknowledge and support the call from the Citizens' Assembly and the Oireachtas committee on the eighth amendment for improvements in sexual health and relationship education in schools, youth clubs and other settings. Similarly, we acknowledge and support the calls from the joint Oireachtas committee on the eighth amendment in regard to second level schools, and we also acknowledge the concerns expressed in the Dáil Chamber. We acknowledge and support the committee's recommendation for a thorough review of sexual health and relationship education. For the reasons the Minister outlined, however, we have a principled objection to this Bill on the basis that Ireland has never legislated in law for a curriculum of any type. Instead, we left it to expert reviewers, namely, the NCCA, to consult bodies in education. We have never put in law what should be taught in our classes. We have left it to teachers and other experts to decide, and politicians have not got involved. They should not if we want to provide the best possible fact-based and respect-based education.

The Minister has announced a review of relationships and sexuality education in schools, to be undertaken by the NCCA, along the lines called for by both the Citizens' Assembly and the Joint Committee on the Eighth Amendment of the Constitution. This review will cover both the curriculum and support materials in addition to the serious concerns over the delivery of the curriculum to students. It is our wish in Fianna Fáil - we assume it is the broad wish in the Dáil - that this review be carried out, concluded and implemented as expeditiously as possible. That is our one concern over the process. On balance, it seems that the process will actually happen more quickly than legislation, considering the way legislation is going. That has been acknowledged by others. It is essential from our point of view that the process be engaged in as thoroughly and expeditiously as possible.

The joint Oireachtas committee decided some months ago, for its 2018 work programme, to seek expert input and carry out a review of relationships and sexuality education. The Chairman can speak for the committee in that regard in due course. By specifically providing for the content of the curriculum, this Bill goes against all precedent. It is a bad precedent to set. Children and young adults are best served by the NCCA, which effectively involves teachers, educationalists and other professionals seeking expert views from outside groups, as I acknowledge the Deputies who introduced this Bill have done. The council would come up with a detailed curriculum that undoubtedly will have many of the items the Deputies have set out in legislation. On that basis, we cannot support the Bill. I have said this before about other educational matters. I talked about a smart phone ban last week. I would not like to legislate for that. The less legislation in education, the better. The education system, involving teachers and educationalists, can react to matters as they arise. The relationships and sexuality curriculum is over 20 years old. There is no doubt that many aspects of it require review but there are also quite positive aspects. At the time, it would have been highly controversial. I certainly remember controversy. There is little controversy over it now and people support it.

We want to see the review carried out as soon as possible. As a member of the Oireachtas education committee, I invite anybody interested to make a submission to the committee by Friday. As the Chairman will outline, many people have already made submissions. It will take a lot of committee time, which is limited, to hear from everybody. Their voices will be very important.

The other aspect of this Bill about which we have concern is that the amendment on the characteristic spirit of schools has been produced without any consultation with the education partners.

**Deputy Ruth Coppinger:** Right.

**Deputy Thomas Byrne:** We acknowledge there is an issue. We want to see fact-based and respect-based relationships and sexuality education in schools-----

**Deputy Mick Barry:** But.

**Deputy Thomas Byrne:** -----but one cannot just up-end the entire system on which our education system is based without consulting the partners involved. I certainly hope many of them will appear before the education committee. I am sure members of Solidarity who are not members of the education committee will be able to attend its hearings and ask questions in the most thorough fashion.

It is the case that the Minister's review has come at a critical juncture. While issues of sexual abuse and harassment are mentioned in the original relationship and sexuality education syllabus, there is no mention of consent and its importance. We really have to send out the message that what has happened to women, and also men, over decades and centuries is not acceptable anymore and must stop. The education system must play a role in fostering an ethos of respect, consent and equality. We have to do that. The best possible way to do so is not to legislate, which could possibly end up in court cases based on the wording of the legislation, but to leave it to the experts in the NCCA. We are doing that, on balance. We believe this process will end before this legislation could possibly be passed. I would love it if the Minister could give a commitment outlining how long the NCCA process would take and when we will see a new curriculum in schools. That has not been addressed by the Minister. In fairness to him, however, this review comes on foot of various recommendations. It is comprehensive and deals with many issues that need to be addressed. It deals with pretty much all the issues that have been raised in Solidarity's Bill.

It is wrong to legislate for curricula. We do not want circumstances like those in certain parts of the United States, where elections are fought and won on the basis of what should be in curricula. It is not a good way to proceed. We are better off leaving it out of the political system. Obviously politicians have a role, and the Minister clearly has taken the initiative to get the NCCA to start the review, but the job should be left to the experts and kept out of the political sphere. We hope this will lead to better and more comprehensive education for young people, and we hope all interested parties will be able to contribute in this regard.

**Deputy Fiona O'Loughlin:** I acknowledge that there are very many societal concerns over sexual health and education, and rightly so. It is timely and important that a thorough review of sexual health education be undertaken, while appreciating that home and community also have a vital role to play.

I am Chairman of the Joint Committee and Education and Skills, which had agreed in its work programme for this year to undertake a review of SPHE, RSE and matters relating to contraception and consent in primary and post-primary schools, colleges, youth clubs and other organisations involved in education and interactions with young people. On foot of this, the committee agreed two weeks ago to seek written submissions from interested groups or individuals on this important matter. We will consider suitable written submissions and we will

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invite a number of contributors to public hearings. We have received a number of submissions and we expect to have three meetings. I remind those who are interested that the closing date for submissions is 12 noon on Friday, 20 April. Our report will be forwarded to the Minister and we expect that our examination of this subject, having listened to the experts and stakeholders, will feed into and help to inform the recently announced review of RSE in schools, which will be undertaken by the NCCA. We want to work hand in hand with them. It is important that this review be undertaken along the lines called for by both the Citizens' Assembly and the Joint Committee on the Eighth Amendment of the Constitution and that it cover both the content of the curriculum and support materials, as well as its delivery to students. My party would like the review to be carried out and concluded, and its recommendations implemented, as expeditiously as possible.

Sexual harassment has dominated the news in recent months. Research shows that the experience of unwanted sexual advances often begins at an early age. Shockingly, it sometimes happens at the age of 11 years or younger and we have to empower our young people to deal with this. Change is essential and an obvious starting point is to do this through the education system by, in particular, teaching about equality, respect and consent as well as contraception and sexuality. The current RSE curriculum is 20 years old and a 2007 evaluation revealed that implementation was lower in all-boy schools, which points to a wider issue in respect of gender inequality. Understanding and engaging with responsible sexual education within a broader social context is vital. A cultural shift is needed in the context of talking about sexism, sexual abuse and harassment. Currently, there is a huge disparity between schools regarding what elements of sexual education are taught, if, indeed, it is being taught. It is not necessarily an old-fashioned, religious or conservative view that holds teachers back regarding sex education. It is difficult for them. These are intimate subjects and we all know, having been in the classroom as students, how difficult it is when people are sniggering down the back. Others are not comfortable and they reflect their discomfort in different ways. It is, therefore, difficult for teachers to figure out the best approach. There is an onus on us to help them and I hope the work the committee does will help in that regard. Engendering awareness, respect and equality must be the cornerstone of future work and I look forward to engaging with committee members and NCCA officials in this.

**Deputy Declan Breathnach:** I agree with Deputy Thomas Byrne. While I do not favour a legislative approach to this, I would like immediate action not only on the issue of sexual education but also on the many issues confronting everyone in a changing school environment. At one of my first informal meetings with the Minister for Children and Youth Affairs I spoke about the need for specific curriculum time both at primary and second level for learning for life, whether that relates to sex education, cookery, healthy eating, the scourge of mental health issues, and the use of social media. Young people are in crisis in respect of mental health with more than ever self-harming. I spent 35 years teaching at primary level and the most effective education programme introduced in respect of RSE was the Stay Safe programme which focused on three strands: "myself, myself and others, myself and the wider community". The programme not only involved the school community but also the parents who were fully informed of its content and took an active part in its delivery. While there is much criticism of church involvement in the education curriculum and while I accept that the world is changing, my boss in the school where I worked was the parish priest. He knew nothing about the Stay Safe programme, but he spoke to the children every week as he visited the classrooms about the three forms of respect they needed to have in life: respect for oneself, respect for one's family and respect for the wider community, which is similar to what was taught in the Stay Safe

programme.

I have no issue with the contents of the legislation, but I have an issue with it being enacted. As Deputy Thomas Byrne said, the Oireachtas has never legislated for curriculum contents nor involved itself with it-----

**Deputy Ruth Coppinger:** Maybe we should start.

**An Leas-Cheann Comhairle:** Deputy Declan Breathnach to continue, without interruption, please.

**Deputy Declan Breathnach:** I will deal with that issue shortly. The Oireachtas has always left it to the NCCA.

I have spoken to many youth groups and local authority representatives, North and South, and I made a speech at a recent post-primary student conference in Newry, which was attended by other Members. They highlighted the discretionary time available at both primary and second level. Learning for life is just as important for me and for them as maths, English or other languages. I concur with them that discretionary time, particularly at primary level, has focused for the past number of years on improving numeracy and literacy. Every day, 50 minutes is set aside to call the roll yet there are only 30 minutes for SPHE and RSE at primary level. The clear message from pupils is that this time needs to be increased. The Minister has said that the NCCA will examine RSE and the resources being provided to it, but I am also interested in how much discretionary time is allocated.

The review of RSE should be carried out sooner rather than later. I ask the Minister to outline a timeframe for the implementation of actions to address the myriad issues affecting our young population. Students at the conference I mentioned also said they were more comfortable speaking to an external coach rather than dealing with their teachers. In an article published by Margaret Nohilly of Mary Immaculate College, entitled, *Sexuality in the Context of Relationships and Sexuality Education*, she says there are huge challenges facing schools. She has called for the teaching of RSE as part of the wider context of SPHE to include teaching children from the earliest age that there are different types of sexual relationship, including homosexuality. In my teaching experience the family make-up has changed dramatically and that needs to be identified from a very early stage.

The availability of pornography to children as young as ten or 11 years has been referred to. It has contributed to a climate of lack of respect and muddied the waters on the issue of consent. These issues need to be included in any new curriculum in an age-appropriate manner. We need to promote healthy, positive sexual expression and relationships.

Currently, the upskilling of teachers is being provided for by the Professional Development Service for Teachers, PDST. We need to see how effective the continuing professional development opportunities are and how many are availing of these courses. It is vital that the teacher training colleges make changes to their modules in order that new entrants to the system will be fully equipped to teach all of them, including relationships and sexuality education, RSE. Upskilling should be mandatory, particularly for those coming into the secondary school system. There should be specialist courses for teachers to deal specifically with the areas to which I have referred, including RSE.

It is 19 years since the Department introduced the primary school curriculum. It had great

strengths, but in the intervening years of reviews, evaluation and research, not to mention the technological advances of mobile phones, the Internet and instant communication, we have been presented with many challenges and need to enhance and improve the curriculum. Teachers constantly speak about curriculum overload. There is a need for resources, toolkits and further assistance. The national strategy, as referred to, has been to improve numeracy and literacy, but this has led to a lack of focus on learning life skills. Any new RSE programme to encompass the changes in a modern society needs to be mandatory, with adequate time allocated, even if it means using up what is currently discretionary time. We need to develop the child as a whole and I hope changes to the curriculum will happen now, not later.

In my time as chairman of the old North Eastern Health Board the board enlisted teachers to look at all of the issues relating to learning for life, whether smoking or mental health. The programmes are widely available to be adapted across the world. There was a programme related to healthy eating called *Bí Folláin* in the Mid-Western Health Board region. When people went to use it in other health board areas, they were told that it was subject to copyright. The reality is that endless amounts of programmes could be delivered and modified to suit the Irish curriculum if an effort was made. I do not believe there has been a sincere effort made to reform the curriculum in those 20 years with regard to learning for life.

**Deputy Kathleen Funchion:** We will support the Bill. I commend Deputy Ruth Copinger and her colleagues for bringing it forward. The *ad hoc* nature of the SPHE and RSE programmes is failing to fully equip young people with positive and informed outlooks on their sexual health, self-care, body image, relationships, gender identity, contraception, consent and sexuality. Now, more than ever, it is very hard to be a young person growing up in the kind of society we have, when there is so much access to smartphones and the Internet. I thought times were difficult when I was a teenager, but I would hate to be growing up now. I have much sympathy for young people, on whom there are many demands and pressures. It is a very difficult time for them. The one thing we can do is to have a proper curriculum, allow them to be informed and have all of the information they need, much more than when we were growing up. I remember that in sixth class we saw a video called “Ready, Steady, Grow” and that was it. There was never any discussion after that. We were probably more traumatised than anything coming out of it. We need to change that attitude which, unfortunately, is prevalent in the country.

The characteristic spirit clause in the Education Act 1998 means that ethos-based schools can essentially derogate from certain aspects of a curriculum that they believe contravene the characteristic spirit of a school. This needs to be addressed and will require political will and bravery on the Minister’s part. The Department has sent circulars stating schools are required to teach all aspects of family planning, STIs and sexual orientation, but they have also stated schools should uphold their ethos. This creates a grey area and leaves teachers too afraid or vulnerable to suggest inclusive elements. That is a constant theme. Teachers need certainty and proper resources to guide their students through their formative years. Many teachers do not feel supported, that they are adequately trained, resourced or assisted to teach all aspects of SPHE or RSE. They believe that, by and large, schools treat it as a box-ticking exercise and possibly as a potential distraction from other core subjects. Many teachers have received no formal training in delivering the models and there is no strong insistence on the part of either schools or the Department to achieve the core objectives of the curriculum.

The current curriculum is *ad hoc* and lacks formal characteristics, sufficient teaching hours, teacher training and support and updated curriculum handbooks. Students with disabilities, both

intellectual and physical, can require tailored curriculums to enjoy and receive the same level of information as other students. As much as anyone else, they deserve to know their rights in asserting and withdrawing consent or how to stay safe from STIs, crisis pregnancies, etc. As well as the Bill, I believe the Minister should, through a circular or otherwise, ensure RSE contains aspects that cater for LGBTQI students, students with disabilities, modules on consent and all contraception options in a more certain way than was done in Circular 0037/2010 and give teachers adequate security without concern about school ethos.

I reiterate that we will support the Bill.

**Deputy Pat Buckley:** I express my wholehearted support for the Bill, with my party, Sinn Féin. It is an incredibly important and worthy issue for us to take time in the House to discuss, especially in the context of what has happened in recent months which have thrown up so many situations where the need for sexual education which is real, inclusive and meaningful has been painfully clear. As a mental health campaigner and Sinn Féin spokesperson on mental health, as well as a parent, I know that we lack in schools the curriculum and supports needed to help to equip young people with a full understanding of their development. Sexual health and awareness will affect them, their friends and community throughout their lives and no knowledge provided with care, consideration and responsibility will serve as anything less than a positive to them.

Sexual health is a physical, social and psychological issue. It is an issue which can be extremely troubling for young people struggling to get to grips with their changing bodies, desires and the pressures they may feel from friends, the media and elsewhere. By equipping them with the ability to enter into their sexual lives with confidence and understanding of themselves, as well as respect and care for those around them, we will be building a bright future from the deeply troubling wake-up call of the #MeToo and #IBelieveHer scandals. Of course, that is only the beginning. We also need to see consideration of law reform to adequately deal with sexual based offences.

The issue of school ethos may be a considerable obstacle to ensuring there is equal and inclusive access to good quality sex education, but it must be dealt with. The primary ethos of any school must be to best serve the student in his or her development as a full and healthy member of society. It is an undeniable fact that the society we have carved out is clearly one where sexuality and our lives as sexual beings are important. It is also an undeniable fact that we live in a society which believes overwhelmingly that LGBTQI members of communities are full and equal members who deserve respect, inclusion and recognition. It is through our democratic will that we decide the country that we wish to forge together and the future we want to give our children. That democratic will clearly supports the inclusive provision of accurate, open and positive sexual education.

I wish to finish by pointing out that we ask a great deal of teachers. We increasingly ask them to educate our children on a greater and wider range of life topics. It is natural that we increasingly seek professional guidance as we move to more evidence-based education. As we ask more of teachers, they have the right to ask more of the State in terms of ensuring they are supported with good conditions and pay and, most essential, the provision of good educational support and an adequate numbers of teachers in every school.

**Deputy Denise Mitchell:** I welcome the Bill and the decision by the Minister, Deputy Richard Bruton, to review the relationships and sexuality education aspects of the social, personal

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and health education, SPHE, curriculum. Unfortunately, many modules on the sex education syllabus are outdated in modern society and we need a more inclusive and reflective syllabus. That means being inclusive of young people who are LGBT or who have a disability. The syllabus must be factual and must not be hampered by religious views on the topic. Students must be informed of all contraceptive options. We must remember that just because a school has a Catholic ethos does not mean all its students share the same religious views. Those with differing views are entitled to be fully informed on these topics.

It is very important that SPHE teachers be supported. It is an uncomfortable topic for many teachers, which is why training, supports and a formal structure for SPHE are required. By having these elements in place, we will ensure that young people get the information they need in a professional manner. We should not outsource the teaching of one of the most important parts of the curriculum to agencies or providers which are not under the scrutiny of the Department of Education and Skills.

I wish to mention briefly the importance of making consent a key part of any sex education curriculum in schools. This is a very common-sense proposal and one that I am sure all Members will support.

**Deputy Jan O’Sullivan:** The objectives of the Bill are broadly in line with the recommendations on sex education of the Oireachtas Joint Committee on the Eighth Amendment of the Constitution, on which I was the Labour Party representative. My party supports the Bill as it supports the recommendations of the committee in full and we thank our Dáil colleagues for tabling the Bill. The committee recommended a thorough review of sexual health education, including the areas of consent and contraception, in primary and post-primary schools, colleges, youth clubs and other organisations involved with young people. I take the point that not every young person attends a youth club so it is essential that schools are the main focus. Other committee recommendations are that sufficient time be provided in the curriculum for this aspect and that it be taught by suitably qualified personnel. It also specifically recommended that the information be provided in an impartial and factual manner independent of school ethos. It is essential that the facts are provided for young people objectively, not through the prism of a particular ethos, and I urge the Government to implement that fully and the other ancillary recommendations of the committee, which are also of great importance. The main focus has been on its recommendations that directly refer to the eighth amendment, but the ancillary recommendations are very important.

Of particular concern was the evidence given to the committee by the Department of Education and Skills that schools sometimes bring in outside agencies to deliver the SPHE and relationships and sexuality education, RSE, curricula. Such agencies may have a particular ethos - most of them have - a lack of objectivity and, in many cases, no training in teaching. The Department representatives also stated, “we know that there are issues relating to the competence and confidence of teachers regarding the delivery of RSE”. Continuing professional development, CPD, upskilling and ensuring that teachers are properly trained and supported is essential.

The current provision is patchy at best. Some schools do a great job and there are very committed teachers who engage with young people and equip them well to deal with personal and sexual relationships and the challenges that they bring. However, other young people paint a very different picture in which they are either preached to or faced with a teacher who is uncomfortable with the subject, as other Members have mentioned, and gives minimal informa-

tion and gets out of the classroom as quickly as he or she can. However, this education is so important in terms of the complex world which young people must now negotiate that it must be delivered by trained and motivated teachers. I have met some teachers who are passionate about doing the job well. In some cases, it would be a good idea to cluster schools such that a very motivated teacher can become a specialist and travel around to the different schools. That would mainly apply to post-primary schools.

In its recommendations for a thorough review of sexual health and relationship education in our schools, the committee noted a clear link between effective sex education and lower levels of crisis pregnancies. It is vital that our young people be properly equipped with age-appropriate modern information and facts, particularly at second level, on issues such as contraception and consent to inform the decisions they go on to make as young adults. As the Minister stated, he has asked the National Council for Curriculum and Assessment, NCCA, to review the curriculum, which is very welcome. The Joint Committee on Education and Skills, of which several other Deputies and I are members, is carrying out a review of sexual health and relationships education and has put out a call for submissions, the closing date for which is the end of this week, after which I presume the committee will draft a report and make recommendations. All of these things are happening.

