



DÍOSPÓIREACHTAÍ PARLAIMINTE  
PARLIAMENTARY DEBATES

**DÁIL ÉIREANN**

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

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# DÁIL ÉIREANN

*Dé Céadaoin, 28 Samhain 2018*

*Wednesday, 28 November 2018*

Chuaigh an Cathaoirleach Gníomhach (Deputy Eugene Murphy) i gceannas ar 10.30 a.m.

*Paidir.*

*Prayer.*

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## Ceisteanna - Questions

### Ceisteanna ar Sonraíodh Uain Dóibh - Priority Questions

#### Homelessness Strategy

35. **Deputy Thomas Byrne** asked the Minister for Education and Skills the actions taken by his Department to address child poverty and homelessness in view of an organisation's (details supplied) description of child poverty as the crisis of our times. [49723/18]

**Deputy Thomas Byrne:** I seek to raise child homelessness on foot of the report by the Children's Rights Alliance and the response of the Department of Education and Skills to it. I accept that it is not responsible for the full response of the Government but the Department has a key role to play and the report of the Children's Rights Alliance refers to a number of initiatives. The report serves to highlight the challenges that children and their families face with child poverty and, in particular, homelessness. However, teachers also face a challenge in dealing with the crises as presented to them in school.

**Minister for Education and Skills (Deputy Joe McHugh):** A range of resources are available to support schools in dealing with identified additional educational needs, including needs which may arise for children who are experiencing homelessness. These include National Educational Psychological Service, NEPS, supports and Delivering Equality of Opportunity in Schools, DEIS, supports.

Identification of need and early intervention strategies are considered key components to supporting children who experience homelessness. NEPS works with schools through the De-

partment of Education and Skills continuum of support framework. The NEPS model of service works through a problem solving and solution oriented consultative approach to support schools to meet the needs of individual pupils. NEPS psychologists can provide advice and guidance to principals and teachers on individual students' needs and in the development of whole-school approaches to support inclusion, participation and integration.

DEIS is the main policy initiative of my Department to tackle educational disadvantage. DEIS provides additional supports, through the DEIS school support programme, to schools identified as having the highest concentrations of pupils from disadvantaged communities. Schools can use the additional resources to meet the identified needs of their pupil cohort, including the additional needs that may arise for pupils experiencing homelessness.

DEIS schools can also avail of home school community liaison and school completion supports provided by Tusla's educational welfare service in relation to school attendance, retention and progression which can be areas of particular challenge to pupils experiencing homelessness.

In addition, the Department of Employment and Social Protection runs the school meals programme, which provides funding towards the provision of food to some 1,580 schools and organisations benefitting 250,000 children. My Department is also represented on the homelessness inter-agency group established by the Minister for Housing, Planning and Local Government, Deputy Eoghan Murphy, to co-ordinate the State's efforts to tackle homelessness.

**Deputy Thomas Byrne:** In its report, the Children's Rights Alliance recommends a number of measures. I accept that this is not primarily a matter for the Department of Education and Skills but the alliance recommends that the Government set up an inter-agency group involving the Department of Education and Skills, the Department of Children and Youth Affairs and the Department of Housing, Planning and Local Government to steer services and to see what each Department can do. The Department of Education and Skills has a particular role. The Children's Rights Alliance has recommended that the school completion programme would be extended to homeless children in non-DEIS schools. What is happening in the private rental sector in particular is that children are not necessarily in DEIS schools. If one is in a local authority estate and the local school is a DEIS school then one has access to all the services based on the demographic of the area. However, if one is in the private rented sector in a non-DEIS area one does not have access to many of the services. Children are losing out significantly on their education whether through non-attendance or due to being exhausted in school. As the Children's Rights Alliance recommends, the Department must track the progress of those children to ensure that they do not lose out on educational attainments. Something else the Minister could and should do immediately, which is also recommended by the Children's Rights Alliance, is issue a circular providing advice and guidance to schools on educational provision for children experiencing homelessness. There could also be recommendations to boards of management to address school costs, voluntary donations etc. Some instructional advice from the Department of Education and Skills would go a long way.

**Deputy Joe McHugh:** That is a fair enough suggestion. Anecdotally, I am picking up more examples of the prevalence of child homelessness in feedback from teachers dealing with children in homelessness. It would be a wise and important suggestion to ensure that all the information on whatever supports are available is provided to schools. Reading excerpts from the report of the research carried out by the Children's Rights Alliance, one of the areas highlighted is a failure to retain predictability in educational continuity. That is important in educa-

tion. I will ensure that boards of management and school principals are aware of the available supports.

**Deputy Thomas Byrne:** The Minister is new to his portfolio but the one word that concerns me, which reflects on the Department rather than the Minister himself, is “anecdotally”. Has the Department statistics or information on the extent of the problem in schools? One of the recommendations from the Children’s Rights Alliance is that the educational attainments of children be tracked. I am concerned, however, that the Minister and the Department do not have information about individual children.

We know from the Department of Housing, Planning and Local Government how many children have been left homeless but the Minister for Education and Skills and his Department do not know what is happening to those children in schools. It is not known what schools they are concentrated in, how their educational attainments are being mishandled because of this crisis and what resources schools need. The Department needs to up its game on this issue and make sure these children are looked after and that they do not lose out educationally because of the homelessness situation in which they and their families find themselves.

**Deputy Joe McHugh:** Tacking educational disadvantage has been one of the positive outcomes of the work of the Department over the past number of years. Currently, we are reviewing the delivering equality of opportunity in schools, DEIS, scheme and educational disadvantage. Educational disadvantage changes and evolves and new issues and challenges arise. As part of our review of DEIS, we are using data we are compiling from postcodes on where people are living and also information on unemployment issues in regard to certain families. We need, however, to be adaptable regarding the changing nature of educational disadvantage. Over the past five to ten years, homelessness has certainly become a major issue. My officials are aware of that and I will ensure, whatever measuring instruments are used to tackle educational disadvantage, that continuity of education and the disruption and lack of certainty for families and children going to school is part of any analysis in the future.

### **Autism Support Services**

36. **Deputy Kathleen Funchion** asked the Minister for Education and Skills his plans to address the acute shortage of ASD classes and services being provided for children in both primary and post-primary education nationally; and if he will make a statement on the matter. [49596/18]

**Deputy Kathleen Funchion:** My question is on the provision of ASD supports. What is the Department’s plan to address the acute shortage of ASD classes and services being provided for children in both primary and post-primary education?

**Deputy Joe McHugh:** My Department is aware that the establishment of special class provision in some schools and communities can be challenging. The National Council for Special Education, NCSE, is responsible, through its network of special needs organisers, SENOs, for the development, delivery and co-ordination of education services to children with special educational needs, including the establishment of special class and special school placements. For the 2018-19 school year, 160 new special classes have been opened. That means there are now 1,459 special classes in place, compared to 548 in 2011. There are 1,196 autism spectrum disorder, ASD, special classes.

The greater proportion of children with autism attend mainstream classes, but some require the environment of a special class or special school. Enrolment in a special class should only be considered where it has been demonstrated that a student requires the support of a special class because he or she is unable to learn effectively in a mainstream class for most or all of the school day, even with appropriate supports. The placement decision is based on a recommendation made by a relevant professional. While it is not always possible or practical that a special class placement would be available in a child's local school, the NCSE has informed my Department that, in general, it is satisfied that there are sufficient ASD special class placements to meet existing demand nationally.

From time to time, the NCSE identifies local areas where additional provision is required. In those circumstances, SENOs work with the schools and families concerned to resolve the issues involved. The Education (Admission to Schools) Act 2018, when commenced, will assist in addressing this issue in areas where the NCSE is of the opinion that there is insufficient education provision for children with special educational needs. Section 8 of the Act, which will commence from Monday, 3 December 2018, will provide the Minister with a power, after a process of consultation with the NCSE, the board of management and the patron of the school, to compel a school to make additional provision for the education of children with special educational needs.

**Deputy Kathleen Funchion:** I thank the Minister. Some of what he said is welcome. I am aware of the Education (Admission to Schools) Act 2018, which we debated in the House. My fear is that we again have a situation where children who have an additional need or a disability are falling through the cracks or being left behind. They are being treated differently from children starting in mainstream schools with no additional needs. It is often at the last minute when the parents of children with an additional need finally find out they have secured a place in an ASD unit. There are long waiting lists and we know that they are increasing. A study in 2016 found that one in every 65 students has an ASD diagnosis and, therefore, we are very much playing catch-up in this area.

One of my main concerns is the attitude of schools when it comes to children with a diagnosis of autism. Many schools are good, as are many teachers. There are also, unfortunately, many schools that just do not want to know about ASD and will encourage parents to send their children elsewhere. There is no written proof but we all know that it happens. Kids are put on a reduced-hour day, perhaps two or three hours, with the hope that the parents will eventually just give up on that school and go somewhere else. We need to tackle that attitude as well as tackling the provision of places.

**Deputy Joe McHugh:** I thank the Deputy for raising this issue because we have been grappling with it over the past ten to 15 years. The statistics from 2011 reported 548 special classes. That is now up to nearly 1,459. We are making gains but, at the same time, affording choice to parents has to be at the heart of that provision. I refer to whether they want their children to go to a special school or a special class or if they need ASD provision. The increase in the number of ASD units throughout the country has proved to be a significant success. That is attributable to the great work of the SENOs and the NCSE, as well as the work the Deputies did on the Education (Admission to Schools) Act 2018, which gave the Minister for Education and Skills the power to compel schools, where there is insufficient supply of ASD classes or special classes, to ensure that provision is made.

**Deputy Kathleen Funchion:** I agree that where ASD units are operational they are, in the

main, successful. That, however, is the reason I raised this issue. Greater access is needed for students. There are many different examples of where that is needed and I am not the only person who could cite examples; every Deputy could probably do so. Some students cannot start school. They have to go to a special school and were supposed to start in September 2018 but they cannot start until September 2019 because of the lack of access. Those students cannot get access to any more pre-school provision because they have used up their two years. That puts a child with an additional need at a disadvantage. Parents are also being told that their children can have a place in an ASD unit but the unit is miles from their home. They will have to spend an hour and a half on a bus before getting to school. That again puts a child at a disadvantage. In the main, that is not the case for children attending school who do not have an additional need and that is what we need to focus on and tackle.

We seem to be okay with treating children who have an additional need differently and saying to them that they have to wait, that they might not be able to start until October because we do not have a place for them and they have to put up with being on the bus for an hour and a half. In my opinion that is not good enough, and I am sure it is the opinion of the vast majority of people. That is why we need to ensure we have places. This was one of the good parts of the Education (Admission to Schools) Act 2018. I hope that we will put the pressure on schools that want to turn a blind eye or direct people to the school down the road. That attitude has to change.

**Deputy Joe McHugh:** I accept the sincerity of the Deputy's contribution on this very important issue. In my early meetings with the officials in this area, I raised the question, even prior to the 3 December change, of compelling schools in cases where there is insufficient supply, a problem with a class or a need for an autism spectrum disorder, ASD, unit. My message to officials from day one has been to look with favour on any building request from a school for an extension which will accommodate an ASD unit and free up another classroom. That is the message coming across from Deputy Funchion as well. It is important to ensure equality of access for parents who want the best standards for their son or daughter. If they want their son or daughter to be in a mainstream school they cannot be disadvantaged. If they do not have a special class or ASD unit they are disadvantaged. That is the philosophy behind compelling the Minister to ensure this happens where there is an insufficient supply.

### Departmental Investigations

37. **Deputy Thomas Byrne** asked the Minister for Education and Skills the status of investigations undertaken by his Department of the role of clerks of work, project managers, architects, designers, engineers and other professionals in both fire safety issues and structural issues identified at schools completed since 2006; and if he will make a statement on the matter. [49724/18]

**Deputy Thomas Byrne:** I want to ask the Minister about the Western Building Systems, WBS, debacle. I would like to know the status of the investigation his Department has undertaken of all its advisers, and obviously its investigation into WBS. I said to the Minister in a private meeting that everybody should be taken to the cleaners, including the builders, if that is the legal advice the Minister has received. The Minister launched an investigation as he said he would. Schools do not know what is happening at the moment. The Minister has gone a little beyond the original timetable for all this.

**Deputy Joe McHugh:** As the Deputy is aware, over the course of the mid-term break my Department undertook structural assessments on all 42 school buildings constructed by Western Building Systems since 2003, following the identification of significant structural issues at Ardgillan community college in Balbriggan during an assessment undertaken by a structural engineer at the school on 19 October. The safety of school students and staff has been and will continue to be my Department's overriding priority.

I would like to acknowledge the impact this has had on students, parents, school principals, staff, patrons and boards of management of all 42 schools, in particular the 23 schools where precautionary measures were carried out. I would also like to thank all concerned for their patience and understanding over the last several weeks.

My Department will now be moving as quickly as possible to the next phase, which is to initiate more detailed structural investigations at the 42 schools and, following on from this, to implement the permanent remediation works required. The Department fully intends to pursue the company through all contractual and legal channels for the cost of the precautionary measures and the remediation work.

It is also my intention to initiate an independent review of the Department's design and build programme, including aspects such as procurement, quality control, workmanship and oversight, both before and after implementation of the amended building control regulations in 2014. This will also involve the role and responsibilities of clerks of works, project managers, architects, designers and other professionals. This will be an independent review conducted by a person or entity outside the Department and will be informed by the more detailed structural investigations to be carried out in the next phase of the programme.

**Deputy Thomas Byrne:** First of all we want to know about that independent reviewer. Will this individual, whoever he or she is, have the statutory powers to get to the nub of the issue? If one takes a case to the High Court, powers of compellability, evidence discovery etc. can be utilised. In the first instance anyone who is responsible needs to be brought to court, but in the second instance the Department must carry out a review with strong powers.

