



DÍOSPÓIREACHTAÍ PARLAIMINTE  
PARLIAMENTARY DEBATES

**DÁIL ÉIREANN**

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

Leaders' Questions . . . . .	2
Order of Business . . . . .	15
National Monuments (The Moore Street Battlefield) Bill 2018: First Stage . . . . .	24
Report of Joint Committee on Corporate Taxation: Motion . . . . .	25
Health and Social Care Professionals Act 2005 Regulations 2018: Motions . . . . .	26
Standing Orders: Motion . . . . .	26
Ceisteanna - Questions . . . . .	27
Cabinet Committee Meetings . . . . .	27
Departmental Policy Functions . . . . .	32
Cabinet Committee Meetings . . . . .	36
Topical Issue Matters . . . . .	40
Ceisteanna - Questions (Resumed) . . . . .	41
Priority Questions . . . . .	41
EU Membership . . . . .	41
Brexit Issues . . . . .	43
United Nations . . . . .	45
International Agreements . . . . .	47
Brexit Negotiations . . . . .	49
Other Questions . . . . .	52
Ministerial Meetings . . . . .	52
Diplomatic Representation . . . . .	57
Middle East Issues . . . . .	58
Foreign Conflicts . . . . .	61
Brexit Negotiations . . . . .	63
Topical Issue Debate . . . . .	65
Driver Test Waiting Lists . . . . .	65
Dublin Bus . . . . .	68
Water Services . . . . .	71
Schools Building Projects Status . . . . .	74
Palestine: Statements . . . . .	76
Data Protection Bill 2018: Order for Report Stage . . . . .	93
Data Protection Bill 2018: Report Stage . . . . .	93
Mandatory Open Disclosure: Motion . . . . .	109

# DÁIL ÉIREANN

*Dé Máirt, 15 Bealtaine 2018*

*Tuesday, 15 May 2018*

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

***Paidir.***

***Prayer.***

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## **Leaders' Questions**

**An Ceann Comhairle:** Before taking Leaders' Questions, I call on Members please to stand as a mark of respect to those who have lost their lives or been seriously injured as a result of the horrendous activities in Gaza.

*Members rose.*

**Deputy Micheál Martin:** I appreciate the opportunity to express sympathy and to talk about the issue later.

Last Thursday, at a meeting of the Committee of Public Accounts, three memorandums, dating from March and July 2016, revealed that the CervicalCheck management team, the leadership of the HSE, the acute hospitals division of the Department of Health and the Chief Medical Officer had all shared and discussed memorandums related to the CervicalCheck cancer screening audit, as well as decisions on communicating with treating clinicians and not directly with the women concerned. What was noticeable in these memorandums was the absence of prioritisation of the needs of the women in question and their families and communicating with them, particularly the families of women who had died from cervical cancer. They reveal a mindset focused on managing the risk to the programme and potential negative repercussions, rather than the needs of the women and their families who are simply not prioritised. They also reveal a policy of containment and concealment.

The Minister for Health, Deputy Simon Harris, has stated he became aware of the Vicky Phelan case on 16 April last via a memorandum. I regret saying this but there has been an absence of political leadership in the Department since then. I cannot understand why the Minister did not summon people to his Department there and then and tell them he wanted all documentation pertaining to this issue produced within 48 hours, after which he would make it public. That did not happen and, as a result, the Minister and Government have been apparently caught unawares by the revelations of the Committee of Public Accounts. This reflects a lack of strong leadership and management of the issue in the Department.

15 May 2018

Emma Mhic Mhathúna's public interviews, particularly her interview on "The Late Late Show" last Friday, and interviews with members of other families caught up in this terrible scandal have captured the hearts of Irish people. People are saddened, angry and, in some instances, confused about the entire scandal. They require political leadership on this issue.

The statement by the Department on Health on Thursday night leaves many questions unanswered. We need clarity and I understand further documentation will be published and released today.

I have some basic questions to put to the Taoiseach in order that we can get some answers on the record. Did the chief medical officer or personnel in the acute hospitals division ever discuss these issues with the Secretary General of the Department, the Taoiseach when he was Minister for Health or the current Minister for Health? Did the chief medical officer or personnel in the acute hospitals division ever bring the issue of the audit and communicating the audit to the attention of the management committee of the Department of Health by way of discussion or by alerting people to the issue during management meetings in the presence of the Minister or Secretary General? Was the Taoiseach, in his time as Minister for Health, or the current Minister for Health ever briefed by the CervicalCheck management team on the progress of the screening programme? If such meetings or briefings occurred, were any issues ever raised with the Taoiseach concerning the laboratories or the testing regime or were any other concerns raised?

**The Taoiseach:** The Deputy has asked questions of a number of people, among others, the Minister for Health, the chief medical officer and the Secretary General of the Department of Health. I cannot speak for all those people and it would be wrong for me to answer questions on behalf of others.

**Deputy Marc MacSharry:** It is the Taoiseach's responsibility.

**The Taoiseach:** In my case, the answer to all of the Deputy's questions is "No" and, to the best of my knowledge, the answer is also "No" with respect to all of the other individuals concerned.

The Department of Health will publish documents today. These follow on from a search of records and documents in the Department which has been ongoing for some time. To give the Deputy a rough idea, 40 million emails and other documents have passed through the Department of Health since 2008. As he can imagine, a document search of that scale, even if targeted, is time consuming.

In the dossier to be produced this afternoon, on which Opposition spokespersons will be briefed in advance and a press conference will be held, roughly a dozen documents will be released. These include memorandums between the Department of Health and Health Service Executive at official level, minutes of meetings of officials of the HSE and Department of Health and emails between various officials. The memos and documents confirm that no concerns were raised about patient safety, the efficacy and accuracy of the programme or the accuracy of any particular laboratories. The only issues dealt with in the documents relate to open disclosure or, rather, the non-open disclosure of information to patients and doctors. The documents confirm that these issues were not escalated to Ministers, advisers or the Secretary General. This follows on a full study of all memorandums, submissions, management board meeting minutes, ministerial management advisory committee, MinMAC meeting minutes and

all significant issue papers. It is the practice in the Department of Health that for every ministerial management board meeting a document called a significant issues paper is prepared so that the Secretary General, the management board, the Ministers and advisers can be made aware of those significant issues. The documents released today will show that none of this was escalated beyond the office of the CMO and the office of acute hospital services and that the concerns the Department was dealing with were concerns about open disclosure and about CervicalCheck passing on information about the audit to clinicians. There is nothing about concerns around laboratories, the efficacy, the accuracy of the programme or patient safety, but that will all become apparent today.

**Deputy Micheál Martin:** When the Taoiseach said no and no, do I take it then that CervicalCheck, as an organisation, never met either him or the Minister for Health, Deputy Harris, in four years? The Taoiseach might just clarify. That is the question I am asking. It would be normal for a significant screening programme to brief the Minister annually on the progress of the programme. The Taoiseach seems to be saying that did not happen and there was never a meeting between CervicalCheck and the Minister.

The reason I ask these questions is I find it difficult to comprehend why the acute hospitals division, a big division within the Department to assistant secretary level, or the CMO did not discuss this issue, as opposed to sharing documents on it, with the Secretary General or with anyone else in the Department. Given the reference in the three memos to adverse publicity of the kind that the “screening [programme] did not diagnose my cancer”, one would expect such matters would be alerted to a Secretary General in a Department and to the Minister in the understandable expectation that the Minister might some day have to respond to a public debate around that very issue. It is extraordinary, in my view. I am not casting aspersions anywhere here. I am simply stating the obvious. It is quite extraordinary that the acute hospital division-----

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

**Deputy Micheál Martin:** -----did not alert the Secretary General or the Minister or it was never discussed at a management meeting of the Department given the clear implications, as we now know, about the revelations of this kind of thing and the absence of non-disclosure.

**The Taoiseach:** My understanding, having spoken to the officials concerned since, is that they did not escalate it because they believed that CervicalCheck and the HSE had the matter in hand. Letters were paused for a reason in the spring but the letters flowed freely through the summer of 2016 and all clinicians-----

**Deputy Micheál Martin:** Not to the women.

**The Taoiseach:** Not to the women, yes. However, all clinicians - all doctors, rather - received those letters through the course of 2016. Therefore, there was a delay. The delay was at the request of one or two of the laboratories which expressed concerns. The HSE sought legal advice and was advised that it was free to continue with open disclosure. It sent the letters out about all 209 women to all the consultants over the summer. The HSE and departmental officials wrongly assumed that the information had been passed on to the women. We now know it was only passed on to a quarter of the women. That is the explanation that I am being given but those officials will be before the Joint Committee on Health tomorrow and before the Committee of Public Accounts and will give explanations for themselves.

15 May 2018

As far as the Government is concerned, one point on which I agree with Deputy Micheál Martin is that when I look at those documents, I see the absence of concern for patients. I can understand why CervicalCheck, officials of a previous Department of mine or anyone would be concerned about damage to the programme because that is what has happened. We have a big concern that women may not go for smears now because of the damage that has been done to confidence in screenings. I can understand why they had a concern for reputational damage to CervicalCheck because CervicalCheck saves lives, but what I do not understand is the absence of any concern or care for the women and their families who were going to find out about this in the way they have.

**Deputy Micheál Martin:** Did the Taoiseach meet them?

**Deputy Timmy Dooley:** Did the Taoiseach meet CervicalCheck?

**Deputy Micheál Martin:** Did the Taoiseach ever meet them?

**The Taoiseach:** This is why the decision we took as a Government and which has been our first priority was care for women and the families concerned. Our second is getting truth and getting to all the facts. Our third is accountability and our fourth is confidence.

**Deputy Timmy Dooley:** Did the Taoiseach meet them?

**The Taoiseach:** That is why, on Friday, we announced our package of measures.

**Deputy Thomas Byrne:** Answer the question. Did the Taoiseach meet them?

**Deputy Micheál Martin:** Did the Taoiseach meet them?

**An Ceann Comhairle:** The time is up. I call Deputy Pearse Doherty.

**The Taoiseach:** Not about the audit. I would have to check.

**Deputy Timmy Dooley:** No. Did the Taoiseach meet them?

**Deputy Thomas Byrne:** Answer the question.

**An Ceann Comhairle:** Wait now.

**The Taoiseach:** I can answer that if the Deputy wants.

**Deputy Fiona O'Loughlin:** Did the Taoiseach ask?

**An Ceann Comhairle:** Please.

**The Taoiseach:** It is a sub-organisation of the National Screening Service which is a sub-organisation of health and well-being, which is a sub-organisation of the HSE.

**An Ceann Comhairle:** Taoiseach, please do not encourage them to be unruly.

**Deputy Pearse Doherty:** Ar dtús báire ba mhaith liom mo chomhbhrón féin agus comhbhrón Shinn Féin a chur in iúl do mhuintir na Palaistíne i ndiaidh an tslada uafásach a rinneadh orthu inné. Caithfidh an Rialtas gníomhú agus ba chóir dó ambasadóir Iosrael a dhíbirt ón tír agus aitheantas a thabhairt do stát na Palaistíne.

What happened in Gaza yesterday was a massacre. There is no other way to describe it. Anybody who witnessed the scenes on television or read of the terrible atrocity that happened there will agree. Live ammunition and tear gas were used against unarmed Palestinians who were demanding their right to return to the homes and villages they were expelled from in 1948. We now know that 58 people have been killed as a result of the actions of the Israeli forces, including six children, and 2,700 have been injured. It is shameful. On behalf of Sinn Féin, I wholeheartedly condemn the brutal and violent actions of the Israeli forces and I extend our solidarity to the Palestinian people at this time. Tá siad inár smaointe agus inár bpaidreacha ag an am seo.

The actions of Israel are undermining efforts to secure a sustainable and peaceful two-state solution and must be urgently challenged by the international community. Without sanction and without adequate diplomatic response, I fear more innocent civilians will be killed in the coming days. It is long past time that the international community, including the European Union, acted in this case. We see the ongoing Israeli aggression against and oppression of people who are defending their rights, the people of Palestine. The onus is not just on the international community but also on the Government to respond robustly. I understand the Tánaiste met with the Israeli ambassador this morning and urged restraint. Words are not enough. We need action and the Tánaiste should have told the Israeli ambassador it was time to pack his bags because there can be no impunity for Israeli's mass killings of Palestinian civilians and its continued illegal occupation of their territory.

In response to a British security assessment delivered to the Government by Boris Johnson that Russia was involved in the Salisbury attack in March, the Government acted quickly and expelled a Russian diplomat. We need an even more robust response in this scenario. Will the Government move to expel the Israeli ambassador to Ireland in response to these murders and the flagrant disregard of international law or will it turn a blind eye? Will the Taoiseach also recall the Irish ambassador to Israel in protest?

The Palestinian people need our solidarity now more than ever. This could be one of the bloodiest episodes we have ever witnessed if we continue to stand idly by. The Government must take action. It must also recognise the state of Palestine. A motion tabled by this party in 2014 received unanimous support. It similarly happened in the Seanad. Despite a commitment in the programme for Government, the Government has dragged its heels on the issue. I urge the Government at this critical time to make a stand for peace and progress in the Middle East, recognise the state of Palestine and expel the Israeli ambassador.

**The Taoiseach:** I will touch briefly on the previous question because it is pertinent and deserves an answer. The HSE is an enormous organisation with a €16 billion budget, 110,000 employees and 2 million patients. It is too big and it needs to be slimmed down and broken up and that is what the Government will do now following on from the recommendations of the Sláintecare report. It will slim down the HSE, put in place a board and establish local and regional autonomy around the CHOs.

To explain it to people interested in knowing answers to the questions they ask, Cervical-Check is-----

**Deputy Pearse Doherty:** With respect, Ceann Comhairle, there has been an absolute on-slaught against the people of Palestine.

15 May 2018

**The Taoiseach:** I will answer both questions.

**Deputy Pearse Doherty:** I expect a response to the question.

**The Taoiseach:** If I am not interrupted I can answer both questions.

**Deputy Pearse Doherty:** It is completely disrespectful.

**Deputy John Brady:** It shows his attitude to the Palestinian people.

**The Taoiseach:** CervicalCheck is a subdivision of the National Cancer Screening Service-----

**Deputy Pearse Doherty:** It is not acceptable.

**The Taoiseach:** -----which is a subdivision of the National Cancer Control Programme which is a subdivision of the health and well-being section-----

**Deputy Pearse Doherty:** This is simply not acceptable.

**Deputy Brendan Howlin:** He cannot ignore a question.

**The Taoiseach:** -----of the HSE. I met the head of the health and well-being section of the HSE every two months.

**Deputy Seán Crowe:** This is a disgrace.

**Deputy Pearse Doherty:** It is disrespectful.

**An Ceann Comhairle:** The rules are that we deal with each question and conclude it and move on to the next question.

**Deputy Louise O'Reilly:** Will the Ceann Comhairle reset the clock?

**An Ceann Comhairle:** In fairness to Deputy Doherty, he is entitled to-----

**Deputy Louise O'Reilly:** Reset the clock.

**An Ceann Comhairle:** We will reset the clock.

**The Taoiseach:** Reset the clock.

**An Ceann Comhairle:** Deputy Doherty is entitled to the same time.

**Deputy Seán Crowe:** The Taoiseach should let his spin doctors out.

**The Taoiseach:** On behalf of the Government, I want to say we are profoundly shocked at the death toll and scale of injuries that have been inflicted by Israeli forces on Palestinian demonstrators in Gaza. This morning the Tánaiste summoned the Israeli ambassador to Iveagh House to express the Government's and the people's outrage and dismay at these events, including the number of people who have been killed and injured, and directly request that there be an independent international investigation into what happened, as called for by the UN Secretary General. Any country is entitled to defend its borders, but the use of force must be proportionate to the real threat posed. The protests may not have been 100% peaceful, but there is no indication that the scale of the threat could have justified such violence and so many deaths.

In our view, live ammunition is not a tool to be used for crowd control; therefore, Ireland fully supports the UN Secretary General's call for an independent international investigation. It must examine the fatal decision to use live ammunition which led to so many deaths and injuries, including the deaths of children.

The blockade of Gaza which has gone on for over a decade is inhumane, a recipe for disaster and must end. Young people in Gaza have no prospect of ever leaving the tiny strip of land on which they are imprisoned and cannot even travel to the West Bank to study, visit relatives, work or engage in any normal activity. Ireland is very conscious of the difficulties faced by the people of Gaza. For this reason, the Tánaiste has made engagement with the Middle East process a priority. He will travel to Jerusalem in the coming months.

As the Tánaiste said, we profoundly disagree with the United States' decision to move its embassy to Jerusalem. Jerusalem is a city shared by two communities and is important to many faiths. No decisions on where embassies should be located should be made until there is a peaceful resolution of the conflict there. As a result, Ireland's embassy will remain in Tel Aviv, in line with international law and compliance with UN Security Council resolutions on the issue, in particular Resolution 478, by which we call on others to abide.

The Government will not be expelling the ambassador at this time. Ireland has not expelled an ambassador in recent decades, if ever. That is not the way we believe we should engage with other states.

**Deputy Paul Murphy:** What would it take?

**The Taoiseach:** If we were to expel Israel's ambassador, Israel would expel ours. As far as Israel is concerned, Ireland would be taken off the map and as far as Ireland is concerned, Israel would be taken off the map.

**Deputy John Brady:** We should withdraw our ambassador.

**The Taoiseach:** There would be no engagement. The Tánaiste and Minister for Foreign Affairs and Trade called in the ambassador of Israel this morning and told him exactly what the Government and the people thought about what was happening in Gaza. He told him about our objections to it and where we stood. If we had expelled him, that would not have been possible.

**Deputy Paul Murphy:** He would have got the message.

**Deputy Pearse Doherty:** The Taoiseach's response was very disrespectful to my question and the topic, which concerns the onslaught the Palestinian people are going through and what happened yesterday. The Taoiseach mentioned the UN resolution and referred to an independent investigation, but the United States has already vetoed it. It has made it very clear that it is in support of Israel in this case. None of the actions I have asked the Taoiseach to take would be for the sake of it. If Israel continues to act with impunity, we will continue in the weeks ahead to see carnage as we witnessed on our television screens yesterday. It is time for countries to make a stand. As the Government made a stand in the case of a Russian diplomat, what will it take for it to state "No more"? What will it take for this proud country to take a stand, as an independent country, by telling the Israeli ambassador that it is time to pack his bags?

This did not just happen yesterday. Israel enforces apartheid in the state of Palestine.

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

15 May 2018

**Deputy Pearse Doherty:** I will finish on this point. For the past seven weeks soldiers have been killing innocent civilians with impunity. Since 30 March, Israeli forces have killed at least 109 Palestinian civilians in Gaza and injured 12,000 people. The time for talking is over.

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

**Deputy Pearse Doherty:** The stock response from the Taoiseach, to the effect that the Tánaiste had called in the Israeli ambassador, does not meet the scale of what happened in Palestine yesterday.

**Deputies:** Hear, hear.

**Deputy Pearse Doherty:** It is time to expel the ambassador and recall ours and do what the people of Ireland are asking the Taoiseach to do. It is what the programme for Government states the Government would do and what all-party motions, in this House and the Seanad, stated the Taoiseach should do - to get to his feet and recognise the state of Palestine in order to express solidarity with the people who are facing an onslaught by Israeli forces at this time.

**Deputies:** Hear, hear.

**An Ceann Comhairle:** The Deputy accused the Taoiseach at the start of disrespect. He is disrespecting the House by ignoring the time provided for these questions.

**Deputies:** Hear, hear.

**Deputy Martin Ferris:** They are all doing it.

**An Ceann Comhairle:** I am afraid he is doing it far more so.

**Deputy Pearse Doherty:** My first bit was trying to-----

**An Ceann Comhairle:** Respect works both ways Deputy.

**Deputy Pearse Doherty:** I was forced to spend the first part of my contribution dealing with the issue.

**The Taoiseach:** Our view as a Government is that we solve conflict through dialogue. Dialogue requires engagement and requires an interlocutor. In this country, just over 20 years ago, it was necessary to engage in dialogue with terrorists in order to bring about peace on this island. That had to be done and it was the right thing to do. We believe, and I think Sinn Féin would understand this, that sometimes you need to engage with violent people to bring about peace.

**Deputy Pearse Doherty:** Sometimes you needs to expel diplomats.

**Deputy Timmy Dooley:** You had your own way of doing that.

**The Taoiseach:** For these reasons, we will not be recalling the Irish ambassador or expelling the Israeli ambassador. We will continue to engage with Israel and Palestine and try to be part of a future peace process. We will also act through the United Nations. We have given our support to the UN Secretary General in his call for an independent investigation into this matter. I will attend the EU Council in Sophia tomorrow and the next day, and I am absolutely sure it will be a topic of discussion among the Heads of Government and State.

**Deputy Pearse Doherty:** Recognition of the state of Palestine.

**The Taoiseach:** I will be putting across the views of the Irish Government and Irish people very strongly at the summit over the next two days.

The programme for Government commits the Government to recognising Palestine as a state as part of a two-state peace solution, and we stand over that Government commitment, but we do not yet have a peaceful solution.

**Deputy Pearse Doherty:** The motion of the House did not qualify it.

**Deputy Clare Daly:** I also condemn the genocide perpetuated by the sectarian apartheid Israeli state against innocent Palestinians and I support the boycott, divestment, sanctions, BDS, campaign against that nation.

I want to return to the cervical smear issue. The way in which this issue is being handled is an absolute disservice to the women at the heart of it and it is perpetuating a situation whereby we will not change things if we do not cop on. That there are people who are surprised about a memo which stated to leave a decision on telling people until the legality is sorted out shocks me. Where have those people been? Do they not know there are people who have seen their babies die or be gravely injured in our hospitals who have not been given answers? Do they not know there are men who have held their wives' hands as they were robbed of their lives as a result of clinical negligence in our hospitals and they cannot get answers? Have people in here forgotten Portlaoise and Portiuncula, and it taking ten years or three and a half years for reports to be published, and that today five bereaved families are still before the courts? Do people not know this is what happens in our health service, that maybe five or ten years after people suffer a devastating loss they might settle with the HSE and they might get an apology or a few answers, but they might not? That is our health service.

We might need a commission to find out how the latest scandal happened, but we do not need a commission to tell us why. It is happening because of the actions of everybody in this House and frankly I am sick of it. I could not care less if the Taoiseach was the health Minister or if Deputy Micheál Martin was the health Minister because it goes on. Governments are too busy staying in power to actually govern, the Opposition is too busy scoring cheap political points to actually hold the Government to account, and the media are too bloody lazy to analyse what goes on in here so the Civil Service rules, unelected and unaccountable.

We do not need a new oversight governance body here. There is a suite of measures which has long been flagged that could alter and transform the situation now. It is in the programme for Government. There is mandatory open disclosure, which the Government baulked from and which Fianna Fáil was knobbed on and on which it voted against us last year. Last year, Deputy Frances Fitzgerald promised us that mandatory inquests into maternal deaths would be delivered before the summer. The Taoiseach told me in February the legislation would be published. It has still not been published. We passed pre-action protocols but they have not been enacted.

A huge amount of what has gone on in our health service is because of litigation in the backdrop. It is a requirement to notify the State Claims Agency 48 hours after a serious adverse incident but not to tell the patient. Clinical claims against the State have an estimated cost of €1.98 billion, an increase of €1 billion in five years. Families are being dragged through the courts. If a family do not have the funds required, they cannot do this because they have to pay

for their own expert reports. We know of the case of one family with a child with cerebral palsy in which 46 expert reports were commissioned over six years before the family received damages. Of the 244 cases that were settled in 2016, only five went to court. There are measures in the programme for Government which, if they were enacted, would transform the situation. Will the Taoiseach look at them, including having a no fault compensation system to deal with this issue once and for all to take the lawyers out of hospitals?

**The Taoiseach:** The Deputy makes some very valid points. There has been too much political point scoring on this issue and a degree of political opportunism. If we genuinely want to put women and patients in general first, we should look for solutions and ask what we can actually do to improve the situation that has gone on for decades. A suite of measures is required. I argue that we are making good progress in implementing it. The Government of Fine Gael, the Independent Alliance and Independents has brought about significant legal reforms in the past two years. For example, we have the Mediation Act 2017 and have seen cases in recent weeks that were settled by mediation to the satisfaction of both sides. We have brought forward the legislation on periodic payment orders to move away from massive settlements of €10 million or €13 million in order that a person's needs can be assessed along the way and that he or she can be given additional compensation if he or she requires it. We also have the Legal Services Regulation Act 2015 which provides in law for pre-action protocols. I am aware that it has not yet been commenced, but we have the legislation which we will commence as soon as possible.

We have the Civil Liability (Amendment) Act 2017 which provides for voluntary open disclosure. That legislation is very important. I know that some people have dismissed it, but it is important because it removes the excuses. It tries to create a culture of truth rather than one of secrecy in which doctors, nurses, midwives and managers will not be afraid that an apology will be used against them in a court and that admitting to a mistake could be used against them as an admission of liability. That is why we brought forward and passed the Civil Liability (Amendment) Act 2017. That is why it will be commenced by June, once we have the guidelines in place. In addition, the Patient Safety Office has been established within the Department of Health. It is a very important measure.

The Deputy is correct - there are two major outstanding issues in the programme for Government which is a five-year programme and we are only entering year three. There are two outstanding issues in the programme for Government that need to be dealt with, the first of which is mandatory reporting of serious reportable incidents. We will do this. The heads of the patient safety Bill have been through the Cabinet and we will get it done in the next couple of months.

I have also initiated the establishment of a working group to look at alternative means of settling medical negligence cases, including a no fault system. Such a system operates in New Zealand and some other countries. There are pluses and minuses and it must be borne in mind that some people do want to ascribe fault and find out who was to blame. Where there is a no fault system in place, it can work quite well and should be considered as an option. We shall establish the working group, as committed to in the programme for Government, under an independent chairperson, which will involve my Department, the Office of the Attorney General, the Department of Justice and Equality, the Department of Health and the Department of Public Expenditure and Reform.

**Deputy Clare Daly:** I do not believe the Taoiseach listened to what I said. I genuinely do not blame him for anything that has happened before now. I am, however, going to blame

him for what will happen next. On the day he announced that the Attorney General was being instructed to cease litigation in cervical cancer cases, a Kilkenny family who had appeared before the High Court went to the courts for the ninth time to seek discovery in a case involving Pandemrix. We know that in September 2009, before any child or any person was given Pandemrix, the chief medical officer of the HSE received a letter from the chief executive of the Irish Medicines Board, now the Health Products Regulatory Authority, expressing the board's concerns about the impact of the absence of data on information on the product and the dangers with reference to the dosage for children and pregnant women. One month later, in October 2009, the HSE issued a glowing report that stated Pandemrix was safe for use as the seasonal flu vaccine. This was in direct contradiction with the letter the HSE had received from the Irish Medicines Board just days before. There are dozens of families before the courts who have been waiting eight years to get answers. If the Taoiseach is serious about there being a change in culture, the first step must be a moratorium in respect of these cases, which have put families through years of devastation, litigation and cost. The Government should call a halt first and then embark on having a proper redress scheme in advance of a no-fault compensation scheme.

**The Taoiseach:** I do not know anything about the details of that specific case, so it would be improper for me to comment on it. It relates, obviously, to a vaccine rather than the issue of cervical cancer screening, but I appreciate it is part of the bigger issue of how we deal with medical harm and medical negligence.

The last time I studied that topic and got a briefing on it, my understanding was that there was not sufficient epidemiological evidence - or scientific evidence, to make a long word sensible - to show that that vaccine caused the harms that were claimed, but I will take a look at that again because it is not something I have had an engagement on in at least two years.

**Deputy Mattie McGrath:** In recent weeks, the world-class reputation of the Irish medical and maternal health care system has been subjected to a national campaign of dangerous and reckless misinformation. The situation has got so bad that no fewer than four former heads of the Institute of Obstetricians and Gynaecologists and the current chair of the joint HSE working group on maternal mortality, Dr. Michael O'Hare, have called on two of the "Yes" campaign's leading medical spokespersons to withdraw statements they have made about how the eighth amendment impacts on medical care. Just last night, 15 members of the consultant body of the maternity directorate of the South/South West hospital group, which covers my area, called on Dr. Peter Boylan to step aside from his role.

Has the Minister for Health, Deputy Harris, supported these calls for balanced and accurate information? Of course he has not. In order to get this referendum over the line, the Government has essentially given free rein to anyone who wants to paint the worst possible picture of the Irish maternity system and services. As if that was not a bad enough judgment of the kind of campaign that the Government is supporting, there was a statement last week from almost 200 judges, solicitors and barristers, including a former judge of the European Court of Justice and the High Court, Mr. Justice Aindrias Ó Caoimh, and a former judge of the High Court and chairman of a referendum commission, Mr. Justice Iarfhlaith O'Neill. Mr. Justice O'Neill and his colleagues have described the Taoiseach's view and that of the Minister for Health that abortion up to six months will not become freely available as having "no rational basis". Today, a former Taoiseach and leader of the Fine Gael Party, Mr. John Bruton, wrote to the current Taoiseach again about how the Government's proposal to remove every last shred of constitutional protection for the unborn child was a human rights travesty. Those are the former Deputy's words.

15 May 2018

Whenever others or I have raised these matters with the Taoiseach, he has trotted out the grossly offensive and deeply personalised remarks that those who oppose the repeal of the eighth amendment are turning a cold shoulder to the victims of sexual violence. That is unfair. Is Mr. Justice O'Neill turning a cold shoulder? Is the former leader of the Taoiseach's party, Mr. Bruton, turning a cold shoulder? Of course they are not.

Will the Taoiseach join me in defending the world-class nature - those are the World Health Organization's words, not mine - of our maternal health system? Will he call on those who are recklessly damaging our international reputation and creating unnecessary fear to refrain from making such remarks? Will he finally accept that the law the Government is proposing will allow for the majority of abortions to be carried out on the perfectly healthy unborn children of healthy mothers? As we know, these constitute 97% of the abortions that take place in the UK.

**An Ceann Comhairle:** Before I call on the Taoiseach to respond, it is a long-standing precedent of the House not to mention people outside it by name or in such a way as to make them identifiable.

**The Taoiseach:** When this referendum campaign started, or certainly the day that the Government confirmed that we would hold a referendum, I said that I hoped that the campaign would always be respectful and never become personalised. I think that, by and large, that has been the case. We are only a week and a half away from polling day and, by and large, this has been a much more respectful campaign than people perhaps anticipated and, by and large, has not been personalised. That is why I deeply regret that some people have now chosen to try to personalise the campaign in regard to Dr. Peter Boylan. Dr. Boylan has the right to his view, just as doctors or former judges on the "No" side have the right to their view. Nobody should be individually targeted because they hold a particular opinion on this issue and I regret that in the final days of this campaign people have started going for the man or woman rather than talking about the issue. Whether that is done by the "Yes" side or the "No" side, it is very wrong.

Removing the eighth amendment would remove the equal right to life for a pregnant woman and the unborn from our Constitution. There are other rights in the Constitution such as the right to common good, and that concept will remain in the Constitution. We propose to remove the concept that an unborn child, a foetus of one, two, three or even ten weeks' gestation, has an equal right to life as one's sister, mother, niece or female friend. I do not believe that to be true and that is one of the reasons I am comfortable voting "Yes" in the referendum.

Above all, this is about accepting the reality that abortion exists in Ireland. In 1983, people thought that by putting that amendment into the Constitution, somehow there would be no terminations of pregnancy. We know that nine or ten women every day take the boat or plane to England or other countries to end their pregnancies and that two, three or probably more women every day import a pill over the Internet to be taken unsafely and without medical supervision, counselling, advice or being able to talk about the alternatives. That is what we want to change. Abortion is a reality in Ireland and in many ways we propose to recognise that reality and legislate for, and regulate, it.

The Deputy raised the issue of care and compassion. I have yet to hear from those who argue for a "No" vote, including Deputy Mattie McGrath, how they would care for and what compassion they would show towards the victims of violence he mentioned, such as a 13, 14 or 15 year old girl who may have been raped by her father, grandfather or uncle and is bleeding and in pain. What answer does the Deputy offer her?

**Deputy Mattie McGrath:** For the past two weeks, the Taoiseach has been asking people to stop making comments that might damage the integrity of the Irish health system. I share his view in that regard. However, two of the country's senior medical professionals are endlessly repeating dangerous and reckless comments and the Taoiseach will not stand up to them because they support his view in the upcoming referendum. The Taoiseach can stand up and pontificate and purport to have infinite knowledge of everything. However, I have the heads of the Bill before me. The Taoiseach is aware that head 4 of the general scheme states that the life of an unborn child cannot be ended once it has reached viability. However, there is no reference to where that mark will be set. I suggest that the Taoiseach read that if he wishes to understand it. I suggested that to him last week but it is obvious that he has not yet done so. It is even more disturbing that provision is made in head 5 to nullify or cancel the prohibition in head 4. It is all over the place and that has been proven. I have the Bill in front of me and have studied it, as have legal professionals. We know that over 40% of abortions in England are carried out before the 12 week period. The Government is all over the place on this issue. The Taoiseach has no right to lecture us. We have compassion. Many organisations and agencies, which I support, assist victims of sexual violence on an hourly basis. We want more compassion, not the taking away of the last vestige of support for the unborn child - not a foetus - in the womb. We wish to maintain life from conception to end of life.

**The Taoiseach:** We have good maternity services in Ireland but we would be very unwise to think a relatively low maternal mortality rate means that we have the best maternity services in the world. We do not have that and never did.

**Deputy Mattie McGrath:** We are close to the top, according to the World Health Organization.

**The Taoiseach:** Unfortunately, there are major shortcomings in our maternity services and that has been laid bare in several hospitals around the country in recent times-----

**Deputy Mattie McGrath:** While the Taoiseach was Minister for Health.

**The Taoiseach:** -----and through a number of cases of which many Members are aware. As Minister for Health I produced the first national maternity strategy, which is a strategy to improve our maternity services significantly, and as Taoiseach I am making sure the funding is in place to implement that over time.

Head 4, to which the Deputy referred, relates to viability, which is an issue of clinical judgment. It may be 23 weeks or it may be 24 weeks. It depends on a few things, namely, the gestation, the weight and the size. That has to be a clinical judgment. Part of the problem that we have in Ireland with our abortion laws is we have tried to define too much in the Constitution and have not allowed for clinical judgment. The term "viability" is there so clinical judgment can apply. We should bear in mind that medical science changes. It may be the case over time that viability comes down in terms of weeks, so we want to provide for that too. We do not want to put in 22 weeks or 23 weeks and then find out in a few years that new technology brings that backwards. That is why we put viability in as a legal concept, so it is based on clinical judgment of gestation, weight, size and modern clinical science.

**Deputy Mattie McGrath:** What about head 5?

**The Taoiseach:** Head 5 relates to emergency situations. Supervision exists already in the Protection of Life During Pregnancy Act to allow for one doctor to intervene-----

15 May 2018

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

**The Taoiseach:** -----in those emergency situations, and that is what that is for.

### **Order of Business**

**Deputy Róisín Shortall:** Tuesday's business shall be No. 6, motion re report of the Joint Committee on Finance, Public Expenditure and Reform, and Taoiseach under Standing Order 114 on COM (2018) 147 and COM (2018) 148 re taxation of the digital economy; No. 7, motion re Health and Social Care Professionals Act 2005 (Section 95(3)) (Variation of Title: Dietician) Regulations 2018, back from committee; No. 8, motion re Health and Social Care Professionals Act 2005 (Section 95(3)) (Variation of Title: Speech Therapist) Regulations 2018, back from committee; No. 9, motion re Standing Orders 23, 28, 140 and 144; and No. 21, Data Protection Bill 2018 [*Seanad*] - Order for Report, Report and Final Stages. Private Members' business shall be No. 176, motion re mandatory open disclosure in health service provision, selected by Sinn Féin.

Wednesday's business shall be No. 22, statements on Palestine, to adjourn after the opening round and to resume after the conclusion of the Data Protection Bill 2018 [*Seanad*]; No. 21, Data Protection Bill 2018 [*Seanad*] - Report Stage (Resumed) and Final Stage; and No. 23, Judicial Appointments Commission Bill 2017 - Order for Report, Report and Final Stages. Private Members' business shall be No. 177, motion re housing, selected by Fianna Fáil.

Thursday's business shall be No. 21, Data Protection Bill 2018 [*Seanad*] - Stage (Resumed) and Final Stage; No. 22, statements on Palestine, resumed, and to adjourn, if not previously concluded; and No. 23, Judicial Appointments Commission Bill 2017 - Order for Report, Report and Final Stages. No. 44, Second Stage of the European Communities (Brexit) Bill 2017 shall be debated in the evening slot.

I refer Members to the first revised report of the Business Committee dated 15 May 2018. In relation to today's business it is proposed that:

(1) The Dáil shall sit later than 10 p.m. and shall adjourn on the conclusion of Private Members' business, which shall be taken not later than 9 p.m. for two hours;

(2) The motions re report of the Joint Committee on Finance, Public Expenditure and Reform, and Taoiseach under Standing Order 114 on COM (2018) 147 and COM (2018) 148 re taxation of the digital economy, re Health and Social Care Professionals Act 2005 (Section 95(3)) (Variation of Title: Dietician) Regulations 2018, Health and Social Care Professionals Act 2005 (Section 95(3)) (Variation of Title: Speech Therapist) Regulations 2018, and re Standing Orders 23, 28, 140 and 144 shall be taken without debate and any division demanded thereon shall be taken immediately; and

(3) Notwithstanding anything in Standing Order 143F, on 15, 16 and 22 May, Private Members' business shall be taken in the following temporary sequence: Sinn Féin, Fianna Fáil and the Social Democrats-Green Party group, whereupon, on 23 May, the sequence shall resume at the point which would normally have followed.

In relation to Wednesday's business, it is proposed that:

(1) the Dáil shall sit later than 10.15 p.m., and shall adjourn on the conclusion of Private Members' business, which shall be taken not later than 9.15 p.m. for two hours; and

(2) the statements on Palestine shall adjourn after the opening round and shall resume after the conclusion of the Data Protection Bill 2018 [*Seanad*] and the following arrangements shall apply: statements of a Minister or Minister of State and the main spokespersons, or a member nominated in their stead, shall not exceed ten minutes each, with five minutes for all other Members, a five minute response from Minister or Minister of State and all Members may share time.

**An Ceann Comhairle:** There are two proposals to be considered by the House today. Is the proposal for dealing with today's business as outlined by Deputy Shortall agreed?

**Deputy Paul Murphy:** No, it is not agreed. I do not think that we can wait until tomorrow to debate the slaughter in Palestine. We have heard the figures, with the number who died yesterday having now risen to 59, including an eight month old baby. A total of 113 people have been killed by Israeli forces since 30 March. There are protests taking place again today. How high is the figure going to rise to? We need to be debating the matter today and I propose that we take 80 minutes from 7.40 p.m. until 9 p.m., in advance of the debate on mandatory disclosures, to do so. That would not affect the timing of business for the rest of the week and would mean that we could discuss the issue today rather than waiting until tomorrow.

**An Ceann Comhairle:** Does any other Member wish to speak on this?

**Deputy Micheál Martin:** That debate is happening tonight, is it not?

**An Ceann Comhairle:** No, the debate on Palestine is scheduled for tomorrow.

**Deputy Brendan Howlin:** It was moved by the Business Committee.

**Deputy Bríd Smith:** Vótáil.

**Deputy Brendan Howlin:** What is Deputy Paul Murphy's counter proposal?

**Deputy Paul Murphy:** I propose that we have an 80 minute debate on Palestine today rather than tomorrow.

**Deputy Brendan Howlin:** At what time?

**Deputy Paul Murphy:** From 7.40 p.m. until 9 p.m., before the debate on the Sinn Féin Private Member's motion. That will not change anything else for the rest of the week but will mean that we can debate Palestine today rather than tomorrow.

**Deputy Brendan Howlin:** Agreed.

*(Interruptions).*

**Deputy Micheál Martin:** My understanding was that the debate was to take place this evening, as agreed by the Business Committee.

**Deputy Brendan Howlin:** It was moved this morning.

**Deputy Micheál Martin:** The schedule we have here suggests that there will be statements on the matter this evening.

15 May 2018

**An Ceann Comhairle:** The Deputy does not have the revised schedule. A revised schedule was circulated.

**Deputy Micheál Martin:** In that case, I suggest that we have ten minute slots for opening speakers.

**An Ceann Comhairle:** That is what is agreed.

**Deputy Micheál Martin:** It was five minutes originally.

**An Ceann Comhairle:** Ten minutes for opening statements is what has been agreed.

**Deputy Pearse Doherty:** The initial proposal was that the statements would be taken today and they should be, particularly in light of the Government's response *vis-à-vis* the Israeli ambassador and the failure to recognise the state of Palestine. It is important that the statements are taken today and if needs be, the Business Committee should reconvene and agree a time slot that would be adequate for everybody to make his or her contribution on this issue.

**Deputy Brendan Howlin:** I was surprised to get the revised schedule and to be advised just before I came in that the statements that I assumed would be taken today were to be put back to tomorrow. There is a general concern across the country that the appalling events of yesterday should be reflected in statements in this House. Indeed, I hope we will have more than statements and that there will be a formula for action from Government in response to those statements.

**An Ceann Comhairle:** Is the House agreed that we will ask the Business Committee to look at this and try to reorder the schedule to provide for the opening round of eight ten-minute contributions?

**Deputy Bríd Smith:** Today?

**An Ceann Comhairle:** Yes, for today. Is that agreed? Agreed. We will ask the Business Committee to make the necessary arrangements. On the basis of that amendment, today's business is agreed. Is the proposal for dealing with Wednesday's business, which will include the business moved forward from today, agreed? Agreed.

On promised legislation, I call Deputy Micheál Martin.

**Deputy Micheál Martin:** In the context of the programme for Government, it is important that in the conduct of our foreign policy we are clear and unambiguous in our response to atrocities when they are committed. We must unreservedly condemn the killing of up to 60 Palestinians, including children, and the injuring of 1,200, including journalists and healthcare workers. The Israeli response to the mass protests in Gaza was wholly disproportionate and counterproductive in terms of undermining any prospect, however faint, of a peace process emerging. I appreciate the Tánaiste's efforts in bringing in the Israeli ambassador to convey our condemnation of the behaviour of the Israeli forces and the Israeli Government. While we support the establishment of a UN inquiry, we note that the US Government has expressed its opposition to such an inquiry. I understand it could veto the establishment of an inquiry. It is important for any inquiry to be protected. Given what happened previously, the personnel involved in the inquiry should be supported and protected. The programme for Government talks about "our commitment to recognise the State of Palestine". Essentially, the decision that led to the opening of the embassy yesterday represents an attempt to shape the eventual outcome, if

there is ever to be an outcome, of a Palestinian settlement. The Dáil will have to consider this matter in light of what has happened and the way things are going.

**The Taoiseach:** I want to repeat the Government's condemnation of the violence that has occurred between Israel and Gaza. Our view is that the Israeli Defence Forces have used disproportionate force in using live ammunition against civilians and thereby causing numerous deaths, including the deaths of young people and children. The Tánaiste called the Israeli ambassador into the Department of Foreign Affairs and Trade in Iveagh House this morning to advise him of the Government's concerns and of our strong objections to what is happening in the Middle East. We strongly support the UN Secretary General's call for an independent inquiry. This matter will be discussed at the EU Council summit tomorrow and in Sofia the following day. The programme for Government clearly states that we will "honour our commitment to recognise the State of Palestine" when such a state exists, which of course requires a peace settlement.

**Deputy Pearse Doherty:** Even though we are into the third week of the cervical cancer scandal, the Government has yet to get to the core of the wrongdoing in this regard. Sinn Féin wants accountability and wants to propose constructive solutions that prioritise patients above all else. As the Taoiseach will be aware, we intend to use our Private Members' time this evening to propose a motion calling on the Government to legislate for mandatory open disclosure before the summer recess. Our motion, which calls for the introduction of criminal sanctions in this regard, goes to the heart of everything about which we have learned over the past three weeks. I refer to the cultural, organisational and management failures that have been exposed during this period. I have three questions for the Taoiseach in this regard. First, will the Government support the Sinn Féin motion calling for mandatory open disclosure to be legislated for before the summer recess? Legislation to this effect has been tabled by my party's health spokesperson, Deputy O'Reilly, and is currently with the Ceann Comhairle. Second, will the Taoiseach tell us whether the cervical cancer audit and other documentation will be published later today? Two weeks ago, I asked for all documentation to be published, but the Taoiseach could not provide an answer at that point. Third, will the Taoiseach provide information in response to media commentary that despite the resignation of Mr. Tony O'Brien on Friday, he will continue to draw his full salary until July?

**An Ceann Comhairle:** The Deputy has asked one question on promised legislation.

**The Taoiseach:** The programme for Government promises that legislation will be introduced to legislate for mandatory open disclosure. We will do that as soon as we possibly can.

**Deputy Brendan Howlin:** I have made my comments on Gaza. I am happy that we will have an opportunity to discuss the matter later today. I want to raise a different issue with the Taoiseach now. It is one I have raised on several occasions. As a consequence of the collapse of Carillion in January and the Sammon Group subsequently going into examinership, the completion of the construction of a bundle of six schools has been delayed for half a year. The new building at Loreto secondary school in Wexford was to have been occupied in January. The school authorities had made provision for timetabling, recruitment of staff and subject choices on the basis that the new building would be available. They are now being told by the Department that they should make contingency plans to stay in the existing facilities, which are inadequate, when the new school term commences in September. This is causing consternation because it is not doable. I imagine that there are similar situations in the other schools. The hands-off approach to this matter that has repeatedly been set out in response to questions asked

by Deputies on this side of the House is no longer acceptable.

If the Taoiseach is not fully up to speed, I understand, but I urge him to take a personal interest in seeking to resolve this really important issue for the thousands of pupils involved.

**The Taoiseach:** I am afraid I have nothing to add to the update the Minister, Deputy Richard Bruton, gave us last week. Clearly, the issue is ongoing. Certainly we all want to make sure the kids will be in the new schools by September at the very latest. I will certainly speak to the Minister about the issue to see if there is anything I can do. If a personal intervention on my part would make a difference, I would be happy to do so.