The Bill is welcome as a contribution to such activity, although I take the point that a Bill cannot, of itself, deal with the complexities of curriculum design, etc. The Bill and the recommendations of the Joint Committee on the Eighth Amendment of the Constitution refer to the necessity for sex education to be age appropriate. We all understand the importance of that. However, there are currently posters all over Ireland which have graphic images that are causing young children to ask questions and, in my view and that of many parents, some of whom have spoken on the airwaves about the issue, make it very difficult to avoid conversations that are not age appropriate. Parents should not have such posters forced upon them or their children. I hope those responsible for those posters will recognise that images intended to persuade adults to a particular view are also visible to children. I have heard many reports of people bringing their children to school, driving past schools or walking around our towns and cities and their children asking them questions about issues on which the parents wish to have age-appropriate conversations with the children in the context of the kind of education we are discussing, but such conversations are forced upon them because thousands of such posters are visible every day of the week on streets around the country. It is deeply disturbing that while we debate how a curriculum should be developed in an age-appropriate way to equip children to deal with the complexities of sexuality and relationships, our streets are littered with images that have the very opposite effect.

As others have stated, there must be a positive and supportive context rather than a particular ethos. The well-being programme which is starting at junior cycle in post-primary schools is the kind of space in which we can have that positive and supportive context. We want young people to feel good about themselves and positive about the relationships they will form, and we want them to have accurate information. As others have mentioned, it is now a complex world in which young people have digital information coming at them in all kinds of ways. It can be very difficult for them to negotiate that world and they need a positive and supportive context in which to do so.

Members of the Joint Committee on the Eighth Amendment of the Constitution learned that there are currently many gaps in the provision of sexual health and relationships education. Some schools do it well while others do it badly or scarcely at all. The approach on this issue

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must be inclusive of all schools and students, irrespective of the ethos of schools or the sexual identity, orientation, issues or situations of students. It must be inclusive of the decisions that will face young people in the world in which they live. This is a really important area and it is welcome that we are debating it. However, my concern is that as we do this, we will walk out the door and see images that will force parents to have discussions with very young children about issues that are difficult enough for them to discuss with children at an appropriate age. I urge those who are responsible to do something about it and to consider the effect on young children.

**Deputy Maureen O’Sullivan:** I wish to share time with Deputies Catherine Connolly and Joan Collins.

**An Leas-Cheann Comhairle:** Is that agreed? Agreed.

**Deputy Maureen O’Sullivan:** I taught in a school with a Catholic ethos for 36 years and my colleagues and I were doing exactly what the Bill is proposing. Our relationships and sexuality programmes were factual and objective and contraception was covered in a very comprehensive way. We drew up some of the programmes ourselves, others we took from other countries and we also brought in outside agencies. The Dublin Aids Alliance, as it was then known, was very progressive on the issue.

While ethos may be an issue in some schools that was not my experience nor that of many of my teaching colleagues. My school was involved in the pilot project for the On My Own Two Feet programme, which was very progressive, and which became the basis for the social, personal and health education, SPHE, programme. Even though the curriculum dates to 1994 it included subjects such as identity, self esteem, feelings, decision making and assertiveness, which are all still very relevant today. The programme was positively and independently evaluated but vital to its success was the training of the teachers. It took a considerable commitment from teachers, including weekend work, to avail of the training provided. There is a need for specific training for teachers involved in such work. Timetabling is also an issue because it requires a commitment on the part of schools and we know there are conflicting demands on the timetable. Such a subject cannot be an add-on to fill up a teacher’s hours, one who may not have the skill set nor interest and who might not be comfortable in delivering such a programme.

The debate needs to be widened to cover other social issues. I speak from the perspective of my recent work with young people in the north inner city. I refer to such issues as drug and alcohol abuse, other addictions such as gambling and social media and cyberbullying. There is a need for a timetabled programme in schools with trained teachers because a different skill set is required. Such a programme would equip young people to make informed decisions, be it about their sexual identity, sexual relations, drugs, alcohol or gambling. We could call it philosophy but it is basically about the need to give young people the ability to think critically. The role of parents is vital and also the community and youth projects that are in place.

I hope the Minister will launch the report which came out of all the discussions with young people, schools, youth workers and counsellors. It is called, Let’s Get Specific, and it is about all the issues I raised and giving young people the ability to think critically and make informed decisions.

**Deputy Catherine Connolly:** In the just over two minutes available to me I welcome the Bill and commend Solidarity on bringing it before the House. I have no difficulty in supporting

the substance of the Bill. I welcome the Minister's confirmation that he is not going to oppose it. I hope it is the start of a discussion about the much broader issue of child protection. We changed the Constitution in 2012, ostensibly to protect children, but I believe we have utterly failed. One only has to open the newspaper on any given day and there is horror story after horror story. I saw one such story no later than Monday in *The Irish Times*. I will not go into the details but it concerned a man who was jailed for 12 years who thinks his sentence is too long. We need to empower young people but we cannot begin to empower children to come forward about abuse if we cannot have normal and natural conversations about sexuality in the first place, full of information and within a loving environment. To do that, we need to make available very factual information in a frank way without the influence of the church or any other body, in a dependent manner. That is essential.

Many Deputies have raised the SAVI report in the House. The report dates to 2002. A staggering 47% of the 3,120 people interviewed said that they had never mentioned the abuse they experienced to anybody in their lives. I re-read those figures when I am using them in various debates and each time I am shocked at the high level of non-disclosure. As a society we need to look at that. One third of women and almost one quarter of men who participated reported some level of abuse in childhood, while 40% of women and 28% of men reported some sort of sexual assault during their lifetime. I could quote more and more figures, but the point I am making in my limited time is that the horror of sexual abuse needs to be openly discussed. We need to empower children to come forward. We need to provide services in order that young people come forward. We need to update our data, which essentially means updating the SAVI report. It has taken up to now to confirm that a scoping exercise is in place with a view to producing a new report but the date keeps slipping, and that is simply a precursor to doing a full report. In that context, I welcome the Bill.

**Deputy Joan Collins:** I wish to make a few points in the short time available. This Bill, which I fully support, was introduced by Solidarity Deputies. It was submitted for debate during the recent very controversial rape trial in Belfast. It has a bearing on the debate that has surrounded the trial, in particular in the attitude displayed in text messages between the young men involved. Apart from the misogyny displayed, the messages also showed an idiotic, juvenile schoolboy attitude to sex and the worst aspects of so-called laddish culture. For many, the trial raised the need for a serious approach to combatting that culture. Objective, fact-based relationships and sex education programmes in schools will have a key role to play in that regard. I take on board the points Deputy Maureen O'Sullivan made, but I do not think the programmes are consistently applied across the national school system. If we continue with the existing relationships and sexuality education, RSE, approach we are not being serious. An approach to sex education based on the idea that sex is only for married men and women would be considered by teenagers in this country as a joke, something that is not meant to be taken seriously.

Relationships and sex education needs to deal with the realities of the modern world where young people engage in sexual activity. They do not need any hang-ups about it, just a healthy, informed attitude that includes knowledge about contraception, protection against STDs and options for crisis pregnancies. They need to know about grooming, what consent is and is not, what sort of behaviours are acceptable and what they can do about them. They need to know that there are many different types of relationship, genders and families and that all are equally acceptable. The only relationships that are not acceptable are those based on force and domination. Every child should be able to come forward if they are in that situation.

Teachers who work in schools with a religious ethos are employed by the Department of

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Education and Skills. The Bill would and could take the chill effect out of the 1998 legislation on upholding the ethos of a school. The Department must stop failing young people, parents and teachers and devise a curriculum for the provision of objective sex education in schools.

**Deputy Ruth Coppinger:** Before I move on to the substantive point, I must say we were shocked to hear that Fianna Fáil will not support the Bill. Given that the Government is not opposing the Bill, one would have thought at the very least Fianna Fáil would allow the Bill to progress to the next Stage and to amend it if it wants. The excuses made by Fianna Fáil Members are pathetic. Apparently, it is revolutionary and unbelievable to name in a Bill “areas” that can be included in the curriculum and for that reason the party cannot support the Bill. We all know the real reason Fianna Fáil is not supporting the Bill. It is because it does not want to challenge the religious ethos of schools. To say that would be a much more honest way to approach the debate. If they do not support the Bill tomorrow, I ask Fianna Fáil Members to consider where they are placing themselves on the spectrum. In a European context, to oppose objective sex education is to be utterly backward and reactionary. The Oireachtas committee, on which Fine Fáil had members, recommended that these areas be explored in the curriculum and that it be independent of school ethos. The Bill is exactly in line with what the Citizens’ Assembly and the Oireachtas committee recommended. I ask members of Fianna Fáil to consider how they will be viewed if they block the Bill and allow it to fall. The press conference held to launch the Bill was attended by representatives of Rape Crisis Network Ireland, the Irish Family Planning Association, the National Women’s Council of Ireland, students’ unions, Shout Out and a myriad of groups that have backed the Bill and asked that it be supported. It is further reflected in the fact that the Government has stated it is not going to vote it down.

Some Deputies have said there is a review on the way, but we need to put it in context. Asking members of the NCCA, wonderful as many of them may be, to conduct a review of the curriculum means very little, unless we actually challenge the legal right of schools, enshrined in the Education Act 1998, to use religious ethos as a way to censor or not provide sex education. Otherwise, there is no guarantee that the wonderful curriculum they will draft will actually be taught. I know this because I taught sex education in schools and know exactly what happens. A teacher arrives in September and is handed a timetable for geography, history, maths or whatever else and plonked in it is a thing called RSE or SPHE. No training is provided and no assessment is made to determine whether the teacher’s personality makes him or her in any way suited to teaching the subject. If a teacher is provided with one day’s in-service training, he or she is doing well. We all know that teachers have their own prejudices and, notwithstanding what was said by Deputy Maureen O’Sullivan, I very much doubt that the sex education being taught in most schools is affirmative of LGBT plus students. We know this because lots of students have written to us about it. The type of sex education taught in schools tends to be about sex between a man and a woman and procreation and reproduction. There are other types of sex that take place in society, but students are not being taught about them.

My key focus is on consent which has become the number one, central issue in Irish society. This was borne out, in particular, in the context of recent rape trials and the highly publicised event at a school where girls’ names were written on the walls of a toilet by schoolboys who then rated them as to whether they should be raped. We have a problem. As Dr. Ging from DCU said, a cultural shift in thinking about sexism, sexual abuse and harassment is needed, including in schools. She argued that, with reviewing and updating curricula, we needed to focus on changing practices in schools that might reinforce harmful gender stereotypes and limit development for both boys and girls. According to her, teaching young people about sex should

not be viewed as a set of problems to be managed but as an opportunity to empower them as sexual citizens. Such a massive culture shift cannot be achieved solely through a sex education programme, but, obviously, the first place to start is among young people when they are all gathered in schools. Anyone who needs confirmation of the need for a cultural shift only has to look at the toxic masculinity personified in the WhatsApp messages reported in the media. Men and boys are encouraged to be dominant, physical and disregard the needs of women. Women are there only for men's entitlement and pleasure, as we saw graphically in the messages.

Why is it that a defence can be put forward in a trial that, while a person did not say "Yes", he or she did not say "No" either? That is not a defence for a crime of any type other than sexual assault or rape. We have to challenge these dangerous ideas. We know that something is seriously wrong but not because of Government research. The Sexual Abuse and Violence in Ireland, SAVI, report has been mentioned, but it is outrageous that proper State-funded research has not been carried out in this area since 2002. The Sexual Health and Attitudes Galway study carried out last year is very instructive. It was conducted among 1,691 students at UCG and found that 35% of males thought it was okay for a guy to get carried away and end up forcing a woman to take part in non-consensual sex. That is over one in three young men. The study also found that 37% thought that the way a woman dressed could justify her getting into trouble. These are horrific attitudes that must be tackled. Regardless of the niceties Fianna Fáil believes should be included in a Bill, if its members do not think we have a serious problem, there is something wrong with their party. The SMART workshop on consent that was held in Galway achieved an important change in attitudes. The numbers of people who, having taken part in this very short workshop, felt more informed, understood better what consent meant and felt more comfortable rose from 23% to 65%. It was a non-Government funded workshop. It is not acceptable that students and others have to raise funds to do things for themselves. These workshops should be funded by the State and taking place in schools and colleges. The concept of seeking an enthusiastic "Yes" from somebody, rather than a "No", must be popularised. It will be very difficult to bring this about unless we encourage students to challenge established ideas that, unfortunately, are promoted by some religions.

The concept of the girl as the gatekeeper of sexuality is very strong. According to a piece by Dr. Ging in *The Irish Times*, lots of boys' schools do not provide any sex education at all. There is a lower compliance rate in boys' schools. Girls are obviously meant to manage and gate-keep sexual activity, but girls and women are entitled to a positive sexuality. They are entitled to be taught that they can receive pleasure from sex, that they do not have to be a passive recipient or ashamed for taking part or wanting to take part in a sexual act. The very simple message we should be teaching young people is that relationships and sexual activity should make them feel good, but if they do not, there is something wrong. That is a very simple but revolutionary idea. Unless we put forward the idea of a positive sexuality and pleasure being part of it, including pleasure as a measure of their consent and an element of sexual activity, young people will not be able to determine their own comfort levels when something takes place.

We must be clear that it is not the Internet that has caused all of this. Obviously, the Internet makes things a lot more complicated, but there were problems with attitudes before the Internet. Men did not look for consent before the Internet and these problems did not suddenly start then. This is not just about tackling the Internet but also about tackling cultural attitudes that go way back in time. Sex education that focuses on reproductive and gender normative intercourse is not going to tackle this, but such education is based on the religious ethos of a lot of schools. None of this change can happen if religious ethos holds sway.

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I again appeal to all parties in the Dáil not to block the Bill or prevent it from progressing to the next Stage at least. It is being supported and backed by a host of organisations that will not be pleased if it is blocked for very spurious reasons.

**Deputy Mattie McGrath:** I am happy to speak briefly about this matter. All of us in the House want to see the comprehensive provision of sex and relationships education that is fact-based and responsible, but the recommendations of the Oireachtas Joint Committee on the Eighth Amendment of the Constitution, to which the Bill refers, go much further. The committee's report reads as follows:

The Committee recommends a thorough review of sexual health and relationships education, including the areas of contraception and consent, in primary and post-primary schools, colleges, youth clubs and ... information should be provided in an impartial and factual manner that is independent of school ethos.

I repeat that it will have to be "independent of school ethos". As one commentator has observed:

Aside from the less than subtle and patronising tone, there are deeply troubling aspects to this resolution that demand further analysis. Generally speaking it represents a direct threat to the ability of denominational schools to advance their own view of human sexuality and intimacy. Indeed in its own way it is a charter for conflict.

I honestly believe that to be the case. The same commentator observed that questions arise about who exactly will decide whether sex education teaching in schools is impartial:

Who gets to decide the parameters of such impartiality is anyone's guess. Only one thing is clear; if the Committee gets its way [and if the proposition before the House this evening is accepted] it will most certainly not be parents.

This commentator argued that "the last phrase of the resolution ... most starkly encapsulates the intentions of the Committee when it says sex education must be "independent of school ethos"." It is very stark that the committee recommended, with no ifs or buts, that sexual education must be independent of school ethos. This commentator on medical ethics continued:

Not only is this a clear statement of intent, it is also a damning judgement on the perceived capacity of denominational schools to formulate a coherent approach to human sexuality and sexual behaviour in general. This is effectively a rebuke by the Committee to all parents who would seek to have their children educated in the light of the Christian vision of sexual intimacy ... We may well ask then what does 'independent of ethos' amount to but a statement of breath-taking, arrogant over-reach where the constitutional acknowledgement of parents as the primary educators of their children is [completely] obliterated.

That is the fundamental reason I will not be supporting the Bill before the House. I will also oppose it on further Stages.

**Deputy Hildegarde Naughton:** I would like to share time with the Minister of State, Deputy Mary Mitchell O'Connor.

**An Leas-Cheann Comhairle:** Is that agreed? Agreed.

**Deputy Hildegarde Naughton:** I welcome the discussion on this Bill. I thank Deputies

Ruth Coppinger, Mick Barry and Paul Murphy for introducing it. It is understandable the media and others concentrated on the substantive issues discussed at the Joint Committee on the Eighth Amendment of the Constitution, but it should be noted that sex education was also an important part of the committee's thinking. We made specific ancillary recommendations in relation to sex education. The majority report of the committee concluded that "there is a clear link between effective sex education and lower levels of crisis pregnancies". The committee heard overwhelming evidence to that effect. It is obvious that we need improvements in sexual health and relationships education in schools and youth clubs. The committee noted "the ongoing developments that are taking place in respect of relationship and sexuality education (RSE) and social, personal and health education (SPHE) in our schools" but expressed "specific concern in relation to what is happening at second level". The report continued:

The Committee's concerns can be summarised as follows.

(a) For many schools, sex education is delivered as part of religious education and furthermore it is delivered on an ad-hoc basis, for example not being covered until late in the education cycle.

(b) Many teachers are not comfortable teaching RSE and therefore it is left to a minority of teachers or it is outsourced to an agency.

(c) As the Committee understands matters, such agencies and their use by schools are not regulated and those delivering the course are not required to have a teaching qualification. It therefore appears to the Committee that any person can set up as an agency to deliver sex education.

(d) The ethos of the school can influence how RSE course content is delivered.

Regardless of whether we are comfortable with it, young people engage in sexual activity. Therefore, they need to hear about the pitfalls of having unprotected sex with regard to pregnancy and sexually transmitted diseases. They also need to hear about proper contraception and relationships. They need to hear facts about abortion. They need to hear all of this in an absolutely unbiased fashion. They need facts, not beliefs. Young people need far more than a few classes in which they are taught about the biology of reproduction and puberty. The word "sex" or any discussion of it is still something to be avoided among some people and groups. Young people have no such hang-ups about it. They are very conscious of the world around them and have access to more information online than we ever had.

To illustrate why is it so important that we educate our young people on sex and relationships in school, I would like to quote from an article in *The Guardian* by Lucy Emerson:

Sex education matters in primary schools because four-year-olds ask where babies come from, five-year-olds browse the internet and six-year-olds want to be popular with their friends. Sex education matters at home because children want their parents to be the first people to talk to them about growing up, sex and relationships. Yet many parents say they lack confidence to answer their children's questions frankly. Sex education matters in secondary schools especially because this is a time when young people come under new pressures from their peers and are reaching for more independence and considering their own views on love, romance and what is acceptable or unacceptable for them.

I welcome the Minister's announcement on 3 April that a major review of relationship and

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sexuality education in schools will be carried out. The Joint Committee on Education and Skills recently invited submissions on its review of sexual health and relationship education, including contraception, consent and related matters. It is welcome that the National Council for Curriculum and Assessment and the Department of Education and Skills are among the organisations invited to submit written submissions. As I read it, the Bill seeks to address the problems I have mentioned through primary legislation. This is something I welcome. I look forward to engaging with the Deputies as the legislation progresses through the Houses.

**Minister of State at the Department of Education and Skills (Deputy Mary Mitchell O'Connor):** I thank those who have proposed this Bill which addresses an important matter that my colleague, the Minister for Education and Skills, Deputy Richard Bruton, has moved to address. The provision of sex education is an issue of concern. That it was the subject of an ancillary recommendation of the Citizens' Assembly when it considered the eighth amendment of the Constitution is a reflection of this. It was also the subject of a recommendation in the report of the Joint Committee on the Eighth Amendment of the Constitution. The Joint Committee on Education and Skills recently invited submissions on its review of sexual health and relationships education, including contraception, consent and related matters.