One of the aspects of this case that caused some concern was that the project management firm KSN Project Management, KSNPM, was originally involved in quite a number of the projects as a project manager for the Department. It was then involved in advising the Department over recent weeks. Has it raised any concerns for the Minister that KSNPM was involved? Maybe they are excellent people. They probably are. However, the firm was there at the start and it is still advising the Department. It is giving some people the perception of a possible conflict of interest. Did this cause any concern on the part of the Minister?

**Deputy Joe McHugh:** In regard to statutory powers, we are working with the Office of the Chief State Solicitor on how we can begin a review and what powers it will be given. I will keep the Deputy up to date on that.

In regard to the current situation, last week I was in Tyrrelstown along with the Taoiseach. We met representatives from KSNPM who have been working through this. We met with members of the board of management and the principals of both schools in Tyrrelstown. We are still trying to get the first and second floors into a fit state for the students to come back in the next two to three weeks. That is the focus.

In regard to KSNPM's involvement, at no point in this process was the firm involved in any

certification of compliance. The responsibility at all times, on any project before or since the 2014 legislation, is with the contractor, the builder, the architects and the design team. At no time was KSNPM involved in any certification of compliance. Second, KSNPM's knowledge of the buildings was very helpful during the process that took place over the Hallowe'en break when we were under pressure to get work done in a very speedy way. My first personal contact with KSNPM was last week. I met a few of the firm's officials and I would like to acknowledge all the work they did over the last several weeks.

**Deputy Thomas Byrne:** None of this absolves a builder of the responsibility for building bad buildings if that is the ultimate outcome, and clearly it is. Information can be given to people for various reasons. One piece of information I have discovered is that of the 42 schools, 13 were originally project-managed by KSNPM and 27 were project-managed by another company, which I understand was Turner & Townsend. I understand that of the 13 originally project-managed by KSNPM, 12 passed the recent audit and one failed. Of the 27 that were originally project-managed by Turner & Townsend but examined this time by KSNPM and the Department's other advisers, 20 failed and seven passed. I do not know if the Minister can confirm that information. Does it cause the Minister, his advisers or his officials any concern if it is correct? The builder is ultimately responsible for this, but we want to make sure the Minister is satisfied that there are no issues or conflicts and that he has the best possible advice.

**Deputy Joe McHugh:** We are going to undertake a review immediately. It has to happen quickly. That review will be independent. We are going to look at every aspect, including KSNPM, Turner & Townsend, the contractor and the Department's own clerks of works, which since 2017 have been appointed on every site.

Second, it is important to put on record that we have set up an independent unit within the building unit in Tullamore. We now have dedicated officials working on this issue to take it through the independent review and to do everything to make sure that the remediation and precautionary work is paid for. A lot of scaffolding and fencing was required. Some of it was imported at short notice. At the three school campuses at Ashbourne, for example, 3 km of fencing went up over a weekend. That costs money, and the taxpayer will want to know who has paid for anything that costs money. My officials are determined to look at culpability and accountability and follow the people who put children's lives at risk.

### **Third Level Education**

38. **Deputy Richard Boyd Barrett** asked the Minister for Education and Skills his views on whether there is a crisis in third level education developing as a result of student poverty, the chronic shortage and expense of student accommodation, the access barrier created by student fees and the low level per student subvention; and if he will make a statement on the matter. [49782/18]

**Deputy Richard Boyd Barrett:** My question points to what I argue is a rapidly escalating crisis in almost every aspect of third level education.

*11 o'clock*

That crisis encompasses matters such as student poverty, the student accommodation crisis and the chronic underinvestment in third-level education generally. There has been an incred-

ible 50% drop in investment per student since 2008. This crisis will bite very badly at every level and will cause hardship among many students unless we address it by means of significant increases in investment and assistance for students experiencing accommodation problems, poverty, difficulties paying fees and so on.

**Deputy Joe McHugh:** I thank the Deputy for his question. This year alone, my Department will spend in excess of €400 million on access measures for further and higher education students. This includes circa €380 million on student grants and related activities, which is expected to benefit approximately 78,000 further and higher education students. In terms of access initiatives, under the national access plan approximately 16,000 students are expected to be assisted in 2018 through the student assistance fund at a cost of €9 million, whereas 12,000 students are expected to be assisted through the fund for students with disabilities at a cost of €10 million. Approximately 400 students will benefit from the 1916 bursary fund under the programme for access to higher education, PATH, at a cost of €2 million.

The national student accommodation strategy, NSAS, was published in July 2017 to enable an enhanced supply of student accommodation as part of the Rebuilding Ireland action plan. It set a target of 7,000 additional purpose-built student accommodation bed spaces to be delivered by the end of 2019 and construction of at least 21,000 bed spaces by 2024. This initial target is expected to be exceeded, with over 10,000 bed spaces either completed or on site as of October 2018. The Government is also developing measures to provide better rent predictability in purpose-built student accommodation in the forthcoming residential tenancies (amendment) Bill.

Finally, the block grant paid to higher education institutions includes a specific weighting to promote access to higher education. This involves an additional premium for all eligible access students. This takes account of the cost of additional measures to support the enrolment and retention of students from under-represented backgrounds. For those from targeted socio-economic groups and mature students, this is applied for the first two years of course duration to reflect the higher support needs during this period. For people with disabilities, a further weighting is applied for the entire length of the course to reflect the higher support resources required.

**Deputy Richard Boyd Barrett:** It sounds good until we look at the facts. With regard to access, 90% of students in Donnybrook attend university but 16% of students in Darndale do so. This reflects the fact there are so many different barriers to access. The cost of living per annum while studying at third level is €12,000, which is a big expense. We have some of the highest registration fees anywhere in Europe and accommodation costs increased 11.5% in the first quarter of 2018 alone.

Ms Michelle Byrne, vice president of the Union of Students in Ireland, USI, spoke at a meeting we held during the week and she told me an incredible story that she says is typical. She related how a young postgraduate student is travelling every day from Cork to Dublin and back again to attend her third-level institution because she cannot afford student accommodation. At Dublin City University, student accommodation providers tried to increase rents by 27%. The Irish Universities Association has pointed out that we are now have one of the lowest levels of investment per student anywhere in Europe and, as already stated, that investment has dropped 50% since 2008. There was only a 1% overall increase in the recent budget, which is not good enough.

**Deputy Joe McHugh:** There are two aspects to access to third-level education. The first

is providing the platform to ensure students stay on after the junior certificate to sit the leaving certificate. I came across a very positive story at Larkin community college in Dublin's north-east inner city. When I spoke with the principal and staff at the college, I was informed that there is an 80% progression rate from leaving certificate to third level, including for trades and apprenticeships. It is an ambitious school and it is able to compete on the points scale as well, with students getting into the top courses and universities. There are examples of the fact that people will get to third level if the support system is provided.

The Deputy's second point related to the barriers of cost and I can pick that up in my county, with parents making the decision as to whether it is affordable to send a son or daughter to college in Dublin. These are the questions on the minds of parents. We need to continue an all-of-Government inclusive support. I acknowledge Sinn Féin and Fianna Fáil for tabling their motions, which we support, seeking to ensure that we can have more supports in high-pressure zones and where the rental costs are high. We must continue to work in an all-of-Government and inclusive manner because this is such an important matter.

**Deputy Richard Boyd Barrett:** There has been a proliferation of private developments of student accommodation. This accommodation costs an absolute fortune. It is a complete waste of time because people are just making money out of a student accommodation crisis. We need purpose-built low-cost student accommodation on or near campuses. That needs significant investment. I will make a simple point on overall investment in third-level education. We give €700 million in research and development tax credits, mostly to big multinationals in this country. That money should be redirected to our universities and third-level education. Instead of giving money to Apple and Google through tax breaks for so-called research and development, it should go to our universities in order to offset the chronic underinvestment to which I refer.

This crisis is taking a serious toll on students. We have the fourth highest rate of youth suicide in the world. The USI report indicates an absolutely massive demand for counselling services in universities, with tens of thousands of students needing counselling and a large number reporting burnout or an inability to carry on because of the stress they are being put under on all fronts, including in the context of costs, accommodation, overcrowding, etc. There is a serious problem and we need a hell of a lot more investment and support to address the crisis.

**Deputy Joe McHugh:** There is no question but that this brings pressure on students and parents when they are trying to provide the best education for students. I know some students go on their own and do not have that support. I realise that there is pressure. There is an acknowledgement that we must ensure there is accommodation on campuses. A number of important provisions in the Planning and Development (Housing) and Residential Tenancies Act 2016, which was passed by this Oireachtas, facilitate higher education institutes in borrowing money from the Housing Finance Agency for the purpose of financing student accommodation provision on campus. That is happening not just in the capital but throughout the country. Universities and other third-level institutions are considering at ways to make more accommodation available for students. There are also rapid planning applications for student accommodation developments with in excess of 200 student beds. They are made directly to An Bord Pleanála.

We must continue to focus on affordability and what universities can do. We should also acknowledge that universities and other third-level institutions are under financial pressure as well but we must examine ways to keep affordability at the heart of this conversation.

## **School Accommodation Provision**

39. **Deputy Clare Daly** asked the Minister for Education and Skills his plans to improve capacity for schools across north County Dublin in view of a widespread shortage of places and a deterioration in accommodation for students. [49582/18]

**Deputy Clare Daly:** This question and a number of others before the Minister relate to capacity of schools across north County Dublin, the shortage of places and the deterioration of accommodation. I have been a public representative for a long time but I have never seen this matter raised as much as now. When we try to deal with one matter, another pops up. Of the 16 major projects for the area, only two are at the on-site stage. In addition, we have had the problem at Ardgillan community college and other issues. This is unsustainable in a growing area and we need a serious strategy to deal with such concerns.

**Deputy Joe McHugh:** I thank the Deputy and acknowledge that this is an issue of concern. When I walk down the corridor and meet Deputies and Senators from north County Dublin, it is the only matter they raise.

In order to plan for school provision and analyse the relevant demographic data, my Department divides the country into 314 school planning areas and uses a geographical information system, using data from a range of sources to identify where the pressure for school places across the country will arise. With this information, my Department carries out nationwide demographic exercises to determine where additional school accommodation is needed at primary and post-primary level. As the Deputy will be aware, my Department recently announced plans for the establishment of 42 new schools over the next four years up to 2022, including six new primary and two new post-primary schools to be established in north Dublin. The four year horizon will enable increased lead-in times for planning and delivery of the necessary infrastructure. In addition to the new schools announced, there will be a need for additional school accommodation in other areas in the future. Based on the current analysis, this need can be addressed through either planned capacity increases in existing schools or additional accommodation or extensions to existing schools. Approximately 40% of extra school places are delivered by extending existing schools. The requirement for new schools will be kept under ongoing review and will have regard for the increased roll-out of housing provision as outlined in Project Ireland 2040.

I know that the issue for the Deputy is the here and now, what happens today and what happens in September in the context of enrolments. I am working very closely on this with my officials to see if we can expedite the land acquisition, provide temporary accommodation and ensure that we meet the basic needs of students next September.

**Deputy Clare Daly:** The problem is that it is not working. We all saw the day that was in it yesterday but parents, teachers and students from St. Joseph's Secondary School in Rush organised a protest in the town. They walked from the existing school to the field where the new school is supposed to be built. The school is oversubscribed this year by 140 students. They were outside the Dáil earlier this term and while it is an incredibly useful education for them in the need to protest to get things delivered, they should not have had to do that. What answer does the Minister have for them today? I appreciate that the Minister has outlined the method that the Department is using but I am telling the Minister that it is not working. The situation is critical for St. Joseph's and for St. Maloga's school in Balbriggan, which I have discussed with the Minister previously. In that school, 58% of students are in 20 year old, crumbling prefabs in

the current appalling weather. St. Maloga's is only at the project brief stage even though it has been in the pipeline for so long. The same situation prevails at St. Michael's House in Skerries. We have been told that it is a priority but the Department has not even acquired a site yet. The system is broken. The needs of these young people whose education is time sensitive must be addressed in a better way.

**Deputy Joe McHugh:** As politicians, we all live in the here and now and we all face challenges in terms of young people who are protesting for the right to appropriate school accommodation. There is a drive on now to acquire the site for St. Joseph's. The project is included in the Department's six-year plan up to 2021. The capital funding has been ring fenced and there is no question of this not happening. We must try to move forward within the time constraints and pressure.

We must bear in mind that there has been an explosion in housing in north county Dublin. We are constantly hearing in this House that the Government is not building enough houses but there has been an explosion in the provision of accommodation in north county Dublin in the last five years. However, that is not an excuse for not acting. I will bring the concerns of colleagues from north county Dublin back to the officials in the building unit in my Department and ensure that this issue is kept on the radar.

In respect of St. Joseph's school, the Department will be providing two science laboratories, one technical graphics, design and communications room and one general classroom as an interim measure. The main issue is completing the site acquisition.

**Deputy Clare Daly:** The problem is that the population explosion did not happen in the last five years but happened well before then. The children who live in that community and who are part of a population that has been growing for the past 20 years are now in primary and secondary school. They are facing a logjam, not to mention the children to whom the Minister refers who will be starting school in the next few years. It is critical at this stage and the point I am making is that the system is broken. To take St. Joseph's as an example, the issues in that school have been long flagged. It is not the case that the school community has only taken to the streets in the last month: they saw this coming. The Department was warned and the concerns were flagged. The issue has been raised in this House and with the local authority. In this House, we are told that the local authority is dealing with the matter and is looking for a site but when local councillors raise it with the local authority they are told that no-one in the Department has contacted the authority about finding a site. Meanwhile, children and their parents are out on the streets, protesting. The story of St. Joseph's is replicated in other areas, including Skerries and other parts of north Dublin. I did not even get a chance to address Swords, a town with a population approaching 40,000 where there is a critical school accommodation problem. I have tabled another question on that matter which we will come to later, hopefully.