**Deputy Paul Murphy:** I also refer to the commitment in the programme for Government on the recognition of the Palestinian state. The response of the Taoiseach indicates that it is entirely meaningless and that he has no intention of doing it within the timeframe of the Government, despite the Dáil voting to recognise the Palestinian state. It was just something to give to some of the Independent members of the Government to let them say they had received it, but the Taoiseach does not intend to do anything about it. Earlier he made the point that if we expelled the Israeli ambassador, we would not be able to get the message across to the Israelis that we were opposed to what they were doing. It is precisely by expelling the Israeli ambassador that we would get the message across. By recalling the Irish ambassador from Tel Aviv we would send a message around the world that we were absolutely appalled by the slaughter of innocent Palestinians by Israeli state forces, that we were opposed to the European Union's complicity in the slaughter through the EU-Israel association agreement and the hundreds of millions of euro of public funds that ended up with Israeli armaments companies, that we were opposed to the ongoing use by the State of Israeli defence companies, including in buying drones from them, and that we stood in solidarity with the Palestinian people. That is how the Government would send a message, rather than saying a few cross words to the Israeli ambassador. What more powerful way of doing so is there than by passing a resolution and the Government actually recognising the Palestinian state?

**Tánaiste and Minister for Foreign Affairs and Trade (Deputy Simon Coveney):** Our view is that we do not solve problems by way of one-off messages. In a few weeks' time I will have an opportunity to meet the Israeli Prime Minister in Jerusalem for the fourth time in about nine months. I suspect it will be a very straight conversation. In my view, the idea that we assist Palestinians by cutting off all diplomatic ties with Israel is fundamentally flawed. What Ireland needs to do is challenge, propose solutions and be part of them, as opposed to setting itself up as some kind of protest organisation. That is why we have chosen engagement over isolation on this issue and why I----

**Deputy Richard Boyd Barrett:** The Government will not engage with Hamas.

**Deputy Eoghan Murphy:** The Deputies are practising student politics.

**Deputy Simon Coveney:** We have engaged and continue to engage with the Palestinian Authority. We have been and continue to be supportive of the ongoing reconciliation process and have supported Egypt in those efforts. What I am serious about trying to do on behalf of the Government and the country is to offer real criticism when necessary, as we have done today very directly with the Israeli Government. We will continue to do so, but we will also try to work on a way forward, as opposed to what others seem to be offering.

**Deputy Mattie McGrath:** On the Road Traffic (Amendment) Bill 2017, I want to ask what

is going on over there. Has dysfunction also spread to the Department of Transport, Tourism and Sport? The Road Safety Authority has come under intense pressure from civil servants to make use of the public services card mandatory for all driving licence applications. They spent €2 million on the project before the Minister, Deputy Shane Ross, pulled the plug on it. What, in God's name, is going on? We have been accused of filibustering and delaying the Bill when we want to point to basic flaws in it. It is unworkable. A sum of €2 million has been spent in trying to make use of the public services card mandatory for all driving licence applications. I know - it is very funny. The Government Front Bench might now listen.

**Deputy Simon Coveney:** I am listening.

**Deputy Mattie McGrath:** They are only gimmicking and acting the you-know-what, or the Ned, as we call it in Tipperary. That is what they are doing, the three of them, but it is not funny. A sum of €2 million has just been thrown away and the proposal has now been scrapped. What is going on in the Department of Transport, Tourism and Sport? I know that the Minister is not here. He is never here to support the Government. Will the Taoiseach try to rein him in and have some examination of the waste in the Road Safety Authority?

**The Taoiseach:** Perhaps a Topical Issue Matter or a priority question to the Minister, Deputy Shane Ross, might elicit a response.

**Deputy Joan Collins:** Yesterday a constituent came to my office and told me she went for a smear test appointment with her GP who is offering free smear tests, which is good. When she asked where the test was going to be sent to, however, she was informed it would be sent to the US. She did not want it to be sent to the US and asked for it to be done in an Irish lab instead. She was subsequently informed that this would cost her €125. She had to cancel it because she is on social welfare and cannot afford it. She has had to reschedule her smear test.

Will the Taoiseach investigate if this was a one-off incident or is there a charge for women patients to have their smear tests sent to an Irish lab? If that is the case, it is wrong and it should be dealt with.

**The Taoiseach:** I am not in a position to comment on any individual case. I understand smear tests done as part of CervicalCheck are sent to different labs, depending on what region the person lives in. The Irish Family Planning Association tests go to the Coombe. It may be of interest to the House to know that I have confirmed that the laboratory to which Vicky Phelan's smear tests were sent has not been contracted since 2013. About 10% of smear tests go to the Coombe while the others are divided equally between MedLab in Sandyford and Quest Diagnostics in New Jersey.

**Deputy Joan Collins:** If I send the details to the Taoiseach, will he get the Minister for Health to check it out?

**The Taoiseach:** We will certainly look into it.

**An Ceann Comhairle:** The Taoiseach will investigate the matter.

**Deputy Eamon Ryan:** The US Government has huge responsibility for the slaughter and outrage which happened yesterday in the Middle East. It is becoming a rogue state which seems to want only to sow discord in the region. Yesterday, the EU ambassador to America, David O'Sullivan, said that in the coming days the European Union will come together to address the

15 May 2018

sanctions which the US has applied with regard to coming out of its nuclear deal with Iran. It is possible, he said, that we could introduce blocking regulations which would nullify the effect of such sanctions, in the same way we did in the 1990s with US sanctions placed against Cuba. Countries could also give directions to institutes like the National Oil Reserves Agency, NORA, not to deal in dollars but switch to euro currency transactions.

Given that this approach will be agreed in the next two days, has the Government decided whether we will support such measures to nullify the effects of sanctions? Will we introduce the same blocking regulations applied in the 1990s to send a message to America that what it is doing is fundamentally wrong and it will not be allowed get away with it?

**Tánaiste and Minister for Foreign Affairs and Trade Deputy Simon Coveney:** I do not believe the EU approach on the Iranian nuclear deal is about sending the US a message. It is about trying to send Iran a message that the EU and others want to maintain this nuclear deal because we believe it is working. We also believe Iran is complying with its terms. Although the US has taken a different approach, we would like to see that deal remain intact. EU countries are trying to work together to ensure that happens. We support that approach.

**Deputy Fiona O'Loughlin:** The programme for Government proposes legislation for the reintroduction of the mobility scheme. The scheme was wound up more than five years ago. In that period, thousands of people with disabilities have been left in limbo. It is a ridiculous situation where buses with empty spaces pass by the homes of some of our young adults who need to go to a service centre for people with disabilities. They cannot avail of these empty spaces because this legislation has not yet been introduced.

The Government committed that this legislation would be introduced early in 2018. I would appreciate it if the Taoiseach could give an update and let us know when those who are in need of the scheme in question will be able to avail of it?

**The Taoiseach:** A memorandum is due to come to the Cabinet in the next few weeks. After that, primary legislation will be required. I cannot predict how long that will take to get through the Dáil and Seanad. We intend to have the new scheme in place next year sometime.

**Deputy Danny Healy-Rae:** Farmers' pockets are empty at this time. Back in 2008 and 2009, €1,100 was taken off the area aid payment but it was promised that it would be given back. Now the Taoiseach is saying he will give €200 or €230 sometime later on this year. I am appealing to the Taoiseach and the Minister for Agriculture, Food and the Marine to give them back the money that was taken off them at that time. It is theirs.

As I said to the Taoiseach, they cannot pay suppliers or contractors. They cannot pay for anything. This €1,000 or €1,100 would mean so much to them at present because there were never as low. I appeal to the Taoiseach to give them back this money which was taken off them in 2009.

**Minister of State at the Department of Agriculture, Food and the Marine (Deputy Andrew Doyle):** The Minister for Agriculture, Food and the Marine is in China leading a trade delegation to try to get more business and to open more markets.

Under the programme for Government, an increased total of €25 million was committed to under the areas of natural constraint scheme and a further €25 million was provided for the sheep welfare scheme. The €25 million under the areas of natural constraint scheme will be

allocated. It has been decided how it will be distributed among the three categories. That commitment was made and has been honoured this year.

**Deputy Michael Collins:** Page 118 of the programme for Government document refers to how the horse and greyhound sectors are fundamentally important to rural Ireland and must be protected. In recent weeks we have read in national and international newspapers that there is another horsemeat scandal emanating from Ireland. It would appear that horses have entered the food chain from a licensed facility under the control of the Department of Agriculture, Food and the Marine with incorrect passports, double microchips and banned medications. Information has also come to my attention that horses not fit for human consumption were slaughtered at a facility licensed to slaughter horses fit for human consumption on the same day that horses were being processed for the food chain. Is the Government aware of what is going on? What steps is the Government taking on this matter?

**Deputy Andrew Doyle:** In the first instance, as in the last horsemeat scandal and the pork meat scandal, the Food Safety Authority of Ireland is the competent authority that deals with it. Some of the allegations or contentions made by the Deputy are of a criminal nature. If the Deputy has evidence pertaining to that issue, he should bring it to the relevant authorities.

**Deputy Thomas Byrne:** Is the Taoiseach aware that general practitioners in the Louth and Meath region are concerned today? This is in connection with the programme for Government commitment to an improved health service. GPs are concerned that blood tests for the region are being outsourced from the public sector to the private sector. They expect results to come back in a paper-based format. GPs are telling me today that blood tests from last week that should have been back by now are not yet returned to their practices. This has a major impact on patient safety. Is the Taoiseach aware of this? Is the Government aware of this? Will they get to the bottom of this and assure us that the delayed blood tests in Louth and Meath are not causing health difficulties to my constituents and to the wider population?

**The Taoiseach:** I am not aware of any specific issues relating to delayed tests in Louth or Meath. I will pass it on to the Minister for Health and ask him to provide Deputy Byrne with a detailed reply.

It certainly is no secret that blood tests, X-rays, operations and all sorts of investigations are outsourced to the private sector and private laboratories. That has been the case for a long time. Indeed, many Irish people spend a great deal of money to have tests done in private facilities, whether laboratories or radiology centres. I hope, notwithstanding recent events, that people do not make the assumption that Irish or public laboratories are necessarily better than private ones. Any of these laboratories are of course ISO-accredited.

**Deputy Tom Neville:** I wish to ask about promised legislation relating to vacant site levies. It has come to my attention that in the Limerick area, land zoned for residential purposes that is being used for agricultural purposes may be coming under the site levy and may incur charges under the site levy. I believe it would be helpful if we could correct any anomalies that might be within the legislation to target what we need to target, that is, land hoarding by developers. We need to negate that against the agricultural use. Land that is being used for agricultural use might be zoned through no fault of the landowner.

**Minister for Housing, Planning and Local Government (Deputy Eoghan Murphy):** I thank Deputy Neville for the question. As the Deputy will be aware, in last years' budget we

15 May 2018

increased by more than double the vacant site levy on vacant land that was being hoarded and that could be used for the development of housing. From the beginning of this year the 3% levy applies and from next year the levy jumps to 7%. That means over a two-year period there will be a 10% levy on land.

It is up to each local authority to decide which lands go onto its register. If farmland is in productive use, it should not be included. If the Deputy wishes to give me the specific example and case, I will speak to the local authority about it.

**Deputy Tony McLoughlin:** The programme for Government refers to the family courts Bill. What is the timeframe for the introduction of the Bill for the Oireachtas?

**Minister for Justice and Equality (Deputy Charles Flanagan):** The heads are in the course of preparation at the moment. I expect to be in a position to bring something to Cabinet later this year.

**Deputy Marc MacSharry:** Page 67 of the programme for Government refers to health and ensuring support in a crisis. When he answered Deputy Micheál Martin earlier, the Taoiseach alluded to the fact that the people who failed to escalate the matter to do with cervical screening did so on the basis that they assumed others were dealing with it. On that basis, will the Taoiseach outline for us whether any disciplinary processes are under way? Is anyone on verbal or written warnings? Is it to be the case that there will be no tangible sanction as a result of the failure by our system to acknowledge a culture of containment and preventing information from getting to those who most need it, namely, the patients?

**The Taoiseach:** There are no disciplinary processes under way that I am aware of. Not being the employer, however, I may not necessarily be aware of them for obvious reasons.

As I have said before, we are seeking four things. The first is to care for the women and their families. The second is to get to the truth. The third is to establish accountability. The fourth is to rebuild confidence in cancer screening. Specifically, Deputy MacSharry talks about truth and accountability. We have the Scally inquiry. The best way we can get to the truth is through the Scally inquiry. The best way we can get to the truth is to examine all of the facts, take them in totality and then draw conclusions. I do not believe we can get to the truth by examining bits of facts or snippets of information as they come out, often out of context. That is not how we get to the truth. I appeal to people to allow Dr. Scally, assisted by Karin Denton, to get on with his inquiry and to get to as many facts as quickly as we possibly can. If we are genuinely interested in the truth, that is what we should be doing.

**An Ceann Comhairle:** That concludes questions on promised legislation. My apologies to the Deputies who have not been reached.

### **National Monuments (The Moore Street Battlefield) Bill 2018: First Stage**

**Deputy Peadar Táibín:** Tairgim:

That leave be granted to introduce a Bill entitled an Act to amend the National Monuments Acts 1930 to 2014 for the purpose of deeming certain parts of Moore Street, and its environs, in the City of Dublin to be a national monument for the purposes of those Acts; and to provide for related matters.

The Moore Street battlefield is the birthplace of the Irish Republic. Its streets, lanes and buildings reverberate with the selfless heroism that ended for most of the island the hundreds of years of occupation, exploitation and oppression. O'Brien's Mineral Water Works building on Henry Place was occupied by the volunteers evacuating the General Post Office. The White Cottage on Henry Place was occupied and held under fire by Michael Collins. The Bottling Store on Moore Street was occupied and held by Captain Frank Henderson and was the location of the killing of Michael Mulvihill and Henry Coyle. The building at 10 Moore Street was the point of entry to the terrace, the leaders' refuge, the location of the field hospital set up by nurse Elizabeth O'Farrell and Julia Grenan and the location of the killing of Paddy Shortis. The buildings at 20 and 21 Moore Street were the locations of the acceptance by the volunteers of the surrender after consultation with Clarke, Plunkett, Collins and Mac Diarmada. The building at 25 Moore Street was the location of the killing of The O'Rahilly, Charles Corrigan and Francis Macken.

Moore Street has also been the location of several serious battles in recent times. Unfortunately, due to these battles, Moore Street is completely frozen in dereliction. The once vibrant market that was famous throughout the city of Dublin is now a pale shadow of its former self. The people who are carrying out the tradition there and trying to eke out a living – the traders – are in many ways being held prisoner by a policy of inertia by this Government. Moore Street is a sterile derelict site because Fine Gael has refused to live up to its responsibilities. It has refused to make a simple decision to issue a preservation order and turn Moore Street back into the vibrant cultural and historical quarter that it could be.

There is a live planning permission for the site. That live planning permission is in the hands of a large international developer. While there has been some welcome interaction between the developer in question and the ministerial advisory forum, this has been limited. The planning permission could be enacted at any time, which means the buildings I listed would be threatened with destruction.

Despite admitting that the Moore Street battlefield site is a national monument, the Department of Culture, Heritage and the Gaeltacht is unwilling to issue the necessary preservation orders for the buildings. The Department refuses to issue a preservation order because all the stakeholders are interacting on the ministerial advisory forum. A preservation notice would not be incompatible with the forum, which will not make or accept any decision that is not fully in sympathy with national monument status. The question that arises is why the Fine Gael-led Government will not officially recognise the national monument status of the Moore Street battlefield site. Why will it not issue a preservation order? A national monument is a national monument, in other words, the GPO is a national monument notwithstanding whether a preservation order applies to it. If it is threatened, a responsibility arises. The Judiciary has clearly stated it is in the court of the Government to issue the preservation order for this site.

The Government should do the right thing by issuing the preservation order and ending the dereliction of the Moore Street site. Unfortunately, the Minister refused to do so last week. As a result, Sinn Féin has been forced to do this job on the Minister's behalf. The Bill proposes to amend the National Monuments Acts 1930 to 2014 for the purpose of deeming the Moore Street battlefield site a national monument. This will put an end to the nonsense that has been ongoing for decades in the Moore Street quarter. As a result of constant court battles, the north west end of O'Connell Street has been left a sterile, derelict site. It could easily become a rich, vibrant cultural and heritage site in which traders sell products that attract international and local visitors to the area. The Bill has been introduced to bring an end to the decades of court battles. If

15 May 2018

it proceeds, it will be a victory of the people over the developers and the Government.

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

**Minister of State at the Department of the Taoiseach (Deputy Joe McHugh):** 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 Peadar Tóibín:** I move: "That the Bill be taken in Private Members' time."

Question put and agreed to.

### **Report of Joint Committee on Corporate Taxation: Motion**

**Minister of State at the Department of the Taoiseach (Deputy Joe McHugh):** I move:

That Dáil Éireann:

(1) notes the agreed Report of the Joint Committee on Finance, Public Expenditure and Reform, and Taoiseach under Standing Order 114 on the Proposals for a Council Directive laying down rules relating to the corporate taxation of a significant digital presence – COM(2018)147 and a Council Directive on the common system of a digital services tax on revenues resulting from the provision of certain digital services – COM(2018)148 which was laid before Dáil Éireann on 11th May, 2018, in accordance with Standing Order 114(3)(b);

(2) having regard to the aforementioned Report, and in exercise of its functions under section 7(3) of the European Union Act 2009, is of the opinion that the Proposals for a Council Directive laying down rules relating to the corporate taxation of a significant digital presence – COM(2018)147 and for a Council Directive on the common system of a digital services tax on revenues resulting from the provision of certain digital services – COM(2018)148 do not comply with the principle of subsidiarity for the reasons set out in paragraph 3 of the Report; and

(3) notes that, pursuant to Standing Order 114(4), a copy of this Resolution together with the reasoned opinion and the aforementioned Report shall be sent to the Presidents of the European Parliament, the Council and the Commission.

Question put and agreed to.

### **Health and Social Care Professionals Act 2005 Regulations 2018: Motions**

**Minister of State at the Department of Health (Deputy Catherine Byrne):** I move:

That Dáil Éireann approves the following Regulations in draft:

Health and Social Care Professionals Act 2005 (Section 95(3)) (Variation of Title:

Dietician) Regulations 2018,

copies of which have been laid in draft form before Dáil Éireann on 10th April, 2018.

Question put and agreed to.

**Minister of State at the Department of Health (Deputy Catherine Byrne):** I move:

That Dáil Éireann approves the following Regulations in draft:

Health and Social Care Professionals Act 2005 (Section 95(3)) (Variation of Title: Speech Therapist) Regulations 2018,

copies of which have been laid in draft form before Dáil Éireann on 10th April, 2018.

Question put and agreed to.

### **Standing Orders: Motion**

**Minister of State at the Department of the Taoiseach (Deputy Joe McHugh):** I move:

That, in accordance with the recommendations under Standing Order 107(1)(a) of the sub-Committee on Dáil Reform, and with effect from 22nd May 2018, the Standing Orders of Dáil Éireann relative to Public Business be amended as follows:

(a) in Standing Order 23, in paragraph (1), by the substitution of the following for subparagraphs (a) and (b):

‘(a) every Tuesday, not later than 10 p.m., or alternatively, not later than the time calculated by adding any time taken on a division on the Order of Business to the 10 p.m. adjournment time,

(b) every Wednesday, not later than 10.15 p.m., and

(c) every Thursday, not later than 7.48 p.m.:’;

(b) in Standing Order 28, in paragraph (2)(d), by the insertion of the following after ‘shall not exceed 30 minutes’:

‘, save that any time taken on a division on the Order of Business shall not be reckoned in the calculation of that 30 minutes’;

(c) in Standing Order 140, by the substitution of the following for paragraph (1)(a):

‘(a) on Tuesdays, for two hours, commencing either at 8 p.m., or at a later time (the later time to be determined by adding to the 8 p.m. start time any time taken on a division on the Order of Business), and’; and

(d) in Standing Order 144, in paragraph (4), by the insertion of the following proviso after ‘7.5 minutes each;’:

‘Provided further that where a group chooses not to avail of their Opposition time slot, they may agree with a recipient (i.e., another group or an individual member), that

15 May 2018

the recipient may use the time. Any such agreement to transfer time shall be notified to the Ceann Comhairle in advance of private members' time, and any additional time received under this proviso shall not give a member an entitlement to speak twice;'. ”

Question put and agreed to.

## **Ceisteanna - Questions**

### **Cabinet Committee Meetings**

1. **Deputy Mary Lou McDonald** asked the Taoiseach when Cabinet committee G, justice and equality, last met; and when it is scheduled to meet again. [19915/18]

2. **Deputy Brendan Howlin** asked the Taoiseach when Cabinet committee G, justice and equality, last met; and when it is next scheduled to meet. [21020/18]

3. **Deputy Michael Moynihan** asked the Taoiseach when Cabinet committee G, justice and equality, last met. [21096/18]

4. **Deputy Richard Boyd Barrett** asked the Taoiseach when Cabinet committee G, justice and equality, last met. [21099/18]

5. **Deputy Joan Burton** asked the Taoiseach when Cabinet committee G, justice and equality, will next meet. [21115/18]

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

Cabinet committee G last met on Monday, 16 April. The date of the next meeting has not been finalised. In addition to meetings of the full Cabinet and Cabinet committees, I meet Ministers on an individual basis as required to focus on particular issues. In this regard, I regularly meet the Minister for Justice and Equality, Deputy Flanagan, to discuss justice and equality matters.

Cabinet committee G provides political oversight of developments with regard to justice and equality issues, including implementation of the Government's programme of reform for the justice sector. The Cabinet committee ensures a dedicated focus on the substantial reform of the policing and justice systems which the Government is determined to achieve. It will build on work already completed or under way. This includes the establishment of the Policing Authority, which is overseeing implementation of the existing Garda modernisation and renewal plan. In addition, the Commission on the Future of Policing is due to report later this year and will no doubt make recommendations for further change.

The effectiveness and renewal group for the Department of Justice and Equality is also carrying out work. Chaired by Mr. Pádraig Ó Ríordáin, it will focus on practical implementation of necessary reforms and modernisation and provide an initial report to Government by 30 June 2018.

Building on the commitments in the programme for Government to advance gender equality, the Government intends to advance a number of specific initiatives in 2018, which are in

line with the aims and objectives of the national strategy for women and girls.

**An Ceann Comhairle:** Given the number of questions in the group, I ask Deputies to stick to the time provided.

**Deputy Pearse Doherty:** Gabhaim buíochas leis an Taoiseach as ucht an fhreagra sin. Caithfidh mé a rá go gcuireann sé iontas orainn an tuairisc a fhoilsíodh, a leagann amach tuairimí 6,500 gardaí, a léamh. The cultural audit of 6,500 gardaí makes for concerning reading because it reinforces what many whistleblowers have told us, namely, that speaking out is not encouraged and there is a culture of fear in the Garda Síochána because of the potential consequences of speaking out. There is no doubt we need a major shift from a culture of secrecy and impunity towards one of transparency and accountability. The Commission on the Future of Policing must make radical proposals that address not only the structure of the Garda but also the culture of policing. The Government must take a radical approach to implementing the recommendations once they have been made.

On a related issue, an article published in the *Irish Examiner* yesterday reported a statement from a spokesperson for the Garda Representative Association that up to 50% of front-line gardaí had not received CBD2 training, which means they cannot exceed speed limits or activate blue lights in emergencies. This is a shocking revelation. Thus far the Garda has refused to disclose official figures on the number of gardaí who have not completed this training. Will the Taoiseach instruct the Minister for Justice and Equality to do so without delay?

The Taoiseach spoke of modernisation of the Garda Síochána. On new year's day 2017, as a result of damage sustained in an road traffic accident, a Garda patrol car was taken out of commission in County Donegal. The Garda station in Bunbeg has still not had the patrol car replaced. I have raised this matter numerous times with the Garda and the Minister. We do not have modernisation of a police force when a Garda station does not have access to a patrol car and gardaí cannot carry out their duties effectively.

**Deputy Brendan Howlin:** I thank the Taoiseach for his reply. Will he bring the House up to speed on the position regarding the appointment of a new Garda Commissioner? The deadline for applications was 12 April last. Will this be a stand-alone appointment or is it envisaged that there will be a strengthening support base for whomever is appointed?

The Taoiseach referred to the Commission on the Future of Policing, which is due to report in September next. Under its terms of reference, the commission could bring forward proposals for recommendations in advance of its final report. Have any reports or recommendations been received by Government from the commission to date in advance of the final report which is due in September?

The PwC cultural audit was referenced by Deputy Pearse Doherty. The Taoiseach will recall when I introduced the Protected Disclosures Act 2014 I stated that all the international experience I looked at showed it was only the starting measure. In other words, changing the law was easier than changing the culture. It seems as if we have not changed the culture. What specific training or initiatives can be taken to ensure that staff are not fearful about outing their suspicion of wrongdoing?

**Deputy Micheál Martin:** During the last general election there was widespread shock about the shooting at the Regency Hotel and the escalation of gang-related murders in parts of Dublin. The Taoiseach will remember how the Government lined up to say that the force of the

State would be brought to bear on the gangs and the threat they posed to communities would be lifted. It was also said that co-ordinating the effort would be a core priority of the Cabinet committee on justice. Over two years later, can the Taoiseach tell us whether he believes that these promises have been fulfilled? Has the siege really been lifted on communities suffering from the actions of these gangs? The same core feud and gangs appear to be involved and the escalation in the years up to 2016 has continued rather than abated. No doubt the activity in the immediate aftermath of the Regency Hotel shooting had a significant impact in preventing planned murders. However, the current situation is extremely serious. Assistant Commissioner Leahy stated last week that gardaí have had to issue 522 warnings in the recent past to potential victims of gangs. Of these, 61 cases involved what the Garda defines as “critical or severe” warnings.

Can the Taoiseach also confirm whether or not the Government is concerned about or aware of increased numbers of people using heroin in Galway, Limerick and Cork? While recent reports confirm that gang burglaries are down, this morning’s newspapers report the head of the special crimes operations, Assistant Commissioner John O’Driscoll, stating yesterday that the courts are too soft on serial burglars. He speaks of burglars being arrested 50 to 60 times and that the sentencing is not seen as a deterrent. Is the Government planning to address this and can the Taoiseach tell us why there has not been more progress on something which we were told was an absolute priority for Government?

**Deputy Richard Boyd Barrett:** Has the committee discussed the issue of whistleblowers and providing the support to whistleblowers that the Government often claims it is committed to? I raised with the Taoiseach a couple of weeks ago the case of Mr. Stephen Walsh who blew the whistle on fraudulent behaviour, and indeed bribery, in the health service which revealed that a surgical equipment company had been essentially bribing staff working in the area of procurement in 13 hospitals and exposed that scam. Ever since, the reward for Mr. Walsh has been to be blacklisted from any employment in that sector. The man is near breakdown.

The journalist who blew the story, which got a lot of publicity at the time, wrote to the Taoiseach recently asking could he do anything - I raised it with the Taoiseach as well - to support this man to get employment again. Only in the last week, the Taoiseach wrote back a letter stating there is nothing he can do and Mr. Walsh should go on the public jobs website to see if he can find something. Is the level of support we give to someone who put his livelihood on the line to do the State a service which revealed criminal activity in public procurement that we say it is tough luck if he is blacklisted? Is that good enough? I ask the Taoiseach in this individual case to reconsider whether he can help this man because he is at the end of his tether but also, more generally, whether we need to be a bit more supportive of whistleblowers when they do the State a service if they find themselves in difficulty afterwards as a result of their whistleblowing.

**Deputy Joan Burton:** I want to ask the Taoiseach about the interim measures for asylum seekers accessing the labour market, and specifically accessing further education and training. We have undertaken to receive into Ireland several thousand Syrian refugees and that is in process at present. I do not know whether the Taoiseach is aware that access to the labour market generally is through access to further education and training or traditional third-level courses that have an employment, vocational or workplace training component. The problem is that there is a lack of clarity in education and training boards as to whether they can make provision for those who have come or, in this case, been invited as refugees and asylum seekers to Ireland. Unless they get adequate language skills and the education and vocational skills they require to

become employable in Ireland, which they are anxious to become, the chances are they will be sitting in reception centres for a long period of time. That is not good for them. In fairness, it is disturbing to local people in the different areas where they are settling, notwithstanding all they are doing for asylum seekers, that they cannot properly access the jobs market. I noted yesterday that the Government made a decision to go back to the policy of the former Minister, Ms Mary Harney, and former Taoiseach, Mr. Bertie Ahern, to relax the visa requirements for those coming from outside the EEA in certain occupations paying €22,000 or more a year but it is doing little or nothing to provide for the rapid integration of the asylum seekers whom we have already invited into this country to access the language and education skills they need.

**An Ceann Comhairle:** I am sorry the Taoiseach has only three minutes to deal with those questions.

**The Taoiseach:** I will do the best I can. First, the PwC cultural audit of the Garda made interesting reading. I read it with some degree of concern. I welcome the fact the audit was done. Many big organisations do not conduct cultural audits. I am not sure whether we have done one in the Oireachtas. It would be an interesting option that the Ceann Comhairle might consider.

**Deputy Brendan Howlin:** I would not recommend it.

**The Taoiseach:** However, I welcome that it was done. It is part of a genuine effort by the Garda to reform and modernise, both as an organisation and as a workplace. The job now is to make changes, put those changes in place and then repeat the audit, perhaps in a couple of years' time to see whether it has made a difference. That is how the audit cycle works - one finds out what is the issue, one makes the changes, one repeats the audit and one sees whether those changes have made a difference.

In terms of Garda training, the number of gardaí is now increasing rapidly since Templemore was reopened to Garda recruitment. We have recruited 1,800 additional gardaí and are now up to 13,500 gardaí. I read with some concern that some of those are not trained to do everything that we might like them to do but we need to bear in mind that each garda has a different role. It is important that gardaí are trained to do the job they are actually doing. It is not necessary that every garda be trained to do everything. If gardaí are not out in cars, for example, if they are not involved in pursuit, they do not necessarily need to be trained in that. However, if it is part of their job description or the particular role they have, it is important that they are trained to do it. Given that we are recruiting so quickly, I can understand why it may be difficult to ensure that everyone has all the bits of training that one may get after a couple of years' experience.

The recruitment process for the Garda Commissioner is ongoing. I am told there is a good range of applicants, both internal and external. However, it is not yet at finalisation and I have not heard any names. It is important though that whoever becomes Garda Commissioner is empowered to make changes - this will apply to the new CEO of the HSE as well - and refresh the management team because one cannot bring about change in an organisation if one only changes the top person. I do not know how many times we have tried to bring about change in organisations by just changing the person at the top. It requires more than that. I am really determined that the new Garda Commissioner and the new HSE CEO will be able to refresh their top management and middle management teams and reorganise those organisations as they see fit. I have seen it work well in other organisations such as the AA, to give one example. I am sure it can be done in big organisations such as the Garda and the HSE.

15 May 2018

I met the members of the Commission on the Future of Policing in Ireland a couple of months ago to discuss the broad issues with them. They have not submitted a report to Government yet. I understand a report may arrive at the end of June but they will not be able to make their final report until September. I am very keen for it to be a report that contains recommendations we can implement. We will continue to engage with them on that.

I am afraid I do not have any specific information on heroin sales or trading in the cities, which the Deputy mentioned, but I will ask for a reply to be furnished to him from the Department of Justice and Equality.

On burglaries, we have changed the law to punish recidivism to make it an additional offence if people have been involved in or convicted of multiple burglaries. Recent statistics show a very significant decrease in the number of burglaries in the State which is encouraging. Garda statistics come with a health warning. I am very aware of that. A downward trend in the number of burglaries is very welcome and I am sure it will be welcomed by families and homeowners.

With regard to whistleblowers, we are observing what is happening at the disclosures tribunal and observing the different types of whistleblowers there are. The outcome of that tribunal has been interesting in that regard and it can be difficult to identify which whistleblowers are absolutely genuine and which are not at all. The disclosures tribunal has been very revealing in that regard. We are interested to see what comes out of it in terms of further recommendations on how we can make the public service a supportive environment for people who are whistleblowers. The last Government, of which I was a member with Deputy Burton and Deputy Howlin, was the first to bring in legislation to protect whistleblowers. It is far from perfect but it was a genuine first attempt to create a more supportive environment for whistleblowers within the public service and private sector.

**Deputy Micheál Martin:** We did it before that.

**The Taoiseach:** We will review that legislation.

**Deputy Micheál Martin:** There was sectoral specific whistleblowing protection legislation brought in.

**The Taoiseach:** That is correct. This is the first time there was-----

**Deputy Brendan Howlin:** Overarching.

**The Taoiseach:** -----an overarching one. It was initiated by the then Minister, former Deputy Pat Rabbitte, and after that by Deputy Howlin when he was Minister. It was an important step in the right direction as were the sectoral ones prior to that. We may need to build on it further.

On the gentleman that Deputy Boyd Barrett mentioned, I wrote back to him after the Deputy raised it with me. I do not want to discuss anyone's private business here in the Chamber but if I remember correctly he was looking for a particular type of job in the public service-----

**Deputy Richard Boyd Barrett:** He is just looking for help.

**The Taoiseach:** -----and I am not in a position to organise employment for people in the public service, as much as I would like to. People need to apply for jobs that are available and

that is how people get employment in general.

**Deputy Richard Boyd Barrett:** He has been blacklisted because he blew the whistle.

**The Taoiseach:** With regard to refugees, particularly those who have been invited to this country such as Syrians, which Deputy Burton mentioned, I will make sure we get a detailed reply for the Deputy on access to English language education and training. I do not have an answer on that in front of me. I believe some is available but perhaps not to the extent it should be. The point Deputy Burton makes is very well made. If we invite people into our country as refugees we should assist them to become full members of our society and allow them to participate fully in our labour market. It makes sense that if we have people already in Ballyhaderreen or Blanchardstown, providing them with English language education and access to education so they become part of the workforce is eminently more logical than issuing work permits to people who are not already here. The Deputy made a very valid point in that regard.

**An Ceann Comhairle:** We are running over time. We will move on.

### **Departmental Policy Functions**

6. **Deputy Mary Lou McDonald** asked the Taoiseach if he will report on the social policy and public service reform division of his Department. [19916/18]

7. **Deputy Brendan Howlin** asked the Taoiseach if he will report on the social policy and public service reform division of his Department. [21021/18]

8. **Deputy Michael Moynihan** asked the Taoiseach the detail of the public service reform unit within his Department. [21097/18]

9. **Deputy Richard Boyd Barrett** asked the Taoiseach if he will report on the social policy and public service reform division of his Department. [21100/18]

**The Taoiseach:** I propose to take Questions Nos. 6 to 9, inclusive, together.

The role of the social policy and public service reform division is to support me, as Taoiseach, and the Government in delivering on the programme for Government objective of public policies and services that support a socially inclusive and fair society. The division supports the work of Cabinet committee B and the associated senior officials group. This covers social policy and public service reform and seeks to ensure a co-ordinated approach to policy in areas such as education, children, equality and reform of public services. It also supports the work of Cabinet committee E and the associated senior officials group which deals with issues relating to health including the delivery of health service reforms. The division further supports the work of Cabinet committee G and the associated senior officials group, which provides political oversight of developments in justice and equality issues, including the implementation of the Government's programme of reform for the justice sector.

The division also provides the secretariat for the Civil Service management board, which is chaired by the Secretary General of my Department and oversees the implementation of the Civil Service renewal plan. It incorporates the programme for Government office which publishes regular reports on implementation of the programme for Government. It is responsible for liaison with the National Economic and Social Council which falls under the remit of my

Department and supports the north-east inner city initiative, including the programme implementation board and the oversight group.

The division also provides me with briefing and speech material on social policy and public service reform issues and participates in relevant interdepartmental committees and other groups. Given the nature of its role, the division works closely with Departments that have day-to-day responsibility for specific policy areas.

**An Ceann Comhairle:** If Deputies take all the time asking questions we will not have any time for answers.

**Deputy Pearse Doherty:** I will try to keep it brief. The programme for Government office which is responsible for reporting on the implementation of the commitments in the programme for Government falls within the remit of the social policy and public reform division of the Taoiseach's Department. In April last year a progress report was published in respect of the programme for Government commitments but there has been none published since then. When can we expect the next progress report to be published?

On a related issue, my party leader, Deputy Mary Lou McDonald, asked the Taoiseach in March about his intentions with regard to the confidence and supply arrangements the Government has with its partners in Fianna Fáil. It was put to the Taoiseach at the time that there was a difference of opinion between the Taoiseach and the leader of Fianna Fáil with regard to when the agreement should be reviewed with Teachta Martin saying it could only happen post-budget. Is it the Taoiseach's view that it should happen before the budget? Will the Taoiseach enlighten the Dáil about whether they have discussed the matter since and have they now come to an understanding about when this review will take place? I would also be interested to hear Deputy Martin's views on this issue.

**Deputy Brendan Howlin:** With regard to the public sector reform initiative which was very strongly driven in the last Administration, is it happening, in effect, under one Minister with the amalgamation of the Department of Finance and the Department of Public Expenditure and Reform? In particular with regard to making senior administrators accountable, we had embarked on a Secretary General's analysis system. Will the Taoiseach give us an update on it? Is there an annual evaluation of performance of Secretaries General, which is something that is extremely important?

The health service reform is the thing that is most on the agenda and most in focus now. I was intrigued by the comments the Taoiseach made earlier in Leaders' Questions that the Government intends to slim down the HSE. What specifically does the Taoiseach have in mind when he talks about slimming down the HSE? One of the things that Members of this House are very concerned about is accountability. The responses we are getting from parliamentary questions are at best wholly inadequate. We need to have a system that is understood. I say this to the Ceann Comhairle as well. If parliamentary questions were adequately and comprehensively answered it would obviate an awful lot of angst, concern and further inquiry. In terms of the reform agenda, I ask the Taoiseach that there be political oversight to ensure parliamentary questions tabled are properly responded to.

**Deputy Micheál Martin:** The Taoiseach will be aware that in the past fortnight very serious concerns have been raised about the situation with regard to one of our most important social services, which is the prevention of homelessness. I understand the social policy division

is responsible for providing the Taoiseach with materials concerning many of the services that are part of the State's response to homelessness. A major concern now is the priority is trying to change the figures rather than acknowledging that current policy has not worked even though the Taoiseach announced last November that "we have a strategy and it is working." Can he show the House that he will prevent changes to reporting which prevent the ability to compare figures over time? It looks like the Minister is preparing to move to a reporting approach which will both reduce the numbers reported and prevent a full, like-with-like comparison of the figures. Does the Taoiseach accept that the figures show that, since the general election, the overall figures are up by 85%, with the number of homeless children up by an astonishing 126%? Will he prevent his close confidant, the Minister, Deputy Eoghan Murphy, from making changes that will undermine the ability to properly compare figures over time? He could tell the Minister that we could add many figures because some are not counted at all. Young mothers who go back to live with their parents in many local authority houses across the country where there are two beds and a cot in one bedroom are not being counted, but they are essentially homeless and would be without the goodwill of their parents, many of whom may not be in the best of health. If the Minister wants to change the figures for people who are looking for housing, we can all make a contribution which he may not welcome.

**Deputy Richard Boyd Barrett:** I presume the social policy sub-committee discusses disability issues and the implications of ratifying the UN Convention on the Rights of Persons with Disabilities, UNCPRD. How does that fit with planned changes in special needs assessments which speech and language therapists and the Psychological Society of Ireland believe will significantly undermine the supports available to families who have children with special needs? There is a legal entitlement to an assessment within three months, although the target is rarely met. As and from April, a new standard operations procedure has been brought in which will mean that there will be screening within three months, but this will not result in a diagnosis. To receive support one has to have a diagnosis. Previously, if one had an assessment, one would obtain a diagnosis and then receive support, but that will not happen now. A person will be placed on a waiting list which will extend way beyond three months and he or she will not be able to access support which will force many families to go privately. It looks like this is a move to make it appear that there will be a three-month assessment when there will not because the goalposts have been moved. The Psychological Society of Ireland and speech and language therapists believe there will, as a result, be wrong and missed diagnoses and that children with special needs will be robbed of the support they need.

**The Taoiseach:** On the programme for Government, the progress report for year two was cleared by the Cabinet this morning and we will publish it at the most opportune moment in the next couple of days or weeks. It sets out all that has been achieved by the Government since it took office two years ago and signals what it wants to achieve in the next two or three years, should it survive that long. I believe it can, but, under the confidence and supply agreement, it is a matter for Fianna Fáil and Fine Gael. We will let everybody know when we believe it is the best time to tell them. My commitment remains and we are working on its ongoing implementation.

On health reform, we propose to follow the prescription laid out in the Sláintecare document. We will be in a position to appoint an executive director of the Sláintecare office within a couple of weeks, provided the person accepts the offer. When the office is established, we will have somebody whose sole job will be to report on the health reform programme, operating under the aegis of my Department and with my support.

15 May 2018

Following what is recommended in the Sláintecare report, the HSE, as a national entity, will be slimmed down and become a national centre with its own board of nine or 12 members with a much more high-powered chairperson. We do not want it to be the type of board that just receives board papers once a month and will have a meeting the next day. We need more involvement and focus than the board of a smaller organisation would have. We are examining the possibility of having a chairperson in addition to the CEO who would give it a day or two each week and have the support to do so. We discussed this issue in detail at the Cabinet this morning and are considering whether we should establish the board and the chairperson before appointing a new CEO, using the board and the chairperson to do so.

**Deputy Micheál Martin:** The Taoiseach might bring in the RTÉ cameras while he is doing it, as his predecessor did.

**The Taoiseach:** On the structures below it, the recommendations made in the Sláintecare report are for community health organisations and hospital groups to be realigned. There are community health organisations which are geographical and usually cover two or three counties, or bits of counties, and there are hospital groups which do not align with them. The Sláintecare reports recommends bringing them together and that work is under way. It is intended that they will be made separate legal entities with their own CEOs and boards, as is the case with health and social care trusts.

**Deputy Brendan Howlin:** What about the Ireland East group?

**The Taoiseach:** Ireland East does not align with the CHO but extends from Navan through the Mater Hospital all the way down to Wexford, which made sense from the point of view of putting hospitals together to make them part of an academic group but which did not make sense geographically when it did not align with community health organisations. Putting hospital groups and CHOs together is going back to the philosophy of integrating primary care and secondary care services.

I do not have the answers on the SNA issues raised by Deputy Richard Boyd Barrett, but I will check them and correspond with him. I am sure what he said is not the intention, but I will get a proper answer for him.

On housing and homelessness, I am not particularly interested in engaging in a statistical debate on the number of people in emergency accommodation as the Minister, Deputy Eoghan Murphy, and Deputy Eoin Ó Broin seem to be doing on a weekly basis. Whether the total is 9,000, 10,000 or 11,000, there are considerably more people in emergency accommodation than there used to be. My focus is on solutions and I am reassured by the figures from Ulster Bank yesterday which showed that the level of construction activity was really picking up. I can see it in my constituency where new apartment blocks and housing estates are being built. That is not the case all around the country, but it is starting to happen in Dublin, particularly in west Dublin. Some 18,000 new homes began construction in the past year and we need to get the number up to 25,000 to meet demand, before getting above it in the following year in order that we can catch up with pent-up demand from the years when very few houses were built. Last year we added, by various mechanisms, 7,000 units to the stock of social housing, which allowed us to move 4,000 families out of homelessness. The struggle we have, of course, is that as many families and people are becoming homeless as we can provide social housing for. The time will come when we will reach equilibrium and get on top of the issue and the position will start to improve, but we are not quite at that point yet.

*Dáil Éireann*  
**Cabinet Committee Meetings**

10. **Deputy Brendan Howlin** asked the Taoiseach the number of times Cabinet committee C, European Union, including Brexit, has met to date in 2018; when it plans to meet next; and the persons attending. [21022/18]

11. **Deputy Micheál Martin** asked the Taoiseach the number of times Cabinet committee C, European Union, including Brexit, has met since June 2017. [19992/18]

12. **Deputy Mary Lou McDonald** asked the Taoiseach the number of times Cabinet committee C, European Union, including Brexit, has met since June 2017. [20956/18]

13. **Deputy Micheál Martin** asked the Taoiseach if Cabinet committee C, European Union including Brexit, is meeting before the summer economic statement. [21059/18]

14. **Deputy Micheál Martin** asked the Taoiseach when Cabinet committee C, European Union, including Brexit, last met. [21061/18]

15. **Deputy Joan Burton** asked the Taoiseach the number of meetings held in 2018 by Cabinet committee C, European Union, including Brexit. [21116/18]

**The Taoiseach:** I propose to take Questions Nos. 10 to 15, inclusive, together.

The Government approved the establishment of Cabinet committee C on 5 July 2017. This Cabinet committee covers issues relating to the European Union and assists the Government in its ongoing consideration of Brexit. It also supports my participation as a member of the European Council.

Cabinet committee C first met on 11 September 2017 and again on 13 February this year. The next meeting is expected to take place before the June European Council. In addition to me in my role as Taoiseach, the membership of Cabinet committee C includes the Tánaiste and Minister for Foreign Affairs and Trade, with special responsibility for Brexit; the 4 o'clock Minister for Finance and Public Expenditure and Reform; the Minister for Justice and Equality; the Minister for Business, Enterprise and Innovation; the Minister for Communications, Climate Action and Environment; the Minister for Agriculture, Food and the Marine; the Minister for Transport, Tourism and Sport; the Minister for Employment Affairs and Social Protection; the Minister for Education and Skills; the Minister for Health; the Minister of State with responsibility for European affairs; the Minister of State with responsibility for trade, employment, business, the EU digital single market and data protection; the Minister of State with responsibility for defence, and the Attorney General.