One of the concerns underlying the tabling of this Private Members' Bill is that school ethos is, in some cases, preventing full and impartial delivery of the relationships and sexuality education, RSE, curriculum. This is one of the reasons a major review of RSE in schools will be carried out by the National Council for Curriculum and Assessment, NCCA. The NCCA review will address the full breadth of the issues raised, including the content of the RSE curriculum and support materials and the delivery of that curriculum in schools. It will cover the impact of school ethos and a wide range of other issues. I am sure the NCCA will consider the issues raised when it carries out its review. The findings of the review will be of assistance in the formulation of a comprehensive and considered response to those findings.

We all recognise that RSE in this country must be fit for purpose and must meet the needs of young people in modern Ireland. There are numerous factors at play here. The Bill we are debating focuses mainly on the impact school ethos can have on how the RSE curriculum is delivered. There is a great deal of uncertainty about what is currently taught in schools during RSE lessons. At present, schools are obliged to teach all elements of the RSE curriculum. No element of it can be omitted on the grounds of school ethos or characteristic spirit. As we heard earlier, every student in the Irish school system has a right to access information about sexual health, relationships and sexuality. This must be delivered in a factual manner regardless of the ethos or characteristic spirit of the school. Schools are required to teach the full RSE programme. Topics in social, personal and health education, SPHE, and RSE are dealt with and addressed in an age-appropriate manner at all levels.

We should acknowledge the commitment of teachers and recognise their professional expertise in dealing with a difficult topic. Extensive resource materials to support implementation of the curriculum are available to schools. This work has been done in partnership with other Departments and agencies, including the HSE, the Gay and Lesbian Education Network and the crisis pregnancy programme. There are some excellent resources available to teachers to support them in delivering the relationships and sexuality education, RSE, curriculum.

The TRUST, or talking, relationships, understanding sexuality teaching, resource developed by the HSE may be used to supplement the RSE curriculum at senior cycle. The resource focuses on consent through the topics of loving relationships, intimacy, assertive communica-

tion, understanding boundaries, communicating boundaries without consent and when sexual assault becomes a reality. The Department of Education and Skills works closely with the Department of Health and the HSE on the development of enhanced resources to assist the teaching of RSE in schools. The development of the LGBTI youth strategy is a key commitment for the Department of Children and Youth Affairs in the programme for Government and it also makes a contribution towards the Government's broader commitment to continue to strive for full inclusion of LGBT people in Ireland. The Department of Education and Skills is inputting into that process.

Curricular provision of social, personal and health education, SPHE, RSE across primary and post-primary level is aimed at ensuring topics are covered in an age-appropriate manner. As the Minister has stated, it is now time to review the content and the delivery of relationships and sexuality education. The primary level SPHE curriculum used in schools was published in 1999 and the SPHE curriculum framework for junior cycle was published in 2000. Of course, we must also acknowledge the role parents play in the education of their children. The RSE provided in schools, coupled with education provided at home by parents, is associated with the best outcomes for students.

**An Leas-Cheann Comhairle:** Deputy Richard Boyd Barrett is sharing time with Deputy Mick Barry.

**Deputy Richard Boyd Barrett:** More than 100 years ago James Joyce, in his novel *A Portrait of the Artist as a Young Man*, described how a priest, Fr. Arnall, gave lectures to schoolchildren about the evils of the flesh and how they would suffer hellfire and damnation if they in any way gave into feelings of sexuality or even acknowledged it. In that chapter he brilliantly counterposed the denial of sexuality enforced by the Catholic Church which induced feelings of guilt and so on with the completely distorted view of it. He used the symbol of prostitution, with women being seen as sexual objects. In the chapter he captures what would later happen in this state when the Catholic Church was given control of schools and the education of young people. It had really dire consequences as it helped to create a culture where it was legitimate to treat women as chattel, lock them up and treat them as sinners and fallen women, etc. if they had sex outside marriage. It carried right through to the despicable texts we saw exchanged between the rugby players, which appalled everyone. They demonstrated the objectification of women and their sexuality.

There are many complicated reasons for the rotten record the State has in its treatment of women, the prevalence of sexual violence and the high rates of suicide among LGBT and transgender people. The rates are way higher in this country than anywhere else. The role of the church in denying young people in this country proper sex education because of its ethos is absolutely critical. It is frankly worse than ironic and terrible that Fianna Fáil acknowledges that there might have to be change in all of this-----

**Deputy Thomas Byrne:** There must be.

**Deputy Richard Boyd Barrett:** -----but it does not think it should be legislated for. The party has no problem whatever in legislating to allow the church to discriminate in the Equal Status Acts or specifically allow the particular religious ethos of schools to be rammed down the throats of young people. That seems to be allowed by Fianna Fáil, but we cannot insert a requirement in urgently needed legislation to ensure young people are given an objective education about sexuality. We can consider the dire consequences of failing to do so. Deputy Mattie

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McGrath has said we should have objective education about sexuality and so on but not at the expense of ethos. The problem is that ethos denies objective education about sexuality, LGBT matters, issues of consent and contraception. Certain facts are just left out. If education is partial, leaves certain elements out and twists and distorts them because of ethos, it is not objective. It is distorted and partial. The evidence is clear of the negative impacts on young people and society as a whole. It is particularly clear for women, children and so on arising from the domination of religious institutions. To my mind, it is absolutely right, proper and urgently necessary to insert in legislation a specific requirement to ensure the key issues of consent, LGBT rights, sexuality and contraception are addressed in the education curriculum.

**Deputy Mick Barry:** Sex education as taught in schools is inadequate and not for purpose. As the examples given by Deputy Paul Murphy indicate, in many cases, it is a sick joke. The time has come for change, which is being demanded by young people all over the country. Solidarity has put the Bill forward, but young people are driving it. We saw this in the protests on the streets in towns around the country less than two weeks ago. People stood behind banners saying they stood with the woman in Belfast. They demanded that people be educated about consent. It is a protest movement that has put the matter on the agenda and it should be registered in this discussion.

The same sort of young people were in the National University of Ireland, Galway, last summer, attended consent workshops and conducted a consent survey. More than 1,000 people took part. The results of the survey indicated that nobody had received formal education at school about consent. More than three in four people, or 76%, said the sex education they had received at school left out “a lot of crucial and important information”.

Young people are demanding to learn about relationships. This week we were told that 19,000 disclosures of domestic abuse against women and kids had been made to Women’s Aid last year. From where do the ideas that lead to such abuse come? In the United Kingdom one in four teenagers has experienced abuse in a relationship. What is the story here? We do not know because there have been no surveys carried out. There are no data available. That is why we need relationships education in schools.

What about the child from the LGBTQ+ background sitting in a school where its ethos means that there is no education about LGTBQ+ sexuality or relationships? What is the message being sent if people are invisible? It is that they do not count. Young people are not going to stand for that. All young people are opposed to that type of discrimination, standing up and speaking out against it. The Minister said we needed factual education in schools. That is very good. He also said we had to respect ethos and that he was going to have a review carried out. However, there will not be factual sexuality and relationships education in schools unless the question of ethos is tackled. That does not mean that religious orders cannot teach their views in religion class. However, they cannot block factual objective education in schools. If geography was taught in a school and there was nothing about Spain, Germany or Latin America, it would not be a very good class. The same applies to sex education. It is not unconstitutional. Article 43.3.2° reads:

The State shall, however, as guardian of the common good, require in view of actual conditions that the children receive a certain minimum education, moral, intellectual and social.

We need to separate Church and State. We need State-funded education controlled by the

State, not by religious orders. We can now say the ethos of a school cannot obstruct factual education as it is not unconstitutional. We will go on to separate Church and State because clearly that is what is needed. There is an old saying in the Labour movement which is applicable to this debate - "Which side are you on?" On one side of this debate we have Rape Crisis Network Ireland, the Irish Family Planning Association, the National Women's Council of Ireland, every students' union in the country-----

**Deputy Mattie McGrath:** I thought so.

**Deputy Mick Barry:** -----and young people who are clearly demanding change on this issue. On the other we have the Catholic Primary School Management Association, which is to be expected. The Dáil is meant to give a lead to the country on the issue, but we have Fianna Fáil stating it is going to call a vote in order that tomorrow it can shoot down or try to - I am not sure it has the numbers - a progressive sex education Bill. It is siding with the Catholic right and presenting itself as the dinosaur of the Dáil. It is a moment of truth for the party tonight and tomorrow. Let us watch very closely which way it goes.

**Deputy Mattie McGrath:** The Messiah has arrived.

**Deputy Thomas Byrne:** We can stand on our own feet and had proposed it long before the Deputies jumped on it.

**Deputy Paul Murphy:** Then vote for it.

**Deputy Thomas Byrne:** We are approaching it in a proper way.

**An Leas-Cheann Comhairle:** The Deputies have had their opportunity. That concludes the debate.

Question put.

**Deputy Mattie McGrath:** Vótáil.

**An Leas-Cheann Comhairle:** In accordance with Standing Order 70(2), the division is postponed until the weekly division time tomorrow, Thursday, 19 April.

### **Vehicle Registration Data (Automated Searching and Exchange) Bill 2018 [Seanad]: Committee and Remaining Stages**

Sections 1 to 11, inclusive, agreed to.

Title agreed to.

Bill reported without amendment, received for final consideration and passed.

**An Leas-Cheann Comhairle:** A message will be sent to the Seanad acquainting it accordingly.

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## **Data Protection Bill 2018 [Seanad]: Second Stage (Resumed)**

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

**Deputy Thomas Pringle:** Privacy is sacred. It is a person’s fundamental right to enjoy privacy. The extent of that enjoyment depends on the level of protection afforded to the individual’s personal data to prevent exploitation or their misuse by the State, non-governmental organisations or the private sector.

We are at an impasse as the digital revolution unfolds. Privacy is becoming more and more relevant as exchanges of personal data are carried out more and more online. However, at this rate, we are doomed to play catch-up. For the Legislature, this means doing all that is within its power to prevent the misuse of information and protect individuals from the harm such exploitation can cause, especially when it comes to interactions online. Not only do we need to catch up with the lawlessness and illegal activity carried out in large swathes of the Internet, we also need to protect people’s personal data from commercial exploitation. Recent and ongoing developments related to Cambridge Analytica and Facebook harvesting, micro-targeting and manipulating personal information are examples of how we need to play catch-up. Hundreds of millions of people throughout the world have had their data misused. I reckon the figure is far higher than we are aware. What is more alarming is not only were personal data used without consent to maximise profits but they were used to undermine and manipulate democratic systems through third party interference. We saw this unfold in President Trump’s election and the Brexit referendum.

My concerns lie with the forthcoming referendum on the eighth amendment, for which the Bill has come far too late. Already those in the online community are seeing the effects of this lawlessness. People have noted fake Facebook profiles, online quizzes and polls disguised as representing one side but revealed to be from the opposite side. This has left their online profiles vulnerable to harvesting, micro-targeting and manipulation for the sake of political and private sector profit. The current lack of transparency enables external third parties to use social media to sway opinion. Some have already called the eighth amendment referendum a post-truth campaign as Facebook algorithms continue to allow highly emotive content to gain prominence. Facebook still allows other countries to target specific groups of voters in Ireland by buying advertisements. Many throughout the world will be watching closely to see to what extent data will be harnessed for political purposes.

We have, rightly, been focusing much of our attention on Russia and cyberwarfare, but the bigger question will be how democracies can protect themselves against interference by foreign interests on all sides and, more importantly, how people’s data can be protected from such exploitation. Placing the onus on companies to self-regulate is futile. Efforts to date carried out by large online conglomerates such as Facebook and Google have proved futile. Thus far, we have seen a lack of will on the part of private sector conglomerates to do much to tackle political influence and misinformation. As a consequence, it has been left to us to address the issue. The only way for us to address it is to get the provisions in this Bill right.

I echo the concerns raised in the Seanad about the need to amend section 45 to prevent the likes of Cambridge Analytica and other political consultancy firms from exploiting the loophole in place. The Bill, as it stands, will do nothing to prevent companies such as Cambridge Analytica from being hired by candidates or political parties and giving them permission to harvest and process personal data for the purposes of political interests. I understand the Minister made

some amendments to limit the impact of section 45 on other European countries, but he failed to address the remaining loophole. I commend Senator Alice-Mary Higgins for proposing amendments to explicitly prohibit private or commercial firms from processing data on behalf of previously mentioned categories or without explicit consent from data subjects. The amendments would not prevent polling or focus groups as they operate with the explicit consent of an individual, but they would effectively prohibit data mining and targeting firms such as Cambridge Analytica from interfering with an electoral or referendum process.

While I support endeavours to protect personal data across the board, I have concerns about the practical implementation of the general data protection regulation system in the context of public representation. The offices of Deputies lack resources and especially time to review the entirety of our databases and ensure all unnecessary data are deleted. I suggest we look at more modern ways to process, save and store data to help to facilitate the GDPR process. For example, the provision of timely reminders when data must be deleted after two years could help.

One cornerstone of democracy is the ability to access a public representative. Other Deputies and I go to great lengths to facilitate it as best we can. I operate as a public representative in County Donegal. There could be up to 100 miles between my constituency office and Malin Head, for example, from where someone could be contacting me. I would only be able to help such an individual by obtaining verbal consent over the telephone as opposed to written consent. I deal with individuals who have literacy problems or who are not computer literate and do not use emails. The law needs to be clearer on how we can deal with vulnerable adults in our constituencies as public representatives. I understand verbal consent is accepted, but it is not considered to be best practice when it comes to protecting ourselves and our constituents from data breaches. This automatically puts Deputies at a disadvantage because often verbal consent is all we have as we deal with time-sensitive issues or people in crisis. That is why they come to us. Often, they have nowhere else to turn. To start with, that constituents access Deputies for a plethora of reasons is a symptom of a dysfunctional system. Oftentimes people are intimidated or do not understand the workings of the social welfare and health systems. They do not believe the process is transparent enough to trust it. Whether we believe it or otherwise, people trust politicians to navigate through these bureaucratic behemoths on their behalf and hold the Government and Departments to account. Therefore, Deputies deal with a large amount of personal data and we should be held to account in protecting them as they pass through our hands. However, any effort to enforce greater protection of personal data should not inadvertently place barriers for constituents in accessing democratically elected public representatives. I hope, therefore, that there will be clarification of the implications of the Bill for public representation as it progresses.

I understand the Minister for Justice and Equality, Deputy Charles Flanagan, introduced an amendment to section 139 on Report Stage in the Seanad to allow fines on public bodies, with an upper limit of €1 million. If the Government had concerns initially about implementing the GDPR within Government bodies, perhaps it might understand the difficulties to be faced when the GDPR is rolled out in May. I hope that in the latter Stages of the Bill we will be able collectively to look at ways to improve the rolling out of the GDPR in the context of our constituency offices in a way that will not place an unnecessary burden on them, our staff and constituents.

Ireland has a terrible record in holding the private sector to account for white collar crime. We do not bother collecting the tax that is rightly ours. We allow multinationals to avoid paying tax entirely. If we are serious about protecting the right to privacy, we must ensure compliance is monitored and that enforcement will be carried out. Too often legislation passes through this

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House with grand gestures but with few resources to ensure its effective application. Does the Government intend to increase the resources allocated to the Office of the Director of Corporate Enforcement to ensure compliance in the private sector with the GDPR? Will the Standards in Public Office Commission be provided with the necessary clarification of its remit and awarded the necessary resources to oversee compliance in government and Departments?

**Deputy Thomas P. Broughan:** I am pleased to have the opportunity to contribute briefly to the debate on this important Data Protection Bill which is both lengthy and comprehensive. I commend Senator Alice-Mary Higgins and other colleagues for the work they did to try to improve the Bill which was introduced in Seanad Éireann. The Bill will serve to give effect to EU Regulation 2016/679 and transpose EU Directive No. 2016/680.

While we have known that updated EU-wide data protection regulations have been in the works for the past two years, transposition is coming at an opportune time. Mark Zuckerberg recently appeared for questioning before the United States Congress, while this week Facebook executives appeared before the Joint Committee on Communications, Climate Action and Environment. It is great that we are talking about greatly improving data protection for data subjects - for all citizens - and the value of our data to large multinationals. The recent Facebook scandal involved approximately 87 million Facebook users having their data harvested unbeknownst to them. This has thrown the issue of digital data into the spotlight once again. How Cambridge Analytica was allowed to secretly harvest data from the friends of people who had downloaded the This is Your Digital Life app is shocking, as are allegations that harvested data have been sold and used to manipulate the outcome of election results such as those involving President Trump and Brexit. Recent revelations and allegations about serious data breaches at Independent News & Media are also concerning. I echo the calls of Deputies Micheál Martin and Mary Lou McDonald for legislation in this area and greater support for the Office of the Director of Corporate Enforcement. It beggars belief that 19 individuals, including such distinguished journalists as Brendan O'Connor and Sam Smyth, were targeted to allegedly have their emails and records scraped, taken to the United Kingdom and then interrogated by unknown third parties.

In April 2017 the House was presented with an important report by Mr. Justice John L. Murray on the review of the law on the retention of and access to communications data. Mr. Justice Murray's report highlights the importance to our democracy and society of the confidentiality of journalistic sources and called for legislation to govern access to retain communications data, including the data of journalists. In his reply, the Minister of State might indicate where within this very detailed Bill, which like my colleague, Deputy Pringle, I have studied carefully, is that issue addressed. The report concludes that such legislation should be consonant with a system of communications data retention and disclosure of safeguards laid down by the European Court of Justice in the Tele2 case. That system should include standards and procedures to be observed by service providers to ensure effective protection and security of retained data against the risk of abuse or unlawful access to or use of the data. Will the Minister confirm all the key recommendations of Mr. Justice Murray's report on data retention, particularly on the protection of journalists, will be implemented in the Bill before us or will we have to return to that on Committee Stage?

I note that a joint class action under the US Stored Communications Act has been launched against Facebook, Cambridge Analytica, SCL Group Limited and Global Science Research Limited by lawyers in the UK and the US. US legislation sets out a minimum \$1,000 penalty meaning that damages could be in excess of \$87 million, based on the figure Mark Zuckerberg

gave to Congress. It seems the majority of the people affected by Cambridge Analytica data breach are in the US - more than 70 million, more than 1 million are in the UK, others are in Australia, India and Canada, and up to 45,000 - those of us who have a page on Facebook - are possibly affected in Ireland.

The Oireachtas joint committee in its prelegislative scrutiny of the Bill recommended that a provision for class actions should be explicitly prescribed in this legislation but the final Bill does not include that. Our always informative Bills digest and our Oireachtas Library and Research Service mentions the Sinn Féin Private Members' Bill on class actions, the Multi-Party Actions Bill 2017, which was referred to the Select Committee on Justice and Equality and it will undergo prelegislative scrutiny. The importance of having such an option for data subjects in Ireland, and many people can be affected, has been clearly evidenced in this matter. I hope that the Multi-Party Actions Bill will be prioritised with the urgency it requires and deserves.

We had the Law Reform Commission Report of 2005 on that matter and it set out a Bill on that issue. I note Deputy Penrose and the Labour Party have produced a similar class action Bill on mass harm. I also supported the important Online Advertising and Social Media (Transparency) Bill 2017 brought forward by the Ceann Comhairle's colleague, Deputy James Lawless, which passed Second Stage. Deputy Lawless's Bill requires online political advertising to fulfil transparency standards and outlaws the use of "bots" to cause misleading online presences directed towards political ends of the type referred to by my colleague, Deputy Pringle.

I agree with the principles of the Bill to give effect to the GDPR, the establishment of the data protection commission with up to three data protection commissioners and the significant administrative fines for private companies. Section 8 of Part 1 provides for certain parts of the Data Protection Act 1988 relating to defence and national security to remain governed by our national legislation. That is an area that might also be explored again in amendments to this Bill. Part 2 of the Bill provides for the changes to the data protection commission and I welcome confirmation that preparation had already been under way to get ready for an increased workload with the increase of staff resources to around 120, up from only 30 in 2013, and with a budget of €11.7 million in 2018. I note, however, that there are no plans to appoint additional commissioners. Like other agencies with which we would be familiar, we should fill the three commissioner posts.