The system is broken and the children and their parents who were out in the rain yesterday deserve better. We really need to look at this.

**Deputy Joe McHugh:** There is no solace in repeating for the Deputy what I have said already. Obviously the population in the area has been growing over the last ten to 20 years. Our Geographical Information Science, GIS, system is factoring in recent house building and family formation in the context of future planning. That is why we have identified the need for 42 new schools nationally. There is obviously a gap in this area and that is something of which I am very conscious. I will continue to liaise with colleagues on this issue and keep the pressure

on with regard to the land acquisition. The Deputy is correct in saying that there are similar issues in Skerries and other parts of north county Dublin. In terms of school planning areas, the list includes Beaumont, Whitehall, Swords, Scribblestown, Portmarnock, Malahide, Donabate, Donaghmede, Castleknock, Carpenterstown and so on. There has been a population explosion in north Dublin with which we must deal and this is a priority for me.

### **Ceisteanna Eile - Other Questions**

*Question No. 40 replied to with Written Answers.*

### **Oideachas Gaeilge**

41. D'fhiafraigh **Deputy Éamon Ó Cuív** den an Aire Oideachais agus Scileanna an bhfuil sé sásta casadh leis an eagraíocht Gaelsoideachas ó tharla go bhfuil sé nua-cheapaithe mar Aire; agus an ndéanfaidh sé ráiteas ina thaobh. [49223/18]

**Deputy Éamon Ó Cuív:** Níor éirigh liom comhghairdeas oifigiúil a dhéanamh leis an Aire as ucht a cheapacháin nua mar Aire Oideachais agus Scileanna. Is deas an rud é Gaeilgeoir a fhéiceáil sa bpost. Tá sé ráite liom ag Gaeloideachas, an scátheagraíocht atá ag plé le cúrsaí Gaeloideachais sa tír, nár éirigh leis cruinniú a fháil leis an Aire, an Teachta Bruton, riamh agus go bhfuil iarratas déanta chuig an Teachta McHugh. Táim cinnte go gcasfaidh sé le Gaeloideachas agus go bhfuil go leor le plé idir é féin agus an eagraíocht.

**Deputy Joe McHugh:** Gabhaim buíochas leis an Teachta as ucht a bheannachtaí. Beidh mé sásta an teanga a bhogadh ar aghaidh san áit seo. Beidh mé tiomanta é sin a dhéanamh agus beidh mé ag iarraidh cuidiú, taithí agus comhairle an Teachta amach anseo maidir leis an bhealach is fearr chun an teanga a bhogadh ar aghaidh sa Roinn Oideachais agus Scileanna. Tá an-áthas orm a bheith ceaptha mar Aire Oideachais agus Scileanna agus tá mé ag súil go mór le bheith ag obair leis na páirtithe leasmhara maidir leis an Ghaeloideachas. Bíonn mo Roinn ag obair le comhpháirtithe i saol an oideachais agus le páirtithe leasmhara ar bhonn leanúnach. Chuaigh Gaeloideachas i dteagmháil leis an Roinn le gairid chun cruinniú a eagrú. Tá oifigigh sa Roinn i dteagmháil le Gaeloideachas i láthair na huairé chun dáta a chinntiú don chruinniú seo agus meastar go dtarlóidh sé go luath. Beidh ionadaíocht leathan ar an geruinniú seo ó mo Roinn agus déanfar iarracht forbairt a dhéanamh ar chomhrá roimhe seo agus ar fhorbairtí a tharla idir an dá linn. Tá mé ag súil le rannpháirtíocht leanúnach le Gaeloideachas agus le páirtithe leasmhara eile.

Chomh maith leis an scéal seo, tá teachtaireacht amháin agam fadúda an ról atá agamsa sa Roinn Oideachais agus Scileanna. Dá mbeadh aon bhailiú nirt de dhíth maidir leis an Ghaeilge, tá mé ag iarraidh a chur in iúl do na páirtithe leasmhara éagsúla timpeall na tíre - an Roinn agus na daoine, comhlachtaí, dreamanna agus grúpaí atá freagrach as an teanga - go bhfuil mé anseo chun an Ghaeilge a bhogadh ar aghaidh. Táim tiomanta é seo a dhéanamh.

**Deputy Éamon Ó Cuív:** Gabhaim buíochas leis an Aire. An mbeidh sé ag casadh le Gaeloideachas roimh an Nollaig?

**Deputy Joe McHugh:** B'fhéidir go mbeidh.

**Deputy Éamon Ó Cuív:** Beidh, le cúnadh Dé. Tá an dara ceist agam. Táim cinnte go bhfuil go leor rudaí le plé leis an Aire ag Gaeloideachas, ach is ar cheann de na ceisteanna is práinní soláthar scoileanna. Tá soláthar scoileanna ar cheann de na ceisteanna is práinní. Rinne an Coimisinéir Teanga imscrúdú maidir leis an soláthar oideachais trí Ghaeilge. Bhí geallúint tugtha sa Straitéis 20 Bliain don Ghaeilge go mbeadh fáil ar oideachas trí Ghaeilge ag chuile ghasúr sa tír. Tá an chaoi a ndéantar roghnú ar scoileanna faoi láthair éagórach. Dúirt an Coimisinéir Teanga é seo agus is cosúil go ndúirt an Roinn go ndéanadís scrúdú air. Tá sé éagórach ar scoileanna lánGhaeilge. An bhfuil aon obair déanta sa Roinn mar réamhobair ar an gceist seo maidir le soláthar scoileanna lánGhaeilge nua a bheidh ar fáil ar fud na tíre?

**Deputy Joe McHugh:** Táim dóchasach go mbeidh an cruinniú ag dul ar aghaidh roimh Nol-laig mar fhreagra ar cheist a haon. Maidir leis an dara ceist, agus an ról i dtaobh na teanga agus na scoileanna nua lánGhaeilge, bhí cruinniú agam leis an gCoimisinéir Teanga an tseachtain seo caite agus bhí me ag labhairt leis faoin dúshlán sin. Is é mo thuairim phearsanta dá mbeadh aon éileamh láidir i leith na scoileanna úra go mbeidh mé ag amharc ar an mbealach chun níos mó cuidithe a thabhairt don bhforas pátrúnachta nuair a bheidh siadsan ag lorg an céatadán céanna maidir leis an éileamh sin a bhaint amach ag na tuismitheoirí. Táim ag obair i gcomhar le mo chuid oifigeach faoi láthair maidir leis an mbealach is féaráilte agus is cothroime maidir leis sin fosta. Bhí cruinniú dearfa agam leis an gCoimisinéir Teanga an tseachtain seo caite agus beidh mé ag breathnú ar an mbealach is fearr maidir leis an gcothroime seo a choinneáil leis an iar-ratas a bheidh á dhéanamh acu amach anseo.

**Deputy Éamon Ó Cuív:** Ní dócha go bhfuil scoil lánGhaeilge ar bith a bunaíodh le fiche bliain i gceantar uirbeach nár éirigh léi. Ceist eile a mbeidh ag plé acu leis an Aire Stáit ná an polasaí oideachais Gaeltachta agus soláthar acmhainní dó sin.

Éiríonn ceist eile fós faoi sheirbhísí tacaíochta do dhaoine le fadhbanna speisialta: uathachas agus rudaí mar sin. Bhí cás amháin agamsa le gasúr a raibh fadhbanna cainte aige. Tá cónaí air i gceartlár na Gaeltachta. Ní raibh aon scoil sa Ghaeltacht in ann na tacaíochtaí a chur ar fáil agus dúradh leis go gcaithfeadh sé dul go Gaillimh. Tá sé leathchéad míle as Gaillimh agus chaithfeadh sé dul ann le haghaidh bunseirbhís i scoil lánBhéarla. An mbeidh an tAire Stáit ag plé na gceisteanna sin le Gaeloideachas.

**Deputy Joe McHugh:** Bhí €2,3 milliún d'acmhainní ar fáil maidir leis na scoileanna lánGhaeilge sna ceantair Ghaeltachta. Beidh €5 milliún ar fáil an bhliain seo chugainn in 2019 maidir le na hacmhainní, an tacaíocht agus an cuidiú atá de dhíth sna scoileanna sin. Dá mbeadh aon cheist i dtaobh na scoileanna éagsúla taobh amuigh den Ghaeltacht a mbeidh ag iarraidh sruth Gaeilge - tá scoil thar barr i Sligeach agus i bPort Laoise chomh maith mar shampla maidir le sruth Gaeilge - bheadh suim agam maidir leis na scoileanna sin ar spéis leo an Ghaeilge a bhogadh ar aghaidh le sruth Gaeilge, bheinn sásta é sin a dhéanamh fosta.

Beidh suas le €5 milliún ar fáil maidir leis na hacmhainní do na bunscoileanna agus na meánscoileanna istigh sa Ghaeltacht an bhliain seo chugainn, Dá mbeadh aon de na scoileanna éagsúla taobh amuigh den Ghaeltacht, cibé acu lánGhaeilge nó le roinnt Gaeilge iontu, beidh mé sásta suí síos leo.

## **Schools Building Projects**

42. **Deputy Thomas Pringle** asked the Minister for Education and Skills when he will carry out a review of his Department's design-and-build programme of school builds; if this will be carried out by an independent entity; and if he will make a statement on the matter. [49503/18]

**Deputy Thomas Pringle:** This question is related to one answered earlier. It concerns the design-and-build programme, which has been in the news recently, and what the Department is doing to determine the cause of the problem.

**Deputy Joe McHugh:** I do not know whether the Deputy was listening to me when responding earlier. The answer to this question is a little different. It is a variation of the previous response so I will put it on the record.

The safety of the school students and staff has been my priority from when the initial invasive work was done in Ardgillan on 19 October. It continues to be my overriding priority. I shall give a summary of the outcome. Nineteen schools were cleared to open in full without any precautionary works, 19 were enabled to open in full following external precautionary measures in the form of fencing around all or part of the building and protective decking, and three were enabled to open, initially at ground floor level only, following the implementation of both internal and external precautionary measures. The latter relates to two schools in Tyrrelstown and Gaelscoil Eiscir Riada in Lucan. One building, namely phase 1 of Ardgillan Community College, closed completely.

Internal precautionary works are currently ongoing on the upper floors of the three schools that were opened initially at ground floor levels only. I assure the Deputy that the Department's priority is to have these works completed to enable all three schools to open fully and the students who were temporarily decanted off site to return in the coming weeks. I acknowledge the impact this has had on parents, staff and boards of management in recent weeks. I thank them not only for their patience and understanding but also for their proactivity. They have been proactive in ensuring whatever measures needed to be put in place would be put in place. I was in Tyrrelstown last week. I watched how the work was organised. It included gardaí, stewards and staff decanting students on a day-to-day basis in the rain. It was exceptional work in a short period.

Let me focus on what happens next. We will move as quickly as possible to the next phase, which is to initiate more detailed structural investigations in all 42 schools, even the 19 that did not have any structural issues. Following this, the objective is to implement the permanent remediation works required.

It is also my intention to initiate an independent review of the Department's design-and-build programme, to include aspects such as procurement, quality control, workmanship and oversight, examining aspects both before and after the implementation of the amended building control regulations in 2014. This will be an independent review conducted by a person or entity outside the Department. This review will be informed by the more detailed structural investigations to be carried out in the next phase of the programme.

**Deputy Thomas Pringle:** I thank the Minister for his response. The final part is important and the key. There is no doubt that the schools have done great work in opening and dealing with the issues that have arisen. The fact, however, is that these are brand-new schools and they

should not have to deal with these issues. That also has to be recognised by the Department. As the Minister said, more than half of the 42 schools built by the company concerned, Western Building Systems, have been confirmed as needing remediation work or at least precautionary protective measures pending further investigation. I am thankful the Educate Together school in Letterkenny was one of the schools that showed no problems when reviewed and was able to resume activity. It is clear, however, that the Department's design-and-build programme was compromised in some way or another, and that is the crux of the problem. It might have been through not thoroughly investigating companies in the procurement process prior to signing the contract or through not inspecting buildings properly.

I have seen from previous commentary that questions remain as to who is ultimately responsible. That is what we need to get to. Ultimately, the Department is responsible because it is the procurement body and it is paying. The people are not getting what they are paying for and this has to be addressed and examined by the Department. Changes have to be put in place to make sure contractors comply with what is required of them.

**Deputy Joe McHugh:** I agree with the Deputy's point on responsibility to the taxpayer. We are in a responsible position and have to ensure not only that there is value for money but also that if we are sending young people into schools, they are safe. My officials were working in the understanding that the schools were safe structurally. There is a massive break of trust in terms of who signed off and who was ultimately responsible. That is why I want the independent review to examine all aspects of the process, beginning with procurement. The idea that we must have people looking over the shoulder of a bricklayer to check whether wall ties have been installed is not normal in construction. There must be a degree of responsibility. However, if checks are necessary before the cavity walls are closed to ensure wall ties are of the right place and number, that will be done.

**Deputy Thomas Pringle:** It probably will have to be done. The Department has been neglectful in regard to such checks.

The constant drive always to get projects constructed as cheaply as possible is at the root of this problem. These schools will no longer be value for money in the light of the costs incurred in recent months for investigations and remedial works. None of that was considered when the cheapest possible tender was selected. These schools are ultimately going to prove very expensive as a result of the short-term view taken in opting for the cheapest tender when the priority should have been for the Minister to ensure that the schools were built to the proper standard. Schools offer value for money when they operate for 20 years without requiring additional work to counteract substandard work carried out under the contract. A low-cost tender does not necessarily indicate value for money. That is the problem.

**Acting Chairman (Deputy Eugene Murphy):** Two other Deputies have indicated to speak on this issue. I will allow them to comment briefly but the time allocated for the question has almost elapsed.