Given their significance, matters relating to Brexit and other EU issues are more frequently discussed in full Cabinet format, as they were this morning, particularly with regard to the multi-annual financial framework. I meet regularly with relevant Ministers to focus on particular issues, including those relating to the European Union and Brexit. Preparation for Brexit at official level, both in regard to the negotiations and in preparing for the potential consequences of the UK's withdrawal from the EU, is intensive, with a range of interdepartmental and senior official groups meeting very regularly.

**Deputy Brendan Howlin:** I thank the Taoiseach for his reply. Yesterday, Michel Barnier told Ministers that little progress has been made on the issue of Ireland since the March an-

nouncement. Time is getting very tight. We understand the British Cabinet is today meeting in the two structured committees, one looking at the so-called customs partnership and the other the so-called maximum facilitation. Neither is likely to address the fundamental issues of concern on the Border of Ireland. Michel Barnier said the proposals are not realistic, although I saw the Minister, Deputy Coveney, said yesterday that customs partnership has some merit. There is real pessimism now. Will the Taoiseach give us an up-to-date view on whether he believes either of the two proposals being looked at by the British Cabinet will meet the requirements of Ireland?

**Deputy Micheál Martin:** It is fair to say that over the past week there has been a mounting lack of clarity on Brexit talks and what we are looking for. The Taoiseach and the Tánaiste, in very different unscripted ways, have now said the customs partnership model proposed by the United Kingdom may provide the basis for a deal. This is 100% contradictory to previous briefings and public statements. Will the Taoiseach clarify what he means by this? As things stand, the European Union negotiators have said any customs partnership is a non-runner for technical and policy reasons and that it does not address the impact of the United Kingdom being outside the Single Market. Instead of giving us his commentary on the internal issues and the mess within the British Government, will the Taoiseach tell us what he sees in the customs partnership that provides a basis for reaching a final agreement?

Over the past two weeks, in here and outside, I have asked the Taoiseach repeatedly if he will explain whether his statement that letting key decisions run until October is of no great concern is still his policy. How does he reconcile this with more recent statements, which suggest he sees talks stalling if major progress is not agreed in June? Of course, this raises the ultimate question, which I have asked before. Will the Taoiseach explain to us what minimum progress there has to be in June for talks to proceed? Can we define what we mean by minimum progress? The east-west relationship is extremely important economically, and we need far more flesh on the bone and far greater clarity about our objectives than we have had to date.

**Deputy Pearse Doherty:** As we know, we are just six weeks away from the June meeting of the European Council and we are none the wiser on the British approach to the Irish issue in terms of Brexit. We learned from an article that the British Prime Minister, Theresa May, penned in the British edition of *The Sunday Times* at the weekend that she does not have a plan. Indeed, that article could have been penned in any week over the past two years because it seems nothing has changed in her regard. Wish lists are not a negotiating position. We have heard from Michel Barnier that there has been little progress on this issue since the last update in March. This is hugely concerning. While the British Tories may play games with this issue and may have internal politics at play, this is people's lives and people's rights. It is defending the Good Friday Agreement. We need clarity and solutions. In the middle of all this, we have the DUP with its playground rhetoric and Sammy Wilson adding to it with his bizarre comments at the weekend. This shows again that it continues to put the interests of all the people of the North at risk, not only nationalists but unionists. I am concerned about, and I seek some clarity on, the succour that has been given on the customs partnership scenario, which has already been dismissed by the European negotiators.

I also want to raise the Common Agricultural Policy and the multi-annual framework that is in draft form at this time. The proposal is to cut the CAP by 5%, or €3 billion, annually, which would have a devastating impact on Irish farmers and agriculture. At the same time as the cut to the CAP we see an increase of approximately of €20 billion in the area of defence. As a cut to the CAP is taking place, which supports 130,000 farmers in Ireland and supports 100,000

people working across the agrifood sector in Ireland, what Europe is proposing is an increase in defence spending. Have the Taoiseach or the Minister, Deputy Creed, raised this issue with their European counterparts? What is the position of the Irish Government on proposals that would see farmers and the CAP budget sacrificed at the table of increased spending on defence?

**Deputy Joan Burton:** Does the Taoiseach agree that the recent comments by Mr. Barnier have been very sobering, to say the least, as the witching hour, in terms of June and October, comes ever closer? I want to ask the Taoiseach specifically about the so-called max fac, which is about maximum facilitation-----

**Deputy Brendan Howlin:** It sounds cosmetic.

**Deputy Joan Burton:** It sounds like the favourite brand of cosmetics some time ago. The point is that the language in the debate is becoming increasingly obscure, particularly for people not involved in politics and not involved in economics. At the same time, all along both sides of the Border, people, particularly small traders, are really concerned about what will happen. In this context there was a reference to a favoured trader or a favoured business type status. Has any progress of any kind been made or a discussion had on this? Have the Revenue Commissioners here continued to draw up plans on potential Border facilities? Does the Taoiseach believe in the possibility of max fac or is it, to be honest, more magical thinking? When did the Taoiseach last discuss these issues with the Prime Minister, Mrs. May? Clearly, she is having a pretty torrid time at present in terms of the two factions in her Cabinet, namely, those in favour of a soft Brexit and a very large number of Eurosceptics who seem to be strongly in favour of just walking out and seeing what happens next. That would be very difficult for the whole of the island of Ireland.

**An Leas-Cheann Comhairle:** A brief question each from Deputies Boyd Barrett and Haughey.

**Deputy Richard Boyd Barrett:** What scale of atrocity does Israel have to commit to trigger EU sanctions against it? I ask this in all seriousness. Israel has favoured trade status from the European Union with the EU-Israel Association Agreement. Effectively, we treat it as an associate member of the European Union, yet it massacred 58 people yesterday. It killed another 45 or 46 over the past six weeks. Six weeks ago, before the protests even began, I said to the Taoiseach that Israel is deploying snipers and will shoot unarmed protesters. The Taoiseach said he hoped that would not happen. It happened, and it has happened every week, and I have raised it with the Taoiseach and the Tánaiste every single week, but nothing happens. There are no sanctions and no action, just words of regret and concern. At what point do we actually do something? Israel is acting in flagrant violation of international law, with human rights abuses and the collective punishment of Gaza through the siege. You name the law and it has broken it but still we say, "No problem. We regret it. We will have a chat with them and convey our concerns." There is, however, no action, no sanctions, nothing. It is pathetic.

**Deputy Seán Haughey:** Will the Taoiseach confirm that he is attending the EU-western Balkans summit in Sofia later this week? What are his aims and objectives in attending the conference? What is on the agenda? What is the Taoiseach's attitude to enlargement? Presumably, Ireland is supportive of the applicant countries where negotiations have commenced. I am interested in hearing the Taoiseach's thinking on these issues in advance of him attending the conference.

15 May 2018

**The Taoiseach:** I will attend the informal Council at the EU-western Balkan summit in Sofia in the next two days. I will have two objectives. First, I will take the opportunity to engage with other Heads of State and Government on EU issues, from Brexit to initial conversations on the next EU budget. I will also be expressing the Government's support for further enlargement into the western Balkans. We are strongly of the view that enlargement into central and eastern Europe is the right thing to do. It has helped to establish democracy across the Continent and bring relative prosperity to the countries of central and eastern Europe. We believe the countries of the western Balkans should be part of that European path. The countries in question do have to live up to standards and the Copenhagen criteria still apply. Provided the countries in the western Balkans - Serbia, Bosnia and Herzegovina, Montenegro, Macedonia and Albania - can meet these standards, we believe they should be able to join the European Union. We are very supportive in that regard. This is the position I have articulated in the past and I will certainly do so again in Sofia in the next two days in welcoming these countries into the European family in the way Ireland was welcomed in the past and Croatia has been welcomed most recently.

I am sure the European Union's response to Israel will be discussed. It will be a topic for the working dinner tomorrow night. The way the common security policy works in the European Union is by consensus or unanimity, not by qualified majority vote, QMV, or a simple majority vote. The European Union can only act when there is consensus. A number of member states are very close to Israel, much closer than Ireland. Unless we move more towards QMV on foreign policy matters, to which I imagine Deputy Richard Boyd Barrett would be opposed, it is difficult for the European Union to act in that regard. Member states acted together in reaffirming their views that the embassy of the United States of America should remain in Tel Aviv and not move to Jerusalem. We were able to reach consensus on that issue some months ago, but on other matters I believe it will be very difficult to do so in reality. That is just the way it works in the absence of deeper integration on foreign and security policy.

Little progress has been made in the Brexit negotiations in recent weeks. For some weeks we have been awaiting more detailed proposals from the United Kingdom on a customs union or an alternative wording of a backstop plan, about which it has also spoken. In the absence of proposals from it on a customs union or an alternative wording of backstop plan, it is difficult to make progress. We stand by the backstop plan and the text of the Northern Ireland protocol as it is. We must insist on it being included in the withdrawal agreement unless there is a better alternative. That is the position of the task force and the EU27. October is and always has been the deadline for the withdrawal agreement and ratification thereafter by the European Parliament and the UK Parliament. In June we want to see real and meaningful progress. If we do not see it in June, we will have to ask serious questions about whether a withdrawal agreement will be possible in October at all. At this stage, I cannot say what progress looks like. It is too far away and there are too many moving parts. It may, however, become more apparent as we move into June. The customs partnership proposed by the United Kingdom last June would not be workable. That is very much the view of the task force and the EU27 and it has been rejected. I believe the customs partnership is closer to being made workable than the maximum facilitation proposal or max-fac which, as Deputy Joan Burton pointed out, I had thought was some form of make-up or deodorant. I have certainly not seen to date any detail that indicates that such a solution would be as functional as make-up or a deodorant. We are not drawing up any plan for a border between Northern Ireland and Ireland, full stop. There is not going to be one. I have made it very clear to my counterpart in the United Kingdom and the other EU Prime Ministers that under no circumstances will there be a border.

## **Topical Issue Matters**

**An Leas-Cheann Comhairle:** I wish to advise the House of the following matters in respect of which notice has been given under Standing Order 29A and the name of the Member in each case: (1) Deputy Donnchadh Ó Laoghaire - to discuss waiting times for driving tests in Cork; (2) Deputy Thomas Byrne - the need for improvements to the water supply in Ratoath, County Meath; (3) Deputy Kathleen Funchion - to discuss conditions at the Department of Psychiatry, St. Luke's Hospital, Kilkenny; (4) Deputies Sean Sherlock and Kevin O'Keeffe - the need to complete school building works in Middleton and Fermoy, County Cork; (5) Deputies Joan Collins and Paul Murphy - the lack of services for children in St. John of God Services, Islandbridge; (6) Deputy Michael Harty - to discuss the future of rural post offices; (7) Deputy John Brassil - to discuss the decision to refuse an SNA post to Scoil Naomh Eoin Basite, Lios Póil, Contae Chiarraí; (8) Deputy Marc MacSharry - to discuss personnel resources in occupational therapy for persons with physical and sensory disabilities in Sligo; (9) Deputy John Lahart - to discuss the proposed changes to the Dublin Bus brand; (10) Deputy Jackie Cahill - to discuss the protections for subcontractors in State procurement contracts; (11) Deputy Brian Stanley - to discuss the relocation plan for St. Francis school, Portlaoise to the former St. Paul's site on Borris Road; (12) Deputies Eoin Ó Broin, Aengus Ó Snodaigh, Richard Boyd Barrett and Bríd Smith - to discuss the development of social and affordable housing on council owned sites in Shanganagh Castle, County Dublin and St. Michael's estate, Dublin; (13) Deputy Peadar Tóibín - to discuss investment in mental health services in CHO area 8; (14) Deputy John Curran - the reduction of Garda resources at Rathcoole Garda station; (15) Deputy Thomas P. Broughan - the need to ensure all gardaí receive full competency based driving, CBD2, training for emergency responses; (16) Deputy Pat Buckley - to discuss the decision in Mr. B v. St. Loman's Hospital; (17) Deputies Mick Wallace and Gino Kenny - to discuss the ongoing conflict in Gaza; (18) Deputy Louise O'Reilly - the need to discuss the accommodation required for St. Michael's special school in Skerries; (19) Deputy Martin Ferris - the imminent departure of a cardiologist at University Hospital Kerry; (20) Deputy James Browne - to discuss the issue of unqualified specialists in consultant roles in mental health services; and (21) Deputy Peter Fitzpatrick - to discuss the cut in funding for the Louth-Meath branch of Down Syndrome Ireland.

The matters raised by Deputies Donnchadh Ó Laoghaire

, John Lahart, Thomas Byrne, Sean Sherlock and Kevin O'Keeffe have been selected for discussion.

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

### **Priority Questions**

### **EU Membership**

24. **Deputy Niall Collins** asked the Tánaiste and Minister for Foreign Affairs and Trade his views on the re-election of Mr. Viktor Orbán in Hungary; his further views on the threat to freedom and democracy in Hungary and the wider implications for the European Union; and if

15 May 2018

he will make a statement on the matter. [21309/18]

**Deputy Niall Collins:** I would like to hear the views of the Minister for Foreign Affairs and Trade on the re-election, for the third time, of Hungarian Prime Minister, Mr. Viktor Orbán, especially given what he says and stands for, and the potential threat to freedom and democracy in Hungary.

**Tánaiste and Minister for Foreign Affairs and Trade (Deputy Simon Coveney):** The election in Hungary resulted in a two thirds majority for the ruling party led by the Prime Minister, Mr. Viktor Orbán. Engagement with all EU member states is a key imperative for Ireland in advancing and protecting our interests in the European Union. In that context, we raise not only issues of shared interest with our partners but also issues of concern. The Government will continue to work with the Prime Minister, Mr. Viktor Orbán, and his administration to ensure the European Union is equipped for the collective challenges we face, not least in addressing the issues of greatest concerns to citizens, including Brexit and the European Union's future finances.

Respect for the fundamental values on which the European Union is founded and which are set out in the treaty, including respect for the rule of law and freedom of expression, is a crucial underpinning for all EU member states and that is a message we also convey.

There are concerns about the civic space available for NGOs to continue to operate in Hungary. The overall media environment in Hungary has also deteriorated further in recent weeks with the closure of a major independent newspaper.

The European Commission is, in the first instance, charged with ensuring the application of the treaties and responsible for promoting the general interests of the European Union. Last December it announced that it was referring Hungary to the Court of Justice of the European Union in relation, *inter alia*, to the laws on higher education and NGOs which were adopted in 2017. In the case of these two issues, Hungary is considered to have failed to address EU concerns about these laws or amend the legislation to bring it into line with EU standards. These cases are likely to be heard by the court later this year. Notwithstanding this, it is important that Hungary and the Commission engage on these issues and that ultimately a resolution be achieved, if possible, without the need for formal court action.

**Deputy Niall Collins:** Fianna Fáil has many concerns about Mr. Orbán's re-election, especially in the context of democracy and the rule of law in Hungary. International observers have noted their concerns about intimidation, xenophobic rhetoric, media bias and campaign funding. The Minister may be aware of the preliminary report of the Organisation for Security and Co-operation in Europe, OSCE, following the election. It states:

The [8 April] parliamentary elections were characterized by a pervasive overlap between state and ruling party resources, undermining contestants' ability to compete on an equal basis. Voters had a wide range of political options but intimidating and xenophobic rhetoric, media bias and opaque campaign financing constricted the space for genuine political debate, hindering voters' ability to make a fully-informed choice ... Fundamental rights and freedoms were respected overall, but exercised in an adverse climate. Access to information as well as the freedoms of the media and association have been restricted, including by recent legal changes.

It is not a stretch to say that, while the elections may have been free, they were certainly far

from fair.

Mr. Orbán's party, Fidesz, is affiliated with the European People's Party, EPP, of which the Minister's own party is a member. Has the Minister raised concerns within that grouping about the activities of Mr. Orbán and the direction he is taking Hungary?

**Deputy Simon Coveney:** The role of Hungary as a member of the European Union needs to be one of respecting the treaties and rules so that all member states, including Hungary, have laws that are consistent with those. If they do not, then it is the job of the European institutions, primarily the European Commission, to raise concerns and, if necessary, take action. The threat of action or the taking of legal action can happen in respect of all states, be it on environmental law, protecting NGOs or minorities, or ensuring free and fair elections. The Commission guards a series of areas that are required to ensure consistency with the treaties of the EU and to be a member state. That is its primary role.

There is an ongoing conversation as well as the potential for legal cases between the Commission and Hungary. That is where the matter should be addressed. There is an opportunity for political conversation and discussion, be that within the EPP, other groups or around the Foreign Affairs Council table where differences of policy are often explained and played out, for example, an approach towards migration. That is politics, though, and some electorates in some countries in the EU have chosen governments that have different views than ours. That is the way it is.

**Deputy Niall Collins:** The Minister is right about this being politics, but politics has to try to work to put these issues right. It is a fact and a matter of public record that Mr. Orbán seeks to control the judiciary and the courts, has targeted civil society, NGOs and the education system, has sought to scapegoat refugees and migrants, and has actively rallied against the EU and what it stands for. It is on the record that this man does not stand for the values or ideals of the EU.

As the Minister stated, the European Commission has referred Hungary to the European Court of Justice regarding a number of matters-----

**Deputy Simon Coveney:** Yes.

**Deputy Niall Collins:** -----but a range of issues are causing concern. I will press the Minister harder and ask him for his view on this issue. Mr. Orbán's party is affiliated with the same European Parliament grouping to which the Minister's party is affiliated, which must be a concern. The Minister stated that there had been political discussions within various groups and at Council meetings, but we need to go further. Would a collective action of, for example, expelling Mr. Orbán's party from the EPP not send a stronger signal? Will the Minister give more information on this front? Mr. Orbán's *modus operandi*, the direction he is taking Hungary and the influence that is having on Poland are very worrying.

**Deputy Simon Coveney:** There are concerns about the anti-immigrant feeling and anti-Brussels rhetoric that at times come from the Hungarian Government, but the way to address that is to challenge and debate where possible. If policy decisions are contrary to the treaties, we should deal with the issue in a way that is consistent with how the treaties are supposed to function, that is, the European Commission does its job. If Ireland is not doing what it needs to do, the European Commission comes knocking on our door. That is the obligation that comes with EU membership. There is a significant upside to membership in terms of opportunities, but there are also obligations.

15 May 2018

I listened to the Taoiseach this morning. I am also strongly in favour of enlargement to the east. The stability that the EU can bring to the Balkans is something that we have a responsibility to deliver for them and to them, but that does not mean that, when countries join, they do not have to abide by the rules. If the EU allowed a situation in which the treaties were no longer respected, we would be in a difficult space. We will be challenged in that regard, so this is how we should approach the matter.

### **Brexit Issues**

25. **Deputy David Cullinane** asked the Tánaiste and Minister for Foreign Affairs and Trade the details of the protections of human rights in Northern Ireland post Brexit as outlined in the Good Friday Agreement; the measures proposed for the protection of the voting rights of EU citizens in Northern Ireland post Brexit; and if he will make a statement on the matter. [21482/18]

**Deputy David Cullinane:** My question is on the rights of EU citizens who live in the North and how, in a post-Brexit situation, their political, social and economic rights can be protected.

**Deputy Simon Coveney:** We have discussed this issue and will do so again as these negotiations proceed, as this is one of the complex areas of negotiation on which we need to make progress. We are making some.

As co-guarantor of the Good Friday Agreement, the Government is determined to ensure it is fully protected in all its parts throughout the process of the UK's withdrawal from the EU. This includes the rights and equality provisions of the Good Friday Agreement that are central to the peace process. Our EU partners have shown solidarity and support in respect of Ireland's unique issues and concerns, including the protection of the agreement.

On 8 December, the joint report between the EU and UK negotiators was agreed. It included important commitments in respect of protecting the agreement in all its parts. The draft protocol on Ireland and Northern Ireland, which forms part of the draft withdrawal agreement, translates these commitments into a legal framework. The protocol proposes that the UK would ensure no diminution of rights, including by respecting EU non-discrimination law, and that this commitment would be implemented through a dedicated mechanism. The protocol also proposes that the UK would facilitate the related work of the institutions and bodies of the Good Friday Agreement, which includes the Northern Ireland Human Rights Commission, the Equality Commission for Northern Ireland and the joint committee of both human rights commissions in both jurisdictions. The protocol also clearly acknowledges that the people of Northern Ireland who choose to identify as Irish and therefore as EU citizens, will continue to enjoy the rights, opportunities and benefits of EU citizenship.

More work is required between the UK and EU on rights and equality issues, as is provided for in the joint report. The Government will continue to engage intensively on these issues, working with our EU partners, the Commission task force and the UK to ensure that the commitments made to date are delivered on in full. There has been a great deal of engagement on this issue in particular. While we are not making a great deal of progress in some areas, I am told that there is considerable goodwill on both sides where the issue of citizens' rights is concerned. We are making some progress in that regard.

**Deputy David Cullinane:** We need to translate that goodwill into tangible proposals so that Irish citizens in the North who are also European citizens will know exactly where they stand in a post-Brexit situation. The Good Friday Agreement recognises that someone in Northern Ireland can be Irish and British and hold both passports and citizenships as a birthright. As with many other Brexit issues, however, the difficulty is that, although there were commitments in last December's political agreement, there is no agreement on the details, which the Minister says are still being worked out.

We represent a significant percentage of the people living in the North, and a question they are putting to us is about how their political, social and economic rights will be vindicated, for example, access to healthcare funding if people travel and access to education opportunities. These are important issues for people who live in the North, and they want to know how they can exercise their rights as EU citizens in the North if it is taken out of the EU against its will.

**Deputy Simon Coveney:** Those are fair questions, and that is what these negotiations have to deliver. For the first time, we are effectively discussing a birthright to EU citizenship for our citizens in Northern Ireland even though they will be born outside the EU. That is new. It shows the importance of the Good Friday Agreement, which allows people to choose British, Irish or dual citizenship. That will require us, through the negotiations, to find a way to ensure EU citizens will be able to study, work, move around and access healthcare across EU member states as they can today. Although the common travel area arrangements will facilitate this for Irish and British citizens in Britain and Ireland, the delivery of EU citizenship rights is very complex for those seeking such rights but living outside the European Union and potentially outside the jurisdiction of EU courts. At that point it becomes very complicated. Having been in London on several occasions in recent weeks, I can state there is a determination among negotiators on both sides to make progress on this issue before the end of June.

**Deputy David Cullinane:** The answer is that the North does not have to be outside the European Union. It should be part of it because that is how the people voted. It is interesting that there are, rightly, proposals on the table to effectively keep the North in the customs union, the Single Market and the legal architecture of the European Union for trade purposes. Why can the same approach not be taken to citizens' rights and access to the European Court of Justice or the European Court of Human Rights? That could be done if there was the goodwill the Tánaiste says there is. Although we are making progress on trade issues and the backstop is that the North will be kept in an all-Ireland framework aligned to the rules of the customs union and the Single Market, why can the same logic not be applied to citizens' and political rights which are as important as trade for those who live in the North? I accept that the negotiations are ongoing and that there is goodwill, as the Tánaiste stated. We hope to get the best possible result for those who live in the North, but they are concerned by much of the commentary from elements of the Tory Party which are trying to unravel the political agreement reached in December. Although the Government and the European Union have work to do, the difficulty is that we are dealing with a very divided Tory Party which is not particularly generous or kind when it comes to the rights of people who live in the North.

**Deputy Simon Coveney:** I wish to be very clear that we take our lead from the British Prime Minister, Mrs. Theresa May. She has made commitments on behalf of Britain and on which she will follow through. There is a lot of noise in the political system at Westminster where various people are commenting on the issue, but the Prime Minister represents the British Government in the negotiations-----

**Deputy Brendan Howlin:** Does she?

**Deputy Simon Coveney:** Yes, she does. Although there is political debate on the approach that should be taken, she has committed to protect the Good Friday Agreement in full, ensure there will be no Border infrastructure of any kind on the island of Ireland and no related checks and controls and have a backstop in the withdrawal agreement that will be legally operable in terms of text and which will remain unless or until it is replaced by something better. These commitments have been made. The challenge is how we fulfil them and promises made in the negotiations in a way that is politically acceptable to all sides. That is what we are trying to do. We should not be dragged in different directions by commentary from various sources. The Government and the Barnier task force take their lead from the British Prime Minister's office.

### United Nations

26. **Deputy Niall Collins** asked the Tánaiste and Minister for Foreign Affairs and Trade if he will report on efforts to obtain a seat at the UN Security Council for the 2021-22 term; and if he will make a statement on the matter. [21310/18]

**Deputy Niall Collins:** I ask the Minister to update the House on Ireland's efforts to win a seat at the UN Security Council for the 2021-22 term, given that we last held a seat almost 16 years ago in 2001-02.

**Deputy Simon Coveney:** As the Deputy may remember, the 9/11 attacks occurred during that period. I remember it very clearly because Ireland had quite an influential position in advocating for the protection of civilians and a human rights approach post-9/11 when the war on terrorism began in Afghanistan. Ireland chaired the UN Security Council at the time, which was a very pivotal position for a small country such as Ireland to hold. That we did so skilfully at such a tense time globally shows the quality of the Civil Service. We want to be a member of the Security Council again because Ireland has shown itself to have the capacity to influence decisions in a positive and peaceful way as a small country.

We are seeking election to a non-permanent seat at the United Nations Security Council for the 2021-22 term. We are one of three candidates for the two available seats in the western Europe and others regional group. The other two candidates are Canada and Norway which, like Ireland, have strong records of engagement at UN level and which will provide stiff competition. In order to be elected to the UN Security Council, Ireland must obtain the support of two thirds of the membership of the United Nations General Assembly or approximately 129 votes of the 193 member states at the election in June 2020. Our candidature was first announced in 2005 and the campaign has since been building under successive Governments.

I take every opportunity to raise our candidature with representatives of member states and press the value of Ireland playing our role on the Security Council. The President met several member state representatives during his visit to the United Nations last month. The Taoiseach, in his address to the Brookings Institute in Washington in March, outlined the importance of an effective multilateral system to Ireland and small countries in general. With my Cabinet colleagues, I will continue to make Ireland's case in the period ahead. This political engagement is underpinned by my Department's diplomatic personnel and we will launch our campaign in the coming weeks. In making Ireland's case to the electorate we will highlight our consistent record at the United Nations over more than six decades of membership across a number of ar-

eas, including peacekeeping, sustainable development, humanitarian action, disarmament and human rights. If Ireland were to be elected to a non-permanent seat at the Security Council, our fundamental approach to any agenda item would be to advocate for the core values of our foreign policy, namely, peace and security, justice, equality and sustainability.

**Deputy Niall Collins:** Fianna Fáil supports Ireland's bid to win a seat at the UN Security Council and recognises it as a valuable opportunity for it. Almost 1,000 of our peacekeeping men and women have served on UN-mandated missions during the years and we currently have several peacekeepers on the Golan Heights. It is a huge opportunity and Fianna Fáil is very supportive of the efforts being made to win a seat. I refer to the use of the veto within the Security Council. The Security Council has largely been ineffective in dealing with many conflicts because of the use of the veto. There are conflicts in the Middle East, Syria, Yemen and South Sudan, to name but a few. Has the Tánaiste raised the prospect of reform of the veto and would he support its regulation or reform, in particular in instances where war crimes are being committed?

**Deputy Simon Coveney:** I would support such reform, for which we have advocated. I spoke on the issue at the UN General Assembly last September. The UN Security Council is dysfunctional in making decisions when one of the five permanent members has a vested interest. We have repeatedly seen one of the five permanent members using the veto to protect itself, its allies or vested interests. Innocent civilians are often the victims, as was the case in the chemical attacks in Syria and other attacks elsewhere in the world. France recently proposed that the veto not be used in cases involving significant civilian casualties or potential war crimes. I strongly support that approach. I think more fundamental reform is needed in the UN Security Council because the permanent membership of the Security Council does not represent the state of world politics today in the fullest sense possible. We will continue to advocate for reform, but in particular in the short term we will support France and others who are looking for a more responsible use of the veto.

**Deputy Niall Collins:** The Minister said earlier that winning a seat on the Security Council will be difficult and I agree with him because to secure 129 votes out of 193 is not an easy feat. We wish the Government well in its bid and we are supportive of it in relation to it. If we are successful in securing the seat, what areas in particular does the Minister want to see prioritised? I know he said in his initial response that Ireland will subscribe to its core values of the promotion of peace, but is there anything in particular?

**Deputy Simon Coveney:** We will focus on areas where we have credibility. Ireland, for example, along with Kenya, was very involved in chairing the committee that eventually got the sustainable development goals across the line. Ireland has credibility in Africa on the development agenda. We have a lot of credibility in peacekeeping and post-conflict management-----

**Deputy Brendan Howlin:** And I hope conflict prevention.

**Deputy Simon Coveney:** Yes, and conflict prevention. We are doing a lot of work within the UN structures in areas such as gender-based violence. These are areas where small countries matter and have a say and can put new thinking and alliances together. That is the kind of thing we would like to do. The one thing we will definitely do is be a strong, independent voice. We will not be in anyone's pocket, which is very important for a relatively small member state of the UN wanting to be on the UN Security Council. We have been there before and our record is one that we can stand over. The election will not be an easy process to win but we are

in reasonably good shape. This campaign will intensify in the months ahead.

### **International Agreements**

27. **Deputy Brendan Howlin** asked the Tánaiste and Minister for Foreign Affairs and Trade the approach of the Government to the decision of the United States of America to reimpose sanctions on Iran and the consequences for a rules-based international order; and if he will make a statement on the matter. [21367/18]

**Deputy Brendan Howlin:** Last week the United States unilaterally repudiated the 2015 international nuclear deal with Iran. Will the Tánaiste outline the implications for the international order and for the countries of the European Union of that decision?

**Deputy Simon Coveney:** The straight answer is that it is very complicated now. I had a long dinner with my French counterpart, Jean-Yves Le Drian, on Sunday night in Farmleigh and we spent a lot of time talking about this because France is trying to give leadership in this area to try to keep this deal alive, despite the current difficulties.

The Deputy will have seen my statement of 8 May on behalf of the Government, setting out our views and expressing our disappointment with the decision of the United States. Similar statements were issued by the European Union and by other partners.

I have stated clearly in public that the Iran nuclear agreement was a significant diplomatic achievement in the area of non-proliferation, that it was delivering as intended, and that, as verified by the International Atomic Energy Agency, Iran had implemented its commitments under the agreement. These views were clearly conveyed to the US Government on a number of occasions, including in recent weeks by President Macron and Chancellor Merkel, and also by the British Foreign Secretary, Boris Johnson, although not directly to President Trump.

It is a matter of great regret that the US has decided to take a different approach from the EU. Speaking for the EU, High Representative Mogherini has emphasised that the agreement was a multilateral one and that all other signatories to it have expressed a hope that it can continue to be implemented. The EU signatories to the agreement, and other parties, have held initial meetings with Iran to discuss that possibility. Ireland will fully support that objective, although the difficulties should not be underestimated.

Looking at the broader picture, Ireland's foreign policy is deeply anchored in the values set out in the Constitution. Those are reflected also in the Charter of the United Nations, the Universal Declaration of Human Rights and in the principles which underpin the European Union. Ireland is committed to a rules-based international order and to a multilateral approach to global issues.

Having been Minister for Public Expenditure and Reform, Deputy Howlin will know the difficulties of maintaining global commerce if the US is imposing sanctions. We have seen that with Aughinish Alumina recently following sanctions affecting one oligarch in Russia. Countries will need to work together to keep this agreement alive from an Iranian perspective.

**Deputy Brendan Howlin:** That is the net issue I want to pursue. I am very concerned about the implications for the international order. How do we embark, for example, on negotiations in relation to the Korean Peninsula if one party can unilaterally tear up an agreement when

everybody has agreed that the other party is fulfilling the terms of the agreement? Specifically, we cannot allow the United States to determine international policy and that we all, regardless of our views, simply follow through.

Could I ask the Minister about the impact on western companies with any links to the United States if the embargo is imposed. I expect it would be very severe. It is estimated that a deadline is being imposed of 90 to 180 days for western companies to disengage. The impact for Ireland could be €143 million of Irish export trade being put at risk, and it could be even more significant for other countries.

In terms of the Minister's discussions with the French foreign Minister and his European colleagues, is it envisaged that the European Union, in conjunction with the Russian Federation and other countries, would work out a system to ensure that countries whose companies want to continue to trade with Iran in support of the agreement that was freely entered into will not be economically impacted by the American decision?

**Deputy Simon Coveney:** First, it is important to put on the record why the US is going in a different direction. The US sees this deal as one that also needs to deliver a more responsible approach from Iran in terms of its regional influence. It is also concerned about the stockpiling of ballistic missiles. The US is looking at a broader series of issues and linking the continuation of this deal with some of those issues, which is not what the EU and others are doing. This is a nuclear non-proliferation agreement that has been successful and is being monitored accordingly, which is why it is so regrettable if it unravels. I have had an initial conversation with my French colleague who accepts that this is complicated. My experience is that I have met with a reasonable and positive response from decision makers in Washington in terms of trying to be helpful about the impact of US sanctions on Russian individuals. I suspect a lot of negotiation is required if this deal is to survive without US support.

**Deputy Brendan Howlin:** All deals by their nature are imperfect and I do not think any country ever enters into a deal that it regards as perfect, but the Iranian agreement was regarded by all the participant countries, who freely signed up to the deal, as being the best achievable, and everybody is compliant with it. I dare say if a similar deal could be contracted with North Korea, the current American Administration would be delighted to achieve a deal of that scale to denuclearise the Korean Peninsula. That said, the issue is a very straightforward although a very complex one. Either multilateralism - free negotiations and agreements entered into - has the force of law or we will never have international agreements again if a successor government in one country can simply tear up an agreement which it freely entered into in a binding way. It would be like an incoming British Government deciding it is no longer obliged to implement the Good Friday Agreement. That could not be tolerated. International agreements solemnly entered into should be adhered to.

**Deputy Simon Coveney:** The problem is that the US does not accept that this agreement is being adhered to by Iran. We do not agree but that is the US position.

**Deputy Brendan Howlin:** There is a mechanism within the agreement to determine that.

**Deputy Simon Coveney:** Yes, and I am not suggesting that this is a good situation. The US is the most powerful country in the world and is by far the biggest influence on global trade, global financial movements and so on. When the US decides to impose sanctions, that impacts on everyone else, particularly in the western world. There is not a single big multinational

15 May 2018

operating in Europe that does not have interests in the US, whether they be banking, finance or shareholder interests, supply chain systems, technology and so on. That is why the concept of “America first” does not make sense when it comes to foreign policy, when we are trying to operate in a global system that is multilateral by nature. A significant attempt was made by senior EU leaders to find a way forward that did not involve the US abandoning this nuclear deal-----

**Deputy Brendan Howlin:** They were unsuccessful.

**Deputy Simon Coveney:** Yes, they were unsuccessful and now we need to work together to see what we can do collectively in the absence of US support while also talking to the US to see if we can facilitate the maintenance of the deal without its support.

### **Brexit Negotiations**

28. **Deputy Lisa Chambers** asked the Tánaiste and Minister for Foreign Affairs and Trade the progress he is seeking on the backstop by the next European Council meeting in June 2018; his definition of sufficient progress in this regard; the steps he will take if sufficient progress is not made on this issue; and if he will make a statement on the matter. [21311/18]

**Deputy Lisa Chambers:** Will the Tánaiste outline the progress he is seeking on the backstop by the next European Council meeting in June and what he considers to be sufficient progress? Will he also detail the steps he and the Government are taking to ensure that sufficient progress is made? If we do not see sufficient progress, what then?

**Deputy Simon Coveney:** The Deputy asks reasonable questions. Following on from the March European Council, the EU and UK agreed to five additional formal rounds of negotiations between April and the next European Council in June. These negotiations are focused on all outstanding issues in the draft withdrawal agreement, including the protocol on Ireland and Northern Ireland as well as the future relationship. The UK has accepted that a legally operative version of the backstop for the Border will be included in the withdrawal agreement, in line with paragraph 49 of the joint progress report agreed last December, and that all issues identified in the draft protocol reflect those that must be addressed. These are important steps forward but these commitments are not reflected in the debate and much of the media commentary, especially in the UK. Prime Minister May confirmed this in her letter to President Tusk of 19 March in addition to reiterating the UK’s commitment last December to protect the Good Friday Agreement in all its parts and the gains of the peace process, including the overarching guarantee on avoiding a hard border.

The Government has always maintained that the backstop will apply unless and until another solution is found. Our preference is for another solution. We do not want to be relying solely on the backstop but it needs to be there as a fallback or an insurance mechanism. While we share Prime Minister May’s preference to resolve these issues through a wider agreement on the EU’s future relationship with the UK, it is crucial that we have certainty in all scenarios on the commitments already made on Ireland and Northern Ireland. Negotiations to close the remaining gaps in the draft withdrawal agreement are ongoing, including detailed discussions between the EU and the UK on issues relating to Ireland and Northern Ireland. Real and substantial progress is needed on agreeing the protocol ahead of the June European Council. This means the UK delivering on the clear commitments it made in December and again in March by engaging meaningfully on the text of the protocol in the coming weeks and, in particular, the

text dealing with the backstop on avoiding a hard border and coming forward with workable proposals with a view to seeking agreement on the text so that the entire withdrawal agreement can be concluded by October.

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

The EU has always made clear that nothing is agreed until everything is agreed and that negotiations can only progress as long as all commitments undertaken so far are respected in full. The European Council is continuing to follow the negotiations closely and will return to the remaining withdrawal issues, including the protocol, and to the framework for the future relationship at its next meeting in June. It will be for the European Council to assess progress based on a report from the EU's chief negotiator, Michel Barnier, and to draw conclusions on what this assessment will mean for the overall negotiations. However, the Irish Government and Michel Barnier have been consistent in our position that real and substantial progress be made by the June European Council meeting. This is a position shared by all our EU partners who continue to show steadfast support for Ireland.

**Deputy Lisa Chambers:** In December we were told that the commitments given on the border were “bulletproof”, “rock solid” and “cast iron”. Fast-forward six months and it is quite clear that those commitments were oversold. While I acknowledge that what was agreed in December, albeit tentatively, was progress, it certainly was not the level of progress articulated by the Tánaiste at the time. The issue of the Border is far from resolved and it does not look like it is going to be resolved by June either. The backstop is being interpreted very differently by the Irish and British Governments. Fianna Fáil is very concerned at the direction of the Brexit talks which has the potential to lead to a hard border. The UK has accepted some sort of a backstop, as agreed last December, but it did not accept the wording put before it in March. In fact, Ms May said that it was a constitutional threat to the integrity of the United Kingdom. The Tánaiste has said that he wants to see progress by June. Will he outline to the House what he considers to be sufficient progress. If he does not see such progress, will he stop the talks, as he said he would at the Brexit stakeholder meeting in Iveagh House a number of weeks ago?

**Deputy Simon Coveney:** This is not the first time I have heard pessimism in this House on the negotiations, with suggestions that this is going nowhere and that we are going to have a hard border. We have a cast-iron commitment from the British Government that there will be no border infrastructure of any kind and no checks or controls. What we do not have from the British is a plan to deliver on that. The EU has a plan to deliver on that through its backstop, but the British Government said that it could not accept that wording. That is fine. This is a negotiation so let us wait and see what the British are thinking and hear their wording proposals. We have said that we will consider any new ideas as long as they deliver the outcome to which the British Government has committed.

A distinction must be made between what has been committed to in terms of outcome and the process that can achieve that outcome. That is what the Taoiseach meant when he said that we have a cast-iron guarantee that there will be no border on the island of Ireland and I support him in that because we do have such a guarantee. We have a commitment in writing from the British Government to the EU and its institutions. We also have a commitment to President Tusk as recently as March that the commitment, in terms of the backstop, will be in the withdrawal treaty. Michel Barnier said again yesterday in front of all of the EU foreign Ministers that there will be no withdrawal treaty if there is not a legally operable wording on the Irish backstop. That is the position and we want to see that approach taking shape by the end of June.

It does not need to be perfect or concluded at the end of June but we certainly need to see it taking shape so that we can have this finalised by October.

**Deputy Lisa Chambers:** With respect, the phrase “taking shape” leaves me no clearer as to what the Tánaiste considers to be sufficient progress. I do not know what he means by that and he did not answer my question as to what he will do if he does not see sufficient progress. Will he put a stop to the talks? This is not about pessimism or optimism but about realism. Are we edging towards a hard border? It is not just Fianna Fáil that is saying this. The Central Bank, the business sector and others are also concerned. It is my job as Opposition spokesperson on Brexit for the Fianna Fáil party to highlight these issues, to ask questions and to seek answers, but the Tánaiste is not providing answers today.

We all want to avoid a hard border, but as the Tánaiste has said before, we cannot just wait and see. We must prepare for that possibility. The Copenhagen Economics report suggests that in a worst-case scenario, Brexit could cost Ireland in the region of 20,000 jobs, mostly in the agri-food sector. We have to prepare for this. We know from a recent report by AIB that businesses are not prepared. I recently met representatives of Chambers Ireland who told me that 15% of its members will be affected by Brexit but that the majority of them do not have the capacity or the resources to prepare for Brexit. Fianna Fáil is very concerned that we are not prepared and that we are burying our heads in the sand. We do not know what level of progress the Tánaiste is seeking by June and we believe that we will see very little progress. We are edging closer and closer to the cliff edge.

**Deputy Simon Coveney:** The Deputy should at least acknowledge the progress that has been made.

**Deputy Lisa Chambers:** I have done so.

**Deputy Simon Coveney:** She keeps quoting a business survey conducted last November, but it is very clear from a much more recent survey conducted by IBEC that there has been a dramatic increase in the level of preparedness across businesses in Ireland. It is not where it needs to be yet and we are going to help businesses to get there. Very few people in Ireland are putting their heads in the sand on Brexit. People are asking questions. They want help and advice.

They want to know what the various possible outcomes are. My job is to help people to prepare for the worst and, more importantly, negotiate for the best possible outcome which I still think is achievable. The Deputy is asking me for answers that are not yet available in the context of what the final outcome will look like. We are reliant on negotiating with a partner - the United Kingdom - that does not yet have a settled approach. It has a settled commitment to an outcome on the Border, the common travel area, in protecting the Good Friday Agreement, citizens’ rights and so on, but we do not yet have a legally operable text to deliver it. We have texts in some areas where we have made a great deal of progress. They are now coloured green, but there is still a lot of work to be done on the key issue of the Border. That is why I have spent a lot of time in London recently and Michel Barnier and I and many others are continuing to ask the British Government to provide some new thinking in the context of the negotiations.

*5 o'clock*

*Dáil Éireann*  
**Other Questions**

**Ministerial Meetings**

29. **Deputy Eamon Ryan** asked the Tánaiste and Minister for Foreign Affairs and Trade if he will report on his recent meeting with Mr. Michel Barnier. [19857/18]

33. **Deputy Joan Burton** asked the Tánaiste and Minister for Foreign Affairs and Trade if he will report on his meeting with Mr. Michel Barnier. [19110/18]

37. **Deputy Michael Moynihan** asked the Tánaiste and Minister for Foreign Affairs and Trade if he has spoken with Mr. Michel Barnier recently. [17678/18]

48. **Deputy Brendan Howlin** asked the Tánaiste and Minister for Foreign Affairs and Trade if he will report on his recent engagements with the Barnier task force on Article 50 negotiations with the United Kingdom. [18781/18]

**Deputy Eamon Ryan:** My general question which was transferred from the Department of the Taoiseach relates to the exact same topic. What will happen if there is no withdrawal agreement? Where will our backstop be in such circumstances? As I listened to what was said in Dundalk and as I watched what happened at Westminster subsequently, it struck me that the prospect of there being no withdrawal agreement was, unfortunately, increasing. If we get over the difficulties on the Border issue, agreement will need to be reached on the role of the European Court of Justice in governance matters. Even after that, approximately 700 areas involving regulations will have to coalesce and the European Union will have to maintain unanimity. There is a real risk that the British political system may not be able to do this. What will happen in these circumstances? Where will our backstop be then?

**Deputy Simon Coveney:** We have made it very clear that there will be no withdrawal agreement without a backstop on the Border issue. I think that is accepted by the British Government. If there is no withdrawal agreement, there will be no formal agreement on transition and no agreement in a range of other areas. Much of the text of the draft withdrawal agreement that the European Union has provided is agreed to but some of it is not. Some of it has been partially agreed to. Anybody who takes the time to read the draft agreement, the base document for negotiation, will realise this is about a very practical divorce arrangement. When Britain leaves the European Union, it will leave many agreements, organisations, licensing systems and so on.

**An Leas-Cheann Comhairle:** We are dealing with Question No. 29.

**Deputy Simon Coveney:** Yes.

**An Leas-Cheann Comhairle:** The clock is ticking.

**Deputy Simon Coveney:** I think what I am saying is relevant because the context in which I am speaking is the conversations that have taken place with Michael Barnier, but it is the Leas-Cheann Comhairle's call.

**An Leas-Cheann Comhairle:** The Tánaiste will not have another opportunity to provide an initial reply.

15 May 2018

**Deputy Simon Coveney:** We are going through a very delicate and serious period of negotiation. I do not say lightly that there will be no withdrawal treaty without a backstop. That is the position of the EU side because that is what the United Kingdom has signed up to. If we are not going to follow through on what we have committed to in the negotiations, we have to ask where are we going. Ireland needs a withdrawal treaty, as does Britain. Ireland and Britain, more than any other member state of the European Union, need a withdrawal treaty. I believe we will get one, but I do not think it can happen unless the British Government follows through on the commitments it has made.

**An Leas-Cheann Comhairle:** The Tánaiste did not clarify that a number of questions were being taken together.

**Deputy Simon Coveney:** My apologies. Questions Nos. 29, 33, 37 and 48 are being taken together.

**An Leas-Cheann Comhairle:** I call Deputy Eamon Ryan to ask his first supplementary question.

**Deputy Eamon Ryan:** I absolutely agree that we need a transition deal. My reading of the political environment-----

**An Leas-Cheann Comhairle:** Just to clarify, the first time the Deputy spoke on this group of questions was when he was given 30 seconds in which to introduce them. He now has the right to make a further one-minute contribution.