I note some of the comments made by the Minister for Justice and Equality in his opening speech yesterday, including the need for further assistance to small and medium enterprises and the risk-based approach to be taken to data protection. It makes sense that each controller and processor of data will analyse their collection, collation and use of data, assess the risks associated with being responsible for other people's data and then put the appropriate measures in place to comply with the new and improved data protection standards.

Section 29 confirms the definition of a child to mean anyone under the age of 18 years. Section 30(1) specifies the digital age of consent to be 13 years of age. Article 8 of the general data protection regulation, GDPR, allows member states to set the digital age themselves as long as it is between 13 years and 16 years. That provision gave rise to considerable discussion during the debate on the Bill in the Seanad and in the media. I believe a digital age of 16 years would have been more appropriate. I note that leading children's groups such as the Children's Rights Alliance and the Irish Society for the Prevention of Cruelty to Children recommended that the digital age of consent be set in line with most of Europe at 13 years. However, given the amount of data which we know are being unscrupulously harvested by social media com-

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panies, 13 seems very young for these companies to start taking, manipulating and using their data without consultation with their parents or guardians. I welcome the amendment of section 30 for the review of the digital age of consent within three years, which the Minister agreed to in the Seanad. Section 32 provides for the right to be forgotten for children, as per Article 17 of the GDPR, which is also very important.

The key aspect of this debate is the responsibility of social media platforms. We saw Mark Zuckerberg argue that Facebook and many of its apps are publishers not platforms. Debates have taken place in the US around that, particularly a decision of Congress when there was a great deal of lobbying by the massive IT industry in California in 2015. However, surely Facebook, Twitter, YouTube, Instagram, Snapchat and all the other platforms with which we are familiar are also responsible for the vitriol which is often directed at people. We have seen the publisher apps being used by terrorists on those platforms showing videos of executions. We have seen hate speech broadcast and normalised. We have seen online bullying lead to young people dying by suicide. Why should faceless trolls or sometimes school peers be allowed to target and bully people in this way? We can see it currently with the referendum campaign and those who have had to sign up to Repeal Shield to protect themselves from online attack. Repeal Shield is an online tool which blocks hurtful, abusive and insulting accounts for people contributing to the debate. Why should Twitter, Facebook, Google, YouTube, Instagram, etc., not be responsible for the content that is posted? The argument about just being a publisher is vacuous. As well as being responsible for the data that is held on the users of those and other sites, organisations such as Facebook should also be responsible for abusive content. I welcome this week's news that Ireland will be included in the new advertising transparency measure being piloted by Facebook, which is due to begin on 25 April. That is important, given that many of those companies have their headquarters not very far from this House.

As my colleague, Deputy Pringle, noted the GDPR will profoundly affect our political work and the work of the Oireachtas. We are contacted day in and day out, and 24-7 at times, by constituents and civil society bodies and groups with personal information and needs and it is necessary to hold that information while we are making representations and trying to achieve outcomes for our constituents who turn to us in desperation. I have always believed, however, in keeping all my constituents informed of my work in the House and the constituency and for that reason I have always published a quarterly newsletter throughout my time in this House, but I note that sections 52 and 53 of the Bill will exempt the right to object to direct mailing when it is for electoral purposes. Senator Alice-Mary Higgins has, however, raised concerns that there is nothing in the Bill, as it stands, to prevent political parties engaging the services of a company such as Cambridge Analytica. Perhaps that is something to which the Minister for Justice and Equality or the Minister of State would return when replying to this debate. Given that there are indications that the techniques of this company were used to interfere in the Trump presidential election and the Brexit referendum in the UK, the closing of such potential loopholes is important. That is something that might be addressed by the Minister of State when replying to this debate and on Committee Stage.

There are many welcome provisions in the Bill. Section 33, for example, providing for the designation of a data protection officer is important. We were briefed today again by our own legal team on how the GDPR will impact on us and the conditions that we have to fulfil in regard to it and to the Bill.

I also welcome section 83 of the Bill which sets out provisions for dealing with breaches of personal data and the notification of such breaches. Section 83(1) states that the controller

shall notify the commission of the breach within 72 hours and if it is longer than 72 hours the controller must include the reason for the delay in notification. However, section 84 seems to state that data subjects do not always have to be notified of data breaches; as per subsection (2), if data has been encrypted and was unintelligible, the controller is not obliged to inform data subjects. With the massive developments in IT and media platforms in recent years, as my colleague, Deputy Pringle, said, we are always chasing to catch up with the latest developments.

I do not believe that many people understood why the Minister was going to exempt Government and public bodies from regulatory fines for breaches of data protection rights. Following the excellent work of Senators, there will now be fines of up to €1 million for breaches and this is far lower than the €20 million, or 4% of global annual turnover, which will be directed against other organisations. The Data Protection Commissioner, Ms Helen Dixon, told the Oireachtas committee last year that the proposed exemption from fines by public bodies was of concern to her and something that we should not have done.

I will support the Bill. I hope that the rights of data subjects, which we all are, will be reinforced and respected from now on.

**Acting Chairman (Deputy Declan Breathnach):** From the Rural Independent Group, I call Deputies Michael Collins, Danny Healy-Rae and Mattie McGrath, who are sharing 20 minutes.

**Deputy Michael Collins:** I am only sharing with Deputy McGrath.

I welcome the opportunity to contribute on this important legislation. As technology advances, the laws protecting our private information and data must keep up with that change. We have seen an unprecedented rise in the popularity of the Internet, social media and data issues in the past 30 years since the first data protection laws were introduced in Ireland.

As proposed, the Bill appears to be extremely technical and specific, but I wish to make a few points about it. I welcome the Minister's clarification that the restrictions proposed by the GDPR about restricting the work of public representatives on behalf of their constituents will not be introduced in Ireland. I will support that amendment, as it allows us to continue our work in using data on behalf of our constituents upon their request. This is part of our job and we should not be restricted in that regard.

It is necessary that we protect information and that citizens who share data online are assured that their information will be kept safe and private. Recent news surrounding Cambridge Analytica, Facebook, Google and others keeping information and selling it on is worrying and must be addressed. I hope that the new public services card will be subject to some of the proposed regulations. Many people are not keen on sharing all of their private information with the Government for this unnecessary card.

I hold concerns surrounding the regulations that will now face small businesses that are already struggling to keep their heads above water. This extra task will cause a great deal of stress and cost, especially where there is no legal mind within the business. The same concern exists for community groups and charities in terms of restrictions on using existing mailing lists and contacting current volunteers and supporters.

**Deputy Mattie McGrath:** I welcome the opportunity to contribute on this Bill, which proposes to give further effect to the EU's GDPR and to transpose the 2016 directive on data

protection in terms of law enforcement functions.

Aspects of the GDPR that are dealt with in the Bill include the rights of data subjects, the establishment of a new data protection commission, the regulation of data controllers and processors and enforcement by way of regulatory action and the courts. Events happening outside the House make these topics even more timely than they would normally be. I am referring, of course, to the extraordinary events surrounding the data breaches at Independent News & Media and the manner in which the Director of Corporate Enforcement has been personally singled out for performing his statutory function by individuals who wield enormous but unelected influence in the State. That did not just happen today or yesterday either.

We have seen instances of this control, threats and fear being imposed on journalists and many other people before. We made our bed and now we must lie in it. The Minister of State, Deputy Breen, has heard me speaking in the House previously on issues of big business, including the banks, and the small cohort of people who wield enormous influence, be it in the beef or wider food industry, or in spin. The Government invested €5 million in spin but only got a short spin. It spun out of control. Mr. Eddie Jordan was not driving it anyway. It crash-landed somewhere in a dustbin. The spin is now in the bin, which is the right place for it. Governments have been too cosy with big business and allowed it to wield influence, and to hell with the duine beag. The small people do not matter anymore. We are only in the way.

The Minister of State is a west Clare man and an Teachta Michael Collins and I are from two rural constituencies, but when we start talking about rural issues, the Government switches off. We are a nuisance and an irritant to it now. If the Government had a can of spray like one can buy for beetles, it would get rid of us. Deputies over there would have used it already. They are using it and getting away with it.

We must wake up. We have made our bed, and now we must lie in it or else jump out and do something.

**Acting Chairman (Deputy Declan Breathnach):** Is the Deputy-----

**Deputy Mattie McGrath:** Go raibh maith agat. Tá an Bille anseo. I am on the Bill.

**Deputy Pat Breen:** Is the Deputy sure? I thought he was on a different Bill.

**Deputy Mattie McGrath:** No, I am not. I am being deadly serious. The Minister of State knows all of this as well as I do. The issue of powerful people having such sway in the media has been a problem for some considerable time, not just today, inné nó an tseachtain seo caite. Tá sé ag fás le a lán blianta. It was happening long before the reality of online communications and emailing emerged, as Deputy Michael Collins mentioned, and I suspect it will continue for a long time after the Bill is passed. If the Director of Corporate Enforcement can be intimidated and threatened in this way, it is scandalous. I have said it countless times in the House that we have regulators, directors of enforcement and agencies, but they are all toothless, useless and fruitless. They are just being swept aside. They are very active when it comes to the little people and the ordinary small farmer or business person, but they can be bullied out of the way in other cases with the threat of legal people being wheeled in, court challenges and God knows what.

In recent months, we have seen how companies have captured and used personal data on a global scale. We have also seen how much of the blame for that has been shifted onto research

companies like Cambridge Analytica, which was a disingenuous tactic. To mind the powerful, blame has been shifted around. It is a moveable feast. Once the main players are protected, they can get what they want.

Even the head of Facebook, Mr. Mark Zuckerberg, acknowledged when he was hauled before the US Congress in the past fortnight that there were major issues with how we protect our data online.

The House just swiftly debated a Bill with the Minister for Transport, Tourism and Sport, Deputy Ross. I spoke on it a few weeks ago when we discussed criminal information being shared across the EU. That is important, but we were slow. It took the Minister eight months to get the Bill from there to here. It will now be sent back to the Seanad.

I was happy to read that the European Parliament has decided to invite Mr. Zuckerberg to appear before three of its parliamentary committees to answer questions on just how the data of as many as 2.7 million Europeans could have ended up in the hands of Cambridge Analytica. Deputies Michael Collins and Broughan referred to this matter. It is covered in section 2, Articles 13 and 14. Every other day, the Minister of State and I as public representatives and Teachtaí Dála - messengers of the people - receive replies from State institutions saying that they cannot discuss this matter or that with us. "Data protection" is a great excuse, so I am glad that the Government seems to be grappling with this issue now, given that what happens is often a shocking abdication of duty. The citizen is further sidelined, abandoned, punished and written out of the equation because of data protection. It suits institutions when they want to act as the heavy arm of the law coming down on ordinary people. We might only be talking about a mere request. This is the case among housing officers and in planning offices and everywhere else. We cannot ask any question or get any answer because of data protection. Senior officials are doing what they like and are accountable to no one, elected by no one, peer reviewed by no one and have jobs for life. Up along the ladder is where they want to go and to hell with the people. "We are all right, Jack."

I hope that the European Parliament will get some answers when Mr. Zuckerberg appears before it, but I wonder whether this Parliament and its committees will ever have the nerve to do something as bold as that. The amber sign is up to say that we should not go there because it is dangerous territory and we should not bring those people in here. We have agencies, such as the Office of the Director of Corporate Enforcement, the Competition and Consumer Protection Commission and so on, but they are useless. I do not particularly want to name any of their officials, but they are not effective. They do not have the necessary resources. We see that they are ineffectual everywhere. The Land Commission is long gone. We have had a conglomerate in Tipperary buying every perch of land that has come up for sale for the past ten years. The previous and current Governments cosied up to them and let them off. They got rid of the small farmer. To hell or to Connacht. That is the way it has gone. I wonder if they would ever have the nerve to come in here and suspect not. That is because so much of what we say about robust enforcement and punishing things like white-collar crime or data protection breaches are just hot hair. Thankfully, the temperature has risen after the awful winter and spring. There is a lot of hot air in here, however, even when the temperature is -4° Celsius or -12°Celsius and any Members are blowing around.

We talk a lot about the importance of privacy and the importance of protecting data but then we allow and even encourage a culture where the balance of power is all one way. If the Minister of State was being honest, he would accept that. That is the way it is. I do not mean it as

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a reflection on the Minister of State. He is doing his best. Allow me to give one example. In recent years, I have been dealing with hundreds of cases of families in serious mortgage arrears. I am sure the Acting Chairman and many other Deputies, including the Minister of State, have as well. When I asked some of these asset companies to provide simple things like a contact email address, they would not do it. The wall is up and they will not do it. It is just arrogance. They demand all the personal data in the world from these families and individuals but then surround themselves in a veil of almost impenetrable secrecy when the families ask for similar information. It is all one-way traffic and it is disgraceful. The arrogance of them. Deputies Michael Collins, Michael Healy-Rae and I went into two banks six weeks ago and asked for meetings with the chief executives on behalf of people who need mercy and need to be treated with some modicum of respect. We barely got an acknowledgement from one bank when we asked for a meeting. They are too busy. Why would they meet us? They are waiting until July comes and the floodgates open for repossessions for the major banks, which we bailed out in this House. The Minister of State and I voted for it, to our eternal shame.

They demand more and more personal data and information from those people. They keep asking for stuff. It is just a game. They are traumatising people and imposing enormous expense with consultants, accountants and everybody else trying to help them out. Why is this allowed to happen? It is going on day in, day out as sure as night follows day. These families tell me when they ask for records of the number of times they have called or tried to make contact with the mortgage or asset management companies they get stonewalled. They are really just playing a big game with them and dangling them at the end of a string, like the game we used to play with the chestnut at the end of a piece of twine in a lake. That is what they are doing. They are just dropping families into it. We have seen many suicides and many people with mental health issues. We have seen families burst up and all kinds of stress and difficulties but no one has put manners on these people.

I note also the Bill seeks to introduce penalties for those giving false information online. This is an area that can cause horrific outcomes in terms of the grooming of children for sexual abuse. It is a very important area. I raised it with the Taoiseach yesterday but I might as well have been talking to Petticoat Loose as talk to the Taoiseach about a number of children from Clonmel and the surrounding areas with mental health issues who are in hospital there. They have serious self-harming issues and all the Taoiseach will say is he cannot comment on a personal issue. I am not asking him to do that; I want him to provide beds for these people. They are holding up beds in paediatric wards, which are not suitable for them. These are 13 year olds and 14 year olds. It is awful and we must investigate why all this is happening. There are no services, however, and we have no mental health beds in Tiobraid Árann, not even ceann amháin. It is all relevant to the Bill and what we are doing about data protection for children. We are aware of the grooming of children for sexual abuse. We are aware that such predators pretend to be someone they are not and lull the child or adolescent into a false sense of security, often with desperately tragic outcomes for those children such as suicide or self-harm. It is happening in their bedrooms and their kitchens. There is no shelter or hiding place. Email and Facebook can penetrate into their homes, their living rooms and their schools.

I welcome any move or provision within the Bill that will make it more difficult to engage in such absolutely contemptible behaviour. There should be severe sanctions imposed for that type of online activity. If they are caught, they should not be in a cosy prison where the victim is forgotten about. They are inside to serve their time and with good behaviour they are out and looked after. There must be effective penalties and remedies in order that they will not be

inclined to do this again. The punishment must fit these heinous crimes. The destruction of a child or adolescent's physical and mental health is the most heinous crime. As far as I am concerned, it is as bad as murder because it destroys the young person, their family and siblings. Consider the trauma of those families when a mother must sit night and day at the hospital bed for nine weeks, as one woman from my parish did, waiting for a bed in Cork. The other siblings were at home with their father who was trying to work. It is awful. We let this racket go on.

I also note that the GDPR also deals with the digital age of consent for children and allows member states to legislate an age below which parental approval is required for offering information society services to a child. The Bill provides for a minimum age of 13 years. I raised this in the Dáil a few weeks ago. Most other countries in Europe, as far as I am aware, have raised it to 16. Who are we coddling? I may not be right on the facts and figures but an awful lot of them have done so. Why are we putting our head into this cul-de-sac? We are putting our heads into a canvas sack and ignoring this. Any of us who have children know - I think the Minister of State has some - that 13 is way too young. It should be a minimum of 16. It will be reviewed after two or three years. In two or three years' time, hundreds of children may have been destroyed. We have to talk seriously. Why are we the first to jump up with Europe and follow Europe in most things, including the banking issues I spoke about and then, when it comes to issues like this, stubbornly resist raising the digital age of consent to 16? It is vital. If we raised it even to 14 and did it incrementally, it would be one thing, but to just blankly refuse to do it is mind-boggling to say the least. The damage is instant, continuous, despicable and ever-growing. These people are not afraid. I am calling for it. I do not want to wait two or three years for it because many other European countries have it. Many countries all over the world have it. Why are we so slow off the mark here? Who are we protecting? What are we doing? Surely to God the people we must protect, under the Constitution, are our children. Most of the House, although not the Minister of State, are pushing to bring in abortion to kill unborn babies. Surely to God, they can protect the children who are alive or have we gone that way? That is what we are dealing with.

The Minister of State will be aware the proposal to keep the digital age of consent at 13 has been severely criticised by experts in this area such as cyberpsychologist, Dr. Mary Aiken. We will not even listen to her. She is a woman of world renown. A Deputy mentioned the agencies that are in favour of this. I wonder what the vested interest of those agencies is. These are the quangos I am talking about. We will have more, including the Children's Rights Alliance and God knows what. I cannot understand why they would be opposed to this if they are protecting children. I cannot understand it. My knowledge of the area is limited but I am experienced. I have eight kids and four grandchildren and many nephews and nieces and God know what else. I meet constituents every day of the week. I have experience from the university of life. A young girl took her own life in Carrick-on-Suir only a few weeks ago. I believe her mother will feature on TV3 tonight. Those issues are horrific.

Dr. Mary Aiken, who is a cyberpsychologist, at her recent briefing which I attended in the audiovisual room, went so far as to explicitly state that many of those advocating for children's rights in this State and who support the 13 year old threshold are woefully ill-informed and confused. Dr. Aiken said that in this very building, next door in the audiovisual room. We have to dig deeper into that. They are paid agencies. People are being paid and we have to ask questions about this. Why could Dr. Aiken's talent, experience and knowledge be dismissed and many of these so-called experts accepted as right? Dr. Aiken's criticism is not one that can be lightly dismissed.

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We have to ask why. It is like with the HPV vaccine, which showed the might of the pharmaceuticals and their power to ride roughshod over legislation. One cannot criticise them. I ask the Government and Government agencies to attend a conference in Dublin next Saturday about what is going on all over the world in this area, to which we are blind. We are told by the CEO of the HSE that the parents of those sick children are emotional terrorists. He is now retiring on a gold-plated pension and the Minister, Deputy Harris, says he was right. That is outrageous behaviour.

Mar fhocal deiridh, it is my sincere hope that we can address these matters in the very near future. I acknowledge that the Bill before us has some worthwhile merits and I hope it will find some support. Big is not always wonderful. We need to shake off the cobwebs, look at what is going on and try to make some changes.

**Deputy Fergus O'Dowd:** If Deputy Fitzpatrick wishes to share time, I will do so. This is very important legislation. It is being driven by a consensus in Europe. It is time for significant change for all of us in the area of data protection. Everybody who deals with people's data needs training in the subject, whether they are in the public or private sectors.