**Deputy Joan Burton:** Has the Minister an estimate of the cost which will be borne by the Department even in the case of future legal proceedings? Does he propose to introduce a Supplementary Estimate to cover the cost of the works on the schools? We do not want a further disaster in terms of the existing building programme being further delayed due to the significant amount of remediation work involved. As the Minister is aware having visited them, the schools in my locality have been wrapped. A massive amount of work is being done on them.

**Deputy Thomas Byrne:** When I and my colleague, Deputy O'Loughlin, met the Minister and his officials over the mid-term break at a very helpful meeting to which members of the Joint Oireachtas Committee on Education and Skills were invited, I got the impression that a permanent fix would in place by now or that we would know what was happening in that regard. There is a deficit of information regarding a permanent fix for these school building projects. Parents are asking me what is happening. They are not reassured by the temporary fixes that are in place. Has the timetable slipped considerably in that regard?

**Deputy Joe McHugh:** On the point raised by Deputy Pringle regarding culpability and responsibility, it is very important to point out that under the 2014 legislation and previously ultimate responsibility lies with the contractor and design team. There has been an average 18% increase in the cost of private sector construction, including of houses, hotels and apartment blocks, because of the delay involved in ensuring a fire officer inspects the project and ensures every step has been properly completed

On the speed of the works, many of them were built within a 24 to 26 week period. That is not to say that rapid build cannot be done properly. Rapid build construction is being employed to deal with the housing crisis and for several student accommodation projects, as was raised earlier. It works if it is done properly. The message that must go out is that whether a building is to be completed in 24, 36 or 42 weeks, it must be done properly. There was obviously carelessness and unacceptable standards in the construction of these schools.

A Supplementary Estimate was submitted for the Department of Education and Skills. We do not have a specific figure for the costs because we must first undertake a comprehensive assessment of all 42 schools.

In regard to the timeframe that Deputy Byrne mentioned, I refer to the decanting of students from Gaelscoil Eiscir Riada in Lucan and the two schools in Tyrellstown. It was envisaged that the works on the first and second floors would be completed as a priority in the coming weeks. That work is continuing, with working hours extended after 3 p.m. and at weekends. We hope to get those students back into their schools.

The second piece of work, which is significant, will be a comprehensive analysis. We have set up a new section in the building unit to deal with it. Once that has been completed, we will maximise the holiday period to progress any work that is required.

### **Schools Building Projects Status**

43. **Deputy Charlie McConalogue** asked the Minister for Education and Skills the status of the site acquisition to accommodate a campus (details supplied); the timeline of works to ensure that the campus is completed as soon as possible; and if he will make a statement on the matter. [49218/18]

**Deputy Charlie McConalogue:** This is the first time I have engaged with the Minister in the Chamber since he was appointed. I congratulate him and wish him well in his new role.

My question regards a matter of great interest to his and my home country, namely, the status of the site acquisition for the Crana College three-school campus. What is the status of the project in terms of the capital plan?

**Deputy Joe McHugh:** I thank the Deputy for his good wishes. We have worked closely together on this issue for too long. We are on the same hymn sheet in terms of trying to get the issue resolved as a matter of priority. I look forward to continued engagement on the issue. As the Deputy is aware, the education campus project to which he refers is included in my Department's capital programme 2016 to 2021 and the money required will be ring-fenced.

Negotiations with the landowner in respect of the preferred site option to accommodate the campus are under way. The Deputy will appreciate that negotiations in respect of site acquisitions are, by their nature, sensitive and for that reason I am not in a position to provide further information at this time. However, I assure him that all parties are working to bring matters to a conclusion at the earliest possible date and Department officials will continue to keep the relevant school authorities apprised of progress. In that regard, a meeting between school authorities and Department officials has been arranged for later this week.

When the site acquisition is complete, the next stage of the process involves the project for the campus progressing to architectural planning. At this stage it is premature to give a timeframe for completion of the building project. I acknowledge that the local community, including the parents who have sons or daughters in the three schools, have been waiting patiently for the campus. The issue must be taken very seriously as they have been waiting almost two decades for it to be resolved. I look forward to continued engagement with the Deputy on the issue.

**Deputy Charlie McConalogue:** I thank the Minister for his response. I join him in acknowledging the patience of the local community and the combined work and effort of the three schools, their management and the parents in terms of working towards an outcome where the three schools will be on the one campus. Unfortunately, the patience and goodwill of the parents in recent years has not been mirrored by Government action on the issue. It is disgraceful that no site has been provided over 11 years after the three schools agreed to amalgamate. The Government has messed around for far too long by not prioritising the issue. The preferred site was identified in 2013, over five years ago. However, once that was done the Government reset the clock and restarted the process. It is only now that I have faith that this can be brought to a conclusion.

I ask the Minister to confirm that the ongoing negotiations relate to the first preferred site and to give an assurance that they are meaningful such that we can have some hope that there will very soon be a conclusion.

**Deputy Joe McHugh:** I will not get into a political argument on the issue. Frustrations manifest themselves in many ways. We have a tremendous opportunity to bring together three great schools on a Crana College campus, including a Gaelscoil and a Gaelcholáiste. It is an ideal scenario. The Government's priority has always been to provide the funding. The funding is ring-fenced under the 2016-21 programme. There is no question about that. The delays are being caused by negotiations with a private owner. At this stage, all parties should be afforded the space to ensure these sensitive negotiations are carried through in a timely way. We need to ensure we get the proper result for the community. The various partners involved in this project, including Donegal County Council and Donegal Education and Training Board, DETB, are all on the same hymn sheet.

**Acting Chairman (Deputy Eugene Murphy):** I thank the Minister.

**Deputy Joe McHugh:** We still need a decision to be made. There is engagement now. It is at a heightened level, as it has been in recent months. I hope we get a successful outcome here.

**Acting Chairman (Deputy Eugene Murphy):** I am always hesitant to intervene when people are explaining something, but I have to mention that the timespan which is laid down for questions - six and a half minutes in total - is continually being broken. Those who run over time should be conscious that other Deputies are waiting to have their questions answered and they are preventing this from happening. In the interests of fairness, I appeal to Deputies to watch the clock that flashes in front of them when they exceed the time available to them, as they are well aware. This applies to everybody. Let us to try to operate within the time constraints that exist.

**Deputy Charlie McConalogue:** While I accept that the school is on the 2016-21 capital funding programme, that means nothing when there is no site. It has taken too long to get the site that is needed as a first step. I welcome the Minister's confirmation that the ongoing negotiations relate to the first preferred site. As he knows, recent local media coverage suggested that the site in question had been sold. There is no doubt that this preferred site needs to be acquired if at all possible. Every effort needs to be made to secure it for these schools. I urge him to expedite this project in his capacity as Minister and as a representative of Donegal. It has gone on for too long. There is no doubt that it has not been prioritised by the Government in recent years. It needs to be prioritised in order that the site can be secured. DETB wrote to the previous Minister on a number of occasions to seek meetings, but it did not receive a reply for a long period. This matter was not being prioritised at that juncture. I will work with the Minister in any way I can to ensure it is now brought to a conclusion. The parents, teachers and, in particular, pupils of these three schools deserve a new school, which needs to be a priority for the Government.

**Deputy Joe McHugh:** It is important to point out that, as Minister, I am not involved in any of the negotiations on this matter. The officials in my Department are working on it. I assure the Deputy that they are providing the necessary focus to try to bring this to a conclusion as speedily as possible. I am conscious of the frustrations, dreams and visions of those whose sons and daughters have attended these schools and have come out the other end. If all partners and stakeholders can work to bring this to a conclusion as soon as possible, that will be met with a tremendous drive. The Deputy spoke about the energy in these three schools. Like him, I am in touch with the principals and the teams in the staffrooms on a daily basis. There is an energy to drive this project. The development of this physical building would be a tremendous bonus to future education in this area.

### **School Accommodation Provision**

44. **Deputy Louise O'Reilly** asked the Minister for Education and Skills when new additional accommodation will be provided for a school (details supplied) in addition to the associated refurbishment works; and if he will make a statement on the matter. [49256/18]

**Deputy Louise O'Reilly:** There is an orange weather warning in place at the moment. People are making plans and preparations. There is an additional worry for the parents of the pupils of St. Molaga's national school in Balbriggan. They are fearful that the prefabs their kids are forced to learn in will come down around their ears. The last time we had a heavy downpour, it was raining in one of those classrooms. On behalf of the parents and on my own behalf, I ask

the Minister to provide some words of comfort by indicating when the school will get its new accommodation and when the refurbishment works will be carried out.

**Deputy Joe McHugh:** A building project at this school that primarily involves the replacement of existing temporary accommodation with permanent accommodation is included in my Department's six-year construction programme. The project will consist of an extension to include 12 mainstream classrooms, a two-classroom special needs unit and some refurbishment works to the existing accommodation. The schedule of accommodation for the project has been finalised and provided to the school authority. The project brief has also been finalised. It was advised to the school recently that it is intended that the project will be progressed under the Department's ADAPT programme. ADAPT is an accelerated programme which uses a professional external project manager to co-ordinate and drive the respective design teams on each project. My Department will be in further contact with the school when the project manager has been appointed.

**Deputy Louise O'Reilly:** The Minister has not provided any concrete timeframes. At the moment, 58% of pupils in the school are learning in prefabs. The prefabs are 18 years old, which is young in human terms but ancient in prefab terms. We are aware that there has been some progress. We need to hear that this project will be fast-tracked. We need to hear exact timeframes from the Minister. That is what the parents want to know. When they woke up this morning, they knew this problem would not be fixed by the time their kids arrived in school. They are nervous and worried. Like most average people, these parents do not want to contact their local representatives. They are happy never to have to see us as we go about our business. They have been driven to contact their local representatives because the conditions their kids are in at the moment are unacceptable. They need to hear a timeframe. We have been told again and again that there will be action as part of a programme. A timeframe is needed.

**Deputy Joe McHugh:** There are two aspects to the larger project. It is important to appoint an ADAPT project manager. The Deputy is articulating this strongly and my officials are listening to her. She mentioned the existing prefabs in the context of today's stormy conditions. Two of the school's older prefabs have been in poor condition since Storm Ali earlier this year. While I understand that some repairs have been carried out to the prefabs under the school's insurance policy, a condition report prepared at the school's request has indicated that further remedial works are needed. The Department has advised the school to complete an emergency works application form with a view to undertaking remedial work to these prefabs pending their replacement as part of the proposed building project.

The Deputy and the school authorities are trying to do two things. They want pupils to be able to get on with their daily lives in the education system. They are keeping the larger project in mind as well. They are keen to ensure the prefabs are of a standard that meets all the safety requirements. I am taking on board what the Deputy has said..

**Deputy Louise O'Reilly:** While I am glad the Minister is taking on board what I am saying, he has not given me a timeframe. I would appreciate a timeframe. If the Minister cannot give one to me now, I would be happy to receive it in written correspondence. It is not as if these parents are not patient; they are extremely patient. They are looking for their kids to be able to go to school in a place that is safe. The Minister and I want the same for our kids. The parents are seeking a timeframe. They are aware that this matter has been brought to his attention. They know that this school is in the pipeline. They want to know at what stage they will start to see some concrete movement.

**Deputy Joe McHugh:** There are dangers with giving the specifics of a timeframe because people can be disappointed when there is no movement on that timeframe. It is intended that the process of procuring a project manager will be initiated shortly. We could get into a more definitive explanation of what is meant by “shortly”. Some people might think it means before Christmas and others might think it means after Christmas. In fairness, many school authorities and young people are resilient. They will put up with lower standards if they know things are certain to come down the line. I get that as well. People like to be kept in the picture and in the know. I will get my officials to give the Deputy a direct call on this matter.

### **School Accommodation Provision**

45. **Deputy John Brady** asked the Minister for Education and Skills the interim arrangements that will be put in place for a school (details supplied) that must vacate its temporary premises in April 2019; and if he will make a statement on the matter. [49216/18]

77. **Deputy John Brady** asked the Minister for Education and Skills the long-term plans in place for providing permanent accommodation for a school (details supplied); and if he will make a statement on the matter. [49217/18]

**Deputy John Brady:** What short-term and long-term arrangements are in place to accommodate the needs of North Wicklow Educate Together school, which is facing an impending crisis due to the fact that the current lease on its temporary accommodation on Putland Road, Bray expires at the end of April next year? Some 180 pupils will find themselves with no school, and 60 of them are due to sit their junior certificate examinations shortly after the lease expires. There are short-term and long-term needs for accommodation. The school is on the schools capital expenditure programme and is due a new building.

**Deputy Joe McHugh:** We have had a number of conversations about this issue. I apologise to the students for being unable to meet with them last week; I was at an event at the Aviva Stadium. I thank them for their correspondence.

A major capital project for the provision of permanent accommodation for the school referred to by the Deputy to cater for a long-term projected enrolment of 1,000 pupils is being addressed through my Department’s capital programme.

My Department has been liaising with Kildare and Wicklow Education and Training Board, KWETB, with a view to providing the new 1,000 pupil school on the site of Bray Institute of Further Education, BIFE, in a campus-type arrangement. The site in question is almost 12 acres. It was envisaged that the master planning of the site would also provide an opportunity to put plans in place to provide modern fit-for-purpose accommodation for BIFE through a multi-million euro investment. Unfortunately, my Department understands that the board of the ETB does not agree with this approach.

My Department will have to consider this development and the next steps to address the long-term accommodation needs of the school. This will be done as a matter of priority given the urgent need to find a permanent home for the school.

With regard with the school’s interim accommodation, the lease on the school’s temporary accommodation on Putland Road is due to expire on 30 April 2019 and the property is up for

sale. My Department's preferred option for interim accommodation is for the school to remain in this location. Accordingly, my Department has indicated to the owner of the property that it would be interested in exploring the potential to licence or lease the property from the purchaser should the purchaser be amenable to such an arrangement.