**Deputy Eamon Ryan:** I agree that we need a transition arrangement, but my fear is that the UK political system might prevent us from getting it. The UK Foreign Secretary, Mr. Boris Johnson, has said the customs partnership solution makes no sense. Many remainers and soft Brexiteers on the other side of the Tory Party are saying that to get a customs union agreement without also getting a Single Market agreement would be the worst of all worlds. They believe the United Kingdom would be better off in having a Single Market agreement. There is real confusion in the UK Labour Party because it does not seem to know what exactly it wants. It seems to be opting for a completely suboptimal solution. In circumstances in which the European Union does not have to move, the United Kingdom has to give on everything. My fear and my political assessment are that there is a real risk that the United Kingdom will not be able to square the circle and get a transitional arrangement. It will not easily get an extension of Article 50 because, as Michel Barnier said in Dundalk, that would lead to problems with European elections and budget contributions, etc. There is an increasing risk that there will not be a withdrawal deal. In these circumstances, the backstop arrangement for the Border will surely be imposed by the European Union which will insist on WTO rules applying, for example, at the border between counties Monaghan and Fermanagh.

**Deputy Simon Coveney:** It is important to draw a distinction between the withdrawal agreement and the future relationship agreement. Many of the issues being raised by the Deputy will not be dealt with in the withdrawal agreement. I refer to future relationship issues concerning trade, security, aviation, fishing and agriculture, etc. Consideration will have to be given to the potential for UK associate membership of EU bodies that are responsible for regulation, licensing and approval systems, etc., in order to ensure it will be able to trade into the European Union. All of these things are going to be difficult to negotiate for the United Kingdom and take time. Ireland will be a big ally of the United Kingdom in many of these discussions. We

want to have the closest possible future trading relationships between Britain and Ireland and between the European Union and Britain. Separately, the withdrawal agreement is essentially about four things: citizens' rights, financial settlement issues, transitional arrangements and the question of Ireland and Northern Ireland. As part of the latter issue, consideration will have to be given to the common travel area, the protection of all parts of the Good Friday Agreement and the need to deal with Border issues through a backstop. They are the withdrawal agreement issues. The debate often conflates the future relationship and backstop issues. Some of the Irish issues are also trade issues because they cannot be avoided when Border issues are being discussed. The backstop is about maintaining full alignment with the rules of the Single Market and the customs union to prevent a border in areas of North-South co-operation where the all-island economy needs to function.

**An Leas-Cheann Comhairle:** Go raibh maith agat.

**Deputy Simon Coveney:** Am I not answering for a whole load of Members?

**An Leas-Cheann Comhairle:** Wait one minute. The Minister took his question off the cuff. He did not respond to Question No. 29 at all. That is his prerogative. We are now back to one minute questions and answers.

**Deputy Simon Coveney:** Okay. I am in your hands.

**An Leas-Cheann Comhairle:** Before I call Deputy Joan Burton, I will allow Deputy Eamon Ryan to ask his second supplementary question.

**Deputy Eamon Ryan:** I will be very brief. I understand the complexity involved. I agree that there is a difference between the withdrawal deal and the subsequent transition arrangement. We hope a transition arrangement will be put in place after the withdrawal agreement is finalised and implemented. I have to come back to my key question which the Minister has not answered. What will happen if we do not get a withdrawal agreement? Surely what will happen in such circumstances - the actual backstop - is what the European Union applies. Has the Tánaiste discussed this with Michel Barnier? Are preparations being made for this if it should happen? Please God, it will not. Looking at it from the outside, unfortunately, it seems to be a real possibility that the UK political system will be unable to organise this to get internal agreement on what the withdrawal agreement should be or to sign off on such an agreement. What will we do in such circumstances? What arrangements will apply along the Border in such circumstances? How will we manage such an eventuality? Are we planning for it? It is now a real risk.

**Deputy Simon Coveney:** For the record, I am answering Question No. 29 which is about my meeting with Michel Barnier. I am dealing with all of these issues. The Chair has twice said I am not answering the question.

**An Leas-Cheann Comhairle:** The Tánaiste has answered the question. We have moved to supplementary questions. One minute is provided in which to ask each supplementary question. The Tánaiste did not take full advantage at the start.

**Deputy Simon Coveney:** That is fine. The issue to which Deputy Eamon Ryan is referring requires contingency planning. That is what has been happening. We have been doing a huge amount within the Government and across Departments. We will publish some papers on it in the coming weeks, but we will not publish everything. I do not think it would be wise to do so

in the context of the negotiations taking place. I believe the EU Commission is also putting contingency plans in place. However, everybody is focusing publicly on the negotiations because everybody wants to try to achieve a deal, which certainly makes sense for the UK, Ireland and the rest of the EU. While Michel Barnier is more than aware of that, he is also aware that there is a possibility of failure. If the political system in Britain cannot deliver an outcome which is consistent with the commitments that have already been made, then of course the UK, Ireland and the rest of the EU have to put contingency planning in place for what that will look like. I suppose in the absence of any agreement at all, World Trade Organization rules would initially apply. We are certainly intent on not allowing that to become a reality. I do not believe that the British Government will allow it to become a reality either. That is all the more reason to focus on making progress and on creating some optimism in this negotiation by the end of June.

**Deputy Joan Burton:** Mine is essentially the same question. I have a number of specific things I want to ask the Minister. He mentioned that having commissioned papers, some of the papers on Brexit have been published but others have not. It would be helpful to the House if he could indicate those areas where he has chosen not to publish.

In respect of people on both sides of the Border, including those in business, what is the Minister's take on the UK Brexiteer proposal on max fac? What exactly would that mean? Does the Minister have any idea of what it envisages? Essentially, it is a technological solution of an advanced kind to replace a traditional border. The very significant Brexiteers in the British Cabinet and Tory Party seem to be now quite hung into that. What is the Minister's take on it? Is it likely to happen?

In the same vein, what is the story in respect of the other arrangements for the Border, in particular the favoured trader status? Lots of firms go back and forward, not to mention agricultural products and livestock.

**Deputy Simon Coveney:** On what we publish and do not publish, I am happy to meet the Brexit spokespeople from each party or the party leaders to give them a very detailed briefing on all the work we have been doing in terms of contingency. For some of the work we have been doing, I do not think it is helpful to put it into the public domain. I certainly do not want to create an expectation that this is what is going to happen. Sometimes we can create self-fulfilling prophecies and that is not the way we approach these negotiations. We are negotiating to get a good outcome for Ireland. We already have clear commitments from the UK and the EU in respect of outcomes in a whole series of areas. In terms of the maximum facilitation option, or max fac, as it is called, I do not see it as a runner, unless I am missing something, which I do not think I am because we had looked at this issue. The idea that we can actually have a border that does not impact on movement of goods, services or people on the island of Ireland and does not impact negatively on North-South co-operation and an all-island economy, by having technology monitoring how goods move around on the island of Ireland, when we have at least 208 major road crossings between Ireland and Northern Ireland and many more by-roads - I just do not see how that works. It is also not consistent with the commitment that has been made that there will be no border infrastructure on the island of Ireland and no related checks and controls. That is not me being stubborn, that is just stating the commitment in black and white that has already been given. That is why I have said we would like to see more exploration around this concept of the shared customs territory or a customs partnership as a basis for negotiation.

**Deputy Joan Burton:** Is the shared customs partnership primarily in respect of the island of Ireland? I know the area of the Border around Dundalk very well because of family

relationships there. I do not get the sense from the Government that it fully understands what it would be like to go back to how it was before the Good Friday Agreement. In the Department of Foreign Affairs and Trade, in fairness, the Good Friday Agreement is one of its major achievements. How does the Minister propose to protect the gains achieved by the Good Friday Agreement? Derry and Donegal are to all intents and purposes really one area except that they straddle two sides of the Border. What is going to happen in terms of Donegal and Derry itself in terms of its viability as an important city in the north west? I just do not get that the Minister understands quite how nervous, worried and upset people are. Through the British-Irish Parliamentary Association, I have met many people from farming and business over the last couple of years. I just do not get the sense of that from the Minister's contribution today.

**Deputy Simon Coveney:** With respect, I do not think the Deputy has been talking to me enough. I have been crystal clear in respect of the Border. Every time I speak in the media or privately in terms of briefings and stakeholders' groups, we have made it crystal clear that we cannot support any solution that is going to reintroduce physical border infrastructure onto this island. I regularly visit Northern Ireland. Two weeks ago I was in Derry. Between Derry and Donegal, in a stretch of just over 20 miles, there are 320,000 Border crossings every week - people going to college or work, going to the doctor, visiting family friends and so on. I get it. I have spoken to many people who live on the Border and have visited the Border with foreign Ministers from other EU countries to explain it to them too. Believe me, we get it. That is why we took the position we took in December, which created all the stress and strain around a very difficult week when we got an absolute commitment and a guarantee from the British Government in respect of no Border infrastructure. Now our job is to translate that into a legally operable text in a withdrawal treaty, which is what we are trying to do at the moment. It is not easy but we will do it in the end, in my view.

### **Diplomatic Representation**

30. **Deputy Maureen O'Sullivan** asked the Tánaiste and Minister for Foreign Affairs and Trade if inquiries will be made into the continued imprisonment of a person (details supplied) in Honduras and the violation of human rights there. [21108/18]

**Deputy Maureen O'Sullivan:** My question concerns a particular individual, a lady who has been imprisoned in Honduras, and is also a general query about human rights violations in Honduras. I wish to ask whether our Government has made representations or inquiries and, if it has not, if it will do so as soon as possible.

**Deputy Simon Coveney:** I thank the Deputy for bringing this case to my attention. My understanding is that the individual referred to by the Deputy was released on parole on Saturday, 5 May and now awaits trial. I have asked officials of my Department to continue to monitor this case. The human rights situation in Honduras is a cause of deep concern. I echo the statement made on 12 March by the United Nations High Commissioner for Human Rights that the already fragile human rights situation in Honduras, which suffers from high levels of violence and insecurity, is likely to deteriorate further unless there is true accountability for human rights violations, and reforms are taken to address the deep political and social polarisation in the country.

It is my belief that all sides in Honduras must work within the political system and through the framework of constructive dialogue to deliver the political reforms necessary to secure the

trust of the Honduran people in the country's institutions.

The Deputy will be aware that Ireland contributed one long-term observer and one short-term observer to the EU election observer mission to Honduras last year. This was facilitated by the Department of Foreign Affairs and Trade. I take this opportunity to, once again, urge the Government of Honduras to take on board and adopt recommendations for reform made by the EU observer mission, in order to help restore much-needed public confidence in future electoral processes in the country.

**Deputy Maureen O'Sullivan:** It is positive to hear that the lady in question is out on parole. That comes from the extent of the inquiries made on her behalf. There is well-documented persecution of the woman at the hands of the police. She made a complaint to the authorities there as one would. That led to even more persecution and more violation of her human rights.

Her case is not isolated in Honduras. There was the murder of the high-profile environmentalists Berta Cáceres and Nelson García. These are people who were speaking up for the indigenous people and their communities, trying to protect the lands from multinational companies and the big corporations. We are rightly appalled at the unjust killing in Palestine. That type of unjust killing of human rights defenders goes on continually in countries like Honduras and Colombia.

Ireland's role was acknowledged in the universal periodic review of Colombia at which we raised those concerns. Honduras has the highest murder rate for environmental activists. Our voice is respected. We should use it more in these cases because I believe we are listened to.

**Deputy Simon Coveney:** Depending on the case, it is sometimes helpful to raise international voices. However, sometimes it can put people at risk. Human rights defenders are sometimes difficult to defend because if one raises their profile, they are targeted more. Other times, raising their profile can protect them.

I take it that because the Deputy raised this case, she feels it would be helpful for us to raise the profile of the individual concerned in order to protect her. We will continue to monitor the case and I will keep the Deputy updated on it.

**Deputy Maureen O'Sullivan:** I believe the NGOs would not have brought it to my attention if they thought there was any danger to the lady in question. The broader point is that it is our societies' demands for natural resources which is fuelling the conflict in these lands. In these countries, as well as that demand on the land, we are looking at corruption, organised crime, political instability and militarised police forces. On the one hand, there are the indigenous people, the poorest of the poor, while on the other, we have wealth and power. It is the rights of the poor which are constantly eroded.

The Minister referred to strategic development goals, SDGs, earlier. How can there be any success or movement on the SDGs when those kinds of human rights violations continue? There is an issue for the World Bank and the IMF which are funding these large companies. We already have had an example of Dutch and Finnish banks which have withdrawn their funding for some of these projects. We need more to do so.

I accept we were part of the election monitoring but there are concerns over it. There is no doubt there were abuses of the system. The EU's report was rather late in coming out and challenging what happened. We know people who lost their lives because they were objecting to

the unfairness of the election and the corrupt way in which it was carried out.

**Deputy Simon Coveney:** I do not disagree with anything that has been said. The challenge for the international community, particularly through UN structures, is the sheer number of countries which the UN is trying to influence positively at the same time. There are so many conflict zones and governments which are not fulfilling their obligations under international law and so forth. This case has been raised by NGOs and by the Deputy. I will certainly try to ensure we follow the case closely.

### **Middle East Issues**

31. **Deputy Richard Boyd Barrett** asked the Tánaiste and Minister for Foreign Affairs and Trade if he is pressing his EU counterparts for further actions in support of Palestinian rights in the context of the upcoming 70th anniversary of the Palestinian Nakba, the ongoing Palestinian protest on the right to return as allowed for by UN resolution and the ongoing aggression by Israel; and if he will make a statement on the matter. [21103/18]

**Deputy Richard Boyd Barrett:** The murder of 58 unarmed Palestinian protesters yesterday by Israel was cold-blooded premeditated murder. It was not an overreaction or an *ad hoc* response. It was premeditated. In the face of premeditated executions by Israel, does the Minister not think it is incumbent on this country and the European Union to impose sanctions which would actually impact on Israel to stop this slaughter?

**Deputy Simon Coveney:** I wish to begin by expressing my profound shock at the scale of casualties inflicted by Israeli forces on Palestinian demonstrators yesterday. Even if some demonstrators yesterday were using violence, there is no indication of anything which could possibly have justified this scale of shootings by Israeli troops, and many specific attested shootings were clearly indefensible. This has to stop. I call on Israel specifically to rein in its forces, and on all those who have influence with Israel to use that influence to this effect.

This morning I summoned the Israeli ambassador to Iveagh House and made these points to him in the strongest terms. These dreadful events tragically underline my view that the Israel-Palestine peace process and the situation in Gaza cannot just be left to fester until a better day comes. They must be addressed urgently, or we will only see more days like this.

As to the Deputy's question about action at EU level, EU and international attention on the Israel-Palestine issue has naturally prioritised efforts to resume political negotiations, as the only way to bring the occupation to an end.

Ireland has worked also to maintain a focus on the justice and human rights issues affecting Palestinians on the ground, and to promote practical efforts to assist them. This relates notably to Israeli settlements and related land seizures, movement restrictions, evictions, deportations and suppression of protests. These are closing - literally - the political and physical space where a peace agreement might be built.

The EU has taken a number of actions in regard to settlements and their products, which we have discussed here. We are continuing to look at other possible actions, although it has to be said it has become difficult to achieve agreement at EU level on any such measures at present.

Accordingly, we have also explored actions with like-minded partners. Last year Ireland

15 May 2018

joined the West Bank Protection Consortium, a group of countries which seek to act together on land issues particularly. I am also working with some partners on specific project ideas to help ease the blockade of Gaza.

Ireland also funds a number of Israeli, Palestinian and international NGOs active in combating unjust occupation policies and taking legal cases.

**Deputy Richard Boyd Barrett:** Beyond the politics, people in Gaza have contacted me and asked that we would immediately provide medical and blood supplies. They have actually run out of blood in the hospitals in Gaza because they are overwhelmed with injured people and those who have been shot. That is a practical matter.

**Deputy Simon Coveney:** Who has been on to the Deputy?

**Deputy Richard Boyd Barrett:** People have been phoning me from Gaza, telling me the hospitals are overwhelmed. The Minister should use our contacts there to see if there is anything we can do to get blood and medical supplies there.

Beyond that, how many atrocities does Israel have to commit before the European Union stops giving it favoured trade status, for example? Why is that allowed? There are supposed to be human rights clauses attached to the Euromed agreement, yet we watch as Israel slaughters in cold blood again. This is not the first time but the latest in a series of atrocities, on top of an 11-year siege and systematic theft of Palestinian land designated for Palestinians in the Occupied Territories. There are also systematic moves to annex East Jerusalem. It goes on and on and yet we do nothing. There are no sanctions or expulsions. The Minister expels Russian diplomats over an allegation but nothing about Israeli atrocities. The double standards are shocking.

**Deputy Simon Coveney:** The Deputy should at least know that there is not a unified approach across the European Union in terms of how to put pressure on Israel to change its approach in certain areas. We have a clear statement from all the EU member states which is clear on settlements, the need for a two-state solution and concerns about living conditions in Gaza. Beyond that, it is difficult to get consensus. One can call for consensus all one wants. However, I live in the real world in terms of trying to get things moving and agreed, as well as trying to find ways of Ireland making a constructive and real contribution towards moving towards a new peace settlement. The events of yesterday and recent weeks make that far more difficult - I agree with Deputy Boyd Barrett on that. If there are practical things that we can do, we will do them. We are already doing many practical things in Gaza. We will be spending a great deal of money there this year on energy projects, especially solar projects, and water purification projects. We want to do more.

**An Leas-Cheann Comhairle:** A final supplementary question from Deputy Boyd Barrett.

**Deputy Richard Boyd Barrett:** In light of all the atrocities Israel has carried out, if we simply hand-wring, express regret and concern then the atrocities will continue. It is effective complicity, especially when we also give Israel favoured trade status. Israel does not give a damn about words, and the Tánaiste knows that. The Tánaiste said he talked to Benjamin Netanyahu three times and that he will talk to him again. Mr. Netanyahu does not give a damn. However, the Israelis are worried about the boycott movement. If there were sanctions it would actually worry them and it would make them pause to consider what they are doing.

**Deputy Simon Coveney:** I do not know whether Deputy Boyd Barrett has ever met the Israeli Prime Minister. I respectfully suggest that the Deputy has no clue what I am talking to Mr. Netanyahu about.

Anyway, we have an obligation as politicians to find ways of protecting Palestinians and to recognise the legitimate security concerns of Israelis too. Most important, we have an obligation to find a way of moving towards a peace agreement. That is the only medium and long-term solution that can allow two peoples to live side-by-side in states of their own that are safe and secure. We are a long way from that today.

Let us suppose we take Deputy Boyd Barrett's course of action, which is essentially to focus solely on protest to make a point. It would absolutely be seen as solidarity with Palestinians today, but where would we be next month and in six months' time in terms of our ability to be able to deliver projects to Palestinians in Gaza and the West Bank and so on? I am trying to look at ways in which the Government and the State can actually help people there and help the politics of trying to move both sides towards a peace agreement. Unfortunately, that has been made far more difficult by events in recent weeks.

### **Foreign Conflicts**

32. **Deputy Seán Crowe** asked the Tánaiste and Minister for Foreign Affairs and Trade if his attention has been drawn to a report from the United Nations Assistance Mission in Afghanistan that found rockets and heavy machine guns fired from Afghan Government helicopters killed and wounded at least 107 boys and men attending a religious ceremony (details supplied); and his views on the concern of the UN with regard to the matter. [21084/18]

**Deputy Seán Crowe:** In recent months the war in Afghanistan has escalated rapidly. Significant civilian casualties arose due to attacks by Jihadists and Afghan military operations. In April 2018 the UN stated that rockets and heavy machine guns fired from Afghan Government helicopters killed and wounded almost 107 boys and men attending a religious ceremony in the northern city of Kunduz. Has the Tánaiste seen the report? Does he believe this was a violation of international law and possibly a war crime? What is Ireland doing to assist those affected by the war in Afghanistan?

**Deputy Simon Coveney:** I thank Deputy Crowe for raising this issue. It is an atrocity. I welcome the report issued by the United Nations Assistance Mission in Afghanistan. The report was prepared in accordance with the UNAMA Security Council mandate. It has the broader aim of minimising the impact of armed conflict on civilians. Independent and impartial monitoring of incidents involving loss of life or injury to civilians is essential for the regeneration of Afghanistan, as is the support that strengthens and protects civilians affected by armed conflict. Ireland strongly supports any initiative that promotes compliance by all parties to the conflict with international humanitarian and human rights law as well as the constitution and laws of Afghanistan.

Ireland urges the Afghan Government to investigate, fully document and conduct a transparent review of the circumstances that led to this incident and to take immediate steps to ensure accountability for those responsible along the chain of command. Since the incident, the Afghan Government has acknowledged that civilian casualties occurred. In this light, I welcome the establishment by President Ghani of a commission to look into the incident as well as a

provincial-level investigative committee established by the Governor of Kunduz. The Afghan Government is obligated, as the primary duty-bearer, to protect civilians from harm and ensure accountability for those responsible for violations of international and Afghan law. To prevent unnecessary and unacceptable harm to civilians in future, measures should be implemented to strengthen accountability and transparency within the context of the planning and conduct of military operations.

**Deputy Seán Crowe:** It is another brutal reminder of the disaster that unwise foreign military intervention can bring. The USA and Britain, along with their NATO allies, have wreaked havoc in that country. The war has rapidly escalated in recent months. According to the UN more than 10,000 civilians lost their lives or suffered injury during 2017. Yet, the conflict has largely slipped off the news agenda.

The UN report on this attack, which killed 107 men and boys, is harrowing. The report was published last week and underlined the risk of a new Afghan military strategy developed with US advisors. The strategy has seen a significant increase in Afghan air power. Helicopters equipped with rockets and other attack aircraft have been deployed to try to break the stalemate with the Taliban. According to the report at least 36 people, including 30 children, were killed and 71 were injured. Moreover, the helicopters continued to attack as people fled nearby roads and houses and there were allegations that the aircraft deliberately targeted civilians.

The attack is clearly a violation of international law. I have listened to what the Tánaiste has said about how the Afghan Government has to be made accountable. Does the Tánaiste agree that providing the Afghan military with such extraordinary air power is unwise given the repeated violations of international law?

**Deputy Simon Coveney:** The incident took place in the wider context of a continuing deterioration of the security situation in Afghanistan. Conflict-related civilian deaths in the first quarter of 2018 are especially alarming. The largest single spike in civilian casualties occurred during a ten-day period in January when Taliban and Daesh forces separately attacked numerous targets in Kabul killing more than 140 people and wounding hundreds. Ireland condemns these terrorist attacks in the strongest possible terms.

There is an obligation on the Afghan Government to try to protect its citizens. To do that, the Afghan Government must have military capacity. The idea should be to allow the Government in Afghanistan to protect itself and its civilians and I am unsure whether disarming it would be a good strategy.

Deputy Crowe should not forget where Afghanistan was before US intervention there. It was a country run by the Taliban. It was a country that had international training camps for terrorists who were sent throughout the world to wreak havoc. Let us not pretend that foreign intervention has caused the carnage in Afghanistan. Clearly, there are complications with it, but extremist thinking and terrorists are the causes of havoc in Afghanistan. We have to support the Afghan Government to protect its people.

**Deputy Seán Crowe:** We are talking about 115,000 dead and 3 million refugees. Civilians are at the butt end of this conflict. More weapons will bring more war and conflict and that is not going to resolve anything. The problem is that there are constant violations on both sides. The suicide attacks by Jihadists have largely targeted civilians going about their daily lives. These attacks have had a devastating effect.

This is what I am trying to get at. What is Ireland's way? What are we doing to assist the people of Afghanistan? Year after year they continue to live with insecurity and fear. Are we providing aid to those displaced by the war? Are we going to do anything to assist them in efforts to try to end the war? That is where we need to concentrate. Others will supply weaponry and power from the air and so on. I believe we need to say something different and we need a different approach. That is why I am asking these questions. I am not trying to score points.

**Deputy Simon Coveney:** I accept that. Attacks in recent months have been especially devastating and relentless. In January, the Taliban conducted two attacks. One was on Kabul's Intercontinental Hotel and the other involved an ambulance suicide bomb. Of particular concern is the rising influence of Daesh in the region. The group claimed responsibility for a suicide bomb attack on 21 March near the shrine in Kabul that killed 31 people. A suicide bomb on 22 April at a voter registration centre in Kabul killed 57 people. On 30 April, the group attacked central Kabul killing 25 people, including nine journalists. This is what a government and a state have to try to respond to. It is not easy. I believe Ireland can speak out in terms of adherence to international law. We can try to ensure that when atrocities take place they are properly investigated. We can and do support refugee populations in the region, although our primary focus is on Syria. We have spent more than €100 million supporting refugees in the past ten years or thereabouts.

**An Leas-Cheann Comhairle:** With six minutes remaining, I am anxious to take another question and make some progress.

*Question No. 33 answered with Question No. 29.*

### **Brexit Negotiations**

34. **Deputy Charlie McConalogue** asked the Tánaiste and Minister for Foreign Affairs and Trade the implications of the decision to defer the need for agreement on the Brexit backstop to the European Council meeting in October 2018, which will address preparations to ensure the protection of cross-border workers' rights post-Brexit; and if he will make a statement on the matter. [16354/18]

58. **Deputy Charlie McConalogue** asked the Tánaiste and Minister for Foreign Affairs and Trade the details of his engagement with the EU Brexit negotiating team and the UK Government with a view to ensuring regulatory alignment on agriculture matters post the UK leaving the European Union; and if he will make a statement on the matter. [20907/18]

**Deputy Charlie McConalogue:** The first of the two questions asks what are the implications of the decision to defer the need for agreement on the Brexit backstop to the European Council meeting in October 2018 which will deal with preparations to ensure the protection of cross-border workers' rights post-Brexit. The Taoiseach indicated that the backstop agreement could wait until October. The Tánaiste has since firmed up the position by saying it needs to happen in June. It was supposed to be delivered in December 2017, however. Approximately 5,500 people cross into Northern Ireland from County Donegal every day for work and study and they are seriously concerned about how Brexit will impact on them. What is the Tánaiste's understanding of the reasons for the absence to date of an agreement on the backstop?

**An Leas-Cheann Comhairle:** I ask the Tánaiste to be economical in reply given the time

constraints.

**Deputy Simon Coveney:** I propose to take Questions Nos. 34 and 58 together.

I must correct the Deputy as Ireland has not deferred anything and nor has the Government. We are trying to secure a deal as quickly as we can. In December, we had a clear commitment on the outcome needed in respect of the process of Britain's withdrawal from the European Union. We now have an agreement, which was reached in March, that a legally operable backstop text on the Irish Border issue that guarantees there will be no border infrastructure will be part of the withdrawal treaty. We are not in the process of trying to negotiate the wording. The EU has put forward a proposal, a legally operable wording that would deliver that outcome, and the United Kingdom has indicated it cannot accept that approach. We have asked the UK to come back with an approach that could deliver the same outcome. We have stated we need to make progress on this by the end of June because the full legal text of a withdrawal agreement needs to be concluded by the end of October.

**Deputy Charlie McConalogue:** The Tánaiste states progress needs to be made by June because the withdrawal agreement needs to be concluded by the end of October. A backstop is something that is available in the event of a final agreement or another agreement not being reached. If the backstop is not agreed until October, it will not be a backstop but a final agreement. Unfortunately, as matters stand, there is no agreed backstop.

In the run-up to the December negotiations, the Taoiseach and Tánaiste made clear that negotiations would not proceed to the next stage unless the issue of the Irish Border was solved. The Tánaiste subsequently described the agreement as bulletproof. It has since become clear that there are two different interpretations of the agreement and it is still not clear what the agreement will be. What are the implications of this for the 5,500 people who travel daily from County Donegal to Northern Ireland for work and study, including 3,000 people who travel to Derry to work? It is crucial that we provide some clarity for them. What is the Tánaiste's view on where these people stand in the Government's engagement with Mr. Barnier's team and Mr. Barnier's negotiations with his counterparts in the United Kingdom?

**Deputy Simon Coveney:** The Deputy is correct that a backstop is normally something one implements if nothing else can be agreed. What we have achieved in these negotiations is an acceptance from the United Kingdom and European Union sides that we would agree the backstop first, if one likes, because we will not know what the final deal looks like until the future relationship negotiations have been completed. It will take a couple of years to agree the future relationship in trade, security, data sharing, aviation, agriculture, fishing and other areas that must be negotiated over time. The Government has stated we will not proceed with that unless we know we have agreed a backstop at an early date that can reassure people in Donegal and Derry that the Border, which does not impact on their lives today because it is largely invisible, will remain that way through Brexit. The British Government's agreement to that approach was the significant step forward achieved in March and we are now trying to agree a legally operable text for the backstop.

Everybody involved in the negotiations accepts there will not be a withdrawal treaty unless it includes a backstop. The withdrawal treaty is just that - the divorce arrangements. A future relationship agreement will then need to be achieved and if we can reach an agreement on borders and trade that is so seamless and attractive as not to require any border infrastructure on the island of Ireland, we will not need the backstop. However, we will insist on having the

backstop in place as an insurance or fallback mechanism as part of the withdrawal treaty. To use the language of the negotiators, the backstop will be there unless or until something better is agreed.

**Deputy Charlie McConalogue:** I will be brief because I am keen to hear the Tánaiste's response. Is it his understanding that the negotiations on the future trading relationship will be completed by October and in advance of the treaty negotiation? I understood they were to be completed by October, after which a two-year transition period would apply. Will the Tánaiste clarify the position in that regard?

In December, the red line from Ireland's point of view was that clarity would be provided. People expected a legal text at that stage but what we got instead was a form of words, with a legal text to follow. The legal text has still not been agreed. It will not be a backstop unless it is agreed in June because otherwise it will be the final agreement.

As the Tánaiste understands, the issues at stake are serious, particularly for County Donegal. It is important that the line is held in June, clarity is obtained and there is no slipping back.

**Deputy Simon Coveney:** The Deputy raises an important issue. The future relationship will not be agreed by the end of October. The detail of the future relationship agreement will not be agreed before Britain leaves the European Union. The full length of the transition period will still be a negotiation around what the final future relationship looks like post-transition. However, the withdrawal agreement needs to be agreed by the end of October because it must be ratified by the European Parliament.

The two separate agreements that are needed are essentially agreements on divorce arrangements and the future relationship. The divorce arrangements or withdrawal agreement is where most of the key Irish issues are being dealt with. These are the Border, protecting the Good Friday Agreement, the common travel area and so on, in other words, where we will stand on the day after Britain leaves the EU. With that, we will probably have a statement or some kind of framework agreement on the future relationship which sets the parameters for a detailed future relationship agreement. This will be a combination of a free trade agreement and many other things and it will certainly take some time to negotiate.

*Written Answers are published on the Oireachtas website.*

## **Topical Issue Debate**

### **Driver Test Waiting Lists**

**Deputy Donnchadh Ó Laoghaire:** As a result of legislation introduced by the Minister for Transport, Tourism and Sport, Deputy Shane Ross, the driving test for learner drivers is becoming more exacting. The standards expected have increased, which is welcome and Sinn Féin has supported all the legislation the Minister has introduced. It is now necessary, for example, to ensure a fully qualified driver is always in a vehicle and this requirement is being fully enforced, as is right and proper. However, other factors outside the remit of the Department, including the cost of insurance, make learning to drive increasingly difficult. In that context, it is reasonable to expect the Government to go some distance towards ensuring that learner driv-

15 May 2018

ers have reasonable access to the driving test and have an opportunity to become fully qualified drivers. Learner drivers are facing inordinate waiting times across the country, particularly in Cork city and surrounding areas. According to the Road Safety Authority's website, the average waiting time for a driving test is 15.6 weeks. This does not tell the full story, however. The longest wait is 25 weeks, according to the RSA website. What is important to understand is that for those who are in a position to book a cancellation, for example, it is not that difficult to get a test but those cancellations could fall at any time. The reality for anybody working full time is that that option is not available to him or her. One must pick a specific date and that date could be five or six months down the line. Others are in a situation where they need to pass a driving test to be able to qualify for a new position that they have applied for.

In anticipation of this debate, I asked my constituents on social media for examples of how long they had been waiting. I was told that one person had booked a test in January and still had not heard anything. Another was waiting seven months for a test date. One person was waiting since September. A driving instructor told me that a pupil had sat the test yesterday who had applied last November. Another person has been waiting since November and is being told that it could be some time.

For many, the wait is longer than six months. That presents considerable difficulties, particularly for those who are waiting on a job and need a driving licence for that. It is quite unfair, especially for those who have sat the test, may have missed out narrowly and then must wait another six months before they can sit the test again. In the context of us setting higher and higher thresholds for learner drivers, it is only fair that Government would ensure that learner drivers have access to a test reasonably speedily.

One step that should be taken is that a second driving test centre be set up to serve the greater Cork city area. The city test centre covers not only Cork city, which has a population of more than 200,000 when one takes in the surrounding areas, but also east Cork, because there is no test centre there, and a good part of north Cork. This test centre serves a population of between 300,000 and 350,000. That is excessive. There should be a second test centre to serve that area.

**Minister for Transport, Tourism and Sport (Deputy Shane Ross):** I thank the Deputy for raising this important issue.

I would like to put on record my personal appreciation for the support given by Sinn Féin to the traffic legislation before the House. We are on the same page about saving lives.

I acknowledge what the Deputy has raised here today is a real problem. It is something which is being addressed. I acknowledge as well that it is not yet resolved. The driver testing service has seen an increase of almost 20% in the levels of driving test applications over the past four years. This, coupled with the retirement of driver tester staff, has meant that the waiting times for customers for driving tests have increased.

Driving tests are delivered across 52 test centres nationally. The objective of the RSA is to have a national average waiting time of no longer than ten weeks. The current national average waiting time for a driving test is 12.5 weeks. The RSA continues to monitor capacity against demand and deploys driver testers to best meet the demand across all test centres.

The current average waiting time for a driving test in the Wilton test centre in Cork is 16 weeks. The longest waiting time for a test at the Cork centre is 23 weeks. This longest wait time may be due to an applicant applying for a test before completing the required driver train-

ing of 12 lessons, or the test maybe on hold for medical or payment reasons. That is consistent with what the Deputy said when he mentioned six months, which is 26 weeks. The Deputy is probably right about that figure which he produced.

The following table gives an overview of test applications at the Cork driving test centre:

Cork (Wilton) Test Centre — Applications on hand as at 9 May 2018

Available and Waiting	Scheduled	Yet to completedriver training	On hold formedical orpayment reasons	Total
3,805	898	1,071	6	5,780

The Road Safety Authority, RSA, employs 97.49 full-time equivalent driver testers. My Department has sanctioned an additional 31 driver testers since October 2016, and to date, 23 are now conducting driving tests. The remaining eight testers will be recruited in the coming months. Sanction was given to the RSA to replace retired testers as required, and my Department and the RSA are examining the long-term requirements for driver tester numbers to ensure that the authority can meet future demand.

The RSA is undertaking other initiatives to increase capacity to deliver extra driving tests. These include the delivery of 120 extra overtime tests per participating driver tester. A total of 46 driver testers have completed the delivery of the extra tests over the past seven months, and this has yielded 5,520 tests. Other initiatives include a reduction in the number of applicant no-shows at the driving test, with 10,637 applicants having been contacted, resulting in 2,053 tests being cancelled in advance that would have been lost due to no-shows and these tests being made available to other test applicants. Another initiative is a reduction in non-conducted driving tests whereby, closer to test appointment dates, the RSA, in an effort to reduce non-conducted driving tests, communicates to test applicants via text messaging and via applicants' approved driving instructors key messages regarding the vehicle and document requirements. The new driving test booking system is yet another initiative. The RSA plans to introduce a new test booking system that will give test applicants much more control over their booking and appointment choice. A tender process has been completed and it is envisaged that the new system will be in place by mid-2019.

**An Leas-Cheann Comhairle:** I must interrupt the Minister as his time has expired. He will have another two minutes.

**Deputy Donnchadh Ó Laoghaire:** I appreciate the Minister's response. While I raised this in relation to my own constituency, the Minister said there are fewer than 100 staff dedicated to this nationally, which seems to me a meagre number. It is no wonder that there are such waiting times.

Averages do not properly capture the picture because some can get tests quite rapidly if they are in a position to avail of a cancellation, which most people are not. Anyone who is working full-time does not have that level of flexibility because he or she is offered one cancellation date and can either take it or leave it and wait for the dates that he or she has selected, which could be five or six months down the road. That is an unreasonable situation. For example, if

15 May 2018

a person undergoes training to become a fully qualified driver, applies for the test, waits five or six months to do it but does not reach the standard, he or she will have to apply again and wait another five or six months. That would amount to a year spent waiting to become a fully qualified driver even though the driver's standard of driving might be quite good. In fairness, such drivers should be in a position to resit the test quite quickly, become fully qualified drivers, having gone to the effort, and not face the restrictions that learner drivers face.

Given the amount of additional tasks that learner drivers have been asked to do in recent years, it is quite reasonable that they should expect a sensible waiting time of two months or three months, not five or six months and potentially a year if they are repeating it. I put it to the Minister again, because this is one of the solutions locally at least, that he should consider whether there is scope for a second testing centre location to serve the greater Cork city area.

**Deputy Shane Ross:** I will refer the Deputy's comments to the RSA and ask is there any case for that at all. I suspect that the RSA will respond by saying that the efforts it is making at present are adequate. I note that Cork is high up on the list of average waiting times. At 16 weeks, it stands in ninth or tenth position in a fairly long list. It is well above the average waiting time. I will ask the RSA to bear that in mind also.

The Deputy quotes a fair number of hard cases and I am sure he is correct in every case. I remind him, though, that a driving applicant may, if he or she wishes, seek an appointment at a different test centre should there not be a suitable appointment at his or her preferred centre. It may be inconvenient, but it is open to an applicant to apply to any centre at all.

Some have average waiting times that are much lower than the Cork one. They go right down to 7.2 weeks. With regard to those people who are seeking urgent appointments, I am assured by the RSA there is a priority list whereby cancelled test appointments are made available for such applicants. Over 1,000 tests are cancelled by driver test applicants weekly and these slots are subsequently offered to applicants who require urgent test appointments.

My Department has also asked the RSA to examine the longer term staffing needs of the driver tester service to ensure that the RSA can plan for revision of tester numbers based on demand for tests and to better manage succession planning for driver testers who may retire. The RSA and I accept that current waiting times remain too high but I am assured the measures it has put in place will have the desired effect of reducing waiting times for the public.

I will draw to the attention of the RSA the particular case for Cork as made by the Deputy.

## **Dublin Bus**

**Deputy John Lahart:** Dublin Bus is not perfect but it is our Dublin Bus. It has emerged from the last decade as a modern, distinct and instantly recognisable part of the fabric of life in our capital. In my experience, Dubliners have a great affection for and loyalty to the company, which they own. It is a profitable and dynamic public company and in recent years its revenue has been steadily and dramatically increasing while its PSO subsidy has been decreasing. In recent times, I have become concerned about the concessions Dublin Bus has been forced to make in the wake of Luas cross city. For example, 30% of its routes through College Green have been redirected to facilitate Luas cross city. In facilitating these necessary changes, Dublin Bus illustrated its flexibility as a public transport provider. No ac-

6 o'clock

count has been taken of how Dublin Bus commuters might have been discommoded as a result.

Last year a number of Dublin Bus routes were contracted out following a tender to the UK firm Go-Ahead. In tandem, the National Transport Authority is using this opportunity of a new service provider to roll out a new public bus brand called Transport for Ireland. The new brand will also cover all new additions to the Dublin Bus fleet from 2019 onwards guaranteeing the disappearance of the iconic Dublin Bus brand. No one asked the millions of Dublin commuters who rely on this service about this. The decision to erase Dublin Bus from the public transport map is simply not worthy of our National Transport Authority. The Dublin Bus brand is worth defending and fighting for. It is a brand that is well recognised. It is an identifying mark for customers and a proud symbol for its employees. Its livery and logo was developed in direct consultation with several disability transport users' groups, including bus service users with a range of visual and intellectual impairments. I also have concerns regarding the possibility this poses for future privatisation of the capital's public bus service. With one universal livery or brand, commuters will never know that more and more of their bus service is being contracted out to private providers. I am also concerned that new employees of the contracting companies will not enjoy the same pay and conditions as Dublin Bus employees. In response to me about workers' pay and conditions at Go-Ahead and whether they would be the same as those employed by Dublin Bus, the CEO of the NTA responded that while they understood it will be the case, the specific arrangements are a matter for Go-Ahead and its staff.

I am old-fashioned. I believe in public service and that with the right management, a public service company can build a dynamic service and corporate image and can motivate its staff to achieve the kind of results stereotypically associated with the private sector. Dublin Bus is one such company. In addition, the provision of permanent, reasonably paid jobs and conditions of employment opens up so many other opportunities to employees, such as home ownership and a secure future. This new brand, Transport for Ireland, could ultimately become a means of seamlessly and invisibly transitioning towards greater privatisation of services. There is the issue of accountability. Commuters ought to be able to recognise instantly who their service provider is. It is possible for the NTA to incorporate its new brand while not eliminating the Dublin Bus brand. The Dublin Bus brand is strongly Dublin-focused. The new NTA brand, Transport for Ireland, aside from being slavishly borrowed from Transport for London, in Dublin terms is anaemic and means nothing at all. The idea of a common livery or brand, also borrowed from London, equally makes no sense. The new brand proposed by the NTA speaks nothing to Dublin or Dubliners unlike the strong Dublin Bus brand which uses the castle icon and strong Dublin colours alongside a vibrant yellow that alerts commuters well in advance that their bus is arriving. Dublin Bus belongs in a real way to Dublin. It is very much part of the fabric of Dublin and not the NTA. It is an independent State company. It is time to defend this great company and the great service it provides. On this side of the House we will not stand by and watch it erased from the public eye and inevitably from public consciousness.

**Deputy Shane Ross:** As Minister for Transport, Tourism and Sport, I have responsibility for policy and overall funding of public transport. However, I am not involved in the operation of public transport companies, including their branding. The NTA has statutory responsibility to secure the development and implementation of a single public transport brand under section 5 of the Dublin Transport Authority Act 2008. Under the Act, the NTA may give a direction to a public transport operator on the promotion and use of a single public transport brand. This single public transport brand relates to services provided under contract with the NTA, that is, PSO, not commercial services. The statutory position is therefore clear. The NTA has the nec-

15 May 2018

essary statutory powers to design, develop and ensure implementation of a single public transport brand. I have been advised by the NTA that in accordance with this legislative provision, it has developed the unifying brand Transport for Ireland and has developed a common livery for the bus fleet on the public service obligation services that will now be operated by multiple operators and not just Dublin Bus and Bus Éireann.

As the Deputy will be aware, under bus market opening in August 2017 the NTA announced Go-Ahead, a UK bus and rail operator, as the winner of the tendering competition to operate 23 orbital routes. They are routes that do not go through the city centre in Dublin that are currently operated by Dublin Bus. In November 2017, the NTA announced Bus Éireann as the winner of the tendering competition to operate five city bus routes in Waterford city. With regard to the more recent Dublin commuter competition, the NTA announced Go-Ahead as the preferred tenderer in March to operate PSO bus services on six bus routes in the Dublin commuter area along the Kildare corridor. All these new services are expected to be phased in over a number of months commencing later this year and will benefit passengers through enhanced and improved quality services. Collectively these routes comprise approximately 10% of the total PSO bus route network currently operated by Dublin Bus and Bus Éireann under contracts concluded with the NTA. The NTA has stated that it expects to introduce the new bus livery on the Go-Ahead services and on the revamped Waterford services to be provided by Bus Éireann. The NTA has further advised it will subsequently extend the new livery to other services on a phased basis.

I understand discussions have taken place between the NTA and Dublin Bus, together with the other CIÉ subsidiary companies, since early 2016 with regard to exploring the issues related to developing a single public transport brand. Public consultations took place in October last year relating to new service providers only and discussions are continuing between the NTA and Bus Átha Cliath, together with the other CIÉ subsidiary companies regarding the complete roll-out of the new bus livery. To be clear, the NTA has informed me there are no proposals to change the Dublin Bus corporate brand. It is evident that all parties are aware of the need to develop an integrated approach towards branding of public transport. However, differences clearly exist as regards how such an approach should be developed. As referenced earlier, the Dublin Transport Authority Act 2008 provides a clear statutory power to the NTA to design, develop and implement a single public transport brand and it is, therefore, the NTA's responsibility to take the lead in this area in line with its statutory remit.

**Deputy John Lahart:** Where to begin? They have pulled the wool over the Minister's eyes. I accept what the Minister is saying and accept the NTA has informed him it has no proposals to change the Dublin Bus corporate brand. However, it has not reassured the Minister it has no proposals to change the Dublin Bus livery or brand. I would like it in writing. I would like the Minister's assurance. I know it has statutory authority in this area. Under the Act the NTA may give a direction to a public transport operator but nobody is compelling it to do it. I absolutely accept that if it wants to have a corporate image and corporate brand across all public transport providers it is acceptable. However, does the Minister think the Dublin Bus brand, its livery and logo with the dark blue, the light blue and the yellow, is worth defending? It has become quite an iconic part of the public transport system in Dublin. It was tested out with disability groups and a lot of money was put into it. It has been valued at €28 million by Dublin Bus providers but the NTA has not given the Minister any reassurance that it will not change the Dublin Bus livery. This is nothing personal but we will fight it on this side of the House. Dublin Bus is part and parcel of the fabric of Dublin.

This is part of the micromanaging mentality of the NTA. If I want to meet Dublin Bus officials or invite them to a public meeting in my constituency they have to clear it with the NTA beforehand. Does the Minister know that? If Dublin Bus wants to change or adapt a route, it has to go to the NTA for clearance. This is a national transport authority micromanaging to an enormous degree. We on this side of the House will not let this go and we will fight for the Dublin Bus brand and livery, which have served the population of city and county well by ferrying them to work, shops, hospitals, college and leisure activities every day of the week. It was the first transport provider in the city to respond and get back to work so that the city could get moving again after Storm Ophelia. It did so well in advance of the Luas, DART and rail services.