As politicians, we deal every day with data from people who come into our offices. We write letters and send correspondence and emails on their behalf. What is important for me is not that there is no data protection but that the same protocols are in place across State agencies with which Deputies and other public representatives deal. When a constituent comes into a Deputy's office they are, by their very presence, giving consent by imparting data in the form of their address, their date of birth which I do not often like to ask for but sometimes have to depending on the organisation being dealt with and a PPS number. I rang a public body recently with all this information to hand about a gentleman who was in front of me. I told them he was in the office and that he wanted to discuss an issue with them but the person on the other end of the phone would not talk to him or me, because they needed his consent in writing to me speaking on his behalf. That was impossible because the poor man could not read or write, which is one of the reasons he was with me to assist him. I asked the wonderful person on the other end of the phone if we needed to get a solicitor to swear an affidavit or what we would have to do. The bureaucracy was being unreasonable and unfair and it distressed this poor unfortunate person.

We need the sort of protocols we have on Louth County Council. A person is taken on good faith if he or she is a public representative. One gives a name and address and some personal data, such as a PPS number. Because we are dealing with people we know, that system works well. At other times a public body may look for a date of birth. There were difficulties relating to SUSI because an adult student seeking a grant may have parents who have split up and one may not know what the other person is earning. I accept that, in such cases, it is appropriate and proper that both parents or guardians have to give their consent for assessment of income. We need to sit down with the HSE, with county councils and with the bodies with which we deal most frequently to put in place efficient, effective, common protocols so we avoid the embarrassment for constituents which I had recently.

I acknowledge that the Department of Employment Affairs and Social Protection is the best Department. It has an excellent relationship with the public and with public representatives and the data it looks for is the PPS and address. When I ring about cases the person is always in my office so common sense is required. We also need to have vigilance about how data are kept, whether they are stored in paper form or stored digitally. If there is a data leak such as that

we are reading about currently - I will not comment on the court case - and it enters the public domain and is part of a person's personal data, it is a hugely important issue and can create huge difficulties. There are legal cases on these things.

The penalties for a private company which does not protect its data which is then abused in some way or other are quite severe. There is due process and a fine at the end of the process and a significant chastisement. It is hugely important that the HSE and other such bodies face financial and administrative penalties when personal data has repeatedly been leaked. In two or three cases, personal data have come out of the Lourdes Hospital and been found floating around on the streets of Drogheda. The data is about people's medical conditions and their health, which should never be allowed out of a hospital or even kept in paper form. It is beyond me how this happens. Notwithstanding the entreaties of public representatives and pressure from the community to protect data, they have not adequately done so. I do not know if the Minister proposes to apply a penalty for such breaches but if it is not in the legislation, it ought to be. I know the Minister is consulting widely with public representatives on this issue. There must be no division in accountability or responsibility between public bodies and private entities in the case of data that is not properly respected and which is released into the public domain. There are many things one would not mind being leaked such as one's water bill etc., but private health, the operations one has had or the medication one is on are more serious matters. Therefore, in terms of the HSE, health records are particularly sensitive and there should be a special penalty for their misuse or abuse, even inadvertently, or the release of records onto the streets of Drogheda and other places. I urge that there be a significant penalty.

The argument is made that if one hits the HSE for €5,000, it comes off its budget. It should not come from the operational budget but by God it should come from the administrative budget or the budget for non-front-line services. We should be able to put in a significant deterrent which does not affect front-line services but would soften the cough of those who treat the private data of people so carelessly and improperly.

The situation which arose in Drogheda was silly. Data left Lourdes Hospital and lay on a public street. A person picked the material up because they did not know what to do with it. They brought it to a radio station and the radio station reported it. In theory, the radio station could be fined for having the document in its possession while the Lourdes Hospital got off scot free. The Lourdes Hospital is an excellent hospital and it does fantastic work. It is one of the best hospitals in the country in terms of the improvements it has made but we have to come down extremely hard on the failure to protect data.

It is important that we are increasingly aware of data protection, of the security it must entail and of data being released over the Internet without a person's knowledge. If Deputy Peter Fitzpatrick is ringing me, his app might be telling Senator Ged Nash he is doing so. I am only joking when I say that but what I am saying is that we do not know what the apps on our phones are doing when we are ringing people. How many of these damned apps, for playing games or looking at football matches, are listening to one? A considerable issue arises concerning the use of apps on a mobile phone. We do not know whether they are recording or using one's data without one's consent, or perhaps doing so with one's implied consent. I do not believe anybody reads all the conditions to which one must consent when signing up to an app. They go on forever. We need to adjust and make sure there is a very simple, clear message in large font stating what is actually happening to one's data in the context of access and the transfer of data to others because of silent listeners to every telephone conversation or any communication we may have.

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Now that my colleague, Deputy Peter Fitzpatrick, is here, I am happy to hand over to him.

**Deputy Peter Fitzpatrick:** The Data Protection Bill 2018 proposes to give further effect to the general data protection regulation, GDPR, and to transpose the 2016 directive on data protection in regard to law enforcement functions. It will enter into force across the European Union on 25 May 2018. An accompanying directive, which establishes data protection standards for the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection and prosecution of criminal offences and the execution of criminal penalties, is also required to be transposed into national law by May 2018.

Both the GDPR and directive provide significant reforms to current data protection rules based on the EU's 1995 data protection directive. Both instruments generally provide for higher standards of data protection for individuals and data subjects, and impose more detailed obligations on bodies in the public and private sectors that process personal data, controllers and processors. They also increase the range of possible sanctions for infringements of these standards and obligations.

The Bill comprises 162 sections and three Schedules, with multiple cross-references to the GDPR and directives. The GDPR creates a harmonised system of data protection rules that will apply across the EU. It also applies to EU residents' personal data that is transferred or processed outside the EU and to businesses that offer goods or services to EU residents.

The GDPR introduces and updates extensive rights for data subjects, including the right to be forgotten, which requires data controllers and processors to erase data that are inaccurate, obsolete, improperly held, or to whose processing the data subject no longer consents.

The regulation also deals with the consent of children and allows member states to legislate for a digital age of consent below which parental approval is required for offering "information society services" to a child. The Bill provides for a minimum age of 13 years.

The GDPR requires member states to appoint a supervisory authority to oversee the implementation of data protection rules under the GDPR. Part 2 of the Bill provides for a new data protection commission, comprising up to three commissioners. It transfers to the new commissioner the personnel and responsibilities of the current Data Protection Commissioner under the Data Protection Act 1988.

As an EU regulation, the GDPR is directly applicable, meaning that its provisions take effect in member states without the need for transposition. However, many of its provisions oblige member states to adopt legislation — for example, in regard to the operation of the official bodies — or to adopt provisions of the GDPR in their legal systems.

The GDPR allows member states a margin of appreciation in how or whether they adopt some of its provisions. The Bill therefore contains provisions regulating the exercise of certain rights in regard to processing or setting restrictions on them in defined circumstances. It also provides for ministerial regulations to govern data processing of particular types, such as archiving for historical, scientific or statistical purposes, or where data are to be transferred outside the states in which the GDPR applies, namely, the member states of the EU, Iceland, Norway and Liechtenstein.

The Bill makes provision for the enforcement of the GDPR by means of complaints to the new data protection commissioner, investigations, information and enforcement notices, court

action and a new feature under the regulator, administrative fines. The data protection commissioner may impose administrative fines on controllers or processors that infringe the GDPR up to a maximum of 4% of worldwide turnover, or €20 million, whichever is higher.

The directive deals with data protection for the purpose of law enforcement, including police, prosecution and prison functions. Directives must be transposed into member states' law. Therefore, Part 5 of the Bill enacts the directive's provisions. In doing so, Part 5 provides for data protection in terms broadly similar to those of the GDPR but with adaptations appropriate to law enforcement purposes. It provides for rights of data subjects to information about the processing of their personal data, to complain to the data protection commissioner about breaches and to see remedies in court through the commission. Neither the GDPR nor the directive applies to the courts or judges when acting in their judicial capacity. Nevertheless, the Bill addresses the issue of data protection in the courts by providing for a judge to be nominated by the Chief Justice, who is to act as a regulatory authority for judges. The judge is to promote data protection and awareness of the rights under the GDPR and will handle related complaints.

The Bill does not repeal the Data Protection Act 1988. Instead, it restricts its application to areas in which the EU does not have competence, such as defence and national security, and repeals provisions of the legislation that are not relevant to these areas.

The GDPR retains many of the key components of existing data protection law, including the data protection principles that underlie the rights of data subjects and the responsibility of data controllers.

The principal changes introduced by the GDPR include: a uniform data protection regime in all member states; increased territorial scope; the establishment of a European data protection board; transfers and processing of personal data outside the EU; a risk-based approach whereby data processors are responsible for assessing the potential effect of their operations and planning suitable protection accordingly; strengthened provisions on consent; provisions dealing specifically with children; rights to access and data portability; the right to be forgotten; privacy by design; supervisory arrangements; compliance procedures; breach notifications; and penalties and compensation.

**Deputy Clare Daly:** I am sharing time with Deputy Mick Wallace.

I listened to the debate last night. Many colleagues laid out many of the gaps and issues associated with the Bill so I will certainly not repeat some of them. I want to take some time, however, to put in context why data protection and privacy are such important matters and why the GDPR is such a significant regulation to which we must all pay considerable attention.

It can sometimes be hard to explain the significance of data protection to people. Some people just have a gut aversion to data being hoovered up and their privacy being invaded. Others have the attitude that if one has nothing to hide one should have nothing to worry about. Others really do not care or have not paid enough attention to the issue. Therefore, it is important for us to outline why data protection is important and what the real-world implications are if one's private data are not protected.

Last year in the United States, data on 143 million Americans was stolen from the credit check company Equifax. The data included dates of birth, social security numbers, bank account numbers, driver licence numbers and so on. The hackers got in through a side door using a simple web app. It was not difficult and it was not like they were trying to get into Fort Knox.

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However, the problems that caused for individuals were immense. In one case, a woman's identity was stolen 15 times. Her credit rating was wrecked and she could not get a mortgage. She spent hours trying to untangle herself from this. Every person in the US who had taken out a loan in the previous few years had his or her data stolen because of the sharing of information and not only the people who had dealings with the company. That is a good example to highlight the importance of the data protection principles underpinning the GDPR. Data must be kept secure and only the minimum data necessary should be collected for a particular purpose. The example demonstrates how easy it can be for data to be stolen if it is being shared and the major consequences of losing control of personal data. It is possible for companies and organisations people have never heard of to have huge wads of information about them.

Let us imagine a world where most, if not all, of people's daily activities are constantly monitored and evaluated, including what they buy in shops and online, their location at any given time, who their friends are and how they interact with them, how many hours they spend watching television, what they read and what they skip over when they are reading, how long they sleep and the bills and taxes they pay. However, that is the world we live in now thanks to organisations such as Google, Facebook, Instagram and health tracking apps such as Fitbit. If in this world there is a system where these activities and behaviours are rated as positive and negative and distilled into a single score according to the rules set by the government, that creates a citizen score and tells everyone where people are trustworthy with their rating publicly ranked against the entire population and used to determine their eligibility for a mortgage or a job, where their children can go to school, how much they must pay for flights and even whether they are allowed to take train or taxi journeys. Again, we do not have to imagine this. This is happening right now in China where the government is developing a social credit system to test the trustworthiness of its 1.3 billion citizens. The scheme is voluntary for now but it will become mandatory by 2020 and the behaviour of every citizen will be rated and ranked whether they like it. Sadly, that is the world we live in and there is surveillance of our every move and desire and almost our every thought. They are all visible to some private company. When all that data are put together with a government that has a big interest in controlling its citizens, that gives us China's social credit score. There is no escape or opt out. If people opt out, they get a low score, which means no mortgage, job, travel or education.

We have the beginnings of that here with employers monitoring Facebook profiles and landlords trawling thorough Twitter feeds. It is not a huge leap from that to the situation in China and that is the backdrop to this debate. It is enormously important and we all have to, not only as Members but as citizens, wake up to this issue because the technical ability to implement full-scale, 24-hour surveillance on every citizen in Ireland, Europe and most of the world is in place. Many of us have for years willingly signed up to this surveillance of our lives by various private companies, which, in many cases, know as much, if not more, about us that we do ourselves. That is why the GDPR is important. We have become anaesthetised to giving up our data to private companies to manipulate and profit from. In 1996, for example, the hugely underrated Silicon Valley commentator, Paulina Borsook, warned about the dangers of corporate America's hunger to exploit our data for profit. We could and should have done something about this 15 years ago but it is better late than never. We must look at the devil in the detail but whether the GDPR goes far enough to protect us is an open question, as many people have pointed out. I generally side with their fears that it does not go far enough.

We will examine the Bill in more detail on Committee Stage. The justice committee has prioritised it and has said we will sit for however long it takes to get it through that Stage and

to make it fit for purpose within the deadline the Government has set for us to have signed up and have the legislation enacted. It is clear that the Government has set out on a path to grab for itself the maximum flexibility to maintain as far as possible the privacy compromising *status quo*. That is not a surprise when it comes to data protection. It is difficult to accept the State as an honest broker in this regard. One only has to consider the public services card, individual health identifiers project, CCTV projects in Limerick, wide-ranging Garda surveillance powers and powers to access phone records, and a data retention regime, which according to a former Chief Justice amounts to mass surveillance of the entire population. We have witnessed a great deal of intransigence, carelessness and intrusiveness on the part of the State and a wilful disregard for people's fundamental right to privacy. We have to take cognisance that this is the backdrop.

The individual health identifiers project is steaming ahead regardless, despite the fact that it is on a shaky legislative foundation. There is minimal public knowledge and understanding of it, let alone people consenting to be part of it. While there may be legitimate reasons for creating databases that can contribute to public safety and public health, there must be a level of trust and understanding. Clarity on what the databases will and will not be used for and how people can opt in and opt out is needed. We do not have any information on that in the context of this project. Last summer, solicitor and data expert, Simon McGarr told the justice committee that it is likely following the Barr judgment that the health identifiers Act does not even comply with European law, something that would open the State up to damages claims from every person in the database, which means every person in the State. We have no idea what is going on with it. The project is rolling ahead and the HSE's interim chief information officer giddily told *Silicon Republic* about the possibility of linking Apple Watch to people's electronic health records as a mechanism of patient empowerment, which is ludicrous. Empowerment was one of the buzz words used by Google and Facebook in the early days and look at where all that ended up. It is not a stretch to imagine a scenario where information on people's blood pressure, heart rate, sleep patterns and blood-alcohol level is fed into a gadget such as an Apple Watch and passed on to health insurers which will then charge higher premia to people who are not living right or behaving properly, with the upshot being that the unhealthy will be cut off from health care in its entirety. As the HSE's chief information officer said, "It is not science fiction anymore".

As T. J. McIntyre said about the PSC, it is not an aberration but it exemplifies a systematic disregard for privacy and data protection throughout the State. It is instructive to note that under sections 115 and 126 the Government has not chosen to implement the optional provision in article 80 of the GDPR to allow non-profit organisations and other activist organisations to seek damages for breaches. However, I will table a hell of a lot of amendments on Committee Stage.

**Deputy Mick Wallace:** One could be forgiven for suspecting that the Government and some Departments simply either do not understand privacy and data protection issues or choose to ignore them. I say this because some things the State has been up to for the last years in the knowledge that the GDPR is on its way, including the public services card, PSC, the single customer view, CCTV schemes and the Health Identifiers Act, have been extremely surprising. I will address a remarkable statement made by the Minister in the Seanad on Committee Stage about proportionality. The Minister claimed we cannot have references to proportionality in the Bill because it would make certain schemes already in place and operational illegal. That is a remarkable statement. Necessity and proportionality is already the law in Ireland in this context and the Minister's statement suggests that the Government wants to continue to ignore the huge problems with schemes like the public services card and certain CCTV schemes after the GDPR

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comes into force and that the Data Protection Bill is an attempt to carve out exemptions to the GDPR rather than honour its terms and spirit.

Article 4 of the GDPR defines consent. Consent must be freely given and cannot be coerced. Recital 42 of the GDPR gives us further guidance on how we should interpret this definition of consent. It says “Consent should not be regarded as freely given if the data subject has no genuine or free choice or is unable to refuse or withdraw consent without detriment.” Withholding a pension payment from an elderly woman for 18 months because she refused to register for a public services card is a form of State coercion. Forcing people to get a PSC to get a passport or driving licence is forced, coerced consent. Coerced consent has never been legal but surely in the light of the GDPR and its own Data Protection Bill, the Government will be obliged to act on one of the biggest data sharing projects in the history of the State, namely, the single customer view and the related public services card.

I obtained correspondence between the Office of the Data Protection Commissioner and the Department of Employment Affairs and Social Protection about the PSC a few months ago, under freedom of information, FOI, provisions. The assistant data protection commissioner wrote to the then Department of Social Protection in August 2017 about a data sharing agreement between the Department of Social Protection and the Road Safety Authority, RSA. The assistant commissioner’s email asked if the Department would confirm that no processing of personal data has taken place to date, that is, data shared by the Road Safety Authority to the Department of Social Protection and matched to the Department’s record to identify individuals who do not have a PSC but are SAFE authenticated. The assistant commissioner is referring to the fact that in August 2017, the Department of Social Protection started to invite people who had obtained a driving licence to complete SAFE 2 registration by post and get a public services card. More specifically, since August last year, the RSA has been sharing personal data with the Department of Employment Affairs and Social Protection without the consent of the data subjects. In other words, the Department gets the names, addresses etc. from the RSA in order that it can then contact these people but without any consent being given to the RSA by its customers to share these data. The assistant commissioner’s email indicates that he had serious reservations about this. In response to questions I submitted to the Minister for Employment Affairs and Social Protection, she claims that legal basis for this data sharing is provided in the Social Welfare Consolidation Act 2005. The Minister in this case is either ignoring or simply does not understand the 2015 Bara judgment by the European Court of Justice.

However, even leaving the Bara judgment aside, it is very hard to understand why the Government has continued to plough ahead with this kind of data-sharing when it surely knows the GDPR prohibits it. These concerns are clearly reflected in the assistant commissioner’s correspondence to the Department. He sent two emails to the same high-ranking official in the Department of Social Protection on 31 August 2017. The FOI documents received by my office worryingly do not contain any replies to his questions. His second email stated that he sought confirmation as to whether this was a consultation of a proposed data-sharing arrangement or whether the arrangement already was operational, and that the status of the data-sharing project was important and potentially would affect how the Office of the Data Protection Commissioner would manage its engagement with the Department of Employment Affairs and Social Protection. We know from these FOI emails that the Department told the Office of the Data Protection Commissioner in July 2017 that the Department would write to those whose data it received from the RSA, asking for their consent to use these data to update the Department’s records and to complete the registration process for a PSC. The phrase “provide their consent” is bolded in

the email, indicating that the Department has some understanding of the importance of consent with regard to data-sharing. Yet the Department completely fails to understand the problem of the RSA sharing data with the Department of Employment Affairs and Social Protection without the RSA's own clients' consent, even though the assistant commissioner clearly flagged this issue in emails in August 2017. The Data Protection Commissioner has since opened and indeed extended a near-unprecedented formal section 10 investigation into the public services card. To not at the very least pause or suspend the expansion of the PSC and single customer view pending this investigation and the introduction of the GDPR is madness. The State is likely to face enormous fines and compensation payments relating to the PSC under the GDPR.

Section 31(d) of the Garda Síochána (Policing Authority and Miscellaneous Provisions) Act bestows responsibility to publish guidelines in respect of CCTV cameras on the Policing Authority. I wrote to the Policing Authority this month about the use of automated numberplate recognition and facial recognition cameras as part of the Department of Justice and Equality's community-based CCTV grant aid scheme. The Policing Authority confirmed that, rather strangely, the authority has not yet issued any guidelines under section 38 of the Act and that neither had the Department issued guidelines before the authority was established. The Policing Authority also stated in its reply to me that the authority has no role relating to the technical specifications of the CCTV camera. Neither the Minister nor the authority seem to have any responsibility for this. Section 2 of the existing Data Protection Act requires that data are "adequate, relevant and not excessive" for the purpose for which they are collected. In other words, data collected should be proportionate. I do not dispute that CCTV can be useful in detecting and preventing crime and antisocial behaviour and I understand why rural communities in particular might feel safe with them in place. However, CCTV systems must be able to pass a proportionality test as otherwise, they simply amount to surveillance and are fundamentally illegal. According to the guidelines issued by the Data Protection Commissioner, under the principle of proportionality, the Office of the Data Protection Commissioner would expect that a data controller would have carried out detailed assessments as to how the use of CCTV would meet proportionality requirements, including carrying out a privacy impact assessment. Privacy impact assessments will be a legal necessity under the GDPR.