My Department is also exploring other options should it not be possible for the school to remain in the Putland Road property. In this context, it is engaging with the patron body of the school and KWETB regarding all other short-term accommodation solutions. My Department is meeting with the patron and school management tomorrow regarding the accommodation issues.

**Deputy John Brady:** It is unbelievable that the Government has allowed the Department to sleepwalk into the pending crisis. I have been asking questions about this for the past two years, particularly regarding the concerns relating to the BIFE site. I pointed out that there were issues with the identification of that site by the ex-CEO, Mr. Sean Nash, and with the engagement with the Department, which I believe should be investigated. It is only now that the Department has acknowledged that there is a difficulty. The KWETB board met yesterday and made a unanimous decision not to proceed with co-location on the BIFE site. This was all flagged. There is now a crisis.

Patronage was awarded to the North Wicklow Educate Together school in 2013 and it moved into its temporary accommodation in 2016. I do not take any comfort from what the Minister has said; he is dealing in hopes and aspirations. There has been a suggestion that the school could temporarily relocate to the old Colaiste Raithín premises in Bray. If the Minister and the KWETB are looking at that as an option, they should know that it is not fit for purpose. It was not fit for purpose for Colaiste Raithín, which, after a lengthy campaign, moved into its new accommodation recently. It will not be suitable for North Wicklow Educate Together in the short or long term.

The simple solution to this is for the Department to purchase the Putland Road site. Is that being considered by the Minister and his officials?

**Acting Chairman (Deputy Eugene Murphy):** The Deputy is entitled to double the time because the questions have been grouped, but with a little bit of co-operation, Deputy Pringle might be able to ask his question.

**Deputy Joe McHugh:** This is an important ongoing issue. I spoke to my colleague, the Minister for Health, Deputy Harris, about it yesterday. Looking at it in a common sense, value for money way, the BIFE site is 12 acres and owned by the State. It will not cost money to acquire, and, therefore, it is an option. There is also a constraint on the Putland Road site because there is a protected structure on it. It is a smaller site of some 4.3 acres. We have to ask whether the school can do what it wants to do on a 4.3 acre site. The Deputy believes it can. We need local engagement now more than ever. I have spoken to the Minister for Health, about this matter, and Deputy Brady has raised this on a number of occasions with me. A meeting of minds is required at tomorrow's meeting. The formal decision by the board of the ETB to reject the BIFE site as a preferred location was only taken earlier this week. We have to take that on board. From a taxpayer's point of view, it must be acknowledged that the officials were considering a site that would not cost anything. The Putland Road site would cost money, and it is also zoned. I do not know what the valuation of the site is or what it might cost. Patronage was awarded in 2013 and the school was up and running in 2016. Education is the most important

issue, and I will focus on that. We need certainty on what the next stage will be. Tomorrow's meeting will be crucial in that regard.

**Deputy John Brady:** The Minister has mentioned cost-benefit for taxpayers. We are talking about taxpayers and pupils, learners who are going to be homeless. They will have nowhere to go at the end of April 2019. While the Minister is thinking of cost-benefit, I think of the benefit that will accrue for the pupils and their parents, as well as the teachers, and pupils who are due to enrol in that school next September. The school is due to increase to 300 pupils.

I do not take any comfort from what the Minister said. We need to move away from the BIFE site. The Department must immediately refocus and examine the Putland Road site. The school faces an immediate short-term crisis, because it will need temporary accommodation whatever happens. I mentioned the Colaiste Raithín premises, which is not fit for purpose for a number of reasons. It is a split site and uses really old prefabricated classrooms and a VEC building; it is not fit for purpose and should be ruled out. That leaves the Putland Road site, where the school is currently based on a temporary basis. If the owner of that site is not open to extending the lease or to putting in place a licence, we must have a plan B, and I have not heard the Minister mention one. We need one, and I am hopeful that such an alternative plan will be outlined at the meeting with the patrons of the school and the principal tomorrow.

I am not getting any solid answers from the Minister, and I did not get any solid answers from his predecessor over the past two years. Immediate answers are required. Without them, 180 pupils will have no school at the end of April next year, and 60 of those will be sitting their junior certificate examinations in a hedge school. I am sure the Minister does not want that to happen on his watch, and I, as a Deputy for that constituency, certainly do not want it to happen on my watch. The Minister has spoken about other Ministers. He referenced the Minister for Health. I remind him that he is the Minister for Education and Skills and that it is his sole responsibility.

**Deputy Joe McHugh:** No student sitting his or her leaving certificate examinations will be left out. Alternative temporary solutions are being worked on, and we have been focusing on this issue. The significant question is how to address the long-term issue here. The meeting tomorrow is a follow-up to consider the decision made by the ETB. There must be a meeting of minds, and there must be focus on the long term. The short-term issues will be dealt with. Certainty is also needed. There is no point in my saying that the school will be located at a certain site. That would do a disservice to the community and the process in place. It is good that the ETB has now made a decision. I understand the Deputy's frustration. This matter has been ongoing for a number of years. However, we need certainty, and I believe things will happen quite quickly after tomorrow's meeting.

*12 o'clock*

### **Ceisteanna ó Cheannairí - Leaders' Questions**

**Deputy Micheál Martin:** Yesterday the Taoiseach, the Minister for Communications, Climate Action and Environment, and crucially the Minister for Finance stated that no decision had been made or would be made on the broadband tendering process and particularly that no decision would be made on the last remaining bid. However, in today's *Irish Independent* we read that the lead bidder for the national broadband plan is preparing to fast-track rural connec-

tions next year. The report stated:

The move would mean that the first of 540,000 rural homes and businesses under the State-sponsored scheme would get high-speed broadband in 2019, ahead of the expected 2020 rollout...

A contract is expected to be signed in January, with the subsidy cost and other contractual terms to be finalised in the coming weeks.

It is all in marked contrast to what we were told yesterday in this House. Is this the case? Can the Taoiseach confirm that a decision to proceed has actually been taken behind the scenes? We note that only €74 million was allocated in the 2019 Estimate for the roll-out of this plan, which compares with an industry estimate of anything from €1 billion to €1.5 billion as the actual cost of the plan.

Two discussions seem to be under way in parallel: one in the Dáil where nothing is actually disclosed by Government and where the actual potential cost of the project is not spelled out or detailed in any way; and then in the media, helped by Government and other sources, a different story is spun. There is a need for much more transparency and honesty in the Dáil about the national broadband plan roll-out. We need to ground the plan in some reality and not with repeated broken promises.

Yesterday I asked the Taoiseach a very basic question as to whether the new bidder was a new consortium. His reply was quite remarkable. He said:

The consortium has changed but it is not a new consortium. It is a consortium that has changed in its composition during the process, not a new one.

For the record, the September 2017 consortium that submitted to the tendering process comprised Enet - the leader, Granahan McCourt Capital, SSE plc and John Laing Group. By the final tender in September 2018 it was Granahan McCourt Capital - the leader, Nokia, Actavo, the Kelly Group and the KN Group are all now suddenly at the 11th hour in there. That is a changed consortium. The key question is as follows. Is the Government satisfied that the new consortium has the capacity to deliver this project?

*The Irish Times* has an interesting article by Eoin Burke Kennedy with substantial questions. Why has the industry in Ireland shunned this particular project given the significant Government subsidy?

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

**Deputy Micheál Martin:** That is on offer and the market that is up for grabs. Is the Government satisfied that this new consortium contrived at the 11th hour has the capacity to deliver the project? Can the Taoiseach confirm that contracts will be signed in January? Will he confirm that the costs are a multiple of what the Government originally expected?

**The Taoiseach:** I thank the Deputy for raising this important matter, the issue of broadband and the national broadband plan in particular. I restate in the House my commitment to ensure that the national broadband plan happens. We have gone from a position two years ago when this Government of Fine Gael and Independents came into office where only about half the premises in Ireland had access to high-speed broadband.

**Deputy Brendan Howlin:** Who was in government before then?

**The Taoiseach:** We are now at 75% and I want us to get to 100% as soon as possible. I appreciate that 500,000 homes, businesses and farms throughout the country do not currently have access to high-speed broadband. There are 1 million people living in those homes and the more people who get connected, the more frustrated the people who are being left out become. I am determined to ensure we get this done as quickly as it can be done and as affordably as possible. I receive reports on the matter from the Department at least every two weeks.

In response to the Deputy's questions, I obviously cannot comment on behalf of industry; the Deputy would need to ask its representatives his question about industry. On the newspapers, I do not write the newspapers. I know the Deputy believes I do on occasion; it is one of his conspiracy theories.

**Deputy Thomas Byrne:** The Taoiseach spins them.

**The Taoiseach:** The *Irish Independent*, no doubt, is staffed by very professional journalists who write their own stories; they do not need me to write them for them.

**Deputy Darragh O'Brien:** The Taoiseach would not say that in America

**The Taoiseach:** To answer the Deputy's question again, I cannot stand over the veracity of that story.

A final bid, a final tender, has been received by the Department. The Department is now evaluating that with the help of KPMG and some other external experts. We anticipate that the Government will be able to make a decision in the coming weeks as to whether we can accept that tender.

I have seen various estimates of costs. It is important to say that as this is a 30 year project, the cost will be spread over 30 years. It is a bit like a motorway building project, for example. We do not pay for it all in the Estimates this year; the cost is spread over 30 years. That explains why next year's Estimates do not provide for hundreds of millions or billions of euro. It is a bit like a mortgage; one pays for it over a period of 25 or 30 years.

The Deputy asked about the consortium. I said yesterday - the Deputy quoted me correctly - that it is not a new consortium, but the composition has changed, and that is my position. In that regard, it is a little bit like Fianna Fáil, its composition changes from time to time. Its members are not the same people who were here three years ago or five years ago-----

**Deputy Darragh O'Brien:** The Taoiseach can talk.

**The Taoiseach:** -----and from time to time its leader may change, but they are still the same Fianna Fáil.

*(Interruptions).*

**Deputy Micheál Martin:** The private sector companies have delivered broadband to date and not the Government. This is a multibillion euro project. It is not a laughing matter. I asked the Taoiseach a very serious question. This is a new consortium. Is it the new norm that in a major tendering process organised by Government the bidder can change at the last minute? There is an uneasy silence about this. It is being glossed over. It might not suit people to di-

rectly analyse and assess this. I believe it raises fundamental questions about how we go about tendering major State contracts. A State subsidy of up to €500 million is involved here.

**Deputy Brendan Howlin:** And the procurement directives.

**Deputy Micheál Martin:** This is not about changing individuals and so on. It is a fundamental issue. All the original bidders know who is in the competition.

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

**Deputy Micheál Martin:** Is it acceptable at the 11th hour to end up with a completely different bidder with no telecommunications experience? The two major telecommunications providers in the country have shunned the deal.

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

**Deputy Simon Coveney:** That is why it is being assessed independently.

**Deputy Brendan Howlin:** It is the process he is talking about.

**Deputy Micheál Martin:** I have asked a very basic question. This is a new consortium, not a changed one. It is being glossed over. There is a terribly uneasy silence about it. People are not giving me a straightforward honest answer. Is it acceptable that a consortium changes at the 11th hour?

**The Taoiseach:** It is not a new consortium. The leadership has changed and the composition has changed, but it is not a new consortium.

*(Interruptions).*

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

**The Taoiseach:** What is unusual is that we are in this House discussing a tender process and evaluation that is under way. We have had big projects like this in the past. They may not have been as big as this one but they were big. I refer to the projects relating to the new national children's hospital, the major inter-urban motorways or the schools bundle. I do not recall having a debate-----

**Deputy Billy Kelleher:** The mobile phone licence.

**The Taoiseach:** -----about the tender processes relating to or consortiums involved in those projects.

**Deputy Brendan Howlin:** It was never down to one.

**The Taoiseach:** It raises a question for me, namely, what are the motivations of the Opposition.

**Deputy Micheál Martin:** The mobile phone licence.

**Deputy Brendan Howlin:** Probity.

**The Taoiseach:** Are they trying to undermine this process?

**Deputy Micheál Martin:** To get it done right.

**The Taoiseach:** Are they trying to make comments under the protection of privilege-----

**Deputy Darragh O'Brien:** It is just to get answers.

**The Taoiseach:** -----which others may use to undermine the national broadband project?

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

**Deputy Darragh O'Brien:** We are entitled to get answers.

**The Taoiseach:** Is their plan to try to scupper this project so that people in rural Ireland-----

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

**Deputy Micheál Martin:** The Taoiseach had to sack a Minister because of it.

**The Taoiseach:** -----will be denied the infrastructure they need?

**Deputy Mary Lou McDonald:** Despite the fact that it is still only November, we are now in the run-up to Christmas. Any family with small children would state that is now 27 sleeps until Santa arrives. For many families, the reality of making Christmas happen is one of stress and expense. Regrettably, providing even essentials is beyond the means of many. That unfortunate reality means that many families resort to borrowing money, some from friends, family members, credit unions or banks. However, that will not be an option for others and many of them will resort to borrowing from moneylenders and loan sharks who, in many cases, are unlicensed and charge punitive and frankly disgusting interest rates. They are a scourge on our society.

There is also a licensed moneylending industry in this State whose practices are equally repulsive. A UK-based moneylender, Amigo Loans, has been given a licence by the Central Bank to operate in Ireland. The Central Bank has sanctioned it to offer loans with interest rates of up to 49.9% to people who have been excluded from accessing mainstream finance. Amigo Loans considers that to be mid-cost credit. I would call it daylight robbery. Amigo Loans is not the only entity involved in this game. A fortnight ago, the Centre for Co-operative Studies at UCC published a report on behalf of the Social Finance Foundation. That report indicates that moneylenders in this State are licensed to charge interest rates of up to 187% which, when collection charges are added, rises to an average percentage rate, APR, of 287%. The report also states that a total of 21 of the 28 EU member states apply caps to high-cost credit. That includes Ireland but, ironically, the only cap we apply is in respect of credit unions. We do not apply any cap on moneylenders. That is the reason moneylenders go door to door delivering leaflets at this time of year, preying on the vulnerabilities of people coming up to Christmas and charging these kinds of extortionate rates. Moneylenders are getting rich on the back of hard-pressed people who are simply trying to provide for their families. They can do this because the system in place allows them to do it. This is State-sponsored robbery. There is an urgent need to introduce a cap on the interest rates these types of outfits can charge. There is also a need for more wide-ranging reform of the regulation of moneylenders and the policing of illegal loan sharks.