**Deputy Shane Ross:** I do not have much more to say to the Deputy because I have made it quite clear that this is a matter for the NTA and not for me. He spoke about micromanaging Dublin Bus but I will not be micromanaging Dublin Bus. It would be absurd to suggest I do so.

**Deputy John Lahart:** The Minister is a leader.

**Deputy Shane Ross:** It is totally contradictory to suggest I intervene at a higher level. I am not going to do so. The Deputy is perfectly entitled to fight this particular battle and I am perfectly willing to allow the NTA to do the job I have entrusted it to do. That is why we appoint its people. I do not get involved in the day-to-day business for a very good reason - if I did so, Deputy Lahart would be the first person to come into the House and say the Minister is interfering in the operation of Dublin Bus.

**Deputy John Lahart:** I wish the Minister would. He would have our blessing.

**Deputy Shane Ross:** The Deputy would ask why we had the NTA at all. On the question of privatisation, we have made it absolutely clear that 10% is where we are and 10% is where we wish to stay. For the Deputy to come to the House and use scare tactics about us privatising a lot more is misleading, though I will not say it is dishonest. We have made it quite clear we are not on a privatisation path for Dublin Bus, Bus Éireann or any of the other transport companies.

## **Water Services**

**Deputy Thomas Byrne:** Go raibh maith agat, a Chinn Comhairle. Tá mé buíoch duit as ucht an deis seo an t-ábhar tábhachtach seo a ardú. I am very glad for a further opportunity to raise this issue. The population of Ratoath, including the wider area which is quite large as compared with 20 years ago when it was a small village, is approximately 12,500 and the issues I am raising also apply to Ashbourne, which is served by the same water supply. Ratoath suffers from regular water outages, with dozens in the past number of years. People do not know when they can expect water. There are local issues and issues with some housing estates and there is pressure within the village. The key issue is supply to the village from the Staleen water treatment plant.

There was a public meeting some months ago where a number of measures were announced to have been agreed. One had already been agreed, which was to replace 1.4 km of pipework within the village, which is starting next week. The experts and engineers tell us that this will provide some relief to the area and more pressure into Ratoath. However, another thing was promised at the meeting by the Government, which was that the long pipe from Staleen to Ratoath would be replaced over the next two years. If this was completed it would also have huge

benefit for Ashbourne, which is also suffering from water outages due to the distance between the towns and the water treatment plant, as well as the state of the pipe. I accept that the internal works in Ratoath will start next week and I welcome the engagement between business and Irish Water, which I hope will continue. I also hope Irish Water will take into account what business and residents are saying.

Where stand the promises made at the meeting with residents in March to the effect that the Staleen water pipe would be upgraded over the next couple of years? What about the promise that investigations would take place into the bore hole and well at the military housing estate? I am aware that some work has been done on that and I am wondering what is its status. Are Irish Water and the Government saying that this will not be done to give relief to people in certain housing estates?

We just want clarity and we want the Minister to know the difficulties my constituents are facing. This is a young town with lots of young children who depend on the water supply, and there are some cases of people with disabilities who depend on a stable water supply. There are a lot of small businesses in this village but we do not have many franchise stores. Instead, we have individual business owners who depend on a stable water supply on a day-to-day basis for their customers. They pay their water charges and standing charges to Irish Water, rates to Meath County Council and taxes to the general taxation fund of the Government and they are entitled to be able to rely on a water service, as are all the residents.

I hope the Minister can give some clarity on the promises that have been made on the Ratoath water supply. I hope he takes on board the genuine concerns residents have raised about which Irish Water, the Government and Meath County Council know and I hope he tells us what action the Government is planning.

**Minister of State at the Department of Housing, Planning and Local Government (Deputy John Paul Phelan):** I am taking this issue on behalf of the Minister, Deputy Eoghan Murphy, and I thank the Deputy for the opportunity to provide an update on improvements by Irish Water to the water supply in Ratoath, County Meath.

Since 1 January 2014, Irish Water has had statutory responsibility for all aspects of water services planning, delivery and operation at national, regional and local level. Irish Water, as a single national utility, is taking a strategic, nationwide approach to asset planning and investment and meeting customer requirements. Irish Water's water services strategic plan, WSSP, sets out the strategic objectives for its delivery of water services over 25 years up to 2040 in order to ensure the provision of clean safe drinking water, effective management of wastewater, environmental protection and support for social and economic development. It takes a long-term view of water services investment at a national level, to ensure that investment is strategically targeted towards priority needs and to put in place an asset management approach towards investment in water services that gives the optimum balance between capital and operational spend to ensure the required service delivery to the people of Ireland over time, and at least cost.

The Irish Water business plan, *Transforming Water Services in Ireland to 2021*, also published in 2015 by Irish Water, sets out its short- to medium-term planning for implementing the first phase of the water services strategic plan. While the Irish Water business plan sets out the planned level of operational and capital expenditure over this period, the actual allowed operational expenditure and capital investment is decided on by the economic regulator, the Commission for Regulation of Utilities, CRU. To this end, Irish Water submits to the CRU a

water charges plan for specific regulatory periods, based on the WSSP and its business plan. Irish Water has also developed an investment plan based on a five-year investment planning horizon, 2017 to 2021, which aligns to the WSSP and the seven-year business plan. In that context, Irish Water must optimise investment decisions to ensure that it utilises scarce capital by making investments that deliver the best possible service improvements while maximising value-for-money.

A substantial proportion of investment by the State through Irish Water over the next ten years will be focused on programmes to improve compliance with relevant public health and environmental standards. This will include implementation of the measures contained within the river basin management plan for Ireland 2018-21 and the achievement of the outcomes identified. A priority objective is to bring public water and wastewater services to acceptable international benchmarks, verified by independent monitoring and reporting. A vital measure for improving water quality is increased wastewater treatment, where the focus will be on ensuring full compliance with the urban wastewater directive and wastewater licensing requirements.

Irish Water acknowledges the ongoing issues with water supply experienced by the communities in Ratoath and the inconvenience this has caused. It is actively pursuing an action plan to address these issues. This plan involves a series of works being carried out to the network in phases, some of which Deputy Byrne referred to in his opening comments, along with an upgrade to the Staleen water treatment plant, which is the water supply for Ratoath and a large part of east county Meath.

The completion of these upgrade works will deliver environmental benefits to the River Boyne and surrounding areas and will also deliver an improvement of the energy efficiency of the plant. Most importantly, it will eradicate the underlying weaknesses of the plant and thereby remove the scheme from the EPA's remedial action list and ensure a safe supply of drinking water to the people of Ratoath.

**Deputy Thomas Byrne:** My constituents will be absolutely delighted with the environmental benefits to the River Boyne, as will I. I will be delighted with the improvement to the energy efficiency of the plans at Staleen in Donore, County Meath. Of course, we will be absolutely delighted to have the Staleen water treatment plant removed from the EPA's remedial action list and have a safe supply of drinking water ensured for the people. However, fundamentally what my constituents want is a supply of water that is reliable, clean and safe and on which they can depend.

I want the Minister of State to set out on the floor of the Dáil, or if he cannot do so to come back to me as soon as possible in writing, the exact nature of the action plan that Irish Water is pursuing, the actions in that action plan and the timescale the action plan involves. We have been told this will all be sorted in a couple of years. I want to know whether this is the case. I want the Minister of State to know the urgency of this and to pursue it and not let it drop because it is very important. All these points on the water treatment plant at Staleen will also benefit constituents in the rural area who are on the main supply and those in the very important town of Ashbourne. There are industries and jobs there that depend on a reliable water supply. There is no recompense whatsoever for businesses that have been discommoded by Irish Water if the supply is not there. If a business, such as a dry-cleaners, a cafe, a supermarket that sells coffee or a range of other businesses that depend on water, loses out, Irish Water does not give compensation. I want to mention this because by and large these are tax compliant small

15 May 2018

businesses and they deserve better treatment than what they are getting. At the very least, they deserve to know what is happening and have it set out in a very clear way.

**Deputy John Paul Phelan:** I do not have the full details on what is happening with the Staleen plant but I will endeavour to get the information for the Deputy from Irish Water. It is not unrealistic that an approximate timescale would be provided.

I want to outline to the House that neither myself nor the Minister, Deputy Eoghan Murphy, has a role in the selection and progress of individual water service projects, including those relating to water supply in Ratoath. The Deputy is aware that Irish Water has established a dedicated team to deal with representations and queries from public representatives on specific issues relating to water services. This team is available to the Deputy and all other Members through a dedicated email address and phone number, as a direct avenue of communication on individual projects and issues. However, I will endeavour through my office to get some of the specific details the Deputy has requested in his supplementary question.

**Deputy Thomas Byrne:** On a point of order, and for the information of the Minister of State, I have submitted queries to Irish Water and in those particular cases it took almost two months for it to come back to me. This is why I am raising it on the floor of the Dáil. The replies were very vague. It is important that we are still able to raise issues on the floor of the Dáil. I know the Ceann Comhairle supports this. This is why we like to get answers from Ministers and why my constituents like to get answers from Ministers.

**An Ceann Comhairle:** The Minister of State will oblige.

### **Schools Building Projects Status**

**Deputy Kevin O’Keeffe:** I thank the Minister for coming to the House. This refers to extensions being built in two schools, namely, St. Colman’s community college in Middleton and Coláiste an Chraoibhín in Fermoy. Both are in the constituency represented by me and Deputy Sean Sherlock, and I thank him for sharing this Topical Issue. I am *au fait* with the Fermoy issue where, at present, 750 students are in attendance. This figure is projected to increase to 800 in the school year from 2018 to 2019. This issue arises from a parliamentary question I asked of the Minister on 26 April. With regard to Coláiste an Chraoibhín in Fermoy, the Minister replied that the Department is working with the education and training board and the contractor to ensure the project is completed as quickly as possible. We are led to believe, and the Minister has said it himself, that this contractor has been dropped altogether from the negotiations. The same contractor, Sammon, is involved in the development of both schools and the works have been a nightmare, including for the subcontractors on site doing the work and the issues that arose over the past two years. These works started under the previous Government’s rapid build programme. It is ironic we are already a year and a half behind schedule. Now we see liquidation arise and we do not know where we are at present. Parents are writing to all of us. Teachers are in disarray. We are wondering whether the Minister can do something to get the issue sorted.

**Deputy Sean Sherlock:** I welcome the opportunity to raise this issue, in co-operation with my constituency colleague, Deputy O’Keeffe. I was the Minister of State who turned the sod for the two schools in question in 2015. These are multimillion euro projects to deliver, in the instance of St. Colman’s community college in Middleton, for 1,000 students and, in the in-

stance of Coláiste an Chraoibhín in Fermoy, for 800 students. The parents, staff and students, who are the most important people in all this, received correspondence last week from Cork Education and Training Board to state it had decided to terminate the contract with Sammon for the building of the extensions. This is a very serious matter and it is causing a great degree of worry because the ETB is stating it will put in place additional accommodation for September 2018 if necessary. Our reason for raising this issue here today is to seek to ensure that Cork ETB can work with the Department and all the other stakeholders to ensure the tendering process that is necessary to deliver these two vital projects to completion happens post-haste, in other words, that it happens immediately, so we can reach the milestones set down under the previous school capital programme. At the end of the day, this is about delivering education for hundreds of students in our local area, and we want to ensure they get the best possible chance to be able to do this and that it is done in a timely fashion.

**Minister for Education and Skills (Deputy Richard Bruton):** I thank the Deputies for raising this issue. We are very much aware of the frustration felt locally by parents, staff and pupils alike at the delay in completing the building projects at Coláiste an Chraoibhín in Fermoy and at Coláiste Cholmáin in Midleton. We are acutely aware of the need for these extension projects to be completed as quickly as possible to improve conditions for the pupils and staff and to facilitate overall enrolment growth. The completion of these projects is an absolute priority for my Department and for Cork Education and Training Board to whom the projects have been devolved for delivery.

The contractor for the project entered examinership on 5 April last. The Deputies are probably aware that prior to that event the projects were a year behind, as Deputy O’Keeffe recognised. Despite strenuous and relentless efforts by Cork ETB and its design teams over that time, the contractor did not respond in any meaningful way to complete the projects within the contract. It was due to complete in February 2017. When the contractor entered examinership, work on the projects effectively ceased. A meeting was convened on the 19 April with the examiner’s representative, the contractor, my Department and the Cork Education and Training Board, ETB, together with its legal adviser, to determine what impact examinership would have on the projects. At the meeting the contractor was given an opportunity to present a viable plan to complete the projects. As the contractor did not subsequently provide those plans as agreed, or indeed any plans, and as an independent conciliation process between the contract parties on 3 May concluded without a satisfactory outcome, both contracts were terminated by Cork ETB on 8 May.

While this development is regrettable our priority now is to achieve a very clear path to getting the projects completed. The next steps are for the design teams to prepare schedules of the work needed to complete each project and costings for them. This is in train and the ETB expects to have reports from the design teams shortly. These will be submitted to my Department for consideration and approval and this process will be turned around as quickly as possible. Following that, the remaining works will be tendered. I have asked my Department to provide me with a critical path and to consider how each stage in that critical path can be delivered as quickly as possible. I can give assurance that for both projects, all efforts are being focused on attaining the quickest outcomes possible without compromising building quality.

**Deputy Kevin O’Keeffe:** I thank the Minister for his response. As I said earlier, the alarm bells were not ringing in 2017 or 2018. This was an issue well before that. There were major difficulties with that contractor. It is ironic, in the case of Coláiste an Chraoibhín in Fermoy, that some of the classes have been sent back to the school they left 30 years ago, the old tech on

15 May 2018

Main Street in Fermoy. There are many issues outstanding around health and safety, fire safety and well-being that have not been addressed in that building. I ask that the Minister gives the ETB every bit of support so we can get this work to progress in both of the colleges affected.

**Deputy Sean Sherlock:** I welcome the Minister's response. It sets out the process around the meetings with the contractor and the fact that the contractor did not subsequently provide the plans as was agreed. I welcome the Minister's transparency in this. We now need to talk about the future and ensure the projects are completed so the students can get into the two schools. This is the most important thing. Following the reply, I now understand why the ETB suspended the contracts. We have it clearly from the Minister himself.

The Minister said he is to seek a critical path and that a process is under way. The parents, students, teachers and staff will find some comfort in those words. It is for us as the public local representatives and Oireachtas Members to try to ensure that we maintain the pressure on the process, and if there is a critical path to deliver both projects, that it is done in a timely fashion and as soon as possible. I hope the Minister will soon be in a position to give us a clearer time-frame by which this can be delivered.

**Deputy Richard Bruton:** I thank the Deputies for their contributions. It is an unfortunate situation. No one planned for an examinership. In this case the examinership has not been able to deliver on these projects. We will have to re-tender the work. I will seek to have this done as quickly as possible but tendering has to be robust. We are all aware of the obligations in that regard and that it protects all the interests, especially those of students and their parents.

The Middleton work is about 80% complete. The Fermoy project is further down the line, but I have been informed of issues around roof, mechanical and electrical aspects, along with doors and windows. There is significant work to be done in the Fermoy college, notwithstanding its appearance of being closer to completion. There is significant work for the ETB to finalise the design and on the brief that must be completed and tendered for. I am acutely aware of the priority that the Deputies have assigned to this. I feel the same about the situation and we will do everything we can to get this done quickly.

### **Palestine: Statements**

**Tánaiste and Minister for Foreign Affairs and Trade (Deputy Simon Coveney):** I wish to begin by expressing, on behalf of the Government, my profound shock at the scale of casualties inflicted by Israeli forces on Palestinian demonstrators yesterday. My thoughts are with the families of those killed, with those who have suffered severe injuries, and with the heroic health workers in Gaza who are working in the most difficult and overwhelming circumstances to save lives. Reports indicate that the situation has been calmer today, but I am concerned that with no prospects of change in Gaza any time soon, the situation could very easily escalate again. This has to stop. I call on the Israeli Government specifically to rein in its forces and to ensure, as they should have done from the start, that force is only used where absolutely unavoidable. I further call on all those who have influence with Israel to use that influence to bring this about.

The Government has made its views very clear. I asked that the Israeli ambassador be summoned to Iveagh House this morning, and I made these points to the ambassador in the strongest terms. I asked him to convey to his Government the serious concern that these events have caused among Irish people and the impact on the international reputation of his country.

Today I have also asked my officials to request that the situation in Gaza be discussed at the next meeting of the European Union Foreign Affairs Council, but before then I expect that EU leaders will discuss the issue tomorrow.

These dreadful events tragically underline my view that the Israel-Palestine peace process and the situation in Gaza cannot just be left to fester until a better day comes. They must be addressed urgently or we will see more days such as yesterday. This conviction has been the driver of my engagement on the conflict in the Middle East since I took office. Even prior to this week, I have been greatly concerned by the events in Gaza since these protests began on 30 March, and especially by the appalling number of serious injuries and deaths to people engaged in demonstrations. The figures may change slightly but to date more than 100 Palestinians are reported to have been killed in this situation, including almost 60 yesterday. Some 3,600 people have been injured by bullets, including 1,350 yesterday, and thousands more have suffered other injuries. It is possible that a small number of those shot may have been trying to cross the border fence, but clearly many or most were some distance inside Gaza and posed no immediate threat.

Violence on the part of some protestors is regrettable and should not be condoned. The evidence, however, is that the great majority of protesters have been peaceful, although some have used stones and catapults, have attached explosive devices to the fence and Molotov cocktails have been floated on kites, setting fire to crops. These actions are reprehensible and we need to recognise that they are not nothing. The organisers, and those who control Gaza, have a responsibility to prevent such actions, but they are nowhere near a justification for the massive use of deadly force employed by the Israeli army. This also ignores the fact that many of those protesting have not been involved in those acts. It is not acceptable to target Palestinians simply because they choose to protest the occupation nor to claim, as some in Israel have done, that everyone in Gaza is linked to Hamas. There are also documented cases where the persons shot were readily identifiable as children, as journalists reporting on the events or as medical workers.

I have always recognised that every country is entitled to defend its territory. It is important to say that because it makes clear that my criticisms are made in the full knowledge of that basic right of any state. International law, however, clearly defines the circumstances in which force, in particular deadly force, can be used against civilians. Such force must only be used in cases of real and immediate threat to life, and only as a last resort, that is, when other methods have failed. The use of force should also be proportionate to the threat posed. It is clear to me that these limits have not been respected. The right to defend oneself does not give *carte blanche* for any and every possible action and does not supersede the parallel rights of others. Israel is fully entitled to be vigilant and cautious when there are mass demonstrations close to its border with Gaza, but Palestinians also have a right to protest. The use of live ammunition is not a normal approach to crowd control and the resulting number and nature of casualties in recent weeks have been shocking. Many of the injuries caused by high velocity ammunition have been severe and life-changing. Israel is, of course, entitled to defend itself, but it is not entitled to do this.

The Government has not been silent during these events. I have made three public statements on these incidents: on 31 March, 9 April and yesterday. I called on all sides to show restraint, particularly Israeli forces in their use of force. I have supported the calls made by the European Union and the UN Secretary General for an independent and transparent investigation into the events. This morning I spoke directly to the Israeli ambassador when I expressed

15 May 2018

to him in the strongest possible terms our view of these events. I emphasised to him, as I have elsewhere, the need for an independent and transparent inquiry into the events, especially the use of force on this scale. It is important that the decision to use live ammunition be subject to appropriate scrutiny. Ireland will support any appropriate move at UN level to establish an inquiry, for example, such as has been done before by the Human Rights Council. If it is not possible to get agreement at UN Security Council level, perhaps there are other avenues.

I will refer briefly to a related event yesterday - the opening of the United States embassy in Jerusalem. The decision to move the US embassy to Jerusalem is disappointing and unhelpful. It also runs counter to UN Security Council resolutions, including UN Security Council Resolution 478. A solution to the Middle East conflict must include agreement on Jerusalem being the capital of both Israel and the future state of Palestine. This decision by the United States makes that solution more difficult to achieve. However, Ireland and our EU partners remain ready to support efforts to bring the conflict to a negotiated peace, leading to two states, Israel and Palestinian, living side by side in peace and security. Unless that happens, Ireland will not be moving its embassy to Jerusalem. I call on all other states to abide by the international consensus and not to establish diplomatic missions in Jerusalem at this time.

I also stress the wider context in which the events have occurred. As I have made clear in all of my contacts in the region, the situation in Gaza is simply untenable. I have seen it for myself and discussed it closely with UN workers and others on the ground. If the cycle of violence and depression in the strip is not ended, events of this nature will recur. The long-standing blockade cannot be accepted as normal. The 1.9 million people who live in Gaza deserve an end to the decade-long blockade in order that they can start to rebuild normal lives. The alternative is to see pressure continue to mount as their quality of life becomes impossible. It is for this reason that in my many contacts at EU and international level I have been particularly active in trying to encourage and promote international engagement on improving life in Gaza. I have made this a priority in my work as Minister for Foreign Affairs and Trade. I have been working in the past year on two parallel tracks in respect of this conflict, the first of which has been to try to help to shape the initiative of the US Government to restart the political process of reaching a peace agreement in the Middle East. It is only through a comprehensive peace agreement that the occupation will be ended. Second, I have been working, in particular, to encourage international attention for the situation in Gaza precisely because I am aware of the potential for events such as those of yesterday to happen. It is essential to lift the blockade, change the dynamic and offer hope to people living there. I will continue these efforts, engaging with all parties to the conflict, in the coming weeks and months. However, the efforts made on the peace process and hope for Gaza cannot succeed without dialogue with Israel. I need to conduct an open dialogue with it, including, where necessary, the hard exchanges I had this morning with the ambassador. I need the voice, reporting and work on the ground of our excellent team in the Irish Embassy in Israel and the Irish Embassy to represent Ireland among Palestinians. Ambassadors for any country, including Ireland, convey the policy of their governments and report on the views of the host governments.

While I know that there is considerable frustration that we should be seeing these actions again in Gaza and there is a great will to do something significant in response, I do not agree with suggestions that we should expel the Israeli ambassador. That might provide a good headline for a day, but then what would we do tomorrow about these problems? Ireland's foreign policy is and always has been about the resolution of problems by dialogue and engagement. There are many in the House who should appreciate this, given their own background.

**Deputy Aengus Ó Snodaigh:** Does the Minister want a list of things to do?

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

**Deputy Simon Coveney:** Our foreign policy is to have problems solved through dialogue and engagement, even if it can be a long and frustrating road, our own peace process being a prime example. We should use the lessons we have learned-----

**Deputy John Brady:** That can only happen when people are willing to negotiate.

**Deputy Simon Coveney:** -----to ensure engagement remains our focus and we say the honest and hard things when necessary without isolating ourselves or others.

**Deputy Niall Collins:** I will be sharing time with Deputy James Browne.

I welcome the opportunity to speak on the important issue of Palestine. This is a difficult week for the Palestinian people. It marks the 70th anniversary of the birth of the state of Israel which Palestinians refer to as Nakba, meaning “catastrophe”. For Palestinians, they are commemorating the more than 700,000 Palestinians who fled or were expelled from their homes in the 1948 war surrounding Israel’s creation. As such, the anniversary is a painful reminder of what they have lost and the suffering that they continue to endure.

This week is being made all the more difficult by the ill-conceived decision of the United States to move its embassy from Tel Aviv to Jerusalem which has only served to further stoke tensions in the region. Meanwhile, Palestinians have been protesting in recent weeks in the “Great March of Return” and violence has resulted in dozens of people being killed and more than 1,000 others being injured as the conflict continues to take its toll. Even on the day of the opening of the embassy in Jerusalem, 50 or more Palestinians were killed. In fact, there were more and, unfortunately, the figure will continue to rise. The opening of the embassy has been described by President Abbas as one of the worst decisions in this century.

At this juncture, finding a sustainable and long-lasting solution to this complex conflict is as distant as it has ever been, but that does not mean that we should give up trying. Fianna Fáil condemns the violence perpetrated by both sides to the conflict, but as a country that has had its own history of violent conflict, we know all too well the importance of persevering, even in the most difficult and challenging of circumstances.

Fianna Fáil has always respected the establishment and progress of the state of Israel. We have never questioned the right of the Israeli people to self-determination and self-defence. Coupled with this, however, my party has long advocated and supported a two-state solution in the Middle East. Fianna Fáil in government led Ireland to become the first EU member state to declare that a solution to the conflict had to be based on a fully sovereign state of Palestine, independent of and co-existing with Israel. That policy position was launched in 1980 by the then Minister for Foreign Affairs, the late Brian Lenihan Snr, who said the Palestinian people “had a right to self-determination and to the establishment of an independent state in Palestine”. Unfortunately, there has been very little progress in recent years in advancing peace. The construction and expansion of illegal Israeli settlements in Palestinian territory, in breach of international law, continue. Conditions in the Gaza Strip and the West Bank continue to deteriorate. The Palestinian refugee crisis, overshadowed in recent years by the war in Syria, is one of the longest-lasting episodes of forced migration in modern history. The conflict can only be solved if there is first and foremost a genuine commitment and willingness on both sides to find

a satisfactory solution. The promise of the Oslo Accords must be revitalised. A two-state solution whereby Israel and Palestine can peacefully co-exist is the best long-term option for this embattled region. The scale of the conflict and mounting number of casualties underscore the pressing need for progress in the peace process. The tragic history of the region can only be reversed with strong international pressure and engagement by Israel and the Palestinian powers.

The Government, in co-operation with our EU partners, and the international community must redouble their efforts to stabilise the situation and calm tensions in the region. We must never shy away from condemning violence and speaking out when there are flagrant breaches of international law. The programme for Government states: “We will continue to play a role in advancing a stronger role for the EU in the Middle East Peace Process, having regard to the stalled nature of the process at present, and honour our commitment to recognise the State of Palestine as part of a lasting settlement of the conflict.” If the suppression of the Palestinian people continues and there is no genuine commitment to engage in peace talks then Ireland’s recognition of Palestine may have to be brought forward with the agreement of the House. There seems to be complacency on the issue across the EU and that must change. Ireland has a role at EU level in ensuring that the Israel-Palestinian situation is debated at the EU Council meeting in June. The Taoiseach should make it known that Irish people are very concerned by recent developments. The Minister, Deputy Coveney, should make our concerns known at the next meeting of the Foreign Affairs Council.

Although the EU has called for restraint in the area, it must do more at a diplomatic level to encourage peace. It was reported that the Secretary General of the League of Arab States met ministers for lunch at the February meeting of the Foreign Affairs Council to discuss the stepping up of collective international support and how to revive the Middle East process in an inclusive manner with the objective of achieving a two-state solution. It would be of benefit for the Minister, Deputy Coveney, to outline whether there is an update on how that is being acted upon. With that in mind, I asked the Chair of the Committee on Foreign Affairs and Trade, and Defence to invite the Minister to outline the extra diplomatic efforts being made in the short, medium and long term, given the most recent horrific loss of life.

The Irish people have a deep and historical connection with Palestine and are genuinely disturbed at developments in recent months and, in particular, the past few days. The loss of life and increased violence is unacceptable and entirely avoidable. Every effort must be made at a global and EU level to restart intensive peace talks. If that does not happen, the violent attacks by Hamas will intensify and more Palestinians will become more involved in supporting its violent ways. The number of martyrs will also increase. The reports of young men and women being paid to approach the border are very disturbing. Calm must prevail. The era of provocation must cease and there must be a genuine attempt to restart negotiations and end the unnecessary loss of life.

**Deputy James Browne:** I welcome the opportunity to speak on this very important issue. The Israeli defence forces yesterday killed 58 Palestinians and injured more than 1,300 in Gaza while using live fire. My thoughts are with the Palestinian families grieving the loss of their loved ones, the Palestinians waking up with life-changing injuries and the medical staff working in intolerable situations to ease their pain. Unarmed protestors who posed no threat to a military power were met with lethal force and callous intent by the Israeli defence forces. Live fire was extensively used by snipers shooting from a safe distance. Civilians, including children, were killed. It was not a tragedy but, rather, a massacre. These deaths and injuries, like so many before, will cast a long shadow. They are indefensible by any measure.

The international community must provide leadership to bring about the immediate end of this appalling and disproportionate response by the Israeli defence forces. The Taoiseach must use his voice and take a leadership role in condemning the attacks. There must be an immediate independent investigation to call to account those responsible for the unacceptable, excessive and disproportionate response in order to ensure that such deaths do not happen again.

Palestinians are entitled to the same human rights as Israelis. I have been to the West Bank and Jerusalem. There is little of the state of Palestine left to recognise. Palestinians have fewer rights and less land and freedom than ever before. The restrictions placed on them mean that their homeland is little more than an open prison. The despair and hopelessness I saw among Palestinians was horrifying. They live under a crushing and suffocating administration which denies them dignity. They have been destroyed economically. The situation is desperate and deteriorating. However, I met a people who refuse to surrender to their terror and daily demonstrate the courage to endure.

The regrettable decision of the US Administration to move its embassy to Jerusalem, a shared city, demonstrates a lack of understanding of the peace that is necessary to resolve this intractable conflict. It has voluntarily given up the role of honest broker.

I do not deny the right of any country to defend itself or to self-determination. However, a country that chooses to use live fire on unarmed protestors, to occupy its neighbour's lands illegally and to deny a people its human rights deserves condemnation. The blockade of Gaza and the illegal settlements must also be condemned. A two-state solution whereby Israel and Palestine can co-exist side by side is the only solution. Unless a political solution is found, the extremists will prevail. Conciliation and dialogue is the only path to a political solution but the actions of the Israeli defence forces have made both more difficult and strengthened the hand of those on both sides who oppose peace.

**Deputy Seán Crowe:** I am sharing time with my two colleagues. The Israeli Prime Minister, Benjamin Netanyahu, said yesterday was a glorious day. US President Donald Trump said it was a great day for Israel. It was a horrific day for Palestinians as the toll of dead and injured rose. Today is the 70th anniversary of the Nakba or “catastrophe”, an annual commemoration of the more than 700,000 Palestinians who were forced from their land and homes by the Israeli army and become refugees. This year, the Nakba has been marked by a new catastrophe. On Monday, the Israeli army murdered at least 59 Palestinians in Gaza and more than 2,700 were wounded. An eight month old baby died as a result of inhaling gas. There are 1.3 million Palestinian refugees in Gaza and many have been protesting for the past seven weeks for the right of return for Palestinian refugees forcibly expelled from their homes in 1948. Since the protests began on 30 March, Israeli forces have killed at least 109 Palestinians in Gaza and wounded approximately 12,000. The brutality and savagery of the Israeli army, which indiscriminately fired live ammunition and gassed protesters, has once again been laid bare for the world to see.

The Government must make a strong and unambiguous statement that there can be no immunity for Israel's mass killing of Palestinian citizens and continued illegal occupation of Palestine. The Tánaiste stated that he will not expel the Israeli ambassador in protest at the latest killings nor recall our ambassador from Tel Aviv. Nothing will change in Gaza or the West Bank until the international community moves from empty rhetoric and applies real pressure on Israel. Ireland must stop sitting on the sidelines watching in horror. When real, concrete, tangible steps are proposed, the Government fails to show leadership. Sinn Féin supported Senator Frances Black's Control of Economic Activity (Occupied Territories) Bill in the Seanad

15 May 2018

in January. It would end Irish economic support for Israeli settlements in the West Bank that we have long condemned as illegal. However, the Government again refused to take any real action on the settlements.

I listened in disbelief to the Israeli ambassador on the RTÉ “Six One” news yesterday. He stated that Israel was doing its best to minimise its fire and there was no link to the US decision to move its embassy to Jerusalem. Some 109 Palestinians are now dead and 12,000 have been injured but the ambassador claimed that Israel is limiting its firepower. We must be clear that they were not clashes yesterday but, rather, a massacre. I was sick to my stomach on watching the television footage. I know that many Irish people share my horror. Thousands of people across this island will take to the streets tonight to protest the massacre and send solidarity to the people of Palestine. During this period of national mourning we could send a strong message of solidarity by acting on the Sinn Féin motion that called for Ireland to recognise the state of Palestine.

This motion was also unanimously passed by the Dáil. During Leaders’ Questions today the Taoiseach repeatedly stated that we cannot recognise Palestine because it does not exist yet.

*7 o’clock* Perhaps he should chat with his Swedish counterpart, as Sweden recognised the state of Palestine more than four years ago. Perhaps he could visit the UN and chat with the leaders of the 135 other countries that recognised Palestine. More than 70% of the countries that are members of the UN recognise the state of Palestine. Ireland’s recognition, he said, is dependent on a successful peace process. We know Israel has for decades used the peace process as a convenient cover in an attempt to destroy the two-state solution by massively increasing the building of illegal colonial settlements in Palestine.

The Taoiseach’s approach today effectively gives Israel a veto on Ireland’s recognition of Palestine. If it is dependent on a successful peace process and if Israel continues to sabotage attempts to create a successful peace process, then using the Taoiseach’s logic, Ireland can never recognise Palestine. That is wrong on so many fronts and it must be urgently corrected. In my opinion recognising the state of Palestine would bolster the chance of peace. As long as we continue to hand the Israeli Government impunity to impose apartheid, continue its illegal occupation, and violate international law it will never make the necessary compromises to create a just and lasting settlement in the region.

**Deputy David Cullinane:** The Minister knows what is the right thing to do. For decades people in this State and on the island of Ireland have shown solidarity with the Palestinian people. Time and again, when we have massacres such as the recent one, we come into this Chamber and hear empathy and empty platitudes from Ministers but we do not see any real action. What we saw on our television screens yesterday, and what we saw in Jerusalem, was a massacre of Palestinian people. More than 100 people are dead, thousands are injured and more people could die. All that is a consequence of an absolutely crazy policy decision by the President of America, Donald Trump.

We can do something in this State. We can send solidarity to the Palestinian people. The Government has a duty to implement the will of the Dáil which supported recognising the state of Palestine, yet he will not do that. The Minister could send a clear message to the Palestinian people and this State could be a beacon of hope if we were to take the decision to expel the Israeli ambassador. That is not to make this State irrelevant, as the Taoiseach said earlier today. That would make Ireland entirely relevant. It would put us front and centre as a State which is prepared to take the necessary action to send a very clear unequivocal message to what is a

rogue state, which is involved in state murder of Palestinians, and not just in recent days given that its murderous campaign goes back decades. Thousands of Palestinian people have been murdered, suffer in refugee camps and live in the open air prison that is Gaza.

I urge the Minister and the members of the Government to look into their hearts at what is happening in Gaza and not to turn a blind eye. They should not take the soft option. They should take a tough stand and make sure that those who are suffering at the moment and who are victims of state murder and terrorism can see there are people who care. There are people with compassion who are prepared to stand up to the bully state and the rogue state that is Israel. The Minister and the Government have an opportunity to do that and I appeal to them to do so.

**Deputy John Brady:** Israel can only be described as a rogue state. It presides over an apartheid system and imposes punitive collective punishment on the entire Palestinian population for simply standing up for their rights. Yesterday's murder of 60 civilians and the injuring of 2,771 others should not come as a shock nor even as a surprise to anyone in this Chamber or in the international community. Israel has been carrying out the systematic genocide of the Palestinian people since the foundation of the Zionist project, namely, Israel. Israel simply does not want peace. It certainly does not want a two-state solution. The only policy that seems to drive Israel is the ethnic cleansing of the entire Palestinian population.

Let us take a brief look at Israel's track record. More than 400 Palestinian children are currently held in Israeli prisons. Nearly 800 Palestinians are currently jailed by Israel without trial. The Israelis are expanding and increasing illegal settlements. A total of 600,000 Israeli settlers now live in the occupied West Bank and East Jerusalem. Israel is responsible for the systematic destruction of hundreds of Palestinian villages and the demolition of tens of thousands of Palestinian homes. Forged Irish passports were used in the killing of a Hamas official in Dubai in 2010. Israel has bombed Syria, a sovereign nation, more than 100 times in the past five years. It is estimated that Israel has 400 illegal nuclear weapons, which is the third largest nuclear stockpile in the world. Does that look or sound like a normal country, one that wants a peaceful coexistence with the Palestinian people?

Israel simply does not give a damn about the words of the Irish Government or any other government or body. More UN resolutions have been passed on Israel's continued human rights abuses and conscious breaches of international law than any other country in the world. The only language Israel understands is the language of direct action. One cannot negotiate with someone who does not want to negotiate or see the need for it. The international community needs to force Israel to sit at the negotiation table with the Palestinian people. We can send Israel a clear message by sending its ambassador packing and by supporting the boycott of Israel, something that helped break the back of the apartheid regime in South Africa. If we do anything short of that, Ireland and the EU are complicit in enabling the continuous Israeli violation of Palestinian rights. It is up to the Minister and the Government now to stand with the oppressed and not with the oppressor, which is Israel. The Government should take a stand and stand up for the Palestinian people.

**Deputy Sean Sherlock:** I condemn utterly the killing yesterday by Israeli forces of dozens of protestors. Children have been killed and thousands of people have been injured by sniper fire and exposure to tear gas. Ambulances and emergency medical personnel have come under fire and medics have sustained injuries. The excessive and brutal use of force will scar communities for generations, as we know well from our own history, and it achieves nothing for the long-term security of the region.

15 May 2018

The decision of President Trump to move the US Embassy in Israel to Jerusalem has provoked huge anger and we have seen the consequences of that. The shocking assertion by President Trump that it was “a great day for Israel” and similar remarks by the Israeli Prime Minister that it was “a glorious day” have left most right-thinking people absolutely sickened. This reckless move has set back the possibility of a long-term peace. We can ask who benefits. It has tipped the balance of power in the Middle East in a way that will lead to further instability and violence. It is incumbent on us in Ireland and on all EU member states to take concrete action now to redress the imbalances that have occurred.

We welcome the Government’s public condemnation of what has happened but I have seen nothing however in the Minister’s speech to shed some light on the Israeli ambassador’s response to the Minister’s expression of the “horror”, to use his own word, which these events have caused among the Irish people and the Government. When the Minister summoned the Israeli ambassador he was representing the Irish people and the people would like to know exactly what his response was when the Minister expressed such horror. The people are absolutely outraged by this and we demand answers and a global response. Every effort must be made at the United Nations to achieve a full investigation and ensure those responsible will be held to account. The Government should also urge the High Representative for Foreign Affairs and Security Policy, Ms Mogherini, to prepare a collective response condemning the killings on behalf of all members of the European Union.

As we have said before, we welcome the firm commitment of European leaders to a two-state solution for Israel and Palestine. We also welcome the fact that the EU position on Jerusalem remains unchanged. The recent call made by the Israeli Prime Minister for Ireland to move its embassy to Jerusalem shows utter contempt for international efforts over decades to broker a solution that recognises the importance of Jerusalem to both Israelis and Palestinians.

It would be a terrible mistake to regard the situation in Palestine as stalemate or deadlock which we are powerless to break. On the contrary, the situation is fluid, ever changing and clearly worsening in recent days. The vacuum caused by the absence of a fully functioning Palestinian state gives greater scope for those who promote violence and reject the idea of a two-state solution to the conflict. Three years ago the Dáil unanimously voted to recognise the state of Palestine. What is delaying the Government in declaring its recognition of Palestine as a state? It should now move to deliver on that commitment. The injustice of the current situation feeds into a growing radicalisation of Palestinians, including among those who are citizens of Israel. The conflict is being reproduced and reinforced through every means, including the education system. Violence is being presented to children and young people as the only answer. Such radicalisation can only lead to further instability and violence. Recognition of the Palestinian state by the Government would provide global leadership at this crucial juncture and put the focus, rightly, on the governance of Palestine and its future development. That is why we are calling on the Government to tell us when and how it will go about recognising the state of Palestine.

**Deputy Richard Boyd Barrett:** The slaughter of unarmed Palestinian protesters carried out by Israel yesterday and its response in the past six weeks to the Great March of Return was cold blooded, deliberate, calculated murder. It was not an over-reaction or a somehow justifiable defence of a border but premeditated murder. How do I know that? Two days before the protests started six weeks ago I told the Tánaiste and the Taoiseach what was well known in both Palestine and Israel, that the Israelis were deploying 100 snipers in preparation for the unarmed demonstrations. On the first day of the protests, the massacre started. The Israelis started pick-

ing people off who were miles from the fence and represented no threat to anybody. Even if they had slingshots - the vast majority of them did not even have them - it would have been like throwing a stone into the ocean. There was no chance that they could hurt or hit anybody, but Israel was planning to massacre people. Anything less than sanctions and the expulsion of the Israeli ambassador for an act of premeditated murder against unarmed protesters is an effective green light for Israel to continue. Israel is a state that is willing to slaughter in a premeditated way - 60 people yesterday and another 45 in the past six weeks. It is a state that is willing to impose an 11 year long siege on Gaza, imprisoning 2 million people, refusing to let them in or out or to let goods in or out in order to allow the Palestinians to regenerate their tiny patch of land. It is a state that is willing to continuously break international law by expanding illegal settlements into territory designated for the Palestinians. In that context, nobody can seriously suggest the Tánaiste's words of concern and call for restraint are going to make a blind bit of difference to the Israelis. They are not interested. If they had been even remotely interested in peace, they would not have breached the Oslo peace agreement within hours of signing it. They were breaching it within hours of signing it by expanding settlements. They have played the international community with the pretence that they are interested in peace, while in front of everybody they are explicitly and blatantly carrying on their illegal activities. When Palestinians try to resist in any shape or form, they are met with the most cruel, savage and murderous brutality and we sit back and continue to let it happen.

What are the Palestinians supposed to do? In 2005 they elected a group of people in a free and fair election that was observed by international observers. Israel refused to recognise that government and the European Union went along with it. Needless to say, the United States also refused to recognise the government. A siege was imposed. It is a collective punishment under international law and, therefore, illegal. The Palestinians resisted, militarily, as they were entitled to do under international law, but they were condemned for it. Then they moved to unarmed protests and the Tánaiste sneaks into his narrative a claim that there was a bit of provocation. He said this provocation did not justify the killings, but still the implication is that the Palestinians are a little bit to blame. What are they supposed to do? Every single avenue is closed off to them. The Tánaiste will not even talk to their elected representatives. I have appealed to him in recent weeks to talk to Hamas. How is it okay to talk to the murderous Netanyahu who was celebrating President Trump's provocative moving of the US embassy to Jerusalem while people were being slaughtered in Gaza and not to the elected representatives of the people of Gaza? The Government is not a neutral broker if it continues to do this or give favoured trade status to Israel when it flagrantly violates international law and murders people. If the Tánaiste's words are to mean anything, there must be consequences like there were for apartheid South Africa. Surely we have reached a point where we can say the sort of action that finally brought apartheid South Africa to heel is necessary to deal with the rogue and apartheid state of Israel.

**Deputy Paul Murphy:** I argued earlier that we needed to have a debate today instead of waiting until tomorrow or else more protesters would be killed. We have had the debate today, but another two protesters have been killed. Presumably, more will be killed as the day goes on and more will be killed tomorrow. The absolute horror of the oppression of the Palestinians has been brutally laid bare to the world. Every time I checked my phone yesterday the numbers of casualties and dead Palestinians had increased. The final figure for yesterday is 59, while a total of 113 have been killed since 30 March. As Deputy Boyd Barrett said, these protesters were slaughtered. They were murdered in cold blood, mostly by snipers. The victims included children and an eight month old baby who was killed by tear gas. They were not terrorists

15 May 2018

but peaceful protesters who were marching for their right to return to their homes. They were marching to commemorate the Nakba - the expulsion or ethnic cleansing of 750,000 Palestinians in 1948 - and against President Donald Trump's incredibly provocative decision to move the US embassy to Jerusalem, which is a clear signal that the Palestinians will not be allowed to have a state.

We have to draw some conclusions about a state that behaves in this way. Israel likes to claim it is the only democracy in the Middle East, but it is not a democracy. It behaves as a terrorist and apartheid state. It terrorises the Palestinian people it oppresses within its borders, on the West Bank and in the open air prison camp of Gaza which I have visited. The right-wing Israeli regime is committed to the oppression, discrimination and persecution of the Palestinian people. It is completely opposed to any viable Palestinian state. It cannot be reasoned with. The reality is that these acts underline the fact that the Oslo agreement is dead, which has been obvious from the moment it was signed. It does not offer a viable route for justice for the Palestinians and never aimed to do so. Instead, its aim was to give limited concessions to cut across a mass movement. The idea that a peace agreement allowing for a viable Palestinian state would be granted by the right-wing Israeli establishment, having been brokered by imperialist powers such as the United States, is utterly unrealistic. The only route out of the horror of the Middle East and the occupation to a viable Palestinian state and justice for all of the people of the region is through a revolutionary struggle from below.

I pay tribute to the Palestinians who are protesting. They are not just victims, they are also heroes. As part of their struggle, they are engaging in peaceful protest in the knowledge that they can be slaughtered by snipers they cannot even see. There is a picture going around on social media of a guy called Fadi Abu Salah, a 29 year old in a wheelchair with a slingshot who was murdered yesterday by the Israeli forces. Such ordinary people across the region hold the key to the ending of the horror of the situation in the Middle East. One can see the outlines of what the Israeli establishment fears: a third intifada along the lines of the first which was a mass struggle from below that brought the Israeli establishment to the negotiating table. Shamefully, the aspirations of the Palestinians were sold out on that occasion with the signing of the Oslo Accords. We are seeing marches on the borders and hearing calls for strike action. Crucially, democratic committees of struggle are ensuring the struggle is in the hands of ordinary Palestinians. That gives an outline of how the struggle can develop.

We need to be clear that the protests of Palestinians are absolutely peaceful. They have every right to defend themselves. Why on earth should they be expected to march defenceless and mown down by the Israeli military? They have a right to defend themselves. It is vital that an anti-war and an anti-occupation movement, involving Israeli Jews and Palestinians, be built within Israel to expose the reality that the corrupt Israeli establishment relies on fear about security to shore up its own position and implement an anti-working class position. My comrades in Maavak Sotzialisti, with others in Israel, organised a protest in Tel Aviv yesterday as part of their efforts to build a movement. If such forces combine with the powerful working classes in Egypt, Turkey, Iran and elsewhere in the region, they have the power to bring about a solution and kick out the Israeli establishment, the corrupt Arab elites - the likes of el-Sisi - and the imperialist powers that have no interest in facilitating a genuine peace or fighting for a lasting socialist solution involving a viable Palestinian state with a capital in east Jerusalem alongside a socialist Israel as part of a federation of the Middle East.