I submitted an FOI request recently to Limerick City and County Council, looking for the council's privacy impact assessment for its CCTV scheme, funded by the Department of Justice and Equality, as part of the community-based CCTV scheme. CCTV camera installations, including automated numberplate and facial recognition cameras, began in Limerick in November last year and the CCTV scheme is due to go live by the end of this month. My FOI request was refused only two weeks ago on the basis that the privacy impact assessment was not yet finalised and was still in draft form. Publicly available information on the Limerick scheme shows proposals for what is known as deep learning and artificial intelligence to be overlaid on a network of cameras that count footfall, keep a record of the registration of every passing car 24 hours a day, and can recognise faces and patterns. Section 38 of the Garda Síochána Act clearly specifies that CCTV schemes should only be authorised for securing public order and safety in public places, yet Limerick City and County Council has publicly stated that its scheme will go much further than that. The Limerick solicitor and digital rights expert, Rossa McMahon, has said of the scheme, "It is not an exaggeration to say that the Council is installing technology used by authoritarian police states like China." The council tendered for the scheme over a year ago and has already bought numerous high-specification cameras and related equipment for 14 locations in the county. The GDPR dictates that data protection safeguards must be designed into products and services from the earliest stage of development.

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Limerick City and County Council's privacy impact assessment now can only be a box-ticking exercise and in that sense will be utterly pointless. This is a €500,000 scheme and sets a dangerous precedent on disregard for proportionality with regard to data sharing. As I mentioned already, the Minister claimed in the Seanad debate on this Bill that we cannot have references to proportionality in the Bill because it would make certain schemes already in place and operational illegal. It is hard not to conclude that the Minister wants to continue to turn a blind eye to already existing problems and to use the Bill to undermine the rights of data subjects under the GDPR.

**Deputy Róisín Shortall:** In the past few weeks, we have all seen how important it is to have robust data protection and to ensure that we have those measures in place right across society. Be it through the GDPR or domestic legislation, they are now a vital component of everyday life. The Bill does not go far enough in terms of providing specific protections to young people generally and children in particular. I wish to concentrate my contribution on that issue. Having read the contribution of the Minister, Deputy Flanagan, in the Seanad, it is clear that he is aware of the issues in respect of how the EU has chosen to frame article 8. By structuring the additional protections for children's data in terms of a set age limit and parental consent, the onus of responsibility has been shifted from data processors to parents, which, in my view, is not right. During the drafting phase of the general data protection regulations, GDPR, some countries instead proposed including clear restrictions on marketing activities that specifically target children, which would have provided far more robust protections. It is very regrettable that that course was not taken. The move to a digital age of consent, which does not appear to have been set with any clear evidence base, is a major failing of the GDPR that we must work on addressing before passing the Bill.

The current draft of the Bill is a vast improvement on the original. Placing the right to be forgotten on a statutory basis and specifically citing that right in regard to children and young people is an important move. However, I was disappointed that the most significant change made to the Bill in the Seanad is to task the commission with encouraging rather than requiring codes of conduct in regard to how data processors engage with children and handle their data. Such codes of conduct are already prescribed in article 40 of the GDPR. I suspect the Minister has chosen to adopt this wording in an effort to avoid falling foul of the EU. However, the language of the Bill as drafted does almost nothing to impose additional restrictions on the collection of children's data. Instead, it gives the companies that will be processing such data huge scope in how they collect, use and monetise it. That is why it is important that we are very clear what we are talking about when we refer to the digital age of consent and what it can and cannot achieve.

Over the past few weeks, there has been much wide-ranging comment on and discussion of the digital age of consent. It has been described as being about everything from keeping children safe online to being a question of free speech. That is simply not the case. As Professor Barry O'Sullivan quite forcefully stated at the Joint Committee on Children and Youth Affairs, "the digital age of consent is not about when a child can access the Internet, it is merely the age at which a child can consent to a profiling of their personal data and that is it." The simple fact is the digital age of consent is about money. The type of profiling to which it will allow 13 year old children to consent is at the root of these companies' business model.

In the past few weeks, we have all seen how easily such data can be misused. We need to ask ourselves if we think it acceptable for the data of children to be used in such a manner and whether we can trust large scale data processors such as Facebook, Google, and Snapchat to

do so responsibly without being compelled to do so through legal sanction. I do not think we can. Time and again, such companies have proved that they cannot be trusted to act responsibly when it comes to users' data. On repeated occasions, they have acted to tighten privacy controls only when caught or in response to massive public pressure. I do not allege that anything they did or are doing is illegal but, rather, that that reluctance to act is at the core of the problem. The companies may subscribe to the letter of the law but their sole concern is their bottom line. All Members may agree that the harvesting of the personal data of children for marketing purposes is repugnant but if it is not clearly prohibited there is no incentive for these companies to stop that practice.

The marketing strategy of Facebook and other social media companies is to present themselves as a social good. Facebook has often described itself as a social utility. Google's corporate code of conduct included the retrospectively threatening motto "don't be evil". Although truly brilliant pieces of marketing, those slogans are completely removed from the business model of those organisations. They do not provide a service for free; the charge is access to our data. They are not a community or a utility but, rather, businesses based on mass surveillance. There is nothing inherently nefarious in that and there is no doubt that there has been positive change as a result of access to these platforms. However, that does not mean that we should ignore their nature or blindly accept their marketing copy. We must approach the manner in which these companies make billions in profit each year with open eyes. We must accept that, like any other resource, this House has not only the right but also the responsibility to regulate how private industry monetises the public's data, particularly that of children.

Over the past few months, I have tabled several parliamentary questions on the Bill and the digital age of consent. In his replies, the Minister has consistently cited the support of the Children's Rights Alliance for these proposals. However, that is not a fair or accurate portrayal of the current position of that organisation. In a recent submission to the Minister, it made clear that relying on digital consent as a means of protecting children's data is not sufficient. It believes that that approach takes the emphasis off the data controller and that if we are truly concerned about children's data, we should be imposing more restrictions on the use of their data. I hope that the Minister will continue to give the opinions and recommendations of the Children's Rights Alliance as much weight as he has to date and heed its call that the Oireachtas should legislate to forbid the use of children's data for marketing or commercial purposes. I understand that proposal was raised with the Minister on Report Stage in the Seanad and that he suggested it would risk breaching the GDPR or interfering with the independence of the commission. However, on that Stage he introduced an amendment to place the rights of erasure referred to in recital 65 of the GDPR on a statutory footing. I see no reason the same could not be done for recital 38, which states: "Such specific protection should, in particular, apply to the use of personal data of children for the purposes of marketing or creating personality or user profiles and the collection of personal data with regard to children when using services". At the very least, the Minister must have considered tasking the commission with encouraging steps to remove the data of children from being collected for marketing purposes.

Article 57(1)(c) of the GDPR makes clear that the commission must have the power to advise the Dáil on administrative or legislative measures relating to data processing. Would the Minister accept an amendment seeking a report from the commission on the use of children's data for marketing purposes? I would rather that we put in place specific legislation to control such behaviour, similar to the current data protection regime in Spain, which prohibits the collection of data from children about their parents and family. However, I understand the

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Minister is concerned about the compliance of such action with EU law. If that is the case, it is essential that the Minister outline what legal advice he has sought on this area, why he sought it and what his precise issues of concern are. Will he work with the Opposition to find a way to strengthen our domestic legislation as the Bill does not go far enough? There is a unanimous view that it is repugnant for children's data to be used for marketing and commercial purposes. Members may have heard a representative of the Irish Heart Foundation very eloquently talking about that today and discussing the dangers of the very direct marketing to children of very unhealthy foods such as those high in sugar or salt, or both, and so on. There is no disagreement on any side of the House on that objective. I hope the Minister will give positive consideration to an amendment in that regard on Committee Stage.

**Deputy Eamon Ryan:** Three revolutions are taking place in the world at the moment. The first is the digital revolution, which has been happening now for several decades. In line with Moore's law, technology is operating relentlessly in increasing our capability to process data. There is also a clean energy revolution taking place. We are moving towards renewable power and allowing efficiency in a range of different ways. There is also a transport revolution starting now in terms of allowing for shared access to vehicles and moving away from ownership of vehicles towards hire in a range of innovative ways. I mention all three because they are connected in the sense that the digital revolution is very much influencing the other two. When one starts looking at how to evolve the clean energy revolution, for example, in the roll-out of smart energy meters in a home or electric vehicles, one realises it is the data communications system, the digital systems, that are key. The same is true in terms of how the transport revolution will work. The way we change how we move around cities in particular will require people to be confident about the sharing of data. It is a communications revolution that brings the transport revolution as much as anything else. The three revolutions have certain characteristics in that they involve network systems. They are much flatter, typically horizontal, and less hierarchical structures that are created in industry or in power systems and each one feeds off the other. They are revolutions that will change society as well as those three technological areas.

As a country, we have a real interest in getting the revolutions right. In this city and around the country, we have managed to attract many of the companies at the very cutting edge of the digital revolution in particular and we are good at the clean energy revolution too. It is incredible when one looks at our recent history over the past 50 years that we have moved from importing foreign direct investment in manufacturing, for example, all the semi-conductor industries and biopharmaceuticals, and to our ability in the past 15 to 20 years to attract all the digital industries and the latest social network platforms. That has been an incredible success for this country. More than any other country, we need to get the regulation of it right. The ethical rules around how we govern such a system are critical for this country. We want to gain from the clean energy, digital and transport revolutions. We want to attract the jobs and develop our own industrial capability, but we also want to look after people.

The revolutions are affecting everything in society. They affect the way the education and health systems will work and how the media works. Our financial system is about to be eaten up and completely changed by the digital revolution that is taking place. Today's debate is mission critical for this country given that we are discussing the legislation to regulate that digital revolution. I believe the best approach to it is to start from first principles of the characteristics of the revolution that we want to apply. One of the first principles we should apply is that of privacy and of trying to protect people's privacy in the sharing of all that data and information because if we do not get that right people will not trust us regarding the scale of the way we are

going to use it. This revolution is only starting and in the next 20 to 30 years, the applications we will need to apply will require people to trust the data, and the first principle of privacy applies in that regard.

It is difficult because there are other principles that in some ways are equally important although they are slightly conflicting. For example, there is the networked, flat, hierarchical sharing system of open access and transparency among the principles of how this new revolutionary network system works. Similarly, there are principles that we would want to provide in order to allow for payment to content providers, but at the same time we also want to provide for shared fair-use systems so that people can benefit from that characteristic of the network system. The difficulty when it comes to legislating is that one has those different principles that sometimes conflict. In addition, one also has to take into account as the legislator, as well as the principles, the norms of what the technology is doing and try to understand it. Technologically, it is incredibly complex regarding what one can and cannot do in terms of how the digital communications system works, even the way the zeros and ones move along fibres and go through routers and are stored. If one does not understand the technological level of what the revolution is bringing, it is very hard to get the regulation of it right. It is only after one has worked out one's first principles and the norms of what is happening that one gets down to the practical job of legislating, but legislate we must.

For too many years, the political system across Europe and the world has stood back. In Europe, the European Court of Justice, ECJ, has effectively become the legislating arm for the digital revolution because in the absence of political certainty as to how we would do that, the European Court of Justice has stepped into the breach and effectively regulated for the world in the sense that Europe is big enough to set the level of standards that would apply. By and large, it has done a good job but it is not up to the ECJ to legislate, rather it is up to us and the European Parliament. The Bill before the House comes from the European Parliament. It was the Parliament which stood up for the values of privacy, for example, in recent years. Perhaps I am biased because it was colleagues and friends of mine who were responsible. I refer, for example, to Jan Philipp Albrecht, a German Green parliamentarian, whom I found superb in steering the regulation through the Parliament. He was the Parliament's rapporteur for the GDPR.

There was cross-party agreement on the privacy directives we developed in recent years, which is one of the most interesting characteristics of the matter. There has been agreement on the left and the right - liberal, socialist, Green, Christian Democrat and every other party - and a fairly broad consensus was reached within the European Parliament. It was the Parliament which steered the Council. The Commission helped, but to my mind the Parliament should be recognised for setting out the broad principles of how to regulate data protection. Now we are translating it into our domestic legislation. This is incredibly complex legislation and it is not easy for us parliamentarians to parse through the details. To understand the details, one has to understand the scale of the revolution, the scale of the technological changes that are occurring and the scale of the complex battle between different principles. I look forward to Committee Stage to try to contribute and participate in the debate on the complex and difficult things we need to do.

I understand the original version of the Bill tried to exempt the public service from the provisions of transparency and openness and I am pleased that was removed. We are starting from a far better place now in that the public service realises it is not exempt from the revolution that is taking place and it must be exemplary in terms of the principles we apply. It is not all about security and protecting the institutions themselves, rather it is about being willing to be open

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and transparent. I am all the more certain of that after the session we had yesterday afternoon with Facebook where we were trying to tease out some of the immediate issues. We are fortunate here, by and large, as we are well placed to do a good job. We have a strong independent legal system. The judgments that Mr. Justice Gerard Hogan and others gave in recent years show we have real strength in our legal ability. We have a strong regulatory system. I believe we are one of the best countries in Europe in terms of regulatory process. We are not  
*9 o'clock* seen in that way at the moment, as the rest of Europe sees us as a soft touch in the regulatory area, but it is possible for us to up our game. The number of staff under Data Protection Commissioner, Helen Dixon, has increased to approximately 100 from 30 four or five years ago, but I think we need to double the number again, if not more, because the scale of the responsibility we have as the home to the digital companies is one that we should take with the utmost seriousness. We have 5,000 civil servants in the Department of Agriculture, Food and the Marine and we have 100 in the Office of the Data Protection Commissioner when the Data Protection Commissioner is pretty much dealing with the entire world in terms of rules on the Internet revolution. That requires a dramatic scale of response and importance in terms of how we get those rules right.

I am pleased the Bill is before the House and I look forward to contributing on behalf of the Green Party on Committee and Report Stages. The Bill is important, and it is important we get the legislation right. I hope the Minister will be open to amendments. The nature of the revolution is that one collaborates, tries to seek consensus and listens to different voices.

If that attitude is taken during the progress of this Bill through the Parliament, it will be the better for it.

**Minister of State at the Department of Justice and Equality (Deputy Pat Breen):** I thank all the Deputies who contributed to what was a very interesting and engaging debate on this Bill. As all of the speakers rightly pointed out, this is a very complex Bill that will affect us all. The Minister for Justice and Equality, Deputy Flanagan, and I welcome the broad range of views that have been expressed in both Houses of the Oireachtas. I assure all the Deputies who contributed to this debate that the issues they raised will be considered in the context of possible amendments to the Bill. As Deputy Ryan said, this is about consensus and collaboration.

I will now respond to some of the issues that were raised, although I will not be able to respond to them all. Many Deputies raised the issue of the digital age of consent. The Government acknowledges the concerns expressed by Deputies regarding the digital age of consent. The background to the Government's decision to set the age of digital consent at 13 years, including the consultation process undertaken by the data forum and the Department, has been explained very well in both Houses of the Oireachtas by the Minister for Justice and Equality. In choosing a digital age of consent of 13 years, Ireland is certainly not out of line with other EU member states as Deputy Mattie McGrath suggested in his contribution. In that context, I suggest that he reads the Bill. A digital age of consent of 13 has also been adopted by Sweden, Denmark, the Czech Republic, Finland, Latvia, Spain and the UK. I also remind Deputies that the Joint Oireachtas Committee on Justice and Equality, an all-party committee with members from both Houses of the Oireachtas, recommended 13 years in its report following pre-legislative scrutiny of the Bill. Many other leading experts, including Dr. Geoffrey Shannon, support the decision also. Arising from discussions in the Seanad, a review clause has been incorporated into section 30 of the Bill which will mean that the operation of the section will have to be reviewed not later than three years after coming into operation. That clause was welcomed by many Deputies in this House and by many Members of the Upper House.

Deputy O’Callaghan, who was the first member of the Opposition to speak on the Bill, referred to the need for the Data Protection Commission to be adequately resourced, as did Deputy Ryan. The Government has allocated significant additional resources to the Office of the Data Protection Commissioner since 2013 in order to ensure that it will be in a position to discharge its functions following the entry into force of the GDPR. If one takes a look back at the budget in October, the funding for that office was €11.7 million, putting the Irish Data Protection Commission in the top tier of highly resourced national data protection authorities in the EU 28. We understand the importance of the job of the Office of the Data Protection Commissioner which is why we are providing adequate resources for it and will continue to do so. The Data Protection Commissioner is independent of Government and needs adequate resources because, as Deputies pointed out, so many multinational companies have their headquarters in Ireland.

Deputy Lawless also mentioned the need for the Data Protection Commission to be given sufficient powers to carry out its functions. I assure the Deputy that the Bill will confer extensive supervision and enforcement powers on the commission, including the power to apply, *ex parte*, to the High Court for an order to suspend, restrict or prohibit data processing or the transfer of data to a third country or an international organisation, where there is a need to act urgently in order to protect the rights of freedom of data subjects.

Deputy Ó Laoghaire raised the issue of the transfer of personal data to the UK following Brexit. He spoke in particular about the need for an advocacy decision. While this is a matter for a first decision by the European Commission, it is worth noting that the UK Government has underlined the fact that it will be compliant with the GDPR on the date of exit from the EU. That has been made quite clear to all EU Ministers. Deputy Ó Laoghaire also suggested that the Bill should provide for criminal penalties that deprive organisations of the profits obtained through infringements of the GDPR. The position is that Article 83 of the GDPR already provides for the imposition of administrative fines of up to €10 million or €20 million or 2% or 4% of the worldwide annual turnover, depending on the nature of the breach. Many Deputies raised that issue in their contributions. That article sets out a number of aggravating and mitigating factors to be taken into account in determining whether to impose a fine and the level of any such fine. One of these factors is the financial benefits gained or the losses avoided directly or indirectly from the infringement.

Deputies Pringle and O’Dowd both mentioned an amendment that the Minister for Justice and Equality intends to bring forward on Committee Stage relating to concerns raised that GDPR may adversely impact on the ability of elected representatives, including Members of this House, to make representations on behalf of their constituents and to carry out other aspects of their work as elected representatives. I assure the House that the Minister intends to bring forward an amendment to ensure that there is an appropriate legal basis for, *inter alia*, the processing of personal data for the purposes of dealing with constituents’ representations and requests. That amendment is being finalised at the moment and will be circulated to all Members at the earliest opportunity.

Deputy Broughan and others mentioned access to journalists’ notes and the retention of personal data. Judge Murray’s recommendations will be addressed in a separate Bill, the data retention Bill, which will be brought before the House at a later date. The pre-legislative scrutiny report on that Bill is being considered in the Department of Justice and Equality at the moment.