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

**Deputy Mary Lou McDonald:** A number of years ago, Sinn Féin introduced a Bill that

would have capped the interest rates moneylenders can charge but the Taoiseach's party and the Labour Party voted it down. I put it to the Taoiseach that it is now time to introduce a cap on moneylenders to ensure they can no longer get away with their daylight robbery.

**The Taoiseach:** The Deputy is correct. It is now less than a month from Christmas, which is a wonderful time for families and children. It is a time for excitement, friends and celebration, but it can also be a very stressful time, particularly when it comes to getting the house ready, buying presents and finding the money to do all of that. I absolutely acknowledge that. To assist people and families, particularly those on low incomes, with the cost of Christmas, we fully restored the Christmas bonus in the budget. In the next week or so, the Christmas bonus will be paid at 100%. That is the first time it has been paid at 100% in seven or eight years. It is a shame that Sinn Féin is not supporting the budget. It should support it. One of the reasons it should do so is that the budget makes provision for the 100% Christmas bonus, as does the Social Welfare, Pensions and Civil Registration 2018.

In March, there will be further increases in the working family payment for low income families who are working, increases in the qualified child payment for families on welfare and increases in the minimum wage will come into effect in January. As a Government, we are working very hard to increase pay in a sustainable way, reduce taxes in a sustainable way, increase welfare in a sustainable way and also reduce the cost of living where that is under our control.

In terms of regulation of financial services, as the Deputy is aware, we have a system of independent financial regulation. The Central Bank is the regulator. It is not the Government that is issuing licences to banks, moneylenders or the financial services industry. As far as I am aware, the Deputy is not proposing that the Government should take over the Central Bank and become the regulator. We have independent financial services in Ireland for very good reasons. That is the norm across Europe and it should remain the case.

Regarding moneylenders or people offering high-interest loans, I echo the Deputy's sentiments. It is important that people are very careful in taking out such loans and that, if they do, they are confident they can pay them back. Anyone who takes out a loan is responsible for repaying it. Anyone who takes out a loan has a responsibility to make sure they are able to pay it back.

There are alternatives. For example, the credit unions, working with the Department of Social Protection, offer low-cost loans. We call it the It Makes Sense loan. It is not available in every credit union but is available in many of them. I launched it when I was Minister for Social Protection. It has been very successful and allows people to take out a short-term loan at a low interest rate to meet costs such as Christmas. That can then be deducted from their credit union account or welfare payment.

People can also seek urgent needs payments from their community welfare officers. I would ask people to consider alternatives and, if they do take out a loan, to always consider the fact that they may not be able to pay it back.

**Deputy Mary Lou McDonald:** I thank the Taoiseach. His Government presides over an Ireland of soup kitchens, child homelessness, mothers queuing for formula and nappies, insecure employment and 300,000 people living in consistent poverty. To be clear, many of those people are at work. They get up at the crack of dawn and still struggle and fail to meet their

basic requirements. I take it the Taoiseach is not suggesting that an interest rate of 49.9% is anything other than absolutely extortionate. Whatever argument he might make about the regulation of the financial services sector globally, there is no excuse for a Government standing over such a scandalous situation. That the State sanctions these outfits - ironically, in this case it is called Amigo Loans but I assure the Taoiseach that this amigo is no friend of anybody who borrows from it - and stands idly by and allows that to happen is nothing short of disgraceful.

We have put it to this House previously and we will again that we need a cap. I want the Taoiseach to commit to that and to accept, like me, that this is an outrageous situation. By the way, this is what is called mid-cost credit. Does the Taoiseach regard it as such?

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

**Deputy Mary Lou McDonald:** Does he regard it as acceptable that people are ripped off in this way?

In the context of the credit union It Makes Sense loan, I suggest that, rather than offering excuses to the House, the Taoiseach might act more vigorously and further resource that approach with the credit unions. It is a good approach-----

**An Ceann Comhairle:** The Deputy is way over time.

**Deputy Mary Lou McDonald:** -----but there are credit unions from which it is not available. There is no point preaching to people to look for alternatives when for so many families there is simply no other alternative bar these vultures.

**The Taoiseach:** As I said, I encourage people to look at the existing alternatives. Low-cost loans are available from the credit union through the It Makes Sense scheme. I appreciate it is not available in every credit union, but one need not go to the closest credit union nor be a member of a particular credit union to avail of that loan. For people who qualify, there is the possibility of getting an urgent needs payment or an exceptional needs payment if necessary.

I would also consider the interest rate that the Deputy suggested to be high rather than mid-cost and, therefore, I agree with her in that regard. We will examine any legislation she may wish to bring forward. We need to strike a balance here. People ultimately have personal freedom and if we restrict people from taking out loans, that is a restriction on their choice and freedom.

**Deputy Mary Lou McDonald:** People living in poverty do not have a choice.

**The Taoiseach:** Perhaps it is the case that we must restrict people's freedom and choice on occasion to protect them from being exploited.

**Deputy Mary Lou McDonald:** Being poor is not a choice.

**The Taoiseach:** We need to ensure we get the balance right.

**Deputy Richard Boyd Barrett:** I also wish to speak about the different experiences that people will face as Christmas approaches. As the Christmas lights go up, it should be a time of excitement, happiness and joy, particularly for children and families. In truth, it will be a tale of two very different Christmases, depending on where one is positioned in Irish society and, in particular, whether one has a roof over one's head. Imagine the situation faced by Elaine

and her three children, for example, who visited my office in the past few weeks and who are about to be evicted, having exhausted all appeals through the Residential Tenancies Board and with nowhere to go. Another family with three children, who would rather not have their names mentioned, face eviction before Christmas, while the father of yet another family, who visited me this week and who are living in emergency accommodation in Wicklow, must take his children to three different schools in south Dublin, sit in the car all day waiting for them to finish school and then drive back to Wicklow every day. Other families are experiencing their second or even third Christmas in emergency accommodation. It is shameful that people are being evicted in the midst of this situation and that children must go through a second or third Christmas like this. For others, however, it will be a bumper Christmas.

I wish to draw the Taoiseach's attention to this property supplement from a newspaper which states: "Strong residential investment deals. Over 1,600 apartments sold. Total value €610 million." The vast majority of these, of which approximately four are in my area, are National Asset Management Agency, NAMA, properties that were sold or are being sold to real estate investment trusts, REITs, or wealth asset management companies. The average price is approximately €380,000. The most recent one to be sold in Dún Laoghaire, comprising 214 apartments, cost €95 million at an average price of €440,000 per unit. The article helpfully goes on to state how that block will generate approximately €5 million in rental revenue for the new purchasers. These properties are being sold by NAMA. They are publicly owned and they are being sold to Kennedy Wilson, REITs and other wealth asset management companies which in some cases, to add insult to injury, will then lease them back to local authorities at extortionate prices, boasting about the amount of profit they are making. At the same time, families will suffer a miserable Christmas in emergency accommodation or face eviction.

We face a large demonstration on Saturday which will call for an end to evictions into homelessness. Should the Government not take emergency measures to ensure no kids or families are evicted as Christmas approaches? Will it do anything to stop NAMA selling thousands of properties that could be used to provide secure, affordable, permanent homes for these families who are suffering trauma and hardship as Christmas approaches?

**The Taoiseach:** I acknowledge that Christmas is, and can be, a stressful time for some families, particularly those who are living in emergency accommodation or looking for a new place to rent. I can imagine the concerns parents must have in the run-up to Christmas when they are asked by kids how Santa will visit if the hotel room does not have a chimney, or where the Christmas tree will be put. I totally understand the Deputy's concerns and, whether he believes it or not, I share those concerns. I also think about those families in the run-up to Christmas.

Figures on emergency accommodation will be released this week. I do not have them yet but I understand from the Minister for Housing, Planning and Local Government, Deputy Eoghan Murphy, that they will show a fall in the number of children and families in emergency accommodation and a reduction in the number of families presenting as homeless in Dublin. On the other hand, they will show an increase in the number of individuals who are in emergency accommodation. Those figures will be available later today or tomorrow.

The only solution to this is supply. While it is not the entire solution, it is at the centre of it. We are seeing a real increase in the supply of new homes across Ireland. By the end of this year, we expect 18,000 new houses and apartments to have been built, and that is not just a number. Behind it are 18,000 people, that is, 18,000 families getting keys to a new house or apartment for the first time this year. Some 18,000 families, therefore, will be in a new home this Christ-

mas which they were not in last year. We need to recognise the progress made in that regard. There will also be an increase of approximately 8,000 in the social housing stock this year, more than half of which are new builds by local authorities and affordable housing bodies, while the rest will be acquired through Part V leasing and acquisition. That is a significant change and increase compared with the situation last year.

On evictions, the Deputy will have seen the figures. I do not have the exact number but I think there were approximately 300 evictions this year. Evictions happen for all sorts of reasons and not all of them are evictions into homelessness, although some are. They can also be related to anti-social behaviour and people who live on a street where neighbours have caused havoc will understand why evictions are sometimes sadly necessary. The courts tend to take a sympathetic view of families if an eviction order is sought. We will bring forward legislation, which is being championed by the Minister of State, Deputy Moran, to strengthen the power of the courts to refuse eviction orders and eviction requests where they relate to a family.

**Deputy Richard Boyd Barrett:** For those who face eviction before Christmas, those words are not much consolation. If the Taoiseach recognises this as an emergency, why does he not save those children and families the trauma and hardship they face by immediately instigating emergency legislation that states they will not be evicted and that there will be no evictions while this emergency continues, particularly not in the winter months or facing into Christmas? In other European states, it is against the law to evict people at this time of year, but that will happen here.

It infuriates me when the Taoiseach talks about supply. He did not answer the central question about the article, which is evidence of the supply. Public property is being flogged off to vulture funds. Some 700 of the properties are in my area, Dún Laoghaire, and they would resolve the emergency homelessness crisis there. In Lucan and Santry there are hundreds of apartments that we had in our hands and that could be used to house those families who are in the hubs and who face eviction but we are flogging the apartments off. In the docklands, rents of €3,300 a month will then be charged and will go to Kennedy Wilson, an American vulture fund. Why does the Taoiseach allow that to happen? Why does he allow public property be sold to people who charge extortionate rents and evict people who cannot pay them, when that property could be used to house the families who are in the hubs, on the waiting lists and facing eviction? It is a scandal.

**The Taoiseach:** I cannot see the newspaper the Deputy held up from here. He is making the assumption that all of the properties in question are vacant. That may not be the case. Those properties might be fully or partially occupied and I am sure the Deputy is not suggesting that the people in those apartments should be evicted to make way for others.

**Deputy Richard Boyd Barrett:** The ones being sold are empty.

**The Taoiseach:** It is not the case that they are public property. NAMA owns the loans not the properties and it is disingenuous to make out that a property which is held as collateral against a loan owned by NAMA is public property, something I have seen a few times. That is not the case. In the past week or two, some of the Deputy's fellow travellers in his party had to admit that a property was not owned by NAMA and that the latter just owned the loan.

**Deputy Richard Boyd Barrett:** That is ridiculous semantics.

**The Taoiseach:** It is not semantics, it is the difference between facts and disingenuity be-

cause it does not suit the Deputy's argument.

**Deputy Michael Harty:** The closure of the rural post office network is happening across the country, with perhaps the single exception of Dublin. A Programme for a Partnership Government refers to: supporting the post office network and expanding and developing services delivered through post offices; expanding social welfare contracts; the provision of Government services through the network; the development of banking services by means of a community banking structure; and the development of post offices one-stop shops or hubs for Government services. That makes perfect sense in maximising the national asset that we have in our rural post office network and in supporting rural communities. These are communities that have had post offices since the foundation of the State, yet the Government is decommissioning these services in rural Ireland. Nowhere in A Programme for a Partnership Government is it suggested that there should be a closure of 390 post offices, which is what will happen during the lifetime of this Government. The Government is going to allow this happen.

Rural communities are not seeking handouts. An Post and postmasters are not looking for handouts in order to preserve their services, they are looking for what is committed to in A Programme for a Partnership Government. Fianna Fáil referred to the public service obligation prior to the budget. Perhaps this has also been discussed in the context of the confidence and supply agreement. The post office network is not looking for handouts, it is seeking to provide services that are meaningful to the population that will support rural communities.

This matter has reached crisis point. Some 50 post offices are due to close in January. A total of 159 will have closed by the end of the first quarter of 2019 and 390 are earmarked for closure under the An Post programme. This is not what was expected from the Government. Such is the level of demoralisation, there is difficulty in attracting postmasters to run post offices which are deemed viable by An Post.

How can the Taoiseach speak of a republic of opportunity without offering rural Ireland a hope as his policies reduce services within rural communities? Rural transport is not being developed, rural medical services are being allowed to diminish, rural financial services delivered by An Post are being diminished and rural broadband is not being rolled out. This Government is not addressing the sustainability of rural communities. Even at this late stage, will the Taoiseach call a halt to the closure of our post offices and the destruction of our post office network? It is not good enough for him to shrug his shoulders and state that this is a commercial decision when the social consequences for rural communities are so far-reaching.

**The Taoiseach:** The Government wants a post office network which is extensive enough that everyone will be within reasonable distance of a post office, which we believe can be achieved. However, the network must also be viable. The best way to ensure that it is extensive and remains so is that it is viable. The Government does not close post offices. In most cases, postmasters are retiring and are accepting retirement packages they have negotiated with An Post, which is a semi-State company. In many cases, there is no one willing to take on that contract because it is not viable. Where it is viable, the post office will remain open and if there is a shop or other service nearby which is willing to take it over, that will be considered. It is not just being left up to An Post, there is an independent review mechanism to assess viability.