**An Ceann Comhairle:** I understand Deputies Thomas Pringle, Mick Wallace and Clare Daly are sharing time.

**Deputy Thomas Pringle:** It is an uncomfortable juxtaposition, a few days after Israel won the Eurovision Song Contest, to condemn the killing of innocent Palestinians by Israeli forces. Sadly, we will enter next year's song contest. Israel's celebration of the 70th anniversary of its declaration of independence presents another uncomfortable juxtaposition because it occurred as Palestine was marking Nakba Day and remembering the 700,000 Palestinians who had been forced to flee during the 1948 war. How can we reconcile the image of eight month old Laila Anwar al-Ghandour, the 59th victim of Israel's attack on protesters in Gaza, alongside the image of Ivanka Trump opening the new US embassy in Jerusalem? I suggest the cynical juxtaposition of events in recent days means that it is time for Ireland to reassess its relationship with Israel and the United States. First, we need to reassess our own relationship with Israel and ask whether we are doing enough to express our outrage at recent events. While we are supportive of Palestinian causes, we are less eager to confront Israel. We are complicit in the atrocities carried out by Israel because, alongside the European Union, we continue to see Israel as being above international law, even though it is currently in breach of over 30 UN resolutions and has engaged in decades of military occupation, oppression of protected civilians in Palestine and apartheid. Its continued illegal expansion into occupied territories has been denounced by the United Nations. We should not forget that in August 2014 it was discovered that in the previous three years Ireland had approved export licences for military goods worth up to €6.4 million to be shipped to Israel. That was in advance of the conflict in Gaza that year.

Palestinian civilians are classified as protected persons under international law. This makes it unlawful to target them with violence. It is categorically not an act of terrorism to protest at the Gaza fence or seek basic rights. Israel has the option of detaining Palestinians who cross the Gaza fence, but it deliberately chooses to use lethal force instead. We are complicit in the human rights violations that have occurred this week and in previous decades by continuing to trade with Israel's illegal settlements and supporting companies involved in settlement enterprise. Ireland could change this by respecting the 2004 decision of the International Court of Justice that nations must refrain from recognising Israeli settlements. We could do so by allowing a Bill currently before the Seanad to pass. In all of this, we have failed as a nation to properly recognise the state of Palestine. Promises and commitments have been made, but we have nothing to show for them. I question how quickly Ireland expelled a Russian diplomat in solidarity with the United Kingdom in response to the Salisbury attacks. There is not the same impetus to react similarly to the recent attacks by Israeli forces on innocent Palestinians. Until we respond adequately to the atrocities carried out by the Israeli military forces during the Nakba, we will be engaging in endless dialogue with ourselves.

**Deputy Mick Wallace:** The Israelis have adopted a dangerous mindset. They seem to think they can destroy the national aspirations of the Palestinians by military force. Israel is engaged in apartheid in its own country. What it is engaged in in the Gaza Strip and on the West Bank is nothing short of genocide. The Minister knows that no one else would get away with it. The Israeli Justice Minister, Ayelet Shaked, said this afternoon that Israel was unconcerned about the prospect of war crimes accusations for its military actions in the Gaza Strip. She suggested "IDF soldiers are performing well, in accordance with open-fire orders". I have heard the Tánaiste speak about Israel's need for security. Does he agree that the security of Israel would improve if it were to stop shooting unarmed Palestinian protesters?

**Deputy Simon Coveney:** I do.

**Deputy Mick Wallace:** Does the Tánaiste think the security of Israel would improve if it were to stop its illegal settlements programme, stop trying to destabilise Syria, stop trying to

provoke a war with Iran and allow the many Palestinian refugees to return? They have a right to return. All of these things need to happen. Why are we tolerating the behaviour of Israel? Why are we still allowing Shannon Airport to be used as a US military base? Successive Governments have taken sides by allowing it to be used in this way. Members of this House tend to have a problem with it when they are in opposition but not when they are in government. Israel does not seem to want peace. It does not behave like a country that wants it. People are talking about a two-state solution. The two-state solution is dead. It is nonsense to be talking about it at this stage. Are the Israelis going to give back the settlements? Fat chance. The people on the ground, the activists in the region will tell the Tánaiste that the only way forward is to have one country where there are human rights and fairness for all and an open society, not what they have at the moment where Israel wants only a nation and a country for Jews. That is all they want. They do not want anybody else in it. They do not want to share land with Arabs. There has to be a serious rethink. I am not saying it is the Tánaiste's fault and I think he will have his work cut out dealing with a Europe that is afraid of its living daylights of Israel and the US.

**Deputy Clare Daly:** One of the hardest things to take for so many people around the world watching what is going on is the utter contradiction between the celebrations which were almost rubbing people's faces in it and the massacres on the other side. That juxtaposition has made what was already an horrific situation even worse.

I note that the Tánaiste said he was shocked at the scale of the casualties. Deputy Boyd Barrett is right to say that this was expected and anticipated. This day has been coming over recent months. Why has the significant escalation we have seen happened? It is because Israel can get away with it. It gets away with everything else. It is genocide. It is a deliberate targeting and destruction of a people. It may have been a massacre yesterday but it is part of a strategy to annihilate those people, with the blockade and the impact of that.

On the Tánaiste's statement and the points about the American embassy, saying it is disappointing and unhelpful, in diplomatic speak that is actually quite strong. I will grant the Tánaiste that. However, it is not enough. Israel is doing what it does because the US has given it the green light and the EU has effectively done nothing. They illegally settle, they illegally occupy the Syrian Golan Heights, they conduct their war with Iran on the back of the Syrian people and so on. It is never-ending. We have to do more. We are a neutral country.

I thought of the nonsense about expelling the Russian diplomat based on solidarity with Britain. What an absolute joke for an unsubstantiated suspicion and a suspected role in a non-murder. Here there is absolute involvement in actual murder and where is the solidarity with the Palestinian people? The expulsion of the ambassador is neither here nor there. It is for optics. It is probably not worth a whole lot. I would like to see a lot more. I would like to see some serious signals like us signing up to the boycott, divest and sanction, BDS, movement and isolating this rogue apartheid state, possibly diplomatically, but certainly economically and internationally. If we do not do so, they are going to keep doing what they do. We have to extend that to the United States which has facilitated and accelerated these unlawful war crimes by its cavalier attitude and appalling stance over the past period.

The Tánaiste probably has spoken up more than most in Europe. I believe that he has. However, he needs to do more. I am not blaming him. I am just encouraging him because this certainly cannot go on.

**Deputy Mattie McGrath:** I wish to express my sympathy to all of those Palestinian fami-

lies who have suffered the loss of loved ones following the violence surrounding yesterday's event. At a number of meetings of the Business Committee in recent weeks, Deputy Boyd Barrett was wanting to have this discussion and was predicting this to happen. How are we in such certainty? It is an anniversary, obviously, and it was expected.

While the media has claimed this protest is a result of the embassy's move to Jerusalem, I do not believe it is. It is because this week celebrates the 70th anniversary of Israel, which Palestinians call Nakba, meaning catastrophic in Arabic. They organise protests on this date every single year as day follows night. A clear pattern has emerged here. It is not as simplistic as people might like to say. These protests had been planned for weeks and had been urged on by the leadership of Hamas. We are well aware of that and were told it when we were looking for a debate on it. As Jason Greenblatt has written in *The Jerusalem Post*, many blame Israel, Egypt and-or the Palestinian Authority for the situation in Gaza. Too few, however, focus their criticism on Hamas, which has been the de facto ruling entity of Gaza for a decade.

We know a fair bit ourselves about conflicts and fighting over territories and land. We need to have a more in-depth look at this and we cannot just come down on one side. I have no truck with the Israelis, good, bad or indifferent. We cannot, however, come down on one side so blatantly without having a full, deep and greater understanding of what is happening there.

As Greenblatt notes, we need to get real about this. Hamas and its enablers, such as Iran, are squarely to blame for the desperate situation in Gaza. Hamas has consistently put its own destructive priorities above those of Gaza's weary and increasingly desperate population. The people we must sympathise and empathise with are the ordinary population who are trying to eke out a living and have some modicum of peace and dignity in their lives and they have not got it. How would they when this is going on and bigger powers are involved, pulling the strings and changing the situation?

As David Keyes, a former spokesman for the Israeli Prime Minister, has noted, Hamas is a genocidal terrorist organization. It openly declares its goal of destroying Israel and killing every Jew and every American. That is quite obvious. Over recent weeks, Hamas has tried to overrun Israel's border to kill innocent people.

**Deputy Seán Crowe:** Will Deputy McGrath tell us where the Israeli border is? Where does it begin and where does it end?

**Deputy Mattie McGrath:** It is not in south Dublin anyway. Has Sinn Féin a monopoly on everything? I did not interrupt anybody.

**An Leas-Cheann Comhairle:** Do not be inviting interruptions, Deputy McGrath.

**Deputy Mattie McGrath:** I was not saying anything to anyone. They have shot guns, planted bombs and thrown all kinds of cocktails at Israelis as they hid behind women and children. That is desperate. We want to save the women and children. We see it in conflicts throughout the world where the women and children are the targets and the victims of all kinds of genocide, crime, rape and everything else. In this case, whatever way they organise it, people are prepared to force women and children to be a front for them. It is not acceptable at all.

It seems that yesterday Hamas hid among civilians and had knives and guns as they sought to charge at the border fence. What would have happened had they got across the fence? We know the security they are facing into. We know the strength and might of the Israeli army,

15 May 2018

which I do not accept is necessary. The response is just way over the top at all times. What would have happened if they had got across the border and women and children had been able to get across the border with them? What would have happened to them? They must have responsibility for their actions and especially for having women and children in their midst as cover.

As I understand it, Hamas's stated aim yesterday was to kidnap an Israeli soldier, or more than one if they could. They had informed the rioters not to kill the soldier but to bring him back to Gaza to be used as a bargaining chip to get Hamas terrorists out of prison, or prisoners of war as they rightly call them. This is a complex situation. This is a neutral country and we should be appalled by and abhor what has gone on. The Tánaiste and Minister for Foreign Affairs and Trade called in the Israeli ambassador today. We must look at both sides because it is not simplistic. It is a powder keg.

I visited Lebanon with Deputy Grealish and others. We heard the stories from people in the refugee camps on the border with Syria. What happened there was totally wrong. We took out villains like Saddam Hussein and other dictators. The Americans, the British and their allies bombed the hell out of the place. What has happened? It is more unstable. My understanding is people of all creeds and religions could practice with impunity in most of these countries under these so-called dictators, but nobody can since. We see Isis with its campaign of slaughter and genocide against Christians and minority Muslims. We never have any debate about it here, but it is happening every day.

We are involved in the rescue of men, women and children from refugee boats in the Mediterranean. We need to understand the history and geography of the area. We need to understand the motives and *modus operandi* of Hamas and other groups. It is not simplistic by any manner or means. We thought it was simple to invade and destroy the dictators. What has come after them, however, is worse, with millions of elderly women and young children being displaced. When we went to the refugee camps, we did not meet a boy or a girl over 12 years of age. With the help of interpreters we heard about the horrors of what they had suffered. They are confined in the camps *ad infinitum* with no sign of any resolution. We do not want another situation such as this to develop in Gaza because the prospects are too horrendous to even consider.

We were appalled by the violence yesterday. However, that should not blind us to who truly is the aggressor. I am not saying it is all coming from one side. Aggression moves back and forth across the so-called border. The Palestinian people, first and foremost, have been betrayed by their own leadership. They have to face that issue, especially when they are in the grips of such violence and devastation. It might take them a long time to shake off the shackles, change their leadership and stated aims and become involved in some peace process, with a third party brokering it such as the United Nations. As long as the Palestinian people continue to be used as cannon fodder by the radical and extremist agents of Hamas, there is no chance of peace in the region. Therein lies the problem. We must stand down the more aggressive aspects and get to the people who might be interested in acting in a peace process.

**Deputy Róisín Shortall:** I wish to share time with Deputy Eamon Ryan.

**An Leas-Cheann Comhairle:** Is that agreed? Agreed.

**Deputy Róisín Shortall:** I join other Deputies in condemning the massively disproportionate levels of force used against protesters in Gaza in the past 48 hours. The latest death toll is

approximately 60, with over 750 wounded by live gunfire. It is outrageous that people armed only with slingshots and rocks can be indiscriminately mown down with ammunition, while, 40 miles away, representatives of the United States and several EU member states gathered for a celebration to open the new American embassy in Jerusalem. However, the contrast is symptomatic of the larger issue. Israel is only able to continue to dominate Palestine with either the tacit or overt support of the international community and the United States, in particular. This must end. There is very little else that can be said about the Israel-Palestine issue that we have not heard before now. This period marks the 70th anniversary of the founding of the state of Israel. The Palestinians refer to it as *Yawm an-Nakba*, the day of the catastrophe, commemorating the mass expulsion of Palestinians from their homeland in an act of modern day colonialism. The different interpretations of the events lay bare the shortcomings of the current state of discourse on the Israel-Palestine issue. It is a zero sum game of absolutes where the focus is often on undermining arguments and sloganeering. It simply is not enough to castigate the actions of the state of Israel and the Israeli Defence Forces, IDF, with regard to their appalling actions against protesters in Gaza or supporting illegal settlements on the West Bank, with a myriad of other issues which could be added to the list.

Echo chamber speeches ring particularly hollow when we are preaching to the converted. What we need is action from the Government at an EU and bilateral level to press Israel back to the negotiating table with the Palestinians. If we have learned anything from the peace process in Northern Ireland, it is that compromise is the only workable long-term solution where two groups lay claim to a small territory. Israeli domination of Palestine may work for now, but it is simply not a viable or just long-term solution.

What is particularly frustrating when speaking on this topic is the fact that we already know what the contours of the resolution will look like. The only long-term viable solution is the two-state solution, based on the 1967 borders. The *status quo* means that the onus to act to restart the peace process lies in the hands of the Israelis. Given the current domestic and international political reality, this is unlikely to happen any time soon.

The positioning of the so-called hawks in Netanyahu's Likud party and other smaller nationalist and right-wing parties in the Knesset, as well as the US embassy move, perhaps signal that the once extraordinary is now very much ordinary in the region. The current Israeli Administration is simply kicking the can down the road and leaving future generations of Israelis and Palestinians to deal with the consequences of the Likud-led government's unwillingness to talk for fear of looking weak for domestic reasons. The international community knows what the solution is. We know where the pressure must be applied. I commend the Tánaiste and Minister for Foreign Affairs and Trade for summoning the Israeli ambassador and calling for an international independent investigation. However, given that leadership and that pressure on the issue is unlikely to come from the United States until at least 2020, will the Minister redouble his commitment to raising the issue at a European level? We can only hope co-ordinated pressure from sympathetic EU member states can play a role in bringing both sides back to the negotiating table where a workable implementation plan leading to the already known solution can be agreed to. I urge the Minister to redouble his efforts in that regard.

**Deputy Eamon Ryan:** I express the Green Party's outrage at the murder of the 60 people and the injuring of 700 others in Gaza yesterday. I turn to a subject about which I asked earlier today during questions on promised legislation. It may help to put what is happening in a slightly wider context. I was thinking about this when I heard of the news yesterday. It was not surprising because this has been a flashpoint for the past month at least. A parliamentary

15 May 2018

delegation went from this House to Egypt a little over a year ago. We had a meeting with the Secretary General of the Arab League during the visit. His words were ringing in my ears yesterday. He remarked to us over a year ago that, whatever else happens, if the USA went ahead with its proposal to transfer the US embassy to Jerusalem, which was Donald Trump's election promise, it would ignite a fire from one end of the Middle East to the other. Moreover, he figured every third level student in every college would protest and fight against such a move. We knew that and our Department of Foreign Affairs and Trade officials were there too. I imagine the Americans knew it as well. It only leads me to the obvious conclusion that this is a deliberate act of antagonism. This is a deliberate act supposedly to show strength from one side, but it is a bullying strength and one that must be countered.

I agree with the Tánaiste that, in general in diplomatic circles and where we place ourselves in the world, it is best for us to try to stay in the room and maintain contact. I agree it is best to try to act as people to whom everyone can talk, even while holding to certain principles. At a certain point in dealing with a bullying organisation, however, which is what the US Administration is now, we have to put aside diplomacy, stand up and say that what has been done goes a step too far.

The decision to move the embassy to Jerusalem can be joined with the decision the previous week to abandon the nuclear deal that had been patiently constructed with Iran. The real and shocking horror I sense is not only the terrible tragedy for those people who lost their lives yesterday but the sense that there is the chance of war in the air as well. There is a sense that in the agenda of some people this spirit of antagonism would go so far. Given the record of some of the people in the US Administration in particular, that is not a far-fetched or irrational conclusion.

That is why we need to make our disgust and anger known to the Israeli Government, but we need to look at the bigger picture as well. As Europeans and in conjunction with our European allies, we need to look to see how we can restore some international order. I agree with the comments of the Tánaiste earlier. He said it was deeply dissatisfying to see the UN Security Council and how it works. If we try to put a motion or try to bring an action against such bullying to the council, we would be immediately stopped. A big game is still going on and certain powers have control over it.

It is up to the European Union to decide a course of action. The Union was established on the basis that we do not want to go back to war but rather pursue collaboration by peaceful means. We need to stand firm at this point. We need to say that this is so far beyond the pale of what is acceptable that we cannot simply continue to be nice and diplomatic and polite about it. It is a time to consider in real detail what actions we will take.

I am unsure whether the General Affairs Council is meeting. Obviously this matter will be discussed at the European Council tomorrow. I believe our role in those discussions should be to use the leverage we have, because we are decent honest brokers. We have good connections in the Middle East. We have particularly good connections with the Arab world. These are connections some of our European colleagues do not have. We should act as an interlocutor. There may be different views in the Arab world but we should say that on the part of the European Union, these antagonistic and warlike acts cannot go unanswered and we have to respond to them. We should do that as the Union. That would give us strength. We should be vocal and upfront. We should not only be diplomatic. It is time to stand up to the bullying that is going on.

## **Data Protection Bill 2018: Order for Report Stage**

**Minister for Justice and Equality (Deputy Charles Flanagan):** I move: “That Report Stage be taken now.”

Question put and agreed to.

## **Data Protection Bill 2018: Report Stage**

**Deputy Mick Wallace:** I move amendment No. 1:

In page 15, between lines 20 and 21, to insert the following:

“ “scientific research purposes” means scientific research carried out by research staff who have full autonomy in determining both the object of study and the methods of inquiry;”.

**Deputy Clare Daly:** I wish to make some brief points. Section 39 provides general permission for the processing of personal data for a range of what might be called research or historical purposes subject to suitable and specific measures being taken to safeguard the data. These measures are outlined in section 35. Section 51 takes this idea somewhat further. It provides that as long as the processing of data is necessary, proportionate and subject to suitable and specific measures, then the special categories of personal data, including data about ethnic origin, political opinions, health, sexual orientation and so on, can be processed for research, historical or archiving purposes. We are going to hear a great deal about these categories in the coming days. At the most basic level these sections mean that using a person’s data without consent for research or scientific purposes is allowed.

We discussed this on Committee Stage. We know that section 58 restricts some of the rights that people have with regard to their own data under the general data protection regulation, GDPR, in the context of the relevant type of research, archiving or processing. For example, it includes the right of a person to have inaccurate data corrected, the right to object to processing, the right of access and so on. In general, that is fine but, as we said on Committee Stage, we have something of a concern that the concept of a scientific research purpose is not defined in the Bill. In other countries there is a tradition of requiring research to be completely independent of any corporate influence to be considered scientific.

I understand the points made by Deputy O’Callaghan during Committee Stage. He said that defining scientific research within the context of the Bill without providing similar definitions for archiving or statistical purposes might not be ideal. That is fair enough but we remain of the view that the potential for data exploitation for an undefined scientific research purpose could be problematic, especially in a country like Ireland which has proven itself to be utterly deferential to multinationals.

We were keen to make the points again. We are not going to make a major deal out of it. We are keen, however, to hear an assurance from the Minister that when regulations are being drawn up under the relevant sections to outline the ways in which data can be used for scientific purposes, some consideration is given to mandate that the relevant purposes come as close as possible to what most of us would recognise as truly scientific research. Such research should

15 May 2018

be independent and have in mind the public interest and so on. The purpose should not allow for market research, business intelligence and so on. Such endeavours might follow scientific methods and processes but clearly they serve the corporate rather than the public good. If there was some assurance in the regulations, we would not press it but we are keen to make the points again because we believe there is potential for exploitation.

**Minister for Justice and Equality (Deputy Charles Flanagan):** I am unsure of the extent to which I can short-circuit the debate. We have 150 amendments and we are going to have some intense debate in the coming days.

In response to Deputy Clare Daly's invitation to provide her with an assurance, I cannot give her an assurance in the form of a guarantee. However, I can say that while there is not an absolute or clear definition in the general data protection regulation, GDPR, it is my strong expectation that an agreed European Union definition will emerge. It is important that this take place because a definition is needed to facilitate the type of co-operation we have seen, particularly international and cross-border co-operation in the field of scientific research. I expect such a definition to be agreed to.

Again, while I cannot give an assurance, Deputy Clare Daly and other Deputies can take it that we will encourage that this issue be addressed at EU level for reasons the Deputy put forward. While I cannot accept the amendment, I give her an assurance that we will raise the issue with a view to having it resolved in a way that will meet her concerns.

**Deputy Clare Daly:** I appreciate that one can never say never. That the European Union may agree a definition is fine, but we are legislating in this Parliament. Germany has been able to produce a definition. I sought an assurance, insofar as is possible, that the issue would be examined. The Minister's response is on public record and he has been warned. If he does not heed our warning, the State may be exposed to potential litigation. We will accept his assurance for now and hope he will act on it.

**Deputy Charles Flanagan:** I am not sure I gave the Deputy an assurance.

**Deputy Clare Daly:** In the interests of expediency, the Minister should not draw me into further debate.

**Deputy Charles Flanagan:** We will certainly have the issue raised with a view to finding a solution. However, it is not within the immediate control of the Government. I am not in a position to accept the amendment because there is not an appropriate definition in the GDPR, but that is not to say I disagree with the point raised by the Deputy.

Amendment, by leave, withdrawn.

**An Leas-Cheann Comhairle:** Amendments Nos. 2, 17, 19, 20, 62, 64, 79 to 82, inclusive, 84 and 85 are related. Amendment No. 20 is a physical alternative to amendment No. 19. The amendments may be discussed together.

**Deputy Charles Flanagan:** I move amendment No. 2:

In page 17, to delete lines 13 to 25 and substitute the following:

“(2) Every regulation made under this Act, other than under *section 50, 59 or 72*, shall be laid before each House of the Oireachtas as soon as may be after it is made.

(3) Either House of the Oireachtas may, by a resolution passed within 21 sitting days after the day on which a regulation is laid before it under *subsection (2)*, annul the regulation.

(4) The annulment of a regulation under *subsection (3)* takes effect immediately on the passing of the resolution concerned but does not affect the validity of anything done under the regulation before the passing of the resolution.

(5) Regulations may be made under *section 50, 59 or 72* only if—

(a) a draft of the proposed regulations has been laid before each House of the Oireachtas, and

(b) a resolution approving the draft has been passed by each House.”.

Deputies will recall that section 6 was amended during Committee Stage proceedings. The section now requires that a resolution approving draft regulations under sections 50, 59 and 72 be passed by each House of the Oireachtas before the regulations can be made under the sections by the appropriate Minister. This excessively heavy procedure will give rise to some difficulties, especially where the making of urgent regulations is necessary, important and urgent. However, I do not propose its deletion from the Bill and accept the position agreed to on Committee Stage. Amendment No. 2 replaces the text of the Committee Stage amendment to bring it into line with the language of the Bill. The substance of the amendment is fully in line with the amendment introduced by the Opposition which was ultimately accepted by the select committee.

Arising from the existing reference in section 6 to section 72, there is no longer a need for subsection (7) of section 72 and amendment No. 85 will, accordingly, delete the subsection. For the same reason, there is no need to insert a similar subsection in sections 50 and 59, as proposed in amendments Nos. 62, 79 and 81. For this reason, I am unable to accept the amendments. I am sure I will have an opportunity to discuss the amendments in this group in the names of Deputies Clare Daly, Mick Wallace and Donnchadh Ó Laoghaire when they are moved.

**Deputy Jim O’Callaghan:** It is important to recall that on Committee Stage the select committee did something novel when Deputies decided to introduce a provision in the Bill that would-----

**Deputy Sean Sherlock:** I beg the Deputy’s indulgence, but I seek clarity on the procedure as some of us are a little confused.

**An Leas-Cheann Comhairle:** The Minister has moved amendment No. 2 which is being discussed with a number of other amendments. Deputies who wish to contribute on any of the amendments in the group must do so now.

**Deputy Clare Daly:** I do not mean any disrespect to Deputy O’Callaghan, but Deputy Wallace and I have tabled some of the amendments in the group.

**Deputy Jim O’Callaghan:** The Deputy may speak first, if she wishes. That is not a problem.

**An Leas-Cheann Comhairle:** Which amendments in the group are in the names of Depu-

ties Mick Wallace and Clare Daly?

**Deputy Mick Wallace:** We have tabled amendments Nos. 20, 62, 79 and 81.

**An Leas-Cheann Comhairle:** The amendments will not be moved until later.

**Deputy Mick Wallace:** That is fine.

**Deputy Sean Sherlock:** Should Deputies speak to their amendments in the group now?

**An Leas-Cheann Comhairle:** Yes, there will not be another opportunity to do so.

**Deputy Mick Wallace:** As we stated on Committee Stage, amendment No. 20 in this group advocates a small but possibly significant change. It appears from the current wording of section 37(4) that the processing of personal data in the public interest would be possible without being specified in regulations made by a Minister. In such circumstances, who would decide what constituted the public interest and who would process the data in the public interest? This is a significant point as the understanding of what constitutes the public interest is important to several sections of the Bill. The amendment is an attempt to make processing in the public interest explicitly dependent on regulations. We advocate changing the word “may” in subsection (4) to “shall” to avoid any confusion; in other words, ministerial regulations would be mandatory for this type of data processing.

On amendment No. 62, as a result of amendments agreed to on Committee Stage in both the Dáil and the Seanad, section 50 has changed somewhat. At one point, the section, as amended in the Seanad, would have required the Data Protection Commissioner to undertake an impact assessment before a Minister could introduce a regulation. We accept that this requirement would have compromised the independence of the Data Protection Commissioner. To maintain the independence of the commissioner, the amendments we introduced on Committee Stage proposed that the data protection officer in the relevant public authority should instead conduct an impact assessment. As the amendment was defeated, we have introduced another proposal in amendment No. 62 similar to the proposals we introduced on Committee Stage which met with some success. This is an important section as it provides for the processing of special categories of personal data, for example, political opinion, ethnicity and sexual orientation, and doing so in the name of a substantial public interest. We should have a very high threshold for invoking this type of processing.

Amendment No. 62 is designed to provide checks and balances for future regulations. Like most legislation, the Bill gives the Minister considerable power to introduce future regulations. It is difficult not to be concerned about what this or another Government might introduce via regulations given the Government’s recent attitude to data rights.

Amendment No. 81 is self-explanatory and intended to achieve a similar outcome. It is an attempt to introduce a proportionality clause to section 59, given the nature of the section in permitting the restriction of the rights of data subjects for the objectives of the general public interest.

With amendment No. 79 we are trying to establish a requirement that the Minister provide a written rationale should he or she seek to introduce restrictions to the rights and obligations to which the section refers. Of course, I understand that such restrictions may be necessary in certain circumstances, but it is a reasonable request and would not be unworkable that such a

written rationale would be put before the Houses. We are talking here only about the so-called important objectives of general public interest, other than those listed in paragraphs (a) to (n), inclusive, of subsection (7).

**Deputy Donnchadh Ó Laoghaire:** I refer to amendments Nos. 2 and 82, which is the only amendment of mine in this grouping.

On amendment No. 2, I welcome the fact that the Minister is recognising the view that existed in the committee. One of the most significant amendments that was made to the Bill was the requirement that there would be prospective approval of such regulations as pertain to that section. Much of the commentary that related to this Bill, particularly from experts and lawyers who are active in the area of data protection, aside from the fact that there was the possibility of conflict between the GDPR and the Bill and the potential for litigation in that regard, related to the issue of the significant scope that the Minister was allowing himself and his successors to draw up regulations for special categories of data to be processed and the circumstances in which that would be allowed. It was a positive move that the committee decided that should be a prospective process. I am glad, assuming I understand it correctly, that this amendment preserves that and changes the language. That is a positive development. It is an important safeguard.

On my amendment No. 82, I had submitted something to that effect before that was put into the Bill, but there is still scope for something to that effect. It would complement it. In such circumstances, as I stated on Committee Stage, such regulations should not be drawn up frequently and should be characterised by being infrequent. There should be scope, however, to have an impact assessment or, as I state in the amendment, for the Data Protection Commissioner to have those regulations referred to him or her for an opinion under the terms of section 100, and then returned to the Minister. There is scope, in drawing up these regulations, to ensure that the Data Protection Commissioner has view of them to assess whether they are proportionate and necessary and whether they are in compliance with the GDPR and with the relevant parts of the Bill. That is right and proper and that is the test that should be passed. There should be consultation with the Data Protection Commissioner to ensure that is the case.

**An Leas-Cheann Comhairle:** Deputy O’Callaghan?

**Deputy Jim O’Callaghan:** I will hear what the Minister has to say first.

**Deputy Clare Daly:** Amendments Nos. 20 and 79 are not quite the same and I will deal with them separately.

Amendment No. 2 is a redraft by the Government of our successful amendments at committee providing that regulations made under sections 50, 57 and 72 shall be the subject of positive resolution prior to being made. That is fine. We agree with that.

Amendments Nos. 17, 19, 64 and 84 are slight redrafts of our successful amendment providing that a Minister has to seek the advice of the Data Protection Commissioner before drafting amendments under the riskier sections of the Bill, namely, sections 35, 54, 59 and 72. We have a minor qualm with the proposed phrase “significant concern” in the Government’s proposal, but as it will be up to the commission to decide on what is significant, we are reasonably happy to accept the Government’s proposal on the basis that the commission will not feel that its hands are tied by the word “significant”. The Minister might comment on that.

Amendment No. 62 is merely a restatement within the relevant section of the provision earlier in the Bill that regulations under this section require positive resolution. We succeeded at committee with identical amendments to sections 59 and 72, but for some reason the amendment to this section, section 50, did not succeed. I am not sure why. In any case, the Government seemed to take the view that a restatement of this requirement for a positive resolution in each of the relevant sections is not necessary because the Minister proposes to take some of them out. The only point we would make is that the Health and Social Care Professionals (Amendment) Act, which contains similar positive resolution procedure for regulations made under certain sections, restates the requirement in the relevant sections. We want an assurance from the Minister that in not restating the requirement in the text of each section, we are not undermining in any way the requirement for positive resolutions under this section.

Amendment No. 20, as I stated, is a different matter entirely. It is slightly awkward that it is in this group. The amendment is about trying to limit the circumstances in which the exemptions from normal data rules that the Government wants to provide to public and private bodies under section 37 can apply. Those are the circumstances where processing is necessary for the performance of a task carried out in the public interest by a controller or where it is necessary in the exercise of official authority vested in a controller as per the GDPR but the Government wants to give that power to anyone who is administering any sort of non-statutory scheme. That is something that we will talk about in more detail in section 37. Article 6.1, paragraph (e), of the GDPR allows for exemptions from having to abide by the standard rules on the basis of the public interest on official authority. The GDPR also states that member states may maintain or introduce more specific provisions to adapt the application of the rules of this regulation with regard to processing for compliance with point (e) of paragraph 1 by determining more precisely specific requirements for the processing and other measures to ensure lawful and fair processing. It is clear the GDPR envisages that in circumstances where paragraph (e) is being relied on, member states will adapt the rules of the GDPR via specific and precise requirements that cover processing where the exemption is being relied on. Despite this, at present there is a broad and vague exemption in this section for the aforementioned purposes with no guarantee that any Minister will pass regulations specifying any rules or limitations on the bodies this section gives an exemption to. One might ask why they would not do that. Maybe it would suit a Minister in certain circumstances.

On Committee Stage, the Minister stated that our tabling of a similar amendment may be based on a misunderstanding since the lawful basis for processing exists elsewhere and it does not need to be detailed in regulations. The Minister's following sentence at committee, however, was that the regulations, for reasons of transparency and legal certainty, specify processing that is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller. Transparency and legal certainty is exactly what we are trying to achieve here. Our amendment is not based on misunderstanding. It is based on exactly what the Minister said is the purpose of the regulations under this section. There should be an obligation on the Minister to set out the criteria in the public interest rather than it being an optional extra. If the Government wants to give broad powers to the State and non-State bodies not to have to abide by data protection rules that everybody else must abide by, the Minister should set out exactly the limits of that power. It should not be left to section 37. As an absolute minimum, therefore, there should be, as we propose, a requirement for the Minister to set out more precisely the ways and means in which personal data can be processed in the public interest on official authority.

Amendment No. 79 is different again. It relates to section 59. Section 59(7) lists some indicative important objectives of the general public interest for which the basic rights of people under Articles 12 to 22, inclusive, in regard to their data can be restricted. Indicative is the problem here. Fourteen objectives are merely some of the general public interest objectives for which the Minister might decide to restrict people's rights. Any Minister at any time could do that without consulting elected representatives. We all know that might not be the general public interest. Under this section, there is nothing to stop a Minister restricting people's rights without coming to the House. We propose to restrict this in amendment No. 79. If our amendment passes, a Minister who wants to designate an objective that is not listed in the Bill as an important objective of public interest has to come before the Houses with his or her proposal for a vote to be taken on it. It is a small thing and we think it should be accepted.

**An Leas-Cheann Comhairle:** We will go back to the Minister who has exhausted his seven minutes.

**Deputy Charles Flanagan:** I will be very brief.

**An Leas-Cheann Comhairle:** The Minister will have two minutes and then, at the conclusion, since he moved the amendment, he will have a further two minutes. Others may intervene after the Minister.

**Deputy Charles Flanagan:** With regard to amendment No. 20, Deputy Clare Daly's own words are that it appears awkward. I still maintain it is unnecessary on the basis that the legal basis for such regulation exists in Article 6(1)(e) of the GDPR, which will clarify that the processing being carried out in certain cases is necessary for the performance of the task.

Deputy Ó Laoghaire's amendment No. 82 will require the data protection commission to carry out a detailed impact assessment. It will be a matter for the data protection commission itself to carry it out and to decide how best it might deal with concerns. I am concerned about setting mandates in legislation that might be interpreted as a form of infringement.

In respect of the earlier amendments, acknowledging the fact that amendments were carried on Committee Stage, there is no need to have similar subsections in sections 50 and 59 as proposed in Deputy Clare Daly's amendments Nos. 62, 79 and 81. I confirm that the Office of the Attorney General has stated that if the resolution mechanism is in section 6 as it is, there is no need for a specific mention in sections 50, 59 and 72. I think that meets the Deputy's concern.

**Deputy Jim O'Callaghan:** We are debating a series of amendments. We need to go back to what happened on Committee Stage when we made the novel decision that instead of having a situation whereby regulations could be retrospectively disapproved of, we put a provision into the legislation whereby statutory instruments would have to be prospectively approved. It is a novel approach. It was a worthwhile approach for the Oireachtas to take. We need to remember that when a Minister issues a statutory instrument, he is making law. The Constitution says the sole and exclusive power for making laws rests in the Oireachtas. Under our system, we recognise that secondary legislation is permitted for convenience sake so that statutory instruments can be issued and signed by Government Ministers. They, however, become law. To have supervision and in order that there is Oireachtas involvement, in general each statutory provision introduced includes a provision that a resolution of the Houses of the Oireachtas can revoke such a statutory instrument if that resolution is passed within 21 days.

I note what the Minister is doing in amendment No. 2. He is simply trying to tidy up what

was agreed on Committee Stage. We will agree to that amendment. We then go forward to amendment No. 17 which is in a similar format. It is another tidying-up exercise and I am supportive of it. Amendment No. 19 is much in the same way as the previous ones I discussed.

With regard to amendment No. 20, I note the intention of Deputies Clare Daly and Wallace. They say that when regulations will be issued in respect of a processing carried out in the public interest or in the exercise of official authority, it should be mandatory and the Minister should be required to issue regulations if there is going to be processing of personal data which is necessary for the performance of a task carried out in the public interest by a controller or which is necessary in the exercise of official authority vested in a controller. At present there is a discretionary power given to the Minister whereby he may issue regulations in respect of that matter.

I am conscious this is the final Stage on which amendments can be tabled. We need to look to see how it will read if Deputy Clare Daly's and Deputy Wallace's amendment is passed. It will state that these personal data performances shall be specified in regulations made by the Minister provided the Minister has consulted such other Minister of the Government as he or she considers appropriate. My concern about the way it would end up after that is it may mean a Minister would not have to issue regulations if it was the case he or she had not consulted such other Ministers of the Government as he or she considers appropriate. It may be the case he would not have to issue regulations if he or she had not consulted and sought the advice of the data protection commission. It may sound like a lawyer's point but when it comes to interpreting legislation, unfortunately, it is the case that in the main instance lawyers are the first people to interpret it. If it is drafted with the amendment, it would mean the Minister could get around issuing any regulations if he decided not to consult a Minister of the Government in advance or if he decided not to consult the commission. It is an unintended consequence and because of that I will not support that amendment.

That brings us on to amendment No. 62. I do not think this amendment is necessary. In fairness to Deputies Clare Daly and Wallace, while they came up with the novel proposal of having prospective approval, it is contained within the Act, so we do not need to repeat it on numerous occasions, and amendment No. 62 is therefore not necessary.

Amendment No. 64 is a similar tidying-up exercise by the Minister and I will support it. Amendment No. 79 is unnecessary. I will have a look at it in more detail before it comes up for a vote. Amendment No. 81 by the Minister is appropriate. It is the same as two previous amendments. I make the same point in respect of amendment No. 81 that it is not necessary because it is clear in the legislation that certain regulations will require prospective approval by the Oireachtas.

In respect of Deputy Ó Laoghaire's amendment No. 82, while I note the intention and the objective, I tend to agree with the Minister that those matters are for the Data Protection Commissioner and the Office of the Data Protection Commissioner. It is not necessary for such amending to be included in the Bill.

**Deputy Clare Daly:** I had not mentioned amendment No. 81 which Deputy O'Callaghan has just mentioned. It is our amendment which we tabled because we spotted that the provision on regulations under section 59 to respect the essence of the right to data protection and to restrict the exercise of data subject rights only insofar as is necessary or proportionate was accidentally deleted by the committee. The fact the Government is reinstating this as part of its larger amendment in amendment No. 80 is a better thing and we support it. We are happy to

withdraw that at this stage in support of the Government's amendment No. 80.

**Deputy Charles Flanagan:** I thank Deputies because we are dealing with a number of amendments in this group. It seems to me that agreement has been reached on my amendments Nos. 2, 17, 19, 64, 80, 84 and 85. I acknowledge the comments of Deputy O'Callaghan. He speaks of a novel approach to the concept of the positive resolution. As well as being novel, it is also burdensome and onerous. Nevertheless, it was a decision that was taken on Committee Stage and the Government will certainly live with it.

It seems that Deputy O'Callaghan and I are *ad idem* on amendments Nos. 62, 79 and 81. I repeat to Deputy Clare Daly that I do not see the necessity for her proposal, particularly given the existing reference in section 6 to section 72. The same obtains for sections 50 and 59 as they relate to the proposals in amendments Nos. 62, 79 and 81. I have mentioned the Attorney General and I have already dealt with amendment No. 82. I agree that we need to ensure that it is entirely a matter for the commission itself to decide what issues are of significant concern to it. Where any Minister is proceeding with regulations, notwithstanding such concerns, the justice committee must be informed in any event.

Amendment agreed to.

**An Leas-Cheann Comhairle:** Amendments Nos. 3 to 6, inclusive, and 83 are related and may be discussed together.

**Deputy Charles Flanagan:** I move amendment No. 3:

In page 18, line 7, to delete "*subsection (2) of section 8.*" substitute "*subsections (1)(b), (2) and (3) of section 8.*".

I wish to express my appreciation to Deputy Ó Laoghaire for amendment No. 6 and for drawing attention to the need for the data protection commission to complete investigations already commenced by the commissioner. I am not going to accept amendment No. 6 because it seems to inadvertently delete subsection (4) from the section. I ask Deputy Ó Laoghaire to acknowledge my amendments Nos. 3 to 5, inclusive, which will achieve the objective in any event, resulting in the situation where the Bill makes it clear that all investigations commenced by the commissioner must be completed by the commission.

Amendments Nos. 4 and 83 serve another purpose. The new paragraph (b) in section 8(1) will mean the 1988 Act provisions will continue to apply to the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014 and the recently enacted Vehicle Registration Data (Automated Searching and Exchange) Act 2018, which deal with the Prüm measures are not affected by the law enforcement directive which is referred to in Article 60 and Recital 94 and is adequately dealt with.

I am happy to listen to the concerns of Deputy Ó Laoghaire but our amendments deal with the import of his amendment No. 6. I acknowledge that this amendment goes a little bit further than the Deputy may even have intended himself.

**Deputy Donnchadh Ó Laoghaire:** This is a variation on an amendment submitted on Committee Stage and intended to ensure that the data protection commission can continue with any investigations or actions currently being undertaken by the Data Protection Commissioner. I thought we had made a slightly better effort in drafting it on this occasion but, in any event, I

15 May 2018

am satisfied that the amendments the Government has brought forward deal with my intention and I am glad the issue has been flagged.

**Deputy Mick Wallace:** I was going to speak in defence of Deputy Ó Laoghaire's amendment but, as he has withdrawn it, I would appear to be wasting my time.

**An Leas-Cheann Comhairle:** The Deputy may speak to the group of amendments.

**Deputy Mick Wallace:** I will listen to the Minister first.

**Deputy Charles Flanagan:** I welcome the Deputy's support but he can give it by just rising in his seat without making a contribution.

**Deputy Mick Wallace:** There is some merit in Deputy Ó Laoghaire's proposal. We know that the Data Protection Commissioner has opened a section 10 investigation into the public services card and the single customer view, which is one of the biggest data sharing projects in the history of this State. As I understood it, the Office of the Data Protection Commissioner is also investigating the use of CCTV cameras, which we mentioned on Committee Stage, such as the proposed scheme in Limerick which is funded under the community-based CCTV scheme of the Department of Justice and Equality. It is important that these investigations are allowed to be completed and they should not be interrupted or halted. Perhaps the Minister's amendments allow this but I did not hear that clearly the first time it was discussed. During the Seanad debates, the Minister was not totally convincing in explaining to Senator Higgins that such investigations as are already under way would continue following the transition to the new data protection commission, which the Bill provides for. If the Minister's earlier amendments cover this point, that is grand. If not, perhaps I will ask Deputy Ó Laoghaire to put his amendment back on the paper.

**Deputy Jim O'Callaghan:** Deputy Wallace is playing the role of Deputy Ó Laoghaire and I will now try to play the role of the Minister. In amendment No. 4, subsection (3) states that an investigation under section 10 of the Act of 1988 that was begun but not completed before the commencement of this section shall be completed in accordance with that Act. It is virtually identical to what is sought in Deputy Ó Laoghaire's amendment so I do not think we need to spend a huge amount of time debating it.

**Deputy Charles Flanagan:** For clarity, it is my belief that, having regard to my amendments, the Bill makes it perfectly clear that any and all investigations which have been commenced by the commissioner must be completed by the commission.

Amendment agreed to.

**Deputy Charles Flanagan:** I move amendment No. 4:

In page 18, to delete lines 9 to 19 and substitute the following:

“8. (1) Subject to this section, the Act of 1988 shall, on and from the date on which this section comes into operation, cease to apply to the processing of personal data (within the meaning of that Act) other than—

(a) the processing of such data for the purposes of safeguarding the security of the State, the defence of the State or the international relations of the State, or

(b) the processing of such data under the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014 or the Vehicle Registration Data (Automated Searching and Exchange) Act 2018 to the extent that the Act of 1988 is applied in those Acts.

(2) The Act of 1988 shall apply to—

(a) a complaint by an individual under section 10 of that Act made before the commencement of this section, and

(b) a contravention of that Act that occurred before such commencement.

(3) An investigation under section 10 of the Act of 1988 that was begun but not completed before the commencement of this section shall be completed in accordance with that Act and that Act shall apply to such an investigation.”.

Amendment agreed to.

**Deputy Charles Flanagan:** I move amendment No. 5:

In page 20, lines 20 and 21, to delete “, in so far as it relates to a function transferred by this section,”.

Amendment agreed to.

Amendment No. 6 not moved.

**An Leas-Cheann Comhairle:** Amendments Nos. 7 and 8 are related and may be discussed together.

**Deputy Charles Flanagan:** I move amendment No. 7:

In page 21, to delete lines 1 to 13 and substitute the following:

“(5) Subject to *subsection (7)*, the Public Appointments Service shall recommend a person for appointment as Commissioner following an open selection competition held by the Service for that purpose.

(6) The Public Appointments Service shall appoint a selection panel to assist it in holding an open selection competition.

(7) The Public Appointment Service shall ensure that a person is recommended under *subsection (5)* for appointment only if it is satisfied that the person has the

qualifications, experience and skills necessary to enable the Commission to effectively perform its functions.”.

I refer to a number of Opposition amendments concerning the method of appointment of a commissioner, which were carried on Committee Stage. My amendment No. 7 will replace subsections (5) to (9) with a redrafted text that takes account of all but one of the proposals on that occasion. Subsection (5) includes a requirement for an open selection competition while subsection (6) provides for the appointment of a selection panel as proposed in the Opposition amendments.