Fines of up to €1 million may be imposed on public authorities and public representatives,

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including Departments, local authorities and the HSE for data protection breaches, as per section 139 of the Bill. Deputy Ryan has left the House now but yesterday during Leader's Questions he raised the matter of my Facebook page and said that it did not include digital content. I urge Deputy Ryan to follow me on Twitter - @PatBreen1. He does not follow me at the moment so obviously he is not too interested in my digital activities. I would suggest that he do so because all of my work as Minister of State with responsibility for data protection and the single digital market is visible on my Twitter account. Included there are the extensive activities in which I engage as Minister of State, including activities in Brussels last Monday and the declarations I signed on behalf of Ireland on block chain, artificial intelligence and the single digital market. My account also contains information on my interdepartmental activities at the Departments of the Taoiseach and Justice and Equality and refers to the Digital 9 meeting that I am hosting here next month. I want to ensure that Ireland will continue to be a leader in the whole area of the digital agenda and digital technology and that all of us embrace it. Ireland is to the forefront in that respect. That meeting will precede our data summit which will be held in September and I hope Deputy Ryan will take note of all of that. We hope to have this important Bill enacted by 25 May next in order to comply with our EU obligations and to ensure the new data protection commission has the benefit of the enhanced supervision and enforcement powers set out in this Bill from the outset. The Office of the Data Protection Commissioner is engaging in a very comprehensive campaign around the country currently. In my role as Minister of State with responsibility for data protection, I am involved in a comprehensive campaign that involves many seminars and social media events to ensure everybody will be prepared for the GDPR when it comes into force on 25 May. In particular, I am keen to ensure small and medium-sized businesses, microenterprises, voluntary agencies and charities will comply with the GDPR. It is extremely important this is the case. I will have a round-table meeting with those groups next week to ensure they are compliant. I compliment the many umbrella groups and bodies that are relaying this information to their members to ensure they comply with the GDPR. The Minister, Deputy Flanagan, and I look forward to working with Deputies to make progress with the consideration of this Bill in both Houses to ensure we are GDPR-compliant by 25 May.

**Deputy Billy Kelleher:** Hear, hear.

Question put and agreed to.

**Deputy Billy Kelleher:** Comhghairdeas, a Aire Stáit. Go hiontach ar fad.

### **Data Protection Bill 2018 [Seanad]: Referral to Select Committee**

**Minister of State at the Department of Justice and Equality (Deputy Pat Breen):** I move:

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

Question put and agreed to.

## **Copyright and Other Intellectual Property Law Provisions Bill 2018: Order for Second Stage**

Bill entitled an Act to amend the Copyright and Related Rights Act 2000 to take account of certain recommendations for amendments to that Act contained in the Report of the Copyright Review Committee entitled “Modernising Copyright” published by that Committee in October 2013 and also to take account of certain exceptions to copyright permitted by Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society; to make certain other amendments to that Act, including amendments in relation to references in that Act to education and fines; to make consequential amendments to the Courts of Justice Act 1924, the Courts (Supplemental Provisions) Act 1961, the Patents Act 1992, the Trade Marks Act 1996 and the Industrial Designs Act 2001; to make a certain amendment to the Patents Act 1992; to make amendments to the Patents Act 1992 and the Trade Marks Act 1996 in relation to references in those Acts to courts and fines; and to provide for related matters.

**Minister of State at the Department of Health (Deputy Jim Daly):** I move: “That Second Stage be taken now.”

Question put and agreed to.

## **Copyright and Other Intellectual Property Law Provisions Bill 2018: Second Stage**

**Minister of State at the Department of Health (Deputy Jim Daly):** I move: “That the Bill be now read a Second Time.”

On behalf of the Minister of State, Deputy Halligan, I am pleased to present the Copyright and Other Intellectual Property Law Provisions Bill 2018 to the House for consideration. As this legislation is quite detailed and technical, this speech is grouped thematically to make it easier to discuss the different elements of it. The manner in which the existing measures are set out in the Copyright and Related Rights Act 2000 means it is not possible for the amendments we are making in this Bill to follow a direct numerical sequence. The Department of Business, Enterprise and Innovation has produced a detailed explanatory memorandum that provides this information section by section. This document, along with the Department’s regulatory impact analysis, will assist in reading the Bill before the House.

Perhaps it would be useful to begin this debate by providing information on the types of works covered by copyright legislation. This form of intellectual property law is most usually thought of as applying to books and other literary forms. Copyright legislation is the legal protection for a wide range of works from books to music, movies to software and databases to photographs. Existing legislation grants rights to the creators of such works to use, distribute and reproduce their work. Protections are afforded to performers, producers and broadcasters of works through what are known as “related rights”. The owners of copyright and related rights are entitled to receive remuneration for the use of their work and to determine how their work can be used. The purpose of copyright law is to allow creators to retain this control and to receive remuneration for the use of their work. The current legislation governing these rights is the Copyright and Related Rights Act 2000. The 2000 Act is an important tool that allows our creative sectors to flourish while ensuring the holders of rights have an effective means of

enforcing those rights.

As the Internet evolved and the digital age progressed, it became clear that a detailed review of the 2000 Act was needed to update and modernise the copyright regime in Ireland. To accomplish this, a copyright review committee was established in 2011 by the then Minister for Jobs, Enterprise and Innovation, Deputy Bruton. The committee was tasked with examining the Irish copyright framework from the perspective of removing any obstacles to developing and growing innovation. The committee received hundreds of submissions, resulting in the publication of a report, *Modernising Copyright*, which contained more than 60 recommendations covering a diverse range of copyright issues. Following the publication of the report, the Department of Business, Enterprise and Innovation engaged in extensive analysis and examination of the recommendations from a legal and policy perspective. A regulatory impact assessment was undertaken to examine which recommendations should be pursued by amending the existing legislation. This document, which is available on the Department's website, clearly outlines why certain recommendations were not implemented. The main reasons for not implementing recommendations were legal conflicts with existing EU law, the significant costs involved, the administrative burden that could arise from implementation and a lack of sufficient evidence supporting certain recommendations.

The Bill before the House implements some of the recommendations of the *Modernising Copyright* report and makes other technical amendments to the copyright regime. For example, it corrects an oversight that occurred during the euro changeover, when fines in Irish punts were not translated to euro and therefore not brought under the Fines Act 2010. In addition, this Bill amends the Patents Act 1992 to take account of two technical issues and to take into consideration evolving developments at EU level. The Bill also contains some amendments that are necessary for the transposition of EU Directive 2017/1564, which allows the EU to ratify the Marrakesh Treaty to Facilitate Access to Published Works for Persons who are Blind, Visually Impaired, or Otherwise Print Disabled. After these amendments have been made, further secondary legislation will be required to transpose fully the directive.

As the legislation we are proposing contains a significant number of sections, I will discuss the main themes which outline its intentions. The Bill amends four existing definitions contained in the 2000 Act and provides for the inclusion of five new definitions which are important to consider when reading the Bill. One such amendment, which is set out in section 4 of the Bill, will have the effect of renaming the “controller of patents, designs and trade marks” as the “controller of intellectual property”. Subsequent amendments in sections 40 to 42 carry this amendment across the other three intellectual property Acts - the Copyright and Related Rights Act 2000, the Patents Act 1992 and the Trade Marks Act 1996 - and change the name of the Patents Office to the intellectual property office of Ireland. These amendments better reflect the roles of the controller and the office across all intellectual property in Ireland and the more standardised naming conventions for such offices across the EU.

A substantial measure in this Bill is the proposal to provide greater court access for intellectual property claims by amending the 2000 Act to extend the jurisdiction of the Circuit Court and the District Court to hear intellectual property claims. This will allow rights holders to bring lower-value intellectual property infringement claims for relief in civil proceedings within the limits of those courts. This provision will improve possibilities for the enforcement of intellectual property claims, especially those that would not be economical to prosecute before the High Court, which is the general approach at present. Access to the lower courts for lower-value claims will be of particular benefit to rights holders who are pursuing infringement ac-

tions. Following consultation among policy officials in the Department of Business, Enterprise and Innovation, it was agreed that matters other than infringement cases should continue to rest with the High Court, operating as the Commercial Court. This has been provided for in the Bill.

The Bill makes relevant amendments to sections 38 and 39 of the Courts of Justice Act 1924 in relation to the jurisdiction of the District Court and to the Courts (Supplemental Provisions) Act 1961 in relation to the jurisdiction of the Circuit Court. This will ensure the rules of the court allow such cases to enter the lower courts, where judges previously had discretion to allow or refuse such cases, thereby providing certainty. Various later sections of the Bill - sections 46 to 79, inclusive, and sections 82 to 104, inclusive - make the necessary amendments to the Patents Act 1992 and the Trade Marks Act 1996, respectively. These sections amend references to “the Court” to show whether the matters relevant to each section should now be referred to the High Court or to the “appropriate court” in those Acts.

Several very technical amendments are proposed in this Bill to correct oversights or to clarify the intentions of existing provisions in the Copyright and Related Rights Act 2000. Amendments to existing provisions clarify that the authorship of a soundtrack accompanying a film shall be treated as part of the film; clarify that perpetual copyright does not exist in certain unpublished works; provide a 25-year term of protection for previously unpublished works, subject to first obtaining the consent of the owner of the work; make it an infringement in the context of photographs to tamper with metadata associated with the photographic works in order to allow for better protection of photographs, particularly in online use; and strengthen the provisions on rights protection measures, for example by extending the protection of rights protection measures to being a matter for civil infringement proceedings taken by a rights holder or licensee, as well as a matter for criminal infringement proceedings. The rights of a person acting on behalf of a broadcaster with regard to the copying of a work are being clarified by means of the insertion of a new subsection that will allow copying for the purpose of a broadcast or cable programme to be extended to a person acting on behalf of and under the responsibility of the broadcaster. The duration of copyright in works provided for in the First Schedule of the 2000 Act is being clarified by the inclusion of additional text. There are also provisions to correct an oversight at the time of the euro changeover, resulting in a technical amendment to each of the three older intellectual property Acts already in force to convert their existing monetary amounts for fines and convictions from Irish punts to euro amounts and, where suitable, to amend those monetary amounts to the relevant classes of fines as stipulated in the Fines Act 2010.

Existing legislation provides for a 25-year term of copyright protection for designs and artistic works under the Industrial Designs Act 2001. This conflicts with the standard copyright term of protection that applied to artistic works, which lasts for the life of the creator plus 70 years. Following a ruling in a case before the Court of Justice of the European Union, Ireland must amend its legislation regarding the term of protection for copyright in designs and artistic works to ensure that these works receive the full copyright term of protection of 70 years after the death of the creator.

To provide businesses with sufficient opportunity to comply with any amendment, the Department of Business, Enterprise and Innovation conducted a public consultation to obtain the views of stakeholders and subsequently has opted for a two-step transition period of 12 months from the date of entry into force of the Bill. This ensures that Irish legislation complies with our international obligations while giving businesses sufficient opportunity to respond to the changes and to sell existing stock that would not comply with the amended provisions. Therefore, the

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Bill repeals sections 31A and 78B of the Copyright and Related Rights Act 2000, which relate to the 25-year term, with the new provisions bringing these works under the standard copyright term of protection being made in sections 8 and 20.

The Bill also implements a number of optional exceptions permitted by the EU information society directive. These include: extending the concept of fair dealing in copyright works for purposes of news reporting; creating an exception to copyright for use of copyright works to allow for caricature, satire and parody; making increased provision for the use of works by libraries and archives, including allowing libraries, archives and educational institutions to make a copy of a work in its collection for preservation purposes and for inclusion in catalogues for exhibitions; and expanding the exception to allow bodies to produce a copy of work for the advertisement of a public exhibition, as well as for the sale of an artistic work.

The Bill sets out a new provision to be included in the Copyright and Related Rights Act for text and data mining. This is the use of advanced automated data analytics techniques to examine text and other data for patterns, trends and other useful information. This usually requires copying of the work or database to be analysed to facilitate scientific research. The effect of this proposed exception is that it would not be an infringement of copyright to make a copy of a work for an algorithmic or technological process of computational analysis for the purpose of seeking to establish new facts, relationships, patterns, trends or anomalies. The introduction of such an exception would be of particular importance for the research and scientific community and in the context also of big data projects that rely on underlying data analytics to produce new results and new uses for those results.

EU copyright law contains a number of legal exceptions to copyright that allow for the use of copyrighted works without the express authorisation of the rights holder and without the need to compensate the author. The EU information society directive lists a series of exceptions to copyright that member states may incorporate into their own national legislation. Provisions contained in the Bill will expand many of the existing provisions of the Copyright and Related Rights Act to the full extent allowed by this directive and to take account of, and opportunities available due to, the advancement of new digital technologies. The Bill sets out amendments to the Copyright and Related Rights Act in various sections intended to expand the existing provisions on exceptions to copyright and related rights for the purposes of education. This will provide greater clarity around the use of copyright material in scientific and other research.

The various exceptions proposed would also allow for greater provision of education and training via distance learning and elearning, which is in line with the changing provision of education and training in Ireland and better facilitates the use of technology in the classroom or remotely. The Bill also includes additional protection for rightsholders by making these exceptions subject to a licence override, where suitable licences are available. This will allow educational institutions to benefit from access to copyrighted material while serving to protect rightsholders' commercial objectives.

One of the definitions amended by the Bill is the definition of "disability", which is now updated to the meaning of disability assigned under section 2 of the Disability Act 2005 rather than the very restricted definition under the Copyright and Related Rights Act. This amendment is of particular importance as the Bill expands the existing exception to copyright for the benefit of persons with any disability. The provisions are designed to provide for the greater availability of suitably-modified versions of copyrighted works for use by persons with a disability, as allowed under the EU information society directive to which I have previously re-

ferred. Currently, designated bodies that represent the interests of persons with disabilities are only allowed to make a single modified copy to meet the individual needs of an individual person with a disability in response to a specific request, placing undue burdens on such bodies or organisations. The amendments allow designated bodies to create multiple copies to have available for those needs of disabled persons and to facilitate transmission of those copies to other designated bodies as well as directly to individuals with a disability. Designated bodies will be permitted to request a copy of a work that can then be copied and modified for the specific needs of a person with a disability. This will then allow that body to create additional copies of that modified work for the use by persons with disabilities. Given advances in technologies, it may now also be possible for persons with disabilities to undertake necessary modifications themselves using suitable software, etc.

Taking these advances into consideration, the Bill features a new provision that allows an individual person with a physical or mental disability to make a personal copy of a work modified to meet their special needs rather than having to obtain such a modified copy from a designated body, allowing such persons a level of independence and not placing an onus on them to rely on a third party. The Bill also sets out a new provision that introduces an anticipatory duty on publishers to make suitable copies of the work available to designated bodies on request. This will facilitate these bodies to make suitably-modified copies available for persons with disabilities.

The Bill includes a provision amending the Copyright and Related Rights Act that is aimed at broadening the copyright deposit system to enable existing copyright deposit institutions to accept published material in digital format as well as, or instead of, physical copies. It is a modest amendment to allow copyright deposit institutions in Ireland to accept publications in electronic format on a voluntary basis while creating an obligation on publishers to comply with any request for such material in an electronic format.

Since the Government approved the drafting of the general scheme of this Bill in July 2016, two technical issues that require amendments to the Patents Act 1992 have arisen. The first is an amendment to open the national route for Patent Cooperation Treaty, PCT, applications. This amendment provides for a technical amendment to section 127 of the Patents Act to allow patent applicants to choose to convert an international patent application into a national patent application. It is a result of a more robust patent examination procedure introduced in the knowledge development box legislation in 2017. Prior to this, patent applicants would only have had the option of applying for a patent through the European patent route. Applying through the national route is a less expensive option. During the international application process, which usually takes about 31 months, applicants may discover that an international patent is not suitable. This may be due to the high costs involved, the patent may not be commercially viable, protection in international markets may no longer be necessary or the results of the search report and written opinion may preclude the patent from being granted in certain countries. This facilitates the opening up of the “national route” for PCT applicants, which will provide an additional choice to applicants not available up to now.

The second issue arises from an unintended consequence of an amendment to section 31 of the Patents Act in the recently enacted Knowledge Development Box (Certification of Inventions) Act 2017. Prior to the amendment, when a patent application was received by the controller of patents, designs and trade marks, it was subject to a formalities check to ensure that the application had been completed correctly and met the minimum standard set out in the Patents Act to qualify as a valid patent application. Should the application not meet the required

standards, it could be refused.

Following the implementation of the Knowledge Development Box (Certification of Inventions) Act, patent applications that do not meet the minimum standard cannot be refused after this “formalities check” but instead must be subject to substantive examination and investigation before being refused. It was never the intention to remove the power of the controller to refuse patent applications that did not meet the minimum standard. Therefore, it is necessary to correct this unintended consequence by removing the text inserted by the amendment to section 31(1) of the Patents Act 1992 and returning it to its original format of section 40.

I reiterate that the Bill is an important and technical piece of legislation that will, when implemented, modernise and expand copyright and related rights in Ireland, which is why it is important that it progresses quickly through the Houses. I am pleased to commend this Bill to the House on behalf of the Minister of State, Deputy Halligan, who looks forward with interest to the contributions of Members on this and subsequent Stages of the Bill in this House.

**Deputy Billy Kelleher:** I wish to share time with Deputy Niamh Smyth from the Cavan-Monaghan constituency.

**An Leas-Cheann Comhairle:** Is that agreed? Agreed.

**Deputy Billy Kelleher:** I thank the Minister of State for outlining in detail the provisions in the Bill. He has said this is primarily a technical piece of legislation but the themes discussed are important in the broader context of the knowledge economy, innovation and the protection of copyright and patents. This country has been to the fore in developments but not always in protecting such developments. We have innovative people in the animation and film sectors, as well as education and the knowledge box. There are cutting edge companies and individuals providing wonderful software in those areas. We really need to harness such work while fostering it. In doing so we must also ensure we can protect it so that people can have confidence that if they innovate and create something exciting, it would be protected by our legislation and in our courts, meaning there would be a reward for it. Let us be under no illusions. There needs to be a reward in order that people can obtain remuneration from their ideas and innovations.

If we look at education in recent years and where we started from and have come to in the areas of disability and artistic endeavour, it is obvious that we are becoming very creative. We can now allow children with disabilities to learn and to create. In schools, iPads and tablets are used in a creative and innovative way. Whiteboards and other available technology are very much part and parcel of everyday education. However, that came about because of the efforts of creative people. I refer to not only to the global corporate aspect but also to local creative companies and individuals. The Minister is aware of this from his previous background as an educator. While it is primarily technical in nature, the Bill is very detailed and robust. We are supporting and welcoming it. We could criticise parts around the edges. However, we certainly support the broad principle.

In respect of where we stand in the context of copyright, patents and intellectual property, we also have to look at the international context. I refer to the previous debate on data protection and all that flows from that. There is one thing that we cannot do as a State, a people and a society, namely, just to park matters and stop. This journey we are on in the area of creative thinking, intellectual property and copyright will not stop. It is a journey that is going to evolve long into the future. As a country, we have to be on top of that, not only in the context of the

creative aspect but also in ensuring that we can protect the creative dynamic which is evident in Ireland now. It is an exciting time to be part of this journey and this adventure. It is really changing people's lives across many areas, including the arts, education and disability. It is an exciting time for people involved in education and those learning from that education as well. This Bill will facilitate these individuals.

Looking beyond that to the globalisation of content, research and innovation and creativity in general, we have to accept that, as a country and an island, we are just newly coming to the fore in this area. We have always been creative in terms of the arts, poetry and music and story. However, it is important that we establish Ireland as a centre where people can have confidence that intellectual property will be protected. I refer not only to this Bill, but also to the whole area of software, financial services and right across all aspects of the modern mobile global economy. I refer to having within this country the legislative underpinning that gives confidence to creative people, regardless of the areas in which they operate, that they can establish themselves here knowing that whatever they think up, create, imagine or design will enjoy full protection. This will require that we remain consistently ahead of the posse when it comes to legislative underpinning.

I refer also to our competitiveness and confidence in our judicial system. We must ensure that when there are breaches of copyright, intellectual property rights or company law, there is a judicial system in place that protects intellectual property rights and creativity. That is something which this country must consistently protect and nurture. I say this because I believe that Ireland has all those attributes of a small nation that boxes above its weight with regard to global positioning. Creativity is important but let us be honest and clear about it. Without protection and acknowledgment and in the absence of remuneration, creativity dies. There is a need for people to be able to innovate consistently. The way innovation happens is if there is a reward at the end of the process. This Bill reflects and encompasses what we must do in a broader way across all aspects of intellectual property and copyright protection.