Times are changing and we need to reflect on that and be realistic. Footfall at our post offices is decreasing. There are many fewer unemployed people in rural Ireland and, as a consequence, there are fewer people collecting jobseeker's payments from their post offices. More

people who retire do not collect their pensions from post offices. Instead, they have it paid directly into their bank accounts because that is how they had been paid over previous decades. As we extend broadband to more rural areas, more people will access public services, bank and pay for their television licences and motor tax online. The solutions which are often put forward can be contradictory because the more we extend services such as broadband to rural areas, the fewer people use the post offices. We need to be realistic about these things.

When it comes to investing in rural Ireland, it is important that we invest in the technologies of the future which is why we are so committed to ensuring that the national broadband plan happens, why we launched the rural fund on Friday last, which will be major investment in improving the public realm in rural Ireland and modernising our towns and villages so that they are more attractive for people to live in, and investing in enterprise and tourism so that we can bring new jobs to rural Ireland. The best way we can give rural Ireland a good future is by investing in new technologies, jobs and services.

**Deputy Michael Harty:** The viability of rural post office is under threat but that is because of Government inaction. A Programme for Partnership Government outlines a process which would expand services in rural post offices. Of course, rural Ireland is changing and people are moving to online services, but the post office is much more than online services and facilitating social welfare payments.

The Taoiseach referred to the independent appeals process. It is a sham. I am not aware of any post office that has successfully gone through the independent appeals process. The only criteria used relate to whether there is a population of greater than 500 in an area or whether a post office is greater than 15 km from the next nearest post office. Communities are spending vast amounts of time developing business cases to support their view that their post offices should be retained and in respect of the level of services that they would like to be delivered in them. All those appeals are being rejected purely on the grounds of population size and distance to the nearest post office. Times are changing and An Post needs to change. The programme for Government, to which I keep returning, included a process through which post offices would change; they would be given extra services, would act as Government hubs and be utilised. A national asset of 1,100 post offices should not be thrown away purely on the basis of an economic model which does not allow for the sustainability of the communities that will lose their post offices.

**The Taoiseach:** I do not think that the Deputy is quite correct about the appeals mechanism. I will check but I am pretty sure I read in recent days that a number of appeals had been upheld. I may be wrong about that so I will double-check.

**Deputy Pearse Doherty:** The Deputy is correct.

**Deputy Mattie McGrath:** It was one.

**The Taoiseach:** We want an extensive post office network which means a post office for any community with a population of more than 500 and ensuring that everyone is within 15 km of a post office. We must also ensure that any island with a significant population has its own post office. There is scope for additional services and this is happening. The Deputy will be aware that post offices are now offering foreign exchange services and some offer banking services, which is very welcome. We are also piloting and progressing digital assist for people who are unable to use the Internet or who are uncomfortable doing so. Digital assist will enable

them to access those online services at their post offices. That will only work to a certain extent. It will make some post offices viable and we want to do that, but we also need to accept there will be some post offices that are not viable precisely because the world has changed, there are many fewer people in rural Ireland who are unemployed and pensioners in rural Ireland, generally speaking, want to receive their pension into their bank account, because that is the way they are used to getting paid. People turning 66 are quite young these days. We also need to recognise that as we extend broadband to more and more parts of rural Ireland, those services that people say can save the post offices, like motor tax, banking and all of those things, will be increasingly accessed by people in their own kitchens, using 4G or high-speed broadband.

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

**An Ceann Comhairle:** In accordance with the order of the Dáil yesterday, we will now hear expressions of sympathy on the deaths of former Fianna Fáil Members, Seán Ardagh, former Deputy for Dublin South-Central, and Seán Calleary, former Deputy for Mayo East. We are joined for this commemoration by Mrs. Doris Calleary and Mrs. Máire Ardagh and their families: John, Conall, Dara and Síofra Calleary, daughters-in-law Trish and Siobhan, son-in-law John, grandchildren Laura, David and Anna, and family friends; and the Ardagh family are represented by Charlie and Rory Ardagh, Seán's sons, and their wives Catherine and Deirdre, and by Darragh McShea, Senator Catherine Ardagh's husband, and four grandchildren, Charlotte, Jane, Jamie and Arabella.

The two Seáns were people it was an absolute privilege to have known. They were honourable men, with very different personalities, but they served their people here with dignity and integrity. Neither of them undervalued the honour bestowed on them by their constituents. Seán Calleary did his utmost for the people of his beloved Mayo and the country, and Seán Ardagh did his utmost for the people of Dublin South-Central and Ireland. Knowing both Seáns as well as I did, I know how thrilled they would be that the next Calleary and Ardagh generation have taken the political baton and continue to work for the people they represent. To our colleagues, Catherine and Dara, and the wider Ardagh and Calleary families, I renew my condolences to them on their sad loss. Their fathers served their party, their Parliament and their country with absolute distinction and their families should be very proud of that work. We, their Oireachtas colleagues, salute it here in this Chamber today.

**Deputy Micheál Martin:** Ar dtús báire, ar mo shon féin agus ar son Fhianna Fáil, déanaim comhbhrón le muintir Sheán Ardagh agus lena chlann uilig. B'fhear stuama, cneasta, gníomhach agus críochnúil é. Duine ciallmhar agus polaiteoir den scoth a bhí ann. Bhí sé dílis dá mhuintir féin agus d'oibrigh sé go dian dícheallach Domhnach is dálach ar son mhuintir a dhúiche féin. Bhí sé ar a shuaimhneas agus an-éifeachtach ar fad sa Pharlaimint, go háirithe i gcoistí na Dála, an Coiste Chuntais Phoiblí agus an Coiste um Dhlí agus Cheart agus Comhionannas ach go háirithe.

Seán Ardagh was one of the great gentlemen of Irish politics and one of the kindest people one could meet. I always appreciated his advice on a personal level but also his continual good nature. He was immensely hard working, courteous and committed. He was also enormously popular with his colleagues and, of course, his constituents. There is no greater testament to that popularity than the fact that every time he contested an election, he won that election. His first campaign was in 1985 when he ran in the local elections. He had to share the ticket on

that occasion, I believe, with no less a celebrity than Sonny Knowles, who has recently passed away, and we extend our sympathies to his family also. Seán was the highest polling of the four Fianna Fáil candidates. He ran for Dáil Éireann on three occasions. Not only did he win every time but he also increased his vote on each occasion. At his final outing in 2007, he topped the poll and was elected on the first count.

He was a very fine and brilliant parliamentarian in the true sense of that word. In particular, he was a very eminent and solid chairperson of a number of Oireachtas committees. As a member of the Committee of Public Accounts, he established himself very firmly during the DIRT hearings in the late 1990s. Obviously, he was greatly aided by his own accountancy background in this endeavour but, for a first-time Deputy, he quickly acquired an authoritative reputation that would have been more in keeping with a more experienced Member of the House. After his re-election in 2002 and 2007, he chaired the Committee on Justice, Equality, Defence and Women's Rights, which was always one of the busiest. Again, he carried out the role with aplomb. He really was a natural. He was rarely adversarial. He never prejudged an issue and was always open in his approach and dealings, and he maintained that during his tenure as Chair of the Committee on the Constitution during the 30th Dáil.

I have no doubt his equable temperament on political matters gave him great strength when he faced serious health issues during his time in the House. He was first diagnosed with cancer in his first term. He got past it that time only for it to re-occur again in 2010, when he was absent from the Dáil because of illness for a period of the year. He tackled his diagnosis with great dignity and inner strength and, of course, with the help of his close family. Before Seán passed away in 2016, he happily and proudly saw his daughter Catherine elected to Seanad Éireann and he took great pride in her achievement. He was a keen supporter of her campaigns and may well have enjoyed them more than his own. Indeed, when we knock on doors, as I do with Catherine from time to time in that constituency, Seán's name is always mentioned with the highest of esteem and affection.

One constant in his life throughout was Máire and for 45 years they were together. They were best friends, hand in glove, and she too was elected to public office. They were both very committed to public service and to politics. It is often a cliché at times like this but I believe Seán Ardagh was one of the true gentlemen of Irish politics. His decency, integrity and good nature were transparent at all times, qualities that are invaluable in political life. He always had good advice for people and he led by example. Seán did not seek the headlines but what he said mattered. Any time he spoke, he was listened to as people respected him greatly. If he did not have anything good to say about people, he did not say anything.

I again extend my deepest sympathies to all of Seán's family - his wife Máire, sons Rory and Charlie and, of course, Catherine. He is still very fondly remembered and sadly missed.

Aire, Teachta agus polaiteoir den scoth ab ea Seán Calleary. Bhí cúrsaí polaitíochta ina ch-lann ó thosach. Thuig sé tábhacht sheirbhís phoiblí. D'oibrigh sé go dian dícheallach Domhnach is dálach ar son mhuintir a dhúiche féin. Bhí suim faoi leith aige i gcúrsaí spóirt. B'fhéidir nach bhfuil sé seo ar eolas ag daoine, ach d'imir sé peil, sacar agus rugbaí. Peileadóir den scoth a bhí ann. Mar Aire dhein sé an-chuid, go háirithe nuair a bhí sé sa Roinn Gnóthaí Eachtracha i gceannas ar an rannóg le haghaidh tíortha atá fós ag forbairt san Afraic. Sheas sé go doimhin lena phrionsabail i gcónaí.

One of Ireland's greatest public servants and gentlemen, Seán Calleary served Mayo as a

Deputy for 19 years, eight of these as a Government Minister. He discharged his duties with distinction and honour in the 1980s and early 1990s as Minister of State in the Departments of Labour, Public Service, Industry and Commerce and then Foreign Affairs. Politics was in the blood, of course. His father, Phelim, won a by-election when Seán was eight months old. However, he first came to prominence through a very ecumenical sporting ability. He played junior football with Mayo and he lined out for University College Galway and won the Sigerson Cup in 1955. However, he did not let it rest there. In the same year he lined out for UCG in soccer and won the Collingwood Cup, the first ever victory for UCG and stopped University College Dublin, UCD, from winning an eighth in a row. He had a deep and lifelong love for rugby and his great performances for Galwegians helped the club to achieve a regional dominance. This was at a time when the Gaelic Athletic Association, GAA, did not allow members to play or even attend what were termed “foreign games”. Seán, a member of the Mayo junior team, simply adopted the pseudonym, J. J. Kelly, also known as Jacko. As his celebrity as a player grew, a journalist said “I don’t know if you have seen that Jacko Kelly but if you’re half the player he is, you’ll be very good.” Following his playing career he performed leadership roles in Mayo GAA as selector and Connacht Rugby as president of the Connacht branch of the Irish Rugby and Football Union, IRFU. He was particularly pleased to be inducted into the Mayo sports star hall of fame in 2014.

His political career began with election in 1967 to the county council. This started an uninterrupted series of electoral successes, which stretched over the next 22 years, and he spent 19 years as a Member of the Dáil. He quickly made a name for himself in Leinster House as a decent and considerate man who drew great strength from the community he served. It was in his five years as Minister of State in the Department of Foreign Affairs that he made his biggest impact. His primary responsibility was overseas development aid but he played a much wider role and often stood in for his senior Minister, Brian Lenihan Snr, at major international meetings as well as in the Dáil. He presented the shamrock to the first President Bush standing in for the then Taoiseach, Charles Haughey, and for Brian Lenihan. He was the first Mayo man to present the shamrock in the White House through circumstance.

Ireland’s strong international standing for its overseas development work is because of people like Seán Calleary who brought his engineering background to bear on the development of water solutions for many of the people in Africa. He may not have had the resources available to him then that subsequent economic growth provided but he demonstrated leadership and determination in policies that have benefitted millions of the world’s poorest people. His greatest pride, of course, was in his family and his wife, Doris. At his funeral in Mayo last June, his son Dara told us he was “privileged to have a ringside seat at one of the world’s greatest love stories, Seán and Doris. They were devoted to each other.” He was proud of all his children’s achievements and took great pride in Dara being elected to serve the people of Mayo in Dáil Éireann in 2007. He was ever available to give my good self advice on the fortunes of the party from 2011 on and the re-emergence and renewal of the party. His advice was always strongly given and with effect. On behalf of the party and on my own behalf, I extend our sympathies to his wife, Doris, to Dara, Conall, John, and his daughter Síofra. Ar dheis Dé go raibh a hanameacha dílse.

**The Taoiseach:** I am grateful for the opportunity to pay tribute to Seán Ardagh, a distinguished former Member of this House. Seán was loved by all sides in this Chamber, and was respected by all and could work with all. I was fortunate to serve with him on the Joint Committee for Economic Regulatory Affairs during my first term in the Dáil and benefitted a lot from his kindness and advice. I also saw close up his forensic ability to get to the heart of an

issue, his sound judgment and his determination to serve the public good.

One obituary suggested that Seán Ardagh might have gone further in politics only for the fact that he had not a bad word to say about anyone, including his political opponents. I hope that is not true because I believe we need more people like Seán Ardagh to make our politics work better. On the Committee on Public Accounts, as Chairman of the Joint Committee on Justice, Equality, Defence and Women's Rights, and as a Deputy and a councillor, he did the State considerable service. Those who knew him will remember him above all as a gentleman and as an astute politician, someone who served the people of Dublin South Central with distinction and who never neglected his family. I know how proud he was that his daughter, Catherine, was elected to the Seanad shortly before his death and I suspect it will not be too long before she takes up his former seat in this House. On behalf of the Fine Gael party, I offer my deepest condolences to his widow, Máire, his sons, Rory and Charlie, his daughter, Catherine, his grandchildren, extended family and colleagues in the Fianna Fáil party.