However, the amendment does not provide for the nomination of a member of the selection panel by the European Data Protection Supervisor, EDPS, for the following reasons. Following completion of Committee Stage, my officials drew the attention of the European Data Protection Supervisor to the subsection that would require him to nominate a member of the selection panel for recommending a candidate for the appointment of commissioner. The response to my Department by the supervisor's deputy stated that, despite its deep understanding of the good intentions of, and appreciation for, the European approach, EDPS wanted to express its reservations about the idea. It stated that it was aware of some precedents as far as the involvement of the fundamental rights agency executive director was concerned but thought that it did not fit with the system of international co-operation of data protection authorities. EDPS, being the supervisor of EU institutions bodies and agencies, as well as the provider of the secretariat for the European Data Protection Board, has to stay neutral and impartial in all appointment procedures in national jurisdictions. This is something we did discuss, and it was flagged in anticipation of our representations and submissions. Taking account of the views of the European Data Protection Supervisor, I have not provided for a nomination of a member of the selection panel by the European Data Protection Supervisor in my amendment to replace subsections (5) to (9). However, as I mentioned during Committee Stage discussions, it is already the practice of the Public Appointments Service to seek external participation in selection boards. I understand the head of another data protection authority already participated in the selection process that recommended the current Data Protection Commissioner to the Government for appointment to that position. I state this for clarity purposes, being further information that is now provided that we did not have on Committee Stage.

As regards amendment No. 8, in the names of Deputies Daly and Wallace, I am advised it is not necessary to make provision for the filling of a vacancy on the commission because the process for appointing a commissioner will apply in the case of all vacancies in any event as of course.

**Deputy Clare Daly:** The Minister's amendment No. 7 obviously removes what we put into the Bill. I was going to ask the Minister that if he was going to object to our provision whether he had contacted the office of the European Data Protection Supervisor in the meantime about us placing an obligation in law for its involvement. He has done so, and it nails the argument. There is nothing more we can do on that. The point about external involvement is still important, but I take the point that the office of the European Data Protection Supervisor feels this is not a role for it. On that basis we cannot really press ahead with it.

With regard to amendment No. 8, this is the same as what we presented on Committee Stage, to insert a requirement that vacancies for the role of the Data Protection Commissioner would be advertised publicly, along with details of the criteria for the filling of the vacancy. I know the Minister has said this is not necessary and that an open competition presumes a public advertisement, but does it entirely? We can have an open competition that is not actually open because nobody knows about it. We just want to know whether it is explicitly guaranteed that the vacancies will be advertised, along with the specific list of criteria for people who might want to take up the positions.

**Deputy Charles Flanagan:** To respond very briefly to Deputy Daly, it will be a public process. It will be a full process and it will be conducted by way of public advertisement for anyone who is interested in making an application.

Amendment agreed to.

Amendment No. 8 not moved.

**An Leas-Cheann Comhairle:** Amendments Nos. 9 to 12, inclusive, are related and may be discussed together

**Deputy Charles Flanagan:** I move amendment No. 9:

In page 26, line 9, to delete “(in subsection (2) referred to as “annual accounts”)”.

Sections 23(3) to 23(6), inclusive, deal with the annual accounts of the data protection commission. These were inserted into section 23 on Committee Stage, and the amendments make a number of minor and technical adjustments to these provisions. I do not see any controversy involved.

Amendment agreed to.

**Deputy Charles Flanagan:** I move amendment No. 10:

In page 26, line 13, to delete I move amendment No. 9:

In page 26, line 9, to delete “Annual accounts” and substitute “Accounts”.

Amendment agreed to.

**Deputy Charles Flanagan:** I move amendment No. 11:

In page 26, to delete lines 23 and 24 and substitute the following:

(3) Subject to *subsections (4) and (5)*, *subsections (1) and (2)* shall cease to have effect on the date of the coming into operation of *section 173(b)*.”.

Amendment agreed to.

**Deputy Charles Flanagan:** I move amendment No. 12:

In page 26, to delete lines 25 to 31 and substitute the following:

“(4) Accounts kept in accordance with this section that relate to the period specified under *subsection (5)* shall be submitted by the Commission to the Comptroller and Auditor General for audit not later than 3 months after the date of the coming into operation of *section 173(b)*).

(5) The Minister may, for the purposes of *subsection (4)*, specify a period which—

(a) shall end on the date immediately preceding the date of the coming into operation of *section 173(b)*, and

(b) may be longer or shorter than a financial year of the Commission”.

Amendment agreed to.

**Deputy Róisín Shortall:** I move amendment No. 13:

In page 28, after line 34, to insert the following:

**“Micro-targeting and profiling of children**

**30.** It shall be an offence under this Act for any company or corporate body to process the personal data of a child as defined by section 29 for the purposes of direct marketing, profiling or micro-targeting, for financial gain. Such an offence shall be punishable by an administrative fine under section 140.”

This grouping of amendments, amendments Nos. 13 to 15, inclusive, relates to the question of children using the Internet and the desire of everybody in the House to protect children as much as possible while they are using the Internet. There have been many different suggestions of how best to do this and the discussion on Committee Stage centred around two actions. The first was to increase the digital age of consent. A number of people, including myself, proposed amendments in this regard to raise it from the existing 13 years of age to 16 years of age.

The other area in which I and others were interested was that of outlawing the targeting or harvesting of children’s data for the purposes of marketing and commercial purposes generally. At the time, one of the amendments I had tabled was to raise the age of consent. I listened to the arguments put on the day and, since then, I have to say, I have done a good bit of reading on this. In particular, I have read some of the correspondence I have received from the Children’s Rights Alliance, the ISPC and Barnardos, and I have changed my mind about raising the digital age of consent.

The instinctive thing about it was we felt it would be better if children had to get permission from their parents and that there would be less danger to young teenagers but, having read the cases made by the various children’s NGOs, I accept what they are saying about the false sense of security that raising the age gives. The other point they made is there is an issue about the raising the age to 16 in light of the virtual impossibility of enforcing that age, and a number of concerns set out by those groups relate to child protection.

Everybody is concerned about children getting onto harmful and pornographic websites and the fact it is so easy for children to do this. Basically, they can get onto them in a matter of two or three clicks. As we know, the most recent phenomenon is with regard to young people often sharing personal or inappropriate images of themselves online and through social media. There is general concern about the potential of this in terms of grooming children and online sexual abuse and, obviously, commercial companies selling and exploiting digital profiles of children. There is a whole range of concerns, and the NGOs made the point that out of the blue, the digital age of consent seemed to be just dropped into the general data protection regulation at the 11th hour without any evidence base for doing so. They cited the experience from the US, which shows that to get around this increase in the digital age of consent companies often simply avoid asking children for their age. Most children are, obviously, able to bypass the age verification mechanism. Given the fact that very often children are much more adept at using social media and using the Internet generally, parents have no idea they are able to bypass these mechanisms and, again, have that false sense of security.

The concern is this issue has not really been addressed at EU level, and many agencies are still waiting for this to happen. The NGOs have drawn attention to the fact that there is a need to put a much stronger political focus on measures that can truly protect children. The NGOs make the following points: Ireland still does not have a digital safety commissioner; there is still no public body with the power to regulate the online world to make children safer; no-one has the power to compel the social media platforms or broadband providers we all use every day to

prevent a child from engaging in harmful online content; and no-one has the power to set down codes of conduct for online providers. The NGOs make the case that this is not good enough. We need political leadership at the highest level on this issue, and we need it now. We urgently need politicians of all hues to make the digital safety commissioner a reality. The NGOs say this will make a real difference towards keeping children safer online, and in reassuring parents. The digital age of consent cannot provide this protection. The digital age of consent will be effective when it is thought out properly and when we have proper guidance from the EU, on which we are still waiting.

Putting the digital age of consent up to 16 years of age creates a very false sense of security. We may feel good about it but it actually does very little in protecting children, and it misleads parents. This is why I have not put my name to that amendment again for the Bill on Report Stage. When the Minister made the case for keeping the digital age of consent at 13 years of age, he quoted extensively from the Children's Rights Alliance and from the Ombudsman for Children. I put it to the Minister that both of those bodies said that while they did not believe it was right to raise the digital age of consent, they each felt it absolutely essential for the Minister to put measures in place to prohibit companies from harvesting children's data and from profiling children for marketing and commercial purposes. This is why I put my name alongside Deputies Daly and Wallace to an amendment to outlaw this practice.

In deference to the points I have made on accepting the Minister's arguments on the age of consent, will the Minister also accept the arguments made by the Children's Rights Alliance and the Ombudsman for Children that we absolutely have to protect children from this kind of targeting and profiling around their data? It must be kept safe.

**An Leas-Cheann Comhairle:** I will call on Members as they tabled amendments.

**Deputy Mick Wallace:** We welcome Deputy Shortall's conversion and we look forward to Sinn Féin, Fianna Fáil and the Labour Party joining in on the issue also. We fought on the Government's side on this issue on Committee Stage so we are repeating an amendment that Senator Lynn Ruane first introduced in the Seanad and which we also proposed during Committee Stage in the Dáil.

We believe that the digital age of consent should absolutely remain as it is in the Bill at 13 years of age. It would be detrimental to do otherwise. Changing it without robust and adequate verification processes in place does not make any sense. Setting it at 16 years of age is the easy option and, as it has turned out in the last weeks, has proven to be a populist one. To do so, however, would be pointless and counterproductive. There are no adequate verification processes currently in place to verify age of consent and there will not be any in place in the next two weeks before the general data protection regulation, GDPR, comes into effect.

On Committee Stage, arguments were made that WhatsApp will ask users to confirm they are aged 16 or over. The argument was built around this, despite the fact that WhatsApp and Facebook had already committed to these changes. Anybody who uses WhatsApp and who had simply to tick a box at the weekend to say they were over 16 will know and understand the pointlessness of setting the digital age of consent at 16. A friend of mine tried this over the weekend and he was able to show me that a child of four could have done so.

There are also fundamental conceptual difficulties with age verification. The processes to do it adequately are themselves considered violations of privacy. Age verification processes

that might be adequate are also data harvesting exercises. In that sense, it is important to question why certain people who should really know better - I am not referring to Senators or Deputies - are lobbying for the age of consent to change to 16 years of age. It is also interesting that certain people who have been lobbying Deputies and Senators for the digital age of consent to be set at 16, to my knowledge, have not lobbied at all in relation to our amendment No. 13, which proposes to prohibit the profiling and micro-targeting of children. If a body wants to set the digital age of consent at 16, perhaps it is likely that it wants to be able to harvest the data of parents through the verification process, as well as the children's data once the parents have consented and verified.

Including a prohibition on profiling and direct marketing to children would surely go a long way to addressing people's fears on the digital age of consent being set at 13 years of age. This is not an unreasonable request. The Ombudsman for Children recently made this point also. The ombudsman has argued that the digital age of consent should be set at 13 but that the profiling of children and the harvesting of their data for commercial purposes should be prohibited on a statutory basis. This kind of digital marketing is incredibly powerful. It would surely be a progressive step to shield children from it. I believe that the parents of Ireland would thank us for this.

I acknowledge the Minister's points during the Committee Stage debate. The Minister mentioned the European Court of Justice ruling that the imposition of limitations in national or member state law on the processing of personal data that is lawful under the GDPR is in breach of EU law. The Minister was referring to Article 7(f) of the 1995 directive, which is now part of Article 6.1(f) of the GDPR. The Minister also referred to Recital 47 of the GDPR, which is a reference to the fact that the processing of personal data for direct marketing purposes may be regarded as carried out for a "legitimate interest" as per Article 6.1(f).

*9 o'clock* I accept that based on their business model, social media platforms like Facebook can presumably claim that the kind of data processing they do is "legitimate interest" processing. I understand that Article 6.1(f), however, makes a special provision for the protection of the personal data of children. Article 6.1 of the GDPR broadly reproduces an equivalent provision in the data protection directive but the need to specifically consider the interests and rights of children is new. At the very least, this should require that data controllers like Facebook ensure that any decision to process data relating to children on the basis of "legitimate interest" is carefully documented and that a risk assessment is conducted.

Even if this amendment does not succeed, the digital age of consent should remain at 13 years of age. My point still stands that without reliable, sufficient and adequate verification procedures in place, setting the age of consent at 16 will not work and will have many damaging and unintended consequences. Setting the age of consent at 16 will not prevent children from being profiled and marketed to, for example, by fast food or junk food companies. If a parent consents for a 13 or 14 year old to use a particular online platform, that 13 or 14 year old will be subjected to the same profiling and micro-targeted marketing. They will be subjected to it also when they inevitably bypass, very easily, the necessity for parental consent.

I shall now turn to amendment No. 15. As I have already said, it is a very bad idea to set the digital age of consent at 16 years of age without the necessary verification processes in place. Any age verification processes that might be adequate are themselves data harvesting exercises and we should ask ourselves why certain so-called experts are advocating for the digital age of consent to be set at the age of 16.

I mentioned a number of points previously. This week saw the strange and worrying situation of the Children's Rights Alliance having to defend itself against an accusation in a Sunday tabloid that its support of 13 years as the digital age of consent was based on Government funding. That is an unfair claim.

**An Leas-Cheann Comhairle:** Not only has the Deputy's time expired, but it is 9 p.m., so I would ask him to move the adjournment of the debate.

**Deputy Sean Sherlock:** May I seek clarification? I am a party to the amendments in this grouping.

**An Leas-Cheann Comhairle:** If the Ceann Comhairle or I am present tomorrow evening, we will call Deputies. Deputy Ó Laoghaire has amendment No. 14, after which Deputies Sherlock, O'Callaghan and Thomas Byrne, in that order, will be called. Any other Deputy who wishes to contribute will then be called.

Debate adjourned.

### **Mandatory Open Disclosure: Motion**

**Deputy Louise O'Reilly:** I move:

“That Dáil Éireann:

recognises that:

— the CervicalCheck scandal and the reports into the deaths of babies in Portlincula and Portlaoise hospitals have undermined confidence in the healthcare service, caused hardship and injury to families and potentially impacted on the treatment of seriously ill women;

— the Health Service Executive (HSE), every healthcare organisation in the State, or services purchased by the State or delivered on behalf of the State by the private sector, and everyone working for them, must be honest, open and truthful in all their dealings with patients and the public, and organisational and personal interests must never be allowed to outweigh the duty to be honest, open and truthful;

— there is a need for justice and support for the women affected and for the families of those women who have tragically died;

— there is a need to rebuild confidence and trust between patients and the healthcare service;

— central to rebuilding trust is full disclosure of all relevant information to patients and accountability within the health service;

— to date, the Government has failed to introduce mandatory open disclosure;

— the introduction of mandatory open disclosure is a necessary and immediate step in rebuilding confidence in the healthcare service; and

— mandatory open disclosure should not only be confined to doctors, nurses, and

15 May 2018

healthcare professionals at all levels, but it should apply across the whole health service from the ward to the top of the HSE and the Department of Health, and include all grades and categories of workers; and

calls on the Government to:

- legislate for mandatory open disclosure of all information where an error occurred that has affected the patient's care and to do so before the next Dáil summer recess;

- place a statutory duty on all officials in the Department of Health and HSE to provide full information to a healthcare regulator, statutory agency and Minister in cases of systemic failures in healthcare;

- ensure there is also a statutory duty imposed on all officials in the Department of Health and HSE, including the Minister for Health and the Director General of the HSE, to be truthful in any information given to the Health Information and Quality Authority (HIQA) and/or any relevant statutory agency, either personally or on behalf of their organisation; and

- ensure that it be made a criminal offence for any health service worker of any grade, group or category, official within the Department of Health, or official within the HSE, including the Minister for Health and the Director General of the HSE, to:

- knowingly obstruct another in the performance of these statutory duties;

- withhold information about a patient's medical diagnosis or misdiagnosis;

- provide information to a patient or nearest relative intending to mislead them about such an incident; or

- dishonestly make an untruthful statement to HIQA and/or any relevant statutory agency knowing or believing that they are likely to rely on the statement in the performance of their duties.”

Recent weeks have been difficult for the State, the health service and those working in the health service who do their best, work hard, turn up and do a good job, but all of those difficulties pale into insignificance in comparison with the trauma endured by the victims of the CervicalCheck scandal. In addition to that, there was the recent report into the deaths of babies at Portiuncula and Portlaoise hospitals and the battle by their families to get some information on and accountability for the deaths of their loved ones.

The issues and problems surrounding these cases have served to undermine confidence in our health service. The public knows the Trojan work that is done by staff. From porters to care assistants, GPs, practice nurses, hospital doctors, paediatric nurses, radiographers and so on, the hard work that people do is known despite the bad press that our health service often gets. People know that these staff are hard working, honest and often doing their best in a system that is overmanaged and not accountable enough. Unfortunately, in a small number of cases, a failure to be honest and accountable has cast a dark shadow across the whole of our health service. This is not fair to victims of serious adverse medical incidents who are not told about mistakes or to the majority of the service's staff.

To be clear, this motion and any legislation that comes from it are not an effort to punish healthcare and medical professionals. Rather, the motion is meant to help them and patients. It is an attempt to begin the process of cultural change that is so necessary in our health service.

Seeing as how we are discussing honesty, let us be honest: the experiment with voluntary open disclosure has not exactly been a success. Given the advice on open disclosure that was given to the Taoiseach while he was the Minister for Health, we must be honest and say that it has not worked.

I cannot emphasise enough how mandatory disclosure is a benefit to medical professionals and patients. The global evidence tells the story for itself. The motion calls for the rebuilding of confidence and trust between patients and the healthcare service. Central to that are full disclosure of all relevant information to patients and accountability within the health service.

We all agree that medical professionals should have a legal duty to be open and honest when things go wrong. Many of them agree. However, the duty to disclose should not stop at healthcare professionals. With the CervicalCheck scandal in mind, the failure to disclose goes all the way to the top of the corporate body that is the HSE. That is why our motion calls for the mandatory open disclosure of patient safety incidents if they are known within the HSE or the Department of Health, as was the case with the CervicalCheck scandal.

Recent scandals have given the impression that there is endless protection for those at the top while no such protection exists for those on the front line. The actions or omissions of those at a high level in the HSE or the Department can affect far more patients than the actions or omissions of those on the front line. If we have open disclosure for those on the ward and in the surgery, surely there also needs to be accountability and disclosure among individual executives, hospital CEOs, and members of the HSE and the Department of Health. Organisational and personal interests must never be allowed to outweigh the duty to be honest and open. More importantly, they must never interfere with the right of a patient to get information about his or her own situation.

Transparency is much needed to ensure that all of the information about a patient is made known to him or her. It must be mandatory to ensure that any patient harmed by the provision of a healthcare service is informed of the fact and appropriate remedies offered regardless of whether a complaint has been made or a question asked about them.

This motion is an opportunity to do what the victims of the most recent scandal want us to do, namely, to learn from what has happened and to take steps to ensure that it will never happen again.

**Deputy David Cullinane:** We are discussing this motion because of the recent CervicalCheck scandal, which will not be solved behind closed doors. It can only be resolved in public and there needs to be public accountability. The Committee of Public Accounts has a duty to examine these issues, as does the Joint Committee on Health. They should be able to do their work and be supported in that regard.

Last week, the former director general of the HSE, Mr. Tony O'Brien, admitted that there had been system failures in the CervicalCheck scandal. That was an understatement. What we are looking at is a cover-up. Let me explain what I mean by "cover-up". It is becoming clear that CervicalCheck and the HSE, with the knowledge of the Department of Health, developed a damage limitation strategy. We know this because, on 29 June 2016, Mr. Simon Murtagh of

15 May 2018

CervicalCheck wrote to Mr. Michael Conroy of the Department's policy section, told him that there was a letter being issued and updated him on the progress so far. That email had two attachments, one of which I will quote. It is entitled, "Notes for consultant doctors regarding outcomes of the cancer audit process". It reads:

While CervicalCheck supports the principles of open disclosure, it is recognized that there are limitations to its universal implementation, particularly for screening services where there is an inherent recognized error rate. The assessment of avoidable harm that doctors are asked to make, which should be done in consultation with the relevant consultant doctors, should take this into consideration.

At no point in any of the memos and letters that the members of the Committee of Public Accounts, the Minister or I have seen was there an attempt by the HSE to inform the women directly. In fact, what we saw in one of the letters was that two women had asked about their smear tests and contacted CervicalCheck directly only to be told to go to their consultants. At every step of the way, barriers were put in place to women getting information that they should have been given.

CervicalCheck is openly admitting that it does not believe in open disclosure regarding its screening programme. In order to do this, CervicalCheck put in place a three-tier filtering process to limit the number of cases that went public. The first part was to leave it to doctors to tell the patients. As we know, only one in four patients were informed. Of the women who were told and threatened legal action, CervicalCheck and the laboratory in question got them to sign non-disclosure agreements as part of their settlements. Of the women who refused to sign such agreements, their court cases were dragged out so that they would die before they could get an opportunity to have justice. Indeed, three women did die.

The one element that the CervicalCheck strategy did not bet on was Vicky Phelan. We all accept that we owe her a debt of gratitude, as do the other women. This is a national scandal. When the Taoiseach was Minister for Health, he had an opportunity to support mandatory open disclosure. The chief medical officer was one of the people who advised him not to pursue it. Last week, I and other members of the Committee of Public Accounts asked whether the Department had received any of the three memos laid before the committee which had been given to the director general of the HSE. The chief medical officer sat beside the director general during a lengthy discussion of the memos. The director general was very clear that he had no idea whether the Department had ever seen them. Both the director general and the chief medical officer tried to help members of the committee understand what the memos meant. However, the chief medical officer never said that he had seen the memos and had been given the information. He knew of the strategy to pause all letters, lawyer up and contact solicitors. The paragraph in the memo which states that the women should not be told because they would become hysterical and go to the media and that CervicalCheck needed to develop a media strategy goes to the heart of this scandal. We now know from emails published today that a media strategy was put in place in October 2016. That was the outcome of a very deliberate strategy. There was a cover-up and people have very serious questions to answer. We will ask more of those questions at the Committee of Public Accounts and elsewhere. The Minister's job is to hold those who are responsible and withheld information in a cold, calculated and deliberate way to account.

**Deputy Gerry Adams:** The daily drip feed of revelations about the cervical cancer smear scandal and the reports into the deaths of babies in Portlincula and Portlaoise hospitals have

undermined confidence in the healthcare service and added to the trauma of the families affected. Without the remarkable courage of Vicky Phelan, the cervical smear scandal might never have become public. Her rejection of a demand to sign a confidentiality agreement was a hugely courageous and selfless act. It is proof that not only was the State covering up what was happening, it was also asking the victims to collude in that cover-up. The Oireachtas should be equally courageous and resolute in how it confronts and tackles this scandal.

It is imperative that the Government urgently introduce strong legislation requiring mandatory open disclosure in the HSE before the summer recess. Nothing less will do. Nothing less will work. The distress and grief of Emma Mhic Mhathúna, Paul Reck, Stephen Teap and many others demands that the Government take all necessary steps to ensure that there is no repeat of this scandal or of any of the others that have bedevilled the health service over the years.

There have been too many such scandals. In the 1990s, over 1,000 people, mainly women, were infected with contaminated blood products. The Blood Transfusion Service Board was warned about the matter but failed to tell those who had received the products. A report published three years ago revealed that at least 260 people who were infected with hepatitis C have died in the 20 years since the facts first emerged. Louise O'Keefe is another victim of the culture of secrecy and cover-up. It took her 15 years to win her legal battle to force the Government to pay compensation for the abuse she endured as a pupil. Many elderly women who were victims of symphysiotomy are still fighting for truth and compensation. Let us not forget the women victims of the Magdalen laundries or the mother and baby homes, or Savita Halappanavar and countless others. We must also recall that the State forces many victims, particularly women, of anomalies, injustice, malpractice or misgovernance, particularly within the health system, to fight long, expensive and stressful legal battles. Until now, successive Governments have endorsed that punitive approach. The Government approach has been to fight every case tooth and nail.

The Government stated that it will not oppose our motion but that is not the same as supporting it. I ask the Minister, Deputy Harris, to clarify the Government's position in that regard. I appeal to every Deputy to support the Sinn Féin motion and I commend Deputy Louise O'Reilly on bringing forward. I appeal to the Government to go beyond its current position by speedily introducing the legislation required for mandatory open disclosure.

**Deputy Pearse Doherty:** Ba mhaith liom tacaíocht a thabhairt don rún seo, atá curtha chun tosaigh ag an Teachta O'Reilly. Each time there is a scandal in the State, the crisis is initially downplayed. There are accusations of overreaction and so on. However, the scandal ends up being worse than it initially appeared. That was recently the case in respect of the mother and baby home in Tuam, the tracker mortgage scandal and the CervicalCheck issue. As one who comes from Gweedore, I also think of the hepatitis C scandal in that regard because Bridget McCole, a proud woman from my parish, was disgracefully treated by the Government of the day. She had to fight right up to the time of her death to ensure that justice was done. No woman or citizen should have to go through that. Accountability is hard fought for and seems almost beyond the reach of the ordinary citizen. A revolution is needed in respect of how the State treats its citizens and protects the protected few.

Níl dabht ar bith ná go gcruthóidh Sinn Féin oiread freagracht agus is féidir in Éirinn, céim ar chéim. Tá dul chun cinn á dhéanamh againn anocht leis an rún seo atá os comhair na Dála. This very simple motion proposes the introduction of mandatory open disclosure before the summer recess. As an Opposition party, Sinn Féin will work with the Government to bring that

about. The Government should have brought in mandatory open disclosure previously rather than voting against it, while the Deputies of Fianna Fáil, as they do, sat on their hands. We must bring in accountability and transparency.

I received a call this evening from a constituent in Donegal whose brother died in a psychiatric ward 20 years ago. It took the family ten years to fight the State because the required information was not provided to the family's medical experts. On the steps of the court, the State told the family to settle because if it did not members of the family could lose their homes as the State was going to pursue them for everything they had. That is how the State treated people. Let us make a start, turn over a new leaf and introduce mandatory open disclosure before the summer recess.

**Deputy Imelda Munster:** The culture that exists in the HSE is one of secrecy, not answering questions and a lack of transparency. The HSE is a law unto itself. That has been laid bare since Vicky Phelan brought this scandal into the public domain. The question for the Minister is whether he can trust anybody in his Department or the HSE because the only solutions offered by the HSE when it became aware of this scandal were to hide it and cover it up. Its priority was to protect the men in suits and the faceless officials behind closed doors rather than the patients. The director general of the HSE gave two fingers to patients, the public, the women of Ireland and the Minister.

It is clear that the Minister has lost control of the HSE. In spite of all the heartache, stress, worry, illness and death and everything the director general did and stood over, he was not sacked by the Minister. What will the Minister do to fix this situation? All Members know that the HSE cannot answer a question directly. There is a culture of dishonesty at the top of the organisation at the very least. The Minister has lost the confidence of the public, especially women. Who are the faceless officials in the HSE over whom the Minister has absolutely no control? Mandatory open disclosure legislation is the only solution. What happened on the previous occasion on which mandatory open disclosure came before the House? The Minister, the Government and Fianna Fáil blocked its introduction. Fine Gael voted against it and Fianna Fáil sat on the fence and abstained, as it always does. The Minister has been speaking with a forked tongue on this issue because the Government blocked mandatory open disclosure. I hope the Minister will do the right thing this time. The spotlight is on him. The Minister has been shamed into doing it. It is no wonder there is a culture of non-disclosure and lack of transparency in the upper echelons of the HSE when no leadership has been given by the Government or previous Governments on this important matter.

**Deputy Denise Mitchell:** The motion is about ensuring that every healthcare service in the State is open and truthful when it comes to dealing with patients and the public. I could not believe what I was reading in recent reports that CervicalCheck issued a circular to consultants saying it was up to individual doctors to tell patients about their misdiagnosis. I refer to the Medical Council's guidelines on disclosure, which state patients and their families, where appropriate, are entitled to honest, open and prompt communication about adverse events that may cause them harm. It is clear that those guidelines were not followed. Patients need to be able to have trust in their health service and that means they need to get the full truth. The HSE should not wait until a complaint is made before it tells a patient the truth. That is morally wrong. If we are all in agreement, I ask Members to support this motion because all patients deserve openness, transparency and full communication from the health service.

**Minister for Health (Deputy Simon Harris):** I appreciate the opportunity to update the

House this evening on the work the Government is doing on open disclosure and accountability, in response to the motion before us this evening from Deputy O'Reilly and her colleagues, which we will not be opposing. We will not be opposing it because we want to work with this House to legislate in this area. I welcome the invitation from Oireachtas colleagues to work with speed and priority in terms of trying to legislate in this area. It is abundantly clear that the cases of women and families affected by the recent issues which have emerged in relation to the CervicalCheck screening programme raise very great issues of trust in our health service. Dealing with patients honestly and openly, including when errors and mistakes are made, is key to restoring and improving that trust. I have heard clearly the calls that some good must come from such awful pain and hurt and that we must learn and work to ensure it will never happen again.

As Members are aware, last week the Government approved proposals to provide for mandatory open disclosure, through the forthcoming patient safety Bill, in respect of serious patient safety incidents, including issues relating to screening. The new Bill will provide for mandatory external notification of serious patient safety incidents to the appropriate regulatory body, be that the Health Information and Quality Authority, HIQA, or the Mental Health Commission, mandatory open disclosure of serious incidents to the patients affected by them, ministerial guidelines for clinical audit and the extension of HIQA's remit to private hospitals, which is something that has long been sought.

In the context of the motion before the House and in light of some recent commentary, it would be helpful to recall the policy approach my Department has adopted on open disclosure in recent years. It has been informed by a number of elements, including the experiences of comparable countries and the 2008 report of the Commission on Patient Safety and Quality Assurance, more commonly known as the Madden report. The open disclosure provisions brought forward last year were based upon the principles set out in the Madden report. That report recommended the adoption of legal protections for health service staff when making a disclosure to patients or their families. It did not recommend that mandatory open disclosure be legislated for but it did recommend that it should be mandatory to notify the relevant regulatory authority, such as HIQA, when a serious incident occurs. That is now being provided for in the patient safety Bill.

The legislation to provide for a voluntary approach to open disclosure has been enacted following the passage of the Civil Liability (Amendment) Act 2017 and regulations flowing from it are due to be brought forward shortly. As colleagues are aware, this legislation was also subject to pre-legislative scrutiny by the Oireachtas Joint Committee on Health. We have seen in recent weeks much understandable criticism of the use of the word "voluntary" in this context, but I want to be very clear: that should never be equated with a view that open disclosure is something which clinicians or health service staff should regard as optional, which clearly was the case. It is quite clear that there is a completely understandable expectation, one that I share, that patients should be told about any incidents with regard to their care that may have occurred. Open disclosure should happen in the right way, in all circumstances. Put simply, patients must be informed. That is clearly the standard expected in the HSE's own national policy on open disclosure, and as Deputy Mitchell indicated, it is a requirement placed on doctors by the Medical Council. It is a standard that, while expected, has simply not been met. Open disclosure works best when doctors, nurses and other professionals are supported and encouraged to be open, honest, communicative, empathetic and supportive to their patients when things go wrong. They should apologise. Maintaining the trust and confidence of patients is

essential. Unfortunately, as we know all too well it does not always happen. There are too many examples where patients have not been dealt with honestly and openly and some of those painful and devastating experiences are all too fresh in our minds and in the minds of citizens. The trust we place in those who care for us or those we love when we are ill is a sacred one and when breached, it adds an extra painful injury.

In seeking to change the culture of the health service with regard to open disclosure, it is recognised that there is a number of serious incidents where it is appropriate to introduce a requirement in law for mandatory open disclosure. That is why provisions for mandatory open disclosure will be incorporated into the new patient safety Bill. When this legislation is enacted, Ireland will be placed at the apex, legislatively, of international practice in this area. We have made some strong progress in promoting patient safety and quality in the delivery of health services and we must do all we can to ensure that we prevent harm and error.

Out of very tragic and painful circumstances, we have learned how to respond and to improve. That is referenced in the motion before the House tonight. It is true of maternity services in Portlaoise hospital and the subsequent HIQA investigation, and in the promotion of openness and accountability in Portiuncula Hospital, the report of which was published just two weeks ago. In both Portlaoise and Portiuncula, we have put in place comprehensive, focused plans that have seen clear improvements to the maternity services being delivered by those hospitals. That is an example of how the system can and must learn from painful events to ensure they do not happen again. It is a recurring theme that patients who have been through the worst of circumstances themselves are strongly motivated by the wish that what happened to them should never happen to anyone else. The desire to see good things come from bad situations - this fundamental humanity - has led to some people who probably never intended or expected it becoming public advocates, making a hugely beneficial contribution to our health service.

My Department and I will continue to place great emphasis on engaging with patients who have experienced harm in a sensitive and compassionate way and with a strong commitment to their needs and desire to help bring change. In keeping with that commitment, I wish to inform the House this evening that this morning, I notified the Government of my intention to ensure the appointment of at least one patient advocate to the new board of the HSE. If this board is to be any different to the boards of the past it cannot just be the usual suspects sitting on a State board with a box ticked. This must be a board that has the right skill sets and they must include patient advocacy and representation. I received approval this morning to proceed with that measure. I know there is cross-party support for it and I will work with colleagues to legislate for it before the summer recess.

Accountability, effective organisational alignment and good governance are central to the organisation and functioning of the health service. The Sláintecare report rightly placed an emphasis on the need for both clinical and managerial accountability, stating:

The Committee strongly believes there is a requirement for clearer clinical and managerial accountability and governance throughout the system. This includes clarity at all levels, from the Minister for Health, the Department of Health, the HSE and healthcare providers.

As such, I view the advancement of Sláintecare as representing a key opportunity to improve accountability processes - one which I intend to take with both hands.

It is important to recall that healthcare professionals can also be held to account through

their individual regulatory bodies, be that the Medical Council, the Nursing and Midwifery Board, as well as the Pre-Hospital Emergency Care Council and CORU. Each of those bodies has defined procedures to operationalise this accountability system and to protect the public in line with the relevant legislation. Furthermore, the Health Act 2007 already provides significant powers to HIQA in respect of its monitoring and investigatory roles, including to enter and inspect at any time any premises owned or controlled by the HSE, to inspect, take copies of or extracts from and remove from the premises any documents or records, including personal records, inspect the operation of any computer, inspect any other item and remove it from the premises, interview any person working at the premises concerned in private and require an explanation of any record.

That said, the events of the past few weeks have no doubt been shattering. The Government has tried to be guided by some grounding principles, namely, getting to the truth of what happened, ensuring that women affected are being contacted and supported and rebuilding confidence in the lifesaving CervicalCheck screening programme and, more broadly, other cancer screening programmes. We have tried to move quickly to work with the Opposition to establish the Scally inquiry, based on broad terms of reference to reflect the concerns of the Opposition to look into these and other matters. We expect an interim report at the start of next month and a final report by the end of it. This has not been kicked into the long grass. This is an inquiry to which we need answers quickly. The Government is then committed to establishing a full commission of investigation for any outstanding issues. There will also be an international clinical expert review led by the Royal College of Obstetricians and Gynaecologists. This will review the results of screening tests of all women who have developed cervical cancer who participated in the screening programme since it was established. This will provide independent clinical assurance to women about the timing of their diagnosis and any issues relating to their treatment and outcome.

We have also agreed a comprehensive package of health and social care measures to try to put in place some practical supports for the women and families affected by the issues relating to CervicalCheck, including things like medical cards, counselling services, transport costs to and from hospital, childcare costs, experimental drug costs and anything else we can do to ease the burden even a little. The HSE has now appointed a central national co-ordinator to lead this service response and has put in place a local contact in each HSE area so that people can go and sit with the women and their families and talk to them about the personal package of supports that can be put in place for them.

As Deputies referenced previously, we have also announced that the State Claims Agency is advancing a new initiative aimed at expediting resolution of the nine outstanding legal cases in a sensitive manner utilising mediation wherever possible. In not opposing this motion, I want to be clear that the Government is committed to progressing, as a matter of urgency, legislation to provide for mandatory open disclosure for patients and mandatory reporting of serious incidents to the relevant regulator. I look forward to working with colleagues on all sides of this House to ensure we do so as quickly as possible.

**Deputy Stephen S. Donnelly:** I welcome tonight's motion on the need for mandatory and enforceable open disclosure. I acknowledge the work done by Deputy O'Reilly in tabling this motion which Fianna Fáil will be supporting.

The HSE's policy on open disclosure is not ambiguous. It is not a "nice to have" or an aspiration. The HSE's 2013 policy document describes open disclosure as "an open, timely and

15 May 2018

consistent approach to communicating with service users [...] when things go wrong in health-care". It says that all health and social care staff have an obligation to fully and openly inform and support service users as soon as possible after an adverse event affecting them has occurred. What has happened with CervicalCheck is completely at odds with the HSE's own policy of open disclosure and represents a catastrophic failure of corporate and clinical governance.

Patients have a right to their own information, to know about their own care and to know when mistakes are made in that care. That is the essence of open disclosure and that is what the HSE policy has stated for the past five years but that is not what happened at Portiuncula Hospital, for example. The report on Portiuncula has not received the attention it deserves because of the CervicalCheck issue. Indeed, we must find time in the House to give that report the required attention.

A review of maternity services at the hospital was published two weeks ago. The review examined the delivery and neonatal care of 18 babies and found that serious failings in maternity care led to the death of three babies and serious injury to three more. The main failings identified were a lack of senior staff, a lack of training in midwifery and poor communication between staff and patients. In 17 of the 18 cases examined, parents were not given proper details about the care of their babies. Reviews were carried out but parents were not told about them. In fact, some parents only became aware of reviews carried out in 2011 when they read media reports in 2015 on serious deficiencies in maternity care at Portiuncula. Not only did they not know that a review had been carried out, they did not know that there was any clinical issue at the hospital. Open disclosure obviously did not happen with CervicalCheck either. As we now know, 19 women have died without being told the truth and hundreds of women are only now being told of errors in their screening because of the brave stand taken by Vicky Phelan and others.

I am not convinced that the spirit of open disclosure is being seen and experienced by the Oireachtas on this issue either. On 2 May, the Oireachtas Joint Committee on Health met senior officials from the Department of Health, the HSE and CervicalCheck. On 9 May, the committee met the Minister for Health, the Ministers of State at his Department, the then director general of the HSE, senior departmental officials as well as officials from the HSE and CervicalCheck. Those meetings took place over the course of about eight hours and after those eight hours, I went away with the very clear understanding that the first that the director general's office and the Department knew about this issue was in 2018. I have discussed this with colleagues on the committee and every one I have spoken to who spent those eight hours in committee also walked away with the same understanding, namely, that it was this year that the director general's office and the Department were notified.

The Minister can imagine my surprise when I found out the following day, due to questioning at a meeting of the Committee of Public Accounts, that the director general's office and senior departmental officials knew in 2016. In fact, there is a year's worth of correspondence in 2016 that somehow, over the course of eight hours of committee, the officials involved forgot to mention, ironically, in a meeting about a non-disclosure scandal. I am not accusing the Minister of anything because the officials have said that he did not know but that is not good enough.

A few hours ago we got copies of that correspondence. The memos include a warning that public confidence in the national screening programme could take a hit when women were told what had happened. I take no issue with such a warning because confidence in the national screening programmes is essential. Any official raising a flag about a potential risk to

confidence and suggesting that the Department and the screening service need to think things through and respond appropriately is simply doing his or her job. That is fine. I do not take any issue with that but I do take issue with what is written in the 11th document in the folder of correspondence where the HSE and CervicalCheck, in collaboration or communication with the Department of Health, decide that open disclosure does not really apply to them. They opt out of open disclosure.

In a note prepared for consultants in June 2016 and shared with the Department there is a section dealing with the principles for communication of the outcomes of a reviewed case, which states that while CervicalCheck, “supports the principles of open disclosure, it is recognised that there are limitations to its universal implementation.” That is not the case according to the HSE’s open disclosure policy. Not only do they not engage in open disclosure, they explicitly reference it and then say they are not applying it to themselves. The Department of Health knew this. The memo was prepared in 2016 and yet somehow, none of the officials thought to mention that during eight hours of health committee meetings on the issue.

As the Minister knows, a question and answer document was also prepared in 2016, which suggests that if it is indicated by the outcome of the review and “if it is appropriate for the circumstances of the woman”, the doctor is asked to discuss the cancer audit process, the review and the review findings with the woman. They are giving themselves opt-outs all over the place. They are also giving the doctors opt-outs. Vicky Phelan’s doctor took grave exception to this and wanted her to be told, although he did not want to do it himself. This culture has to change.

We need to introduce mandatory disclosure but we also need to understand why doctors are not already engaged in mandatory disclosure in these cases. We have been told at committee that this is partly because of legal threat or legal fear. If that is the case, it needs to be nailed down. If there are other reasons, they also need to be nailed down because it is fine for us to legislate for mandatory disclosure but we also have an obligation to clinicians to make sure it is safe for them to engage in same.

I believe the reaction to this scandal, in terms of supporting the women, has fallen well short. The Minister was told in a memo ten days beforehand that something could happen, but he ignored that. The HSE and the Department of Health were discussing it for two years beforehand. We found out in other minutes from 2012 that better communications were needed in respect of the patient safety issue. Despite years of warnings, nothing seemed to be done when the story broke in *The Irish Times*. We know that two in five of the women who have called the helpline are waiting on a call back. It is not good enough. We need more political leadership. The Minister and the Taoiseach need to step up and take more charge of this.

**Deputy Marc MacSharry:** As we have learned, the HSE’s 300-page guidance document on the open disclosure policy is honoured more in the breach than in the observance. It is clear that open disclosure is a selective policy that is applied when it suits and abandoned when it does not suit. I want to say a couple of things. The five principles of care of the Royal College of Obstetricians and Gynaecologists were the subject of a question in an exam taken by UCC medical students recently. The first of the five principles, to which we all aspire, is that “women should be at the centre of their own care”. I suggest the way we operate in this country is that women should be at the centre of their own care as long as it does not pose any threat to the establishment or to the system. We have seen from the HSE and from the management of this issue that as a collective, these organisations, which have some very fine individuals working in

them, serve the system rather than the people or the patient. We have heard about and seen the documentation that has been referred to by many Deputies, including Deputy Donnelly. One of the most shocking things we have learned about is the existence of *pro forma* letters. Other Deputies may have mentioned them before I came to the Chamber. These letters were drafted in the same way that one drafts a Word document with little boxes to suggest that this or that might be spelled differently. A box in the section of the letters dealing with open disclosure stated that this should be deleted if the person in question was deceased. That is a damning indictment of the situation.

I have to say that in recent days, the Minister for Health and the Taoiseach have been excellent commentators on events as they have been happening. However, I have seen no leadership and I still see no leadership. Where is the open disclosure? I acknowledge that we got some documents today. It has been suggested that there are 40 million documents. It seems to me from looking at the documents that have been provided that they have been very selectively chosen. There are some things in them. I think there are many more documents we have not yet seen. The Minister has said he knew nothing about this situation, just as the Taoiseach has said he knew nothing about it when he was Minister for Health. I am sad to say I simply do not believe them. It is simply not credible. I understand there are weekly or monthly management meetings between the assistant secretaries for acute hospitals, the Secretary General and the Minister. The Taoiseach would have attended these meetings when he was Minister for Health. Are there minutes for those meetings? If so, why were they not included in the information that was released to us today? They should have been included.

I would like to ask a question about the staff of the Department at assistant secretary or Secretary General level, and down the chain of command as defined under section 5 of the health Act 2013. Does that legislation endow plenipotentiary status on the staff in question to act in the names of the Minister and the Taoiseach without running it by the Minister first? The Minister might not have had the memo in his hand, but I find it incredible that he was not advised of what was in it and what was going on. While I cannot prove it yet, I have no doubt that the health committee and the Committee of Public Accounts will find out that this is the case. I ask the Minister to be much more forthcoming with the facts and not to drip-feed them. I am hugely sceptical regarding the reason for the selective leak from the Cabinet of Dr. Scally's comment that the committees are disruptive to his work. I am equally sceptical regarding the Taoiseach's remark last week that the Committee of Public Accounts is not a place for this. Where would we be without the Committee of Public Accounts? I will conclude on that point as I do not want to take any more of my colleagues' time.

**Deputy John Brassil:** I welcome the Private Members' motion that has been proposed by Sinn Féin. It took the courage of Vicky Phelan to blow the lid on the culture of cover-up and denial that exists in the HSE, in the Department and at Government level. A sea-change in culture is needed to bring about the change that is necessary. Page 83 of the Sláintecare report deals with leadership, governance and accountability. It is a blueprint for the Minister, the Government and all future Governments in dealing with these critical areas. I remind the Minister that under the heading of "HSE Governance Structure", the Sláintecare report recommends:

- The Minister for Health is held responsible and accountable on a legislative basis for delivery of healthcare, the health system and health reform
- An independent board and Chair is appointed to the HSE at the earliest opportunity, by the Minister, following a selection process through the Public Appointments Service. Board

membership reflects the skills required to provide oversight and governance to the largest public services in the State

- The Chair of the Health Service Board is accountable to the Minister for Health
- The Health Service Director General is accountable to the Board

It is all there. We need to implement it. The message that all employees of the HSE and the Department of Health and all members of the Government need to take from this unfortunate tragedy, which is continuing to unfold, is that covering up a mistake or an error is a far bigger crime than creating the error itself. If we are ever going to have accountability in our health service, that has to be the culture in which we proceed into the future.