I refer to what the Minister said about this Bill. Considering the fact that it is quite detailed and technical legislation, the content of his speech was grouped thematically to make it easier to discuss the different elements. He continued by saying that due to the way the existing measures are contained in the Copyright and Related Rights Act 2000, it is not possible for amendments to follow a numerical sequence within the Bill. That was a fine introduction to a speech. I began to lose the will to live. However, we have to acknowledge that a huge amount of work goes into drafting legislation. As the Minister said, this is quite detailed legislation. There are European implications. It is important that we acknowledge the role of the civil servants in the Department. They play a key and meaningful role in consistently drafting legislation, observing what is happening in the broader international markets, transposing EU directives, etc. The civil servants in the Department must be acknowledged for the work they do in respect of Bills of this nature. Very often, that work goes unnoticed. However, it is significant and important in respect of its impact.

For all those reasons, we welcome the Bill. We think the Bill is important and significant for those who create, and for those who benefit from the creation of, the intellectual property rights that will be protected under its provisions. I thank the Minister and his officials for outlining the position. We will consistently support quality legislation that is brought forward. More importantly, we will consistently support and encourage the Government in the protection of creative ideas. Historically, we can look back at our place on the international stage in the areas of literature and art, the fact that Ireland was known as the land of saints and scholars, etc. It

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may be nostalgic to do so but the reality is that if we do not protect and have a sound robust legislative base underpinning intellectual property rights, creativity and copyright - with courts that can adjudicate in an impartial internationally recognised manner - we will undermine creative people by not allowing them to benefit from their talents. With that in mind, I support the Bill and, in a positive way, commend it to the House.

**Deputy Niamh Smyth:** I welcome this Bill, which will update and modernise the copyright regime in Ireland. In particular, I welcome the extension of the jurisdiction of the Circuit Court and the District Court in order to facilitate rights holders to seek relief by bringing civil proceedings relating to lower-value IP infringement claims before those courts. To date, many artists have been put off taking court action to protect their copyright because of the high costs involved in High Court actions. It is hoped that the extension of the jurisdiction of the District Court and the Circuit Court will help to change the position in this regard.

The types of work eligible for copyright protection include long-established categories such as written or recorded literary and artistic works, as well as more modern forms such as broadcasts, cable television transmissions and computer programs. Copyright can apply to arrangements of materials, such as typographical arrangements of published works, and original databases. It also confers rights relating to the performance of works, as distinct from the underlying literary or artistic works that are being performed. Copyright is the guardian of one of the most precious skills - that of creativity. As the Fianna Fáil spokesperson on arts and heritage, I am particularly interested in the impact copyright infringement has on artists and practitioners working in the creative industries. For too long piracy of artistic works has been viewed as a victimless crime. At a minimum the Government should campaign to ensure that those guilty of copyright infringement are aware that they are operating illegally and that their conduct is impacting on artists and the economy.

Many years ago the UK introduced an anti-piracy campaign that saw people who persistently pirated movies and music receive emails warning that their actions were illegal. The Government should look at that scheme.

Ireland has one of the highest rates of illegal downloading of films and television shows in the world. *Per capita* Ireland is 12th in the world for piracy. It is estimated that this costs the Irish economy €60 million annually. Further, film and television piracy represents a real and direct threat to people employed in the creative industries. I am not overstating the issue when I say that copyright piracy is industry-threatening. More infringement means less film production, which results in fewer jobs in our creative and artistically-talented population.

There is a perception that a person who illegally downloads films and television programmes is only hurting the film and television industry and that such actions do not hurt anyone if we do not pay for what we view. However, films made in Ireland can become unprofitable if they are pirated. Thus it is clear that such actions represent a crime with a victim. The film industry in Ireland provides 7,500 jobs directly. If films are not made, those jobs will not be there.

The Irish Film Board maintains it is vital that the Irish film industry be given a fair opportunity to find an audience without being undermined by digital piracy. Irish film professionals are helping to promote Irish storytelling and arts on the world stage and they deserve our support.

The Audiovisual Federation has called for the establishment of an interagency task force to tackle digital piracy in view of the Exchequer revenue evaded and the jobs lost. I call on the

Government to consider this proposal. If the Government is serious about tackling copyright infringement it would surely agree to it.

Ireland has a strong tradition and exerts global influence over literature, music, dance, theatre, film and art. We have a rich heritage of storytelling that has evolved into a rich film industry. We also have a fantastic pool of people and, more important, ideas. We must protect this intellectual property.

**Deputy Maurice Quinlivan:** I wish to take the opportunity to express Sinn Féin's support for the Bill. I welcome the opportunity to speak on the Copyright and Other Intellectual Property Law Provisions Bill 2018.

We need a strategy that enables creators to live from their work while ensuring a user's right to access creative content. We need an alliance of creators' and users' rights that supports freedom of access and use while, at the same time, valuing creative work.

The Bill introduces measures aimed at modernising copyright law and includes important changes set out in the 2013 Marrakesh treaty relating to access to copyright materials for people who are blind, visually impaired or otherwise print-disabled by conditions such as dyslexia or physical conditions that prevent them from holding reading materials. Following the recent ratification by Ireland of the United Nations Convention on the Rights of Persons with Disabilities I am pleased to see further progress to assist people with disabilities. Much work needs to be done to address outstanding issues in the comprehensive employment strategy for people with disabilities. Sinn Féin is happy to support the Bill but we may bring forward amendments which we believe could strengthen it.

This legislation stems from the copyright review committee 2013 report. It is regrettable that a copyright council of Ireland will not be established under the Bill, as recommended by the copyright review committee in the 2013 report.

The purpose of the council, as envisaged, would include acting as an independent advocate for the integrity of copyright, raising public awareness of copyright and promoting codes of best practice. The proposal could have provided a centralised body at the core of copyright issues in Ireland. An alternative dispute resolution facility within the copyright council could have provided quicker and less costly access to legal resources and intellectual property expertise than what is now proposed. Can the Minister outline why the Government has decided against the establishment of such a council? Surely the small cost of initially setting up a council would not act as a barrier to its establishment with all the associated benefits.

The Bill addresses anomalies identified by the copyright review committee concerning the term of copyright in literary, dramatic musical and artistic works that have not been published. The committee noted that section 24 of the Copyright and Related Rights Act 2000 could result in certain unpublished works having perpetual copyright. The copyright review committee proposed that section 24(1) of the 2000 Act be amended to clarify that copyright expires 70 years after the death of the author regardless of whether the work has been published. Section 7 of this Bill provides for such an amendment.

Section 27 concerns arrangements for legal deposit of copyright works. Section 198 of the Copyright and Related Rights Act requires publishers in the State to supply copies of books to designated libraries, including the National Library of Ireland and those of the major universities in the State. Section 27 will allow the libraries to request their copies in physical or elec-

tronic form, or both, unless the publisher has already supplied it in one of those forms. This brings the application of copyright law into line with advances in modern technologies.

Sections 4(d), 4(e) and 43 make important changes to provisions of the 2000 Act relating to the use of copyright materials for education. The term “educational establishment” is defined under the 2000 Act to include schools, universities and any establishment whose operational activities are funded by the Exchequer. Section 4(d) expands this to include all institutions that award State-recognised qualifications, such as FETAC and HETAC awards. Again, this brings the application of Irish copyright law in line with the changes in the education system since the 2000 Act was first introduced almost 20 years ago.

The provisions relating to the implementation of the Marrakesh treaty are particularly important. Section 25 creates an exception to copyright for the benefit of people with disabilities. This applies to designated bodies, the current definition of which includes all non-profit bodies that make or supply works modified to meet the special needs of persons with disabilities. Sections 24 to 26, inclusive, contain measures to give effect to requirements of the Marrakesh treaty. Conceived in line with the human rights principles outlined in the Universal Declaration of Human Rights and the United Nations Convention on the Rights of Persons with Disabilities, the Marrakesh treaty is the first copyright treaty to include a clear human rights perspective. The Marrakesh treaty demonstrates that copyright systems are an important part of the solution to the challenge of improving access to books and other printed works for people with print disabilities.

The World Intellectual Property Organization, an agency of the UN, maintains 285 million people are living with visual impairments throughout the world but less than 10% of all published materials are accessible to people who are blind or those with low vision. The Marrakesh treaty eases the production and transfer across national boundaries of books that are adapted for use by people with disabilities and visual impairments, most of whom live in lower-income countries. The treaty has a single objective: to increase access to books, magazines and other printed materials for people with print disabilities. It aims to achieve this by making it easier for accessible copies to be created and shared across international borders. The World Intellectual Property Organization has said that without books, journals and magazines, people who are blind or visually impaired can be cut off from major parts of life. It can mean they cannot gain an education or participate fully in society and it can mean that they cannot realise their full potential. The treaty is now in force in 35 countries. This is an important step forward for Ireland.

Why is no copyright council to be established under this Bill? Finally, I have a query relating to the new powers for the lower courts. Jurisdiction for lower courts to hear specific intellectual property claims should be narrowly restricted. Will the Minister outline the proposal in greater detail? Is the Minister confident the lower courts have the expertise to hear complex intellectual property cases? Has the Government considered other approaches, such as the establishment of a specific intellectual property court?

**Deputy Jan O’Sullivan:** We will support the Bill, which is complex and technical. It is unlikely to keep the political correspondents up late at night as other Bills might, but it is important for those directly affected. One of the issues is that people generally do not know very much about copyright unless it affects them directly. More public information needs to be made available on this area in order that people are aware of the issues regarding copyright. The points Deputy Niamh Smyth made about musicians, artists, film makers and so on not having their rights abused are important. People often casually download music and access digi-

tal material without considering the fact there are laws around this and that they may well be breaking them. It is important there is more widespread knowledge about exactly what we can and cannot do with respect to intellectual property and copyright that belongs to somebody else.

Generally, copyright extends throughout the person's life plus 70 years afterwards. In some cases with respect to broadcasts it is 50 years. It is quite a long period. Unfortunately, many artists do not benefit as much as their estate particularly if what they have written or made becomes valuable at a later stage, but it is important that it is protected.

There is a number of measures in the Bill. I also welcome that there will be more access to the jurisdictions of the District and Circuit Courts. There should not be obstacles to justice on any issue but in this area where costs could be a factor it is important that the courts are more accessible.

The Bill will implement the recommendations of the Copyright Review Committee. I have also some concerns that not all of its recommendations are being implemented. In particular, its recommendation calling for the setting up of the copyright council is not being implemented. I raise similar a question to that raised by Deputy Quinlivan as to why it is not being implemented.

I thank the Oireachtas Library for the work it has done on this but under the section where it deals with recommendations for the establishment of a copyright council of Ireland, it suggests that the reason it is not being implemented may be because of the cost of establishing and operating it. I hope the Government will keep that under review. If it is an issue of costs, hopefully with our recovering economy issues that involve costs could be reviewed, as that was one of the committee's central recommendations. Some of the other recommendations on issues of fair use, private copying etc. are also not being fully implemented. I am not sure if the Minister of State, Deputy Jim Daly, or the Minister of State, Deputy Halligan, is replying to this debate, but it will be interesting to hear the reasons some of these recommendations are not being implemented. One of the reasons is because of a court challenge in Britain, and that is understandable, but if there are other reasons, particularly on the issue around costs, we should be able to get answers on that.

I understand there were approximately 300 submissions to the consultation process. I presume there were submissions on both sides. There is a balance in all of this between the person who creates the material or the work of art and those who derive value from it. That includes libraries, educational institutions, galleries etc. There is some interesting material on exactly how they can be used. For example, if a gallery is organising an exhibition, it can use the pictures of the art in order to advertise that the exhibition is taking place. Those are practical measures. Many of the measures in the Bill are practical and are important to those for whom those practical measures will make a difference. One of the practical measures to which the Minister referred to in his speech relates to the easier access to patents. If I understood the Minister of State correctly, up to now if one's patent application was refused, that was it, whereas now there is an opportunity to address the reasons it was refused and for the applicant to be able to address those and have the patent accepted. In many cases we as public representatives deal with, people's applications get turned down without them having any opportunity to address the shortcomings and rectify the problem, whether it be that they have not submitted a proper bank statement or some other information. There is an intention in the Bill to address that aspect.

Another important area that has been mentioned is the educational use of data, which mat-

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ters to all of us. Materials can be used for research or private study, promoting innovation requires incentivising publicly funded research, and there is the whole area of research and broadening references to research and private study. Deputy Kelleher made the point that we have so much access now through digital media and so on. This can be a positive benefit to education. The Minister of State, Deputy Daly, said the various exceptions proposed would allow for greater provision of education and training via distance learning and elearning. I would be very supportive of that and also of facilitating the use of technology in the classroom or remotely. Many older adults did not have access to much of an educational opportunity when they were younger and if they can now benefit through elearning and in other ways, that would be positive. If young people and their teachers can also use technology in the classroom in an effective way, that would also be positive and might even lighten the weight of school bags occasionally, which is an issue of concern to the Minister of State. Some of these measures facilitate learning with the use of whiteboards in classrooms and with group learning while ensuring that we protect the rights of whoever has created the material in the first place.

I also welcome, as have others, the implementation of the Marrakesh treaty providing access for people with disabilities, access to Braille and other methods by which people can access material, if they have a particular disability. That is important and it is being addressed in the Bill.

The issue of content and data mining causes us all some concern and when I read the word “algorithm” in anything I get worried because it reminds me that somebody is watching me on my phone, knows where I am and what I am interested in. That is of wide concern to people and we have seen it highlighted very recently in another country.

**Deputy Billy Kelleher:** The Deputy is obviously up to nothing bad. She should not be worried.

**Deputy Jan O’Sullivan:** I do not do bad things like certain people across the Atlantic in regard to these matters. I will not name any names. That type of gathering of information is to some extent facilitated and recommended where people are using it to analyse large volumes of information. We have to keep a eye on that as well to ensure it is not misused. I do not believe there is anything in the Bill that would make that a problem but at the same time it is something that would concern me.

Those are the main issues I wanted to raise. As I and others have said, this legislation is quite complex. It is a balance of rights and interests between the person who has created the material and those various bodies that use it, whether they be libraries, archivists, schools or people who are rebroadcasting and presenting material through various means. It is important for those whose lives it affects directly. The more public knowledge there is on all these matters, the better. Most of us are quite ignorant of them until it affects ourselves. In some cases somebody will have created something new and positive and somebody else will recognise that there is a benefit in that and may well benefit more than the person who has come up with it originally and that may be because that person did not know exactly how to protect their own rights. It is important this type of information is available. My party supports the Bill.

**An Leas-Cheann Comhairle:** As there are no other Members offering, I call the Minister of State to conclude the debate.

**Minister of State at the Department of Health (Deputy Jim Daly):** I have listened atten-

tively to all the Deputies and thank them for their useful contributions, comments and observations on the Bill. The Minister of State, Deputy Halligan, will work positively with Members as the Bill progresses through the Houses in the coming weeks and months. The Bill is detailed and technical legislation that will, when implemented, modernise and expand copyright and related rights in Ireland.

I will try to address some of the comments made as best I can. Deputy Kelleher referred to the protection of intellectual property, IP, and reward for people's efforts, with which I agree. All sides agree that we must ensure there is a good judicial system. Enforcement is also important. We should protect and reward creators for their efforts and the works they create. The Bill supports creators of lower value IP to better protect it through the Circuit and District Courts. Work is also under way within the Department of Business, Enterprise and Innovation, in co-operation with other agencies of the State, to reinforce our efforts on the enforcement of IP, seizure of counterfeit goods and improvement of education and awareness of IP and its enforcement. I remind Deputy Kelleher that higher value IP cases will continue to be heard in the Commercial Court.

Deputy Smyth asked about enforcement as well, which I have just addressed. She also spoke about infringement, which is an important issue. The Bill contains an extension to the jurisdictions of the Circuit and District Courts to allow cases to be brought before them. This amendment would support small and, in particular, individual right holders in protecting their IP and enforce their rights in smaller cases that it is not economically feasible to prosecute before the High Court.

Deputy Quinlivan asked why we had not decided to create a specialised IP court. The Department explored this matter thoroughly with the Department of Justice and Equality and the Courts Service and it was concluded that there would be significant costs involved in the training of specialised judges and registrars and the establishment of additional structures for a specialised court within the Circuit Court system, which is already heavily burdened. This is particularly important, given other Government priorities in terms of access to the courts, such as the specialist judges appointed to deal with personal insolvency cases since 2013, and the increased demand on criminal, civil and family court proceedings in recent years. However, it was possible to improve access to the lower courts for IP infringement claims in general, a measure that is included in the Bill.

The Deputy asked why we had decided not to establish a copyright council. It was envisaged that the board of the council would be constituted by a diverse range of stakeholders with an active interest in different aspects and agendas, ranging from individual authors, composers and photographers, organisations, large-scale online platforms and representatives of organisations. With such a diverse range, it is likely that there would be considerable difficulties trying to reach consensus on issues within the council and it would be difficult to propose a unitary view to the Minister in terms of policy making. Also, the establishment of a copyright council has not been fully quantified, given the Government's general policy orientation towards reducing the number of new public bodies. Due to a significant number of issues, including the cost that would be involved in creating this body, it was decided not to proceed with its establishment, as such a copyright council would not be fit for purpose and would be unlikely to achieve the aims envisaged.

Deputy Quinlivan mentioned a number of matters recommended by the CRC that are included in the Bill and I thank him and all other Deputies for their remarks in that regard. Dep-

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uty Quinlivan also inquired about the Marrakesh treaty. The Bill makes a number of changes to the provisions for persons with a disability that are necessary for the transposition of the EU directive that would allow the EU to ratify the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled. The Bill will allow designated bodies to make multiple accessible format copies of works, transfer these copies to other designated bodies that need them and accept modified copies from other designated bodies. However, some further legislative amendments will be necessary to give full effect to the directive, and these will be made by way of secondary legislation in order to comply with the transposition deadline of 11 October.

Deputy Jan O'Sullivan discussed submissions to the CRC. The Department considered these as part of its analysis of the CRC's recommendations along with legal, cost and policy considerations. There was a wealth of useful contextual information that helped to shape implementation of as much as possible of what was considered by the CRC in spirit even if not exactly as it recommended.

The Deputy also asked about the Bill's data mining provision. In September 2016, the European Commission presented a legislative package for the modernisation of the EU's copyright rules, including a proposed directive on copyright in the digital Single Market. That directive included the proposal to introduce a mandatory exemption for text and data mining, TDM. However, this occurred after a decision had already been taken to implement a TDM exception in Irish legislation, which received Government approval in July 2016. Ireland's current copyright legislation and the amendments contained in the Bill will not conflict with anything contained in the proposed directive. Negotiations are ongoing on the copyright directive at EU level and departmental officials are fully engaged with them. The Department will, of course, make any necessary legislative amendment once the directive is finalised and align with our obligations to transpose EU directives into national law.

The Minister hopes to progress the Bill quickly in order to ensure that the necessary legislative basis to allow Ireland and the EU as a whole to ratify the World Intellectual Property Organization's Marrakesh treaty by the deadline of 11 October.

I thank all the Deputies for their engagement and for the informative debate on the Bill. The Minister looks forward to further constructive engagement on Committee Stage.

Question put and agreed to.

### **Copyright and Other Intellectual Property Law Provisions Bill 2018: Referral to Select Committee**

**Minister of State at the Department of Health (Deputy Jim Daly):** I move:

That the Bill be referred to the Select Committee on Business, Enterprise and Innovation pursuant to Standing Orders 84A(3)(a) and 149(1).

Question put and agreed to.

The Dáil adjourned at 10.10 p.m. until 10.30 a.m. on Thursday, 19 April 2018.