**Deputy James Browne:** Twenty days have passed since Vicky Phelan walked out of a court room and told us her story. During this 20-day period of uncertainty for women, we have been confused by the mixed messages from the HSE and the Government. No words of comfort can be offered to the women or families affected by the CervicalCheck scandal. The names of Vicky Phelan, Emma Mhic Mhathúna, Stephen Teap and Catherine Reck will stay ingrained on all of our minds for a long time. Since the Government became aware of Vicky Phelan's case on 16 April last, there has been an absence of political leadership. The memorandums that were revealed at last week's meeting of the Committee of Public Accounts constitute another example of how we have been drip-fed information over recent weeks. It appears that the Minister and the Government were caught unaware by this revelation. This reflects poorly on the leadership and management of the Government. The memorandums reveal a policy of managing risk by means of containment and concealment. The needs of women and their families were simply not prioritised or recognised. We must remember that this scandal was brought to light by Vicky Phelan, who was forced to take her case to the High Court. If she had not had the bravery to tell her story, we might never have known about this scandal. The interviews of members of other families caught up in this awful scandal have rightly captured the hearts of Irish people. It is understandable that people are angry. We need to see leadership and accountability. Just as importantly, we need to see empathy. We need to be assured that the Government understands what has happened here. The Government - first and foremost - is meant to protect people. It has failed in this basic requirement. It has failed these women. The least that can be done to ensure this does not occur again is to provide for mandatory open disclosure.

**Deputy Jackie Cahill:** I welcome the Sinn Féin motion. There is general support for the thrust of it. Patients must trust that they are getting the full facts from their doctors as soon as is practical. In turn, doctors must feel free to share sensitive information without fear of legal consequences. Mandatory reporting is needed to achieve this. The Government has indicated that mandatory reporting will be implemented, but one has to question why it was not in place before now. In 2016, the then Minister for Health and current Taoiseach said he would not introduce mandatory reporting even though he had promised to introduce it a year previously. Last year, the Minister for Health, Deputy Harris, decided to introduce a voluntary open disclosure scheme rather than a mandatory one. It should not have taken the Vicky Phelan case for the Government to act. All the woman affected by this scandal, and indeed all patients, deserve full disclosure on the part of the HSE and the Government. We know there is something deeply wrong with the culture in parts of the HSE. The current scandal with the CervicalCheck programme, which has left women in doubt about the results of their tests, is one of the highest magnitude. Irish women deserve better. The courage of the women affected by the scandal in the face of deception of the worst kind by the HSE is nothing short of amazing. All the women

who have been affected by this scandal must receive all the facts regarding their cases.

Trust in respect of any issue is hard won. In this case, the HSE has lost the trust of the women of the country. The concept of screening the population for a potentially life-threatening disease was forward thinking but who can trust the system when those responsible for running it have deceived their patients and dragged them through the courts? Those responsible within the HSE should be ashamed of themselves.

We must be very clear that no other woman should have to enter into legal battle with the HSE to get the truth about her medical records. The women of this country want to see real action and not an endless charade of investigations with no tangible outcome. It is a defining moment in how serious the Government is about bringing the HSE under control. It is also a defining moment when we will see if the Taoiseach, who is responsible for this Government, has real compassion for the women of the country and does not view them as a further opportunity for self-promotion.

**Deputy Declan Breathnach:** I am reminded of the words, “Honesty is the fastest way to prevent a mistake from turning into failure.” We have gone a long way toward doing that in respect of the cervical cancer debacle. I have always been in favour of mandatory reporting. Like others, I am reminded of my own region in the context of the events involving Fr. Brendan Smyth and the conduct of Mr. Shine and Dr. Neary. If the behaviour of certain individuals had been the subject of mandatory reporting, I am sure that for many of the women who lost their wombs, had symphysiotomies or were harmed in any way as a result of their interaction with the health service, much of this could have been at least prevented.

What has happened in the context of the CervicalCheck scandal is utterly unforgivable. As I argued last week, there is major overhaul required in the clinical governance and management of the HSE. The Minister for Health needs a team of medically trained people in charge of the HSE. That team should include top consultants and physicians in all sectors and also nursing managers. In the main, we have been hiring people with management qualifications to manage the HSE and most of those people are involved in crisis management. The people are screaming out for change. They want trust in the system. I appeal to the Minister to consider the observations I have made, as somebody who has been involved with the health service since 1991.

**Deputy Alan Kelly:** My party and I will be supporting this motion. We will also be facilitating the new patient safety Bill. It should be prioritised in whatever time this Dáil has left. I believe the current Dáil’s time is probably very short and I am not sure if we will get to the Bill because of what has been revealed in the past week or so.

Open disclosure and good governance go hand in hand. The reason we do not have open disclosure in the area of health is, frankly, from what we have seen over the last couple of weeks, that there is not good governance in either the HSE or the Department. At the highest levels, the Department is actually dysfunctional. I am not sure if the Minister can trust his own people or the HSE. I looked back at the Civil Liability (Amendment) Bill. There was lobbying going on to change it from being mandatory for open disclosure and they changed from “shall” to “may”. The reason given was to promote a climate for cultural buy-in. That is civil servant speak for saying they do not want it and it is not something that would be conducive to the manner in which they work, the culture of the organisation or the culture of the HSE. That should not have been allowed to happen and now it is going to have to be cleaned up by the Minister. The former Minister for Health, our current Taoiseach, did not do it and the problem continued

on into the present day. We have to have mandatory open disclosure. It has to cut through all organisations and has to be across all sectors and throughout every occupation in healthcare. Patients and those dealing with them must be given all the information as quickly as possible.

The memo the Minister received a few weeks ago in respect of Vicky Phelan's case says that, in 2014, the outcomes of clinical cancer audits were used by CervicalCheck for educational purposes only. That does not fill one with confidence that there was going to be open disclosure in the first instance. Today the Joint Committee on Health received a letter. Luckily, I am a member of that committee and of the Committee of Public Accounts, so I have got a great deal of documentation in the past couple of weeks. The letter the joint committee received is from the former head of CervicalCheck to the programme manager of acute hospitals in respect of communication issues. It is astounding. The letter is dated 7 September 2017 and is addressed to Mr. Colm Henry. It states:

The key areas identified for improvement relate to communication - both of the process itself and regarding the outcome and interpretation of any findings. We in the programme have been working on a prospective process of notification and consent.

It also states that a new leaflet - this was September 2017 and women had not been told - entitled *Reviewing Your Screening History*, would be given to women shortly after diagnosis. A leaflet. It was not a case of sitting down and deciding how the women would be told. There is a series of documents in which, for over a year, those involved discussed this matter. During that time, they did not decide how they were going to communicate and be open with these women. The idea was to produce a leaflet and that was to be used where women wanted to be informed. The letter goes on to describe other actions which, knowing what we know now, are laughable.

In June 2016, a letter was sent by CervicalCheck to clinicians telling them to inform patients. We know that one in five did so. The issue here is why that letter was not sent to managers in the hospital network as well. The Minister must trust me when I say that they are asking the same thing. This issue would have been dealt with a lot quicker. At the Committee of Public Accounts last week, the State Claims Agency indicated that it was told that all women were informed. We now know, and the Minister accepts, that this was not true. They were not told. Open disclosure, my foot.

Open disclosure must be mandatory. From 1 May, the Minister asked for a full, open trawl of all documentation and, in fairness, we got the documents from the Department of Health. We still do not have them from the HSE. I asked two questions on 3 May in respect of when all hospital managers across the 11 hospitals and the seven networks were told about the audit. Guess what? I have not been given an answer. That would be very useful information and I am still demanding that I get it before the Joint Committee on Health meets tomorrow. How long does it take to send an email out to all of these managers to ask when they first heard of the 2014 audit? This is critical information that I and my fellow health committee members would like to have. The Minister also said it was a full trawl. When the Committee of Public Accounts met on Thursday last, the chief medical officer was sitting beside Tony O'Brien and the latter was able to reveal these memos to me in my capacity as Vice Chairman of the committee. The memos were actually known but the Minister had not been told about them. Last Thursday, after two and a half weeks of this crisis, the Minister had not been told about these memos that actually ended up with the chief executive of the HSE resigning. How does that make the Minister feel? I served as a Minister previously and I know how it would make me feel. That is not the way a functional Department of any kind should operate in respect of what

is the biggest health crisis in many years.

In recent days, I spoke to the family of a lady who passed away as a result of this in 2016. She took legal action before she passed away. Members of her family have been trying to get the Minister to speak to them but they have not heard from him.

I will pass on the details to the Minister and I would appreciate if he could ring the family in question immediately. They have made the effort. They did not have open disclosure. They took legal action before she actually died. They do not feel the State Claims Agency is dealing with the case compassionately. That is still going on now. I spoke to the  
10 o'clock people concerned before I came into the Chamber tonight and I know the details of this case. If there had been open disclosure from day one, the legal issues which are being dealt with now surely could have been concluded. It would have meant her children, her husband, her brother and sister and her extended family could have some form of satisfaction that at least the State acknowledged it had done wrong and that the case had not been dealt with appropriately. Will the Minister please speak to the people in question in the next 24 hours?

**Deputy Ruth Coppinger:** I move amendment No. 1:

To insert the following after “performance of their duties.”

- “— cease the policy of outsourcing and tendering for this programme;
- repatriate the screening programme to Ireland under the control of publicly funded not-for-profit laboratories;
- fund all costs necessary to retest any woman affected, and ensure that women whose general practitioner requests a gynaecological appointment are treated as urgent and not placed on a waiting list;
- provide the Dáil with all available facts, figures, results and information in relation to screening test results and detection rates across the different laboratories used by CervicalCheck for each year from 2008 to the present day, identifying the different laboratories where the testing was done and any pattern of differences between these laboratories for each of these years; and
- ensure that all those presiding over this substandard service, or failing to disclose these facts to affected women, whether in CervicalCheck, the Health Service Executive, the Department of Health, including the relevant health Ministers, be held fully accountable and responsible for these failings.”

I wish to share time with Deputy Bríd Smith.

**An Ceann Comhairle:** Is that agreed? Agreed.

**Deputy Ruth Coppinger:** I have only four minutes but it is completely insufficient for the points which I want to raise.

A substantial number of memos were sent around from the Minister’s office. Over seven months, these memos record that the issue of non-disclosure to victims was discussed in several meetings by dozens of people. We are meant to believe that the previous Minister for Health, now the Taoiseach, and the current Minister were not informed. That is frankly not believable.

In the memos, it shows that legal cases were being discussed for seven months. In one meeting, on 3 March 2016, the matter comes up under the heading AOB at a meeting attended by 12 people from the Department of Health, the NCCP, National Cancer Control Programme, and the HSE. It stated that letters will issue to clinicians - hardly an AOB item. The next reference is 29 March 2016 to the chief medical officer from the national director of health and well-being. He seems to have been very involved in all of this. The issue of cover-up was immediately raised in that second memo in March which we saw at the meeting of the Committee of Public Accounts. By April, a formal process of informing clinicians, references to volumes of letters and labs threatening legal action if the information is passed over.

By June, there is a seven-page letter sent to doctors to explain how not to tell their patients. For example, there is advice to doctors that when a case is reviewed, if the woman does not wish to be informed, her preference should be respected. How would the woman know she does not want to be informed if she is not actually informed? The advice is not to tell people about the audit unless they ask about it. It is outrageous.

The same letter also stated that if the woman asked about her screening history, she should be informed at this time about the audit process. She was not to be told about the audit process in the first place. That level of meticulous planning by a whole load of people in three sectors of the health service is not believable. It is not believable that people at the top of the Department of Health did not think to tell the Minister that one of the major health programmes of the State, the CervicalCheck programme, was under serious threat. All of the language throughout is about mitigating the risk.

In the middle of all of this - the Taoiseach was Minister at the time - while the companies are threatening legal action, they are actively encouraged to enter a closed bidding process to get the contract for another two years. Why was that done? Was there no concern whatsoever about the different lab results from the three labs which were put up on the CervicalCheck site? Will the new smear tests that women are allowed to get still go to Quest laboratories? Over the weekend, Ministers said they were not using the Vicky Phelan lab but they are still using Quest which has a much lower detection rate than the others. Will the Minister for Health invest in public labs attached to public hospitals for the HPV vaccine?

I have run out of time but I do not believe the Taoiseach or the Minister were not informed of all of this cover-up.

**Deputy Bríd Smith:** I welcome the Sinn Féin motion and support its calls for transparency and openness. It is telling that when such calls were explicitly removed from previous Bills by the Government, there was obviously something to hide. Welcome as all of that is, I do not believe it gets to the nub of our problem. I will continue to emphasise that there is an ideological decision at the core of this problem, namely, the decision to outsource health services and to privatise them. It was a decision taken by the Fianna Fáil-Green and Mary Harney Government back in the day. The justification then and now to do this was that our system had limited capacity but also the private system is much more efficient and reliable than a public system based on publicly funded hospitals with clear oversight and accountability. When warned in 2008 that in ten years' time that this would lead to major health issues for women, it fell on deaf ears. When Senator James Reilly became Minister for Health, he completely forgot the furore he created about outsourcing when he was in opposition. That was neatly followed by the next health Minister, now Taoiseach, and then by the current Minister, Deputy Harris.

15 May 2018

We need to question the whole creeping poison of outsourcing and privatisation of health services. We will see it in other services as well, causing major problems for people and major political decisions which are justified by the market. They say it is great to have competition as it brings down prices and makes more efficiency. It actually does not. It creates dangerous situations for women's health and lives. From the data the national cervical screening programme compiles, we can find out quickly and succinctly the rates of detection. This will allow us to compare the misdiagnosis rates coming from labs contracted by the Fianna Fáil-Green Government to rates from the not-for-profit public system before 2008. I have repeatedly asked the Minister's office for answers to questions that I do not believe are rocket science.

For example, can we see a list of the labs which dealt with the results of the 209 women who were misdiagnosed? We were initially told they would be called lab A, B and C. We were then told they would be named. I still cannot get that information. As late as today in meetings with departmental officials, they said it depends on how the information is got. We just want the information, not the process as to how it is got.

The urgency is simple. If we find that outsourcing is the cause, that means that responsibility lies with Mary Harney as health Minister under the Fianna Fáil-Green Government, then with the Fine Gael-Labour Government and then the current Government. If outsourcing is the problem, then the call by the Medical Laboratory Scientists Association to repatriate the service without any further delay and put it in the hands of the publicly funded health service and not-for-profit needs to go out. Otherwise, we are playing around and messing with women's health. Like how we outsource terminations to Britain, we are outsourcing cervical tests to the United States. It is not good enough and has to end. Women's lives matter. That is what this whole sad debacle proves.

**Deputy Thomas Pringle:** I wish to share time with Deputy Fitzmaurice.

**An Ceann Comhairle:** Is that agreed? Agreed.

**Deputy Thomas Pringle:** Instead of a motion on mandatory open disclosure, a more fitting motion would have been one of no confidence in the Government. I do not believe addressing mandatory disclosure will change anything as long as we have Fine Gael in power with Fianna Fáil in support or *vice versa*. We will continue to see scandal after scandal as long as the two establishment parties continue to play musical chairs across the Chamber. After all the competitive outrage between Fianna Fáil and Fine Gael in recent weeks during the CervicalCheck scandal, we are still no closer to holding those responsible to account. The reason no one has been held to account is because those responsible are in a partnership for Government. Fianna Fáil and Fine Gael have engaged in a disingenuous exchange, blaming the so-called HSE culture. It is a convenient culprit with no individual to blame. The refusal to call for Tony O'Brien's resignation was an attempt to save face. The thinking is it is far better if someone else talks the blame in order that Ministers will not be held to account instead. The partners in government, including the Independent Alliance, the Labour Party in the previous Government and other parties have also failed to hold the establishment parties to account for their outright failure to deliver for women in this country.

What is being played out in the Dáil is disingenuous, given how Fianna Fáil almost brought down the Government over a bunch of emails from the Department of Justice and Equality. Yet, the party recoils when asked if the death of women in this instance would lead them to do the same.

We are at risk of becoming a parody of ourselves if we have not already done so. Fianna Fáil and Fine Gael jointly and separately shaped the health system we have today. Therefore, they are wholly responsible for the inadequacies and failings of women in the State. As the authors of our monolithic health service, the two main political parties have facilitated the increasing privatisation of health provision throughout the country by radically moving away from the notion of healthcare as a right. Since the establishment of the State we have never had a public healthcare system. Even in post-war Europe, while other countries developed their health systems, Ireland had the Catholic Church in control of our health. It put aside notions of free and accessible healthcare while viewing them as an interference on family life.

Fianna Fáil, alongside the Progressive Democrats, invented the two-tier health system. Meanwhile, Fine Gael has explicitly pushed the HSE towards a private enterprise model. The bottom line will become the sole motivation of health chiefs. Healthcare provision is ultimately being compromised as the system is owned and run by special interest groups intent on maximising profit. Successive Governments have also been keen to treat our public health system like a private entity by incorporating management systems that view individuals as statistics rather than in human terms.

Outsourcing is another sign of the encroaching privatisation of our health service. Outsourcing is essentially transferring control and accountability to private sector organisations. The HSE chose to avail of the laboratories outside the State despite concerns regarding the preservation of quality control across two jurisdictions. If we keep the same parties in government, we will only see more and more outsourcing of essential services when we really need to move towards a publicly controlled and universally accessible single-tier national health service. We need to view healthcare as a fundamental right.

I twice introduced a Bill to enshrine economic, social and cultural rights in the Constitution, including the right to healthcare. Both times, Fine Gael voted down the Bill while Fianna Fáil abstained. It is clear we will never develop a rights-based approach as long as the two establishment parties are in power.

It is no coincidence that these systematic failures have happened on the grounds of women's healthcare. These failures include the death of women under the eighth amendment, the countless women who have undergone symphysiotomy procedures, the needless death of newborns in Portlaoise hospital or the scandal today with CervicalCheck. Male chauvinism has been a persistent feature of the HSE and Government. Women outside these Chamber walls are sick of seeing crocodile tears and listening to male politicians verbally dissecting their bodies again and again for political gain. Women do not need a scapegoat. They need an alternative to the current Government. They need a government that can provide an adequate health service to meet the needs of women in the country and to hold itself to account.

**Deputy Michael Fitzmaurice:** I welcome the Sinn Féin motion. The only question is what will change. In recent weeks we have been at meetings on mental health with the Minister. The HSE officials basically told us that they do what they want and they bring whoever they wish to a meeting. What are we going to do? Are we going to bring in legislative change that will make people accountable?

The first job for the new person over the HSE is to tear the executive apart. We cannot make something that is wrong right, no matter how hard we try, if it keeps failing the people. I believe we need to start. No one should be appointed full-time. People should only be appointed on

an acting basis. Then, if they are not doing the job, the simple fact should be that they will not be left there.

I have seen the Minister come out and apologise several times. Yet, the Minister is well aware of other matters. We have this cervical problem but the Minister is aware of the problem with mental health services as well. He is aware of 14 operations that people have had in Galway. Tomás Coleman is well-known and has been on every radio station. The Minister is aware that he has young children and has been left lying on the floor but nothing has been done. The HSE does not give a damn about people like that. In years to come, the aforementioned 14 people will probably go to the courts. The Minister will have to apologise and say sorry about it. Apologies or whatever are no good to the people who have died. We have to decide whether we are going to take the power back or allow ourselves to be given the two fingers by the HSE. That is what we are being given right around this floor. It is an elephant out of control. If it is not reined in, then neither this motion nor any other motion on any given week are of any use. We have crisis after crisis and we come to the Chamber and talk in debates on motions but nothing changes, no one gets fired and nothing happens. We simply roll on to the next problem. That needs to start changing or the people of Ireland will not put up with it.

**Deputy Michael Collins:** I welcome the opportunity to speak on mandatory open disclosures in health service provision. I support mandatory open disclosure as a central part of the health service. The rights of patients or service users have to come first. When a person attends a health facility to receive care of any kind, that person expects a safe outcome. To be fair, most health workers at all levels do their utmost to give the patient the best quality of care possible but they are stretched to the limit with extraordinary workloads. People are grateful to hospital staff. Time and again one hears patients praising staff. However, sometimes things can go shockingly wrong and when this happens, as we have seen recently, there can be a tendency to circle the wagons and to protect the organisation. The rights of patients are forgotten or trampled on.

What happened in recent weeks indicates no accountability was shown from the top all the way down through the HSE. It was nothing short of horrendous. It still leaves a bad taste in the mouths of many people. The Taoiseach, Ministers and Ministers of State all circled the wagons. No one was going to be made accountable. The idea was simply to cover over the ever-widening cracks as the days were going on. How often do we see patients or families having to go to the courts for disclosure orders? The HSE drags them through the courts no matter how ill they are. This has to stop. Since voluntary open disclosure will not always work, I believe there should be a legal obligation to make an open disclosure to the patient or relative when there is an adverse outcome or when a serious incident has affected the patient.

**Deputy Michael Harty:** I am sharing time with Deputy Danny Healy-Rae.

Open disclosure, duty of candour or apology laws all mean the same thing. They are about the patient and trust. That is the fundamental issue that underpins these laws. They are not about the institutions, the doctors or the process. They are fundamentally about open disclosure to the patient if an adverse event has occurred. That is the critical element. The process should never trump the patient. The hospital or institution should never trump the patient.

The definition of open disclosure covers the transparent sharing of information of an adverse event with a patient. It is not rocket science. It is simple. Safeguards are built into the legislation to ensure that it operates without liability. The medical professional does not admit

that he or she was at fault but admits that something has gone wrong. That issue is fundamental to what we are speaking about tonight.

Patients have a right to know. As the Minister said, rightly, voluntary does not mean optional. That is crucial. The Joint Committee on Health looked at open disclosure in two sittings in the context of the Civil Liability (Amendment) Bill. The committee came up with the recommendation that it should be voluntary. There were good reasons for that but of course, voluntary does not mean optional. The purpose of open disclosure is to foster a culture of openness. It is ethical and that is underpinned by the requirements of the Medical Council in its 2016 guidelines. It is absolutely a requirement to be ethical and open with patients. It improves patient safety and that is also an important issue. If there is an error, we need to review it, look back and see how that error can be prevented in future. It is also a learning opportunity for health professionals. Trust and openness are critical to what we are speaking about tonight. In fact, rather than increasing litigation, I believe open disclosure reduces litigation. Being open with patients is important because often all they want to know is that something went wrong. While many of them are not seeking retribution, they need to know that something went wrong. Open disclosure in the case of CervicalCheck should have started when there was a look-back at the previous smear. Patients should have been informed that they had cancer, their previous smear would be subject to a look-back and they would be informed of its result. That was the fundamental issue in this case.

It is now proposed to introduce mandatory open disclosure. This may well be the approach we must take because voluntary open disclosure will not impose a requirement on health care institutions or the medical and nursing professions to admit something went wrong. As such, open disclosure must be mandatory. In the case of CervicalCheck, the process trumped the patient, which is wrong.

This controversy has again brought into sharp focus the recommendations in the Sláintecare report. The Taoiseach spoke this morning of reinstituting the board of the Health Service Executive. He also spoke of accountability, governance and answerability, all of which are embedded in the Sláintecare report. One year after it was delivered, the Minister has not yet responded to the Sláintecare report. None of the issues to which I alluded requires money. Only a change in legislation is required to underpin open disclosure, accountability and governance, from which everything else flows. The Minister must take the Sláintecare report seriously and respond to it positively as soon as possible.

**Deputy Danny Healy-Rae:** I am glad to have an opportunity to say a few words on this important topic. People are horrified by recent disclosures. I thank Emma Mhic Mhathúna and Vicky Phelan for publicising what happened to them and speaking so eloquently about how their lives have been changed forever.

It appears the Government has decided to establish a new board to monitor the Health Service Executive. This is not the right approach as it will create another buffer of bureaucracy between elected members and the HSE, which already has enough managers. There are enough Ministers in the Department of Health to hold HSE managers to account for what they are not doing. I have asked the Minister many times to take HSE managers to task for what they were not doing in various areas, which I do not propose to list. The HSE receives a large amount of money and it is not held to account for how it is spending it. A veil of secrecy operates in many departments and areas of the health service. I am familiar with this from attending meetings of the HSE's regional health forum, south. When I tabled motions and asked questions, HSE

15 May 2018

officials showed themselves to be masters of not answering the question I asked or addressing the motion I tabled. This is not fair to elected representatives and the people we represent who ask that we provide a health service. As far as I can see, there is no accountability among senior managers in the HSE.

Open disclosure by doctors and HSE managers must be introduced. Many patients have lost confidence in the HSE and I wonder if they will ever regain confidence in the HSE after what has happened. This is a serious matter and I recognise the Minister understands that is the case. However, as Minister, he has power and he must act to sort out the problem. He also has four Ministers of State. Now is the time to act.

The deliberate hiding of information from patients was a criminal act and those responsible should be held accountable because they were the cause of many people dying.

**Deputy Catherine Martin:** Tá an Comhaontas Glas sásta tacaíocht a thabhairt don rún seo. Today, the people of Ireland do not have trust in the most essential and basic of State services, the health service. The stories we have heard in the past two weeks are beyond shocking. It is a harrowing and frightening fact that women have been treated in such a way. The heartbreaking stories of Vicky Phelan and of Emma Mhic Mhathúna have shaken the nation to its core and we are indebted to their courage and honesty in the face of unimaginably difficult circumstances.

Stephen Teap learned last week that his late wife, Irene, was one of the women who received false negative test results in 2010 and 2013. She passed away last year without ever knowing. When Stephen was told of his wife's false negative tests, the news was followed only by a goodbye, with no meaningful support provided to him in his time of greatest need. Has nothing been learned? Where is the support and compassion? All of the women concerned and their families deserve full and transparent answers on everything that happened in respect of CervicalCheck. They need justice because Vicky and Emma and their families, all of whom have shown great courage and their honesty, deserve nothing less.

It is now a matter for each and every Member of the House to ensure the health service is held accountable. To achieve trust, we need an absolute priority to be placed on creating better and prompt communication to women about what their results mean in all cases. The mistrust created by these events needs to be quickly counteracted in order that the damage caused by the CervicalCheck scandal does not dissuade women from coming forward for check-ups. To achieve real trust, the State must stop deciding what is best for women without consulting, asking or empowering them in any meaningful decision and policy-making process. The Government and State as a whole must guarantee that nothing like this ever happens again. The Government must also learn from this scandal. It cannot continue to stumble from crisis to crisis but must commit, as must all Deputies, to real and substantial patient-centred health service reform. We need reform of the current legal resolution process in medicine to move it away from an adversarial legal system that has the potential to cause further trauma for patients and their families. We need to reform the system to ensure it becomes patient-centred and is not dependent on legal recourse.

The Green Party welcomes the motion and agrees that the Government must legislate for mandatory open disclosure of all information when errors occur that affect patient care. We need to place a statutory duty on all officials in the Department of Health and Health Service Executive to provide full information to a health care regulator, statutory agency and Minister in cases of systemic failure in health care. We also need to ensure a statutory duty is imposed

on all officials in the Department and HSE, including the Minister for Health and director general of the HSE, to be truthful in any information given to the Health Information and Quality Authority or any relevant statutory agency. The Green Party agrees that these requirements are needed and we will support the motion.

We also need to ensure the goals of all audits conducted are fully realised. We need assurance that when problems and discrepancies are encountered, practices will be improved so as to tackle and resolve them. The State owes it to the women of Ireland never again to let this happen. In the midst of these heartbreaking cases, it is important to remember that the objective evidence is that the national cervical screening programme is reducing the incidence of cervical cancer and the best way to reduce the risk of cervical cancer is to stay within the national programme and vaccinate our daughters.

**Deputy Simon Harris:** Hear, hear.

**Deputy Catherine Martin:** The Minister must restore confidence in the programme. It is critically important that confidence in such a vital service is restored as a matter of urgent priority.

**An Ceann Comhairle:** Deputy Pat Buckley is sharing with Deputies Quinlivan, Crowe and Stanley.

**Deputy Pat Buckley:** Correct.

When it comes to any form of healthcare, at any stage, quite clearly, the patient must take priority. The patient must be informed, involved and consulted in all aspects of his or her care and treatment. Without this, healthcare will always fall short of what it could be and results will be less positive. Truth, openness and honesty have to be the cornerstone of how the health service engages both with patients and the public, and internally.

The CervicalCheck scandal reveals the damage of a system which is not open and honest. Of course, things can go wrong, but when they do, covering up and circling the wagons is not a solution to any problem. That will only compound that problem. It can potentially have serious health implications for patients, including the most tragic results of all, and in the longer term it damages public confidence in the systems on which the public relies.

A big part of public health is to encourage the population to attend to their health, not only with more healthy lifestyle practices on a daily basis but by seeking out care and consulting with professionals when needed, and trust is the key.

CervicalCheck is something we should be proud of. It is a good initiative which has saved lives, but openness and honesty are essential to ensuring its continued success in this regard and to in whatever way possible right some of the wrongs that we have had exposed to us recently. Of course, some of those failings cannot be corrected, and this should be a watershed moment where we say, “Never again will we allow the system to come before the patient.”

Where a problem arises, the structure and culture must be in place to identify it, to raise the alarm and to investigate it. Information, when accurate and shared appropriately, will also benefit the provision of services and the improvement of those services. Above all, the patient has a right to know about their health, their treatment and their options, and in the case where something goes wrong, to know about those failings and to be able to seek redress and remedy.

15 May 2018

Real mandatory open disclosure, as set down in this motion, must extend to doctors, nurses and healthcare professionals at all levels, but it should apply across the whole health service, from the ward right up to the very top of the HSE, the Department and the Government. Real mandatory open disclosure can help to build a better service but also ensure that it is trusted by the public because when the people who need that service can trust it then they can fully and confidently engage with it and seek the best care.

I commend Deputy Louise O'Reilly for bringing this motion forward tonight and I ask the House to support it.

**Deputy Maurice Quinlivan:** The motion originally tabled for tonight, as the Minister for Health will be aware, called on him to sack the director general of the HSE, Mr. Tony O'Brien. Such a motion should never have had to be tabled by Opposition Members as the Government should have acted correctly and relieved him of his position when the extent of the scandal started to unfold over the past weeks. Mr. O'Brien let the Government off the hook by resigning last week after those shocking memos surfaced but this by no means draws a line under it.

Tonight's motion calls on the Government to legislate for mandatory open disclosure of all information where an error occurred that has affected a patient's care, and to do so before the Dáil summer recess. People were astonished to think that such vital information could be kept from them in the most serious of circumstances and this has done serious, possibly fatal, damage to the already fragile reputation of the Health Service Executive. Those who orchestrated this concealment must be held fully to account and my party intends to do that.

As has been mentioned already, Sinn Féin called for mandatory disclosure through part of the Civil Liability (Amendment) Bill last year. Unfortunately, Fianna Fáil abstained at that time and Fine Gael opted for a voluntary system, which clearly does not work. I am glad to see both parties on the side of mandatory disclosure but, unfortunately, their change of attitude has come far too late for many.

This motion also proposes that it be made a criminal offence for a health service worker of any grade, any HSE official or any Department of Health official to withhold information about a patient's medical diagnosis or misdiagnosis, provide information to a patient or nearest relative intending to mislead them about such an incident or dishonestly make an untruthful statement to HIQA or any relevant statutory agency knowing or believing that such agency or agencies are likely to rely on the statement in the performance of their duties. This is an incredibly important proposal that aims to ensure such concealment and wrongdoing is not repeated in the health service ever again.

I sincerely thank Ms Vicky Phelan for the service she has provided to the State by bringing the scandal to light and commend other women and the families of some who have passed who have come forward to tell their own stories.

**Deputy Brian Stanley:** I welcome the opportunity to speak on this motion here tonight. It is an important motion.

We have to fix our sick health system. Despite the best efforts of many staff right across the health services, parts of the system are totally dysfunctional and in need of radical reform. They suffer from political neglect and little direction over the years.

We now need to build a national health system as outlined in the Sláintecare report that all

parties in the House have bought into. Whatever we create of the health services, we must put patients first. This is something that we must not argue over.

The Sinn Féin motion demands that the Government legislates for mandatory open disclosure of information, in particular, where an error has occurred affecting a patient's care. Whether the news is good or bad, whether it is that an error has occurred or whether the diagnosis has been correct, it is essential that that happens.

The consequences of the current cervical smear scandal are horrific. It is part of an unfortunate bundle of scandals. In scale and extent, it is surely the worst yet.

I pay tribute to Emma Mhic Mhathúna and Vicky Phelan for their bravery in coming out and bringing all of this to light, and wish them both well. Our thoughts are with them and their families.

People have not forgotten the deaths of babies in Portlaoise and Portlincula hospitals. Certainly, those bereaved parents have not. Babies died between 2006 and 2013 in similar circumstances. They developed normally up to the time of the maternity treatment and reaching the maternity unit. Where was the patient access to information preceding this tragedy? It is important to put this in context. Leading to it also was the shortage of staff and substantial cuts in budget. In the case of Portlaoise, there was a considerable slash in the budgets at that time and a significant shortage of staff. These issues were well flagged over many years by staff at different levels in the hospitals. I welcome the fact that to a large extent these have now been addressed, the budgets have been restored and increased, and the staff levels in the case of the maternity unit doubled, which shows that they were operating completely under strength.

I also pay tribute to Mark and Róisín Molloy and others who have called for open disclosure and accountability. We support that call here tonight. They came out strongly on that.

However, long investigations, long legal battles and long years of waiting and trying to squeeze the answer out of the top brass of the HSE is not the answer for patients and does not suit anyone. It is not the way to treat the public and it is not the way to treat patients.

Many staff throughout the HSE are doing sterling work, both in the hospitals and at administration and community levels. We all meet and come across them in our work every day. I pay tribute to them despite the fact that the system, as it is structured, cannot function due to its two-tier nature. We need to agree it is dysfunctional and move on.

In terms of transparency, it is important that the results of medical tests are given to patients and their GPs immediately. This is very simple. Why can that not happen? I saw a doctor dictating a letter into a dictaphone in front of a patient in a hospital the other day so that the patient knew exactly what was going back to his GP. The GP will have received that, if not that day then the next day, and the patient knew the contents of the outcome of the particular test. That is the way it should be. With this motion, we can create an environment of transparency and empowerment for patients and for staff.

In regard to overall reform, I again ask that action be taken on the all-party Sláintecare plan. Let open disclosure and accountability be at the heart of that and let us create the public health-care system that we need. We cannot undo some of the damage that has been done but what we can do at this point is make sure this type of thing never happens again. While we are Members of the Thirty-second Dáil, we should not lose a minute in improving things for the better.

**Minister of State at the Department of Health (Deputy Catherine Byrne):** I will respond to the debate on behalf of the Minister, Deputy Harris. I echo the Minister, Deputy Harris's gratitude to Vicky Phelan for speaking out. It cannot have been easy for her or her family to have chosen to take on this task. She has done a great service to the women of Ireland and to the people. The Minister, Deputy Harris, is intent on ensuring her actions will ultimately lead to improvements for all.

As the Minister, Deputy Harris outlined earlier, these matters have raised key issues of trust between patients and clinicians. The Minister is committed to taking any steps available to him that will assist in restoring that trust. I know the officials of the Department of Health share that conviction. In recent years, the Department has brought its commitment to a number of very serious patient safety matters in Portlaoise, Portlinculla and elsewhere in our health service. I emphasise it has been recognised for a number of years that there is a need to improve the safety of our health service. This field of patient safety is a relatively new one to healthcare as a whole. However, in Ireland there have been significant steps taken. A strategy developed a number of years ago to deliver improvements is now being delivered. I note, for example, the creation of the national patient safety office in the Department of Health, which was established in 2016, following the approval by Cabinet of a memo on patient safety in November 2015. The office is charged with delivering a programme of policy and legislative changes to improve the ability of the health service to anticipate, identify, respond to and manage patient safety issues.

Some of the progress which has been made to date includes the general scheme of the patient safety (licensing) Bill which was approved by Government in December 2017 and referred to the Oireachtas. The Bill will ensure the need for all hospitals to have strong clinical governance and patient safety operating frameworks in place in order to be granted and maintain a licence to provide health services. Other progress includes overseeing the commencement of the publication of monthly patient safety statements by all maternity hospitals and maternity units in the State, and hospital patient safety activity reports by public acute hospitals; an annual national healthcare quality reporting system which presents data across a number of quality and safety domains, the fourth report of which will be released in the coming months; progression of the development of a new national patient safety complaints advocacy service, which is expected to commence later this year; quality assurance by the national clinical effectiveness committee of 16 clinical guidelines and one audit, including those on sepsis management and early warning systems for both adults and children; in collaboration with the Department of Agriculture, Food and the Marine, the development of Ireland's national action plan on antimicrobial resistance 2017 to 2020 which was approved by Government in July 2017; and the establishment in 2017 of the annual national patient experience survey that is administered by HIQA on behalf of the Department of Health, the HSE and HIQA. The second iteration of the survey is under way. Progress also includes the establishment of a patient safety surveillance system, which has also commenced. It will involve interrogation of health data and information from multiple datasets through a health analytic function, in order to produce national patient safety profiles. This will then provide indications of where both challenges and good practice are emerging within the health system in order to direct and inform healthcare quality improvement.

The office is also progressing the new patient safety Bill, which, as noted earlier, will provide for mandatory external notification of serious patient safety incidents to the appropriate regulatory body such as HIQA or the Mental Health Commission. The Minister for Health will designate those incidents which would be included in this measure. It will also provide for mandatory open disclosure of these serious incidents to the patients affected by them; min-

isterial guidelines for clinical audit; and the extension of the Health Information and Quality Authority's remit to private hospitals.

In addition, as the House is aware, on Friday last the Government agreed a comprehensive package of health and social care measures to support the 209 women and their families who have been diagnosed with cervical cancer and whose audit result differed from their original smear test. The Government is absolutely committed to ensuring these women and their families receive all of the supports they require. I will not go through the supports because the Minister has already addressed them in his opening statement.

As the House is aware, regulations arising from the Civil Liability (Amendment) Act 2017 will be brought forward shortly. While this will provide the necessary legal protections for health service staff engaging in open disclosure, I emphasise the expectation of all of us that, regardless of whether open disclosure is described as voluntary or mandatory patients should and need to be told about all aspects of their care, including where an error has occurred or harm has been caused. This is entirely in line with the HSE's national policy on open disclosure and the requirements of Medical Council for doctors. As acknowledged earlier, there is a need now to bring forward legislation to provide for mandatory open disclosure. These provisions will be incorporated into the forthcoming patient safety Bill, which will also provide for mandatory reporting of serious patient safety incidents. The Government has agreed to progress this as a matter of priority. Health services can be made much safer but it is inevitable that things will sometimes go wrong. There have been tremendous advances in health services but we are not always sufficiently clear that a degree of inexactitude and risk continues to be a feature of many areas. Nonetheless, the important action when things go wrong is to be honest and open with patients, to ensure patients and their families are looked after and to examine what improvements need to be implemented. This is the standard which, as a health service, we must live up to.

As others have stated, I cannot find words that are adequate to address the heartbreak, torment and torture that families are going through. As a woman I am horrified that any person would conceal such crucial information about my health or any other woman's health that would lead to women being exposed to a death sentence. As does everyone in the House and around the country in families, homes and communities, all I want is the truth. Under Dr. Gabriel Scally, who will lead the scoping inquiry, the truth will emerge. On behalf of the Minister, I thank everyone who has contributed to the debate this evening. The Government will not oppose the motion.

**Deputy Caoimhghín Ó Caoláin:** The events, circumstances and life changing results that have been uncovered over the past three weeks with regard to the cervical cancer screening tests scandal have shaken Ireland to the core. In November 1990, Ireland moved progressively forward by electing its first female President, Mary Robinson. In her acceptance speech, Mrs. Robinson specifically thanked the women of Ireland for electing her saying she had been elected by the people who "voted for a new Ireland, and above all by the women of Ireland, mná na hÉireann, who instead of rocking the cradle rocked the system". The events and exposé of the last three weeks and the failure of the Government to act appropriately have well and truly shocked. The bravery of Vicky Phelan, Emma Mhic Mhathúna and Paul Reck has rocked this country's system to the very core. I applaud the bravery of all these individuals in coming forward. I am also very conscious of the women and men who have not come forward. Many are sitting at home still wondering in deep anguish about what could have been and, unfortunately for some, what will be.

There is a short window of opportunity here to try to restore trust. If this window is broken, not only will the cradle and system be rocked but the establishment that has underpinned the State since its foundation will be rocked beyond its very core. Citizens will not tolerate this corrupt and uncaring system any longer.

I have spoken on the issue of mandatory disclosure or duty of candour over many years. In January 2015, my opposite number in Fianna Fáil at that time, Deputy Billy Kelleher, called at the health committee for the HSE, the State Claims Agency and the legal profession to be encouraged to embrace a culture of open disclosure and duty of candour. At that point I immediately stated that, “Encouragement is not enough.” The focus has to be on the patient and there needs to be a legal duty to inform the patient. I stated further that encouragement suggested a voluntary code. What is required to happen is a legal duty of candour to prevent the State contesting cases that are beyond question. The vision of Vicky Phelan on the steps of the Four Courts and her bravery in refusing to sign a clause of confidentiality will be forever remembered as a selfless act of great service to our country.

In September 2016 the Minister, Deputy Harris, said he was going to introduce legislation to enforce the HSE’s guidelines for open disclosure in medical cases. The Taoiseach, Deputy Varadkar, who was Minister for Health prior to Deputy Harris, sidestepped the opportunity to introduce appropriate legislation in the Civil Liberty (Amendment) Bill 2015. I put it to the Minister that there can be no more “encouragement” and no more “sidestepping”. Trust needs to be restored and Vicky Phelan, Emma Mhic Mhathúna, Paul Reck and the women and families of Ireland all require a duty of candour, at the very least in order to see the return of some level of confidence.

The anger I have encountered in communities since this scandal surfaced is unprecedented and I believe that is something all Members can confirm. I reiterate that failure to comprehensively address this scandal that has brought the most grave consequences for so many, will rock the system and will rock the establishment to a place it has never been before. In such a failure, the Minister, Deputy Harris, and his Government will end up on the political floor.

**Deputy Donnchadh Ó Laoghaire:** Thar ceann Shinn Féin, ba mhaith liom buíochas a ghabháil le gach Teachta a ghlac páirt sa díospóireacht seo, ina measc iad siúd a léirigh a gcuid tacaíochta don rún. Ba mhaith liom comhghairdeas a dhéanamh leis an Teachta O’Reilly, a chum an rún.

The cases of Vicky Phelan, Emma Mhic Mhathúna, Irene Teap and others have seared the hearts of the nation over the past few weeks. The stories have played out in the media and we have all been touched by them. I concur with Deputy Ó Caoláin that the level of public anger and concern is extraordinary. It has left its mark on the nation. Anyone who heard Emma Mhic Mhathúna’s interview on “Morning Ireland” last week will remember it as long as they live. When she said she worried about whether her son would remember her in years to come it stopped people in what they were doing. It was crushing and heartbreaking and there have been many moments like that in the course of this controversy.

On 26 April I took to my feet during Leaders’ Questions, not knowing the true scale of what was being discussed that day. In the course of the debate I told the Tánaiste, Deputy Coveney, that it was my understanding that there is a contractual obligation to inform women within four weeks if a problem is identified with a smear test in the ordinary operation of the CervicalCheck programme. If a problem was found in a subsequent review, why did a similar contractual obli-

gation not apply? I asked the Government this 18 days ago but it takes a Sinn Féin motion this evening to ensure that similar protections are in place.

Earlier, the Minister, Deputy Harris, referred to the Madden report, authored by Dr. Deirdre Madden in July 2008 and entitled the Report of the Commission on Patient Safety and Quality Assurance. The report contained a number of proposals with a mandatory system for reporting adverse events and open disclosure or a duty of candour being two elements of it that are relevant to this debate. The report highlighted that fear was a significant factor in cases of non-disclosure, whether it was fear of litigation or its repercussions. The reality is that we need to eradicate that fear and we must have a health system that holds patient safety and the right to information about one's treatment at its core, as its top priority.

This motion and any legislation flowing from it would not seek to punitively treat healthcare and medical professionals but would seek to help them, as well as patients. We firmly believe that mandatory disclosure could and would do that. It is vitally important that duty goes far beyond medical professionals. Indeed, it needs to go right to the top, to senior administrators and the corporate body of the HSE, the director general of the HSE, the Minister for Health and so on. It is some of those officials who have emerged with the greatest discredit in this sorry episode.

This issue was raised on a number of occasions and we moved the proposal for mandatory disclosure many years ago. Unfortunately, it was defeated by the Government and Fianna Fáil. I am glad they are supporting it this time and I hope it will be followed through beyond this motion. The document that has come into the public domain in recent days has cast the HSE in a very poor light. It is a worrying catalogue of decisions to keep the women affected in the dark, so that they are the last ones to know, and fights over who should be responsible for telling them. Concern for the patient was not evident and not the top priority but was completely absent.

When I raised this on Leaders' Questions almost three weeks ago, I stated that the issue potentially related not only to information but also to the quality of testing. It was striking that Dr. David Gibbons, the head of quality assurance at the time resigned in protest at the decision to outsource the process to the US as decided by Mr. Tony O'Brien. I hope the Scally report will cast light on that but I retain significant concerns about the outsourcing and its implications.

There is no doubt but that the manner in which these cases have been handled has left a great deal to be desired. The State has a long and worrying history of dragging people, very often women, through the courts who are fighting for rights that should be self-evident. We need a re-evaluation of the way the State Claims Agency behaves and the way the State deals with mass harm generally. The attempt to force Vicky Phelan to sign a confidentiality agreement was a particular slight and without her bravery and determination we may never have learned of this. Her determination, that some good would come of this, has been inspirational and I hope some good has come of this. It is a pity it has taken a scandal for attention to be brought back to this issue but let us work to right a wrong and make open disclosure a mandatory process.

**An Ceann Comhairle:** Is é sin deireadh leis an díospóireacht. Is í an cinneadh atá le déanamh againn anois ná ar leasú Uimh. 1. The decision we must now make is on amendment No. 1 in the name of Solidarity, moved by Deputy Ruth Coppinger. The question is that the amendment be made. Are there proposals on amendment No. 1? Níl éinne anseo: there is no one here to do so. The question, therefore, is that the motion as proposed be agreed to.

15 May 2018

Motion agreed to.

The Dáil adjourned at 11 p.m. until 10.30 a.m. on Wednesday, 16 May 2018.