I also welcome this opportunity to pay tribute to Seán Calleary as someone who epitomised the spirit of public service at home and abroad and who was a true Irish patriot. Seán Calleary was a firm believer in something Seán Lemass once said: "Irish people are citizens of the world as well as Ireland". Over the course of a distinguished career in politics, he served as a Minister of State in several Departments. He oversaw our overseas development aid programme and in many ways got that going. He also worked to combat famine in Ethiopia in the 1980s. He defended the Irish in Britain who faced discrimination, supported German reunification and was Ireland's lead negotiator on the Lomé Convention, with African Caribbean and Pacific countries, and we can still see the value of that work today. At home he championed the building of Ireland West Airport at Knock and the restoration of the Céide Fields when others were sceptical about both projects. In his work on local councils, as mayor of Ballina, as a Deputy and as a Minister of State, Seán Calleary worked to make his county and country much better places.

Many people have said he was a gentleman who never lost his patience with people, a rare ability among politicians, but he loved politics and was a wise counsel for many Governments and Fianna Fáil leaders. He was also, as Deputy Micheál Martin said, an accomplished sportsman, excelling at Gaelic football, hurling soccer and rugby, although I believe he sometimes had to play rugby under an alias because of the ban and I glad that today I have finally learned what that alias was.

Very few families can say they have had three generations who have served the public with honour and distinction. The Callearys can be proud of their contribution to Irish political life, first through Phelim Calleary, who served the people of Mayo in this House for many years, then through Seán and now through Deputy Dara Calleary. I know how justifiably proud Seán's children were of his achievements, and I know he was immensely proud of them. I offer my condolences to Seán's wife, Doris, his daughter, Síofra, his sons, John, Conall and Dara, and to all his grandchildren and relatives. I also extend my condolences to Deputy Martin and the Fianna Fáil party on this loss. Ar dheis Dé go raibh a hanameacha uaisle.

**Deputy Mary Lou McDonald:** Ar mo shon féin agus ar son Sinn Féin, ba mhaith liom comhbhrón a dhéanamh le clann agus cairde an iar-Theachta Seán Ardagh, a fuair bás i mí na Bealtaine 2016. On my own behalf and that of Sinn Féin, I wish to express sincere and heartfelt sympathies to the family and friends of former Deputy, Seán Ardagh, who passed away in May 2016. Seán, as we have heard had a lengthy and distinguished career in politics at local and national level, serving as a member of Dublin County Council for 14 years, a member of

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Dublin City Council and in this House for three terms. His daughter, Catherine, whom we acknowledge today, is also a former Dublin City councillor and a Member of the Seanad. I have absolutely no doubt that her father was beyond proud when she assumed office in the Seanad.

I join with everyone in extending sympathy and condolences to Catherine, and to all of Seán's loved ones, particularly his wife, Máire, his sons, Rory and Charlie, all his grandchildren, relatives and friends and his colleagues in Fianna Fáil. He made his mark and made a difference. Ar dheis Dé go raibh a anam.

Ba mhaith liom freisin comhbhrón a dhéanamh ar mo shon féin agus ar son Sinn Féin le clann agus cairde an iar-Theachta Seán Calleary, a fuair bás i mí an Mheithimh i mbliana. On my behalf and that of my party, Sinn Féin, I equally extend sincere condolences and heartfelt sympathies to the family and friends of former Deputy, Seán Calleary, who passed away last June. I did not know Seán but he had a lengthy and distinguished career in this place and, as we have discovered, a formidable sporting career as well.

*I o'clock*

Seán Calleary served in the House from 1973 to 1992, representing the fine people of Mayo as a Teachta Dála, like his father Phelim before him, and his son, our colleague, Deputy Dara Calleary. It is a formidable political family tree and I know Deputy Calleary takes enormous pride in the record and standing of his father. I have no doubt that Seán was equally proud of Dara. During his time in the House, Seán Calleary served in three junior ministerial positions in the Departments of Labour and Public Service, Industry and Commerce and Foreign Affairs. I join colleagues in extending sympathy and condolences to Seán's wife Doris, his children, John, Conall, Dara and Síofra, his grandchildren, relatives, friends and colleagues in Fianna Fáil. Ar dheis Dé go raibh a anam dílis.

**Deputy Brendan Howlin:** I had the privilege of serving with both Seán Ardagh and Seán Calleary. The Ceann Comhairle rightly spoke of the two as being honourable men. There are many parliaments in which that title is given to members as a matter of course. In the case of Seán Ardagh and Seán Calleary, it was completely merited and earned. They understood fully and embraced and accepted the privilege it is to serve one's community in our national Parliament. They worked to advance not only their own constituents' interests but to contribute to the national good. Both men could be described as rocks of sense. The views they expressed were always listened to carefully by other Members. At committees and during debates in the House, one listens to the views expressed by certain individuals in order to test one's own views. Very often, the views expressed by Seán Calleary and Seán Ardagh were so thoughtful, anchored in logic and obviously carefully considered that they altered the views of others, including even those who came here with fixed positions.

Seán Calleary and Seán Ardagh represented the highest standards expected of Members of the House. Seán Calleary had a distinguished ministerial career and graced several portfolios with discernment and ability. I have always had an interest in overseas development aid and I helped to establish the Parliamentarians for Africa group. Seán Calleary was a pathfinder in that area. When Ireland was poor, or certainly much poorer than it is now, he built awareness of our responsibilities to developing parts of the planet. That will be a very important and long-lasting legacy memorial of his. His sporting achievements have been referred to by a number of speakers. Deputy Micheál Martin referred to Seán's talent in this regard. One can well imagine his delight had he been present at the Aviva Stadium two weekends ago to see Ireland beat the

All Blacks, which achievement few of his generation of rugby players could have envisaged.

The House is the poorer for the loss of people of the calibre and ability of Seán Ardagh and Seán Calleary. On my own behalf and on behalf of the Labour Party, I express sincere sympathy but also congratulations to the families of Seán Ardagh and Seán Calleary and the broad band of friends and supporters each of them had and, indeed, to their political family in Fianna Fáil.

**Deputy Mattie McGrath:** I join the Ceann Comhairle and group leaders in welcoming both families. I knew Seán Ardagh and I express my sympathy to his wife, Máire, his daughter, Senator Catherine Ardagh, and other family members. They know themselves the contribution he made. When I was a member of the Fianna Fáil Parliamentary Party, I heard his wise counsel at many meetings and I noted his sensible approach to most issues. He did a great deal of work on different committees. On behalf of the Rural Independent Group, I wish to be associated with the expressions of sympathy to Seán Ardagh. *Ar dheis Dé go raibh a anam dílis.*

I express my condolences also to the family of Seán Calleary, particularly his wife, Doris, and his son, Deputy Dara Calleary, who is the third generation of his family in the House. If I am listening right, I think the next generation is represented among the daoine óga in the Gallery. I compliment Seán Calleary on the work he did in difficult times in Ireland and as a champion for overseas aid. He had the honour to be in the White House on that famous occasion to present the shamrock and he served in and represented many Departments over a number of years. I happened to be in Mayo last Friday night in a public house which belongs to a former Member or his family and I heard in what high esteem Deputy Calleary and his late father and grandfather are held. They have no worries for the future either. On behalf of the Rural Independent Group, I wish to be associated with the expressions of sympathy to Seán Calleary. *Ar dheis Dé go raibh a anam dílis.*

**Deputy Thomas P. Broughan:** On behalf of my group, Independents 4 Change, I also wish to be associated with the expressions of sympathy for Seán Calleary and Seán Ardagh. I thank their families for the tremendous contributions they made to the House and our country over many years. I served with former Deputy Ardagh in three Dáileanna and noted his distinguished contribution as a member of the Committee of Public Accounts - I was also a member - and the Committee on Justice, Equality and Defence. He brought his forensic skills as an accountant to bear on his work, particularly as part of the six-person DIRT inquiry. Seán Calleary was in the House for two decades before my time, but I know he was a stalwart of the Haughey Governments and of Fianna Fáil in that period. On my behalf and on behalf of our group, I pay tribute to both former Members and thank their families for their contributions.

**Minister of State at the Department of Health (Deputy Finian McGrath):** On behalf of the Independent Alliance, I express my deepest sympathy to both families on the loss of the two Seáns. I express to Seán Calleary's family, particularly his son, Deputy Dara Calleary, my sincerest sympathy on the loss of a father and husband. As one who grew up in Tuam, County Galway, known for the Tuam Stars, I know how highly regarded Seán Calleary was in Galway circles, especially by those in UCG, those at Galwegians and people involved in Gaelic football and soccer. His was a name I grew up hearing. I did not know Seán personally, but I heard of his great work and I know he was deeply proud that his son, Deputy Dara Calleary, was elected as a Member of Dáil Éireann.

I note to the family of Seán Ardagh that he was a very special friend of mine, as Senator

Catherine Ardagh and Máire Ardagh will know, and he will always have a very special place in my heart. He was an amazing politician of great skill and integrity and, above all, he was a very compassionate man. Máire, Catherine, Charlie, Rory and family have experienced a very sad loss. Seán was very close to me during many difficult times in my life and he was very friendly with my late wife, Anne. He was always very kind during the years of great difficulty, sadness and illness in our family. I will never forget that. The members of the Ardagh family know I mean it from the bottom of my heart. Máire Ardagh served as a councillor when I was a city councillor and we got on well together and had many great nights and a lot of craic. We enjoyed the moments. Seán Ardagh always encouraged us all to enjoy the moments, notwithstanding differences in our politics. He was very proud of Senator Catherine Ardagh and rang me about her campaign when he was very ill. He was very strong, so he would have been very proud of Catherine becoming a Senator and he spent a lot of time talking about her. As the parent of two daughters also, we had many chats between breaks at the justice committee.

On a personal and political level, Seán was very professional as chairman of the justice committee. He really enjoyed diversity and difference and we had many debates, rows and differences of opinions. He was always trying to get me on board because I was the maverick, rogue Independent on the committee at the time. He was always trying to get me to reach consensus.

**Deputy Mattie McGrath:** Look at him now.

**Deputy Fiona O'Loughlin:** He is the stalwart of a conservative Government.

**Deputy Finian McGrath:** I agree with Deputy O'Loughlin. He would be quietly smiling at me in my situation as a Minister of State in the current Government.

**Deputy Mattie McGrath:** He would be mesmerised.

**Deputy Finian McGrath:** Seán was that kind of person. He enjoyed diversity and inclusion, and he got it. Nowadays it is accepted as part of politics, but in those days it was not easy to work with Independents and people with different views when one was in a mainstream party, but Seán was able to do that on the committee. As my colleagues said, he was a top class, professional politician and I was very proud when we went to Rome to talk about equality, international justice and criminal justice issues that Seán was the captain of the Oireachtas committee on justice.

When I hear words being spoken about Seán Ardagh, I think of the words “decency” and “integrity”. He is a sad loss.

Again I offer my sincerest sympathy to both families. We are thinking of them on what is a sad but also a proud day for the families.

**Deputy Lisa Chambers:** I am grateful to have the opportunity to express my heartfelt and deep sympathies to the Calleary family, to Doris, Siofra, John, Conall and my constituency colleague, Dara, who I have worked with in Mayo for the best part of ten years. This is a difficult day for the family but it is also a proud one, hearing so many kind words in the Chamber.

Seán served as a Deputy for 19 years, eight of those as a Government Minister, and by any standards that is an exceptional record of public service and one to be extremely proud of. For me in my first term in Dáil Éireann, that level of service is something to aspire to and to admire.

In my personal interactions with Seán, he was always a very considered man, an intellectual,

somebody who was well read and somebody who knew his stuff. He understood politics but, more importantly, he understood Mayo politics. I knew that he was a strong source of support for Dara and for the wider Fianna Fáil organisation across Mayo, his opinion was always asked for and he was very well regarded and respected across the constituency and across the political divide. Within Fianna Fáil, we were obviously immensely proud of him and we still are but even in Fine Gael, those with whom he worked on the county council and in Dáil Éireann had great respect and admiration for him. He was a man of integrity, he was genuine and he was trusted and that is something that can be difficult for politicians but he was certainly trusted by the Mayo electorate which was evidenced by his continued electoral success and within the party, climbing to the ministerial rank. He was somebody who was seen as a support, not just for his family and his son Dara, but for the organisation and he is sorely missed within Fianna Fáil nationally and very deeply missed within Fianna Fáil in County Mayo.

As we speak today about the loss of a great public servant, I am conscious that he was a father and a husband and will be deeply missed in that regard. That is not something that will ever be replaced, but is something that one must look back on in appreciation and learn to live with. I am grateful for the opportunity to express sympathy to the family and thank my colleague, Dara, for being a kind person to work with. He embodies many of the good qualities that his father had and he has been a very supportive constituency colleague. I know that his father was immensely proud of him, as Dara was of his father.

On the death of Seán Ardagh, I offer my sympathy to my colleague and friend Catherine, who serves in Seanad Éireann, to his wife Maura, to Charlie, Rory and all of the extended family. I know how difficult this was for Catherine. Having been on the campaign trail with her during the Seanad elections, it was a testing time and she showed huge courage, steel, determination and all the good qualities that we look for in a public representative. I know how much her father meant to her and how much he impacted on her as a person and influenced her career. I am so glad that he got to see her elected to Seanad Éireann and I have no doubt that she will be elected to this House in the near future. I offer my deepest sympathies to her entire family. I did not know Seán personally, although I met him on a couple of occasions, but a bad word has never been spoken about him nor about Catherine. She is a fantastic colleague and she also embodies the good qualities that her father brought to this Chamber. It is lovely to hear all of the kind words across the House for Seán Calleary and Seán Ardagh.

**Minister for Rural and Community Development (Deputy Michael Ring):** I extend my deepest sympathy to the Ardagh family. I served with Seán in the House and everything said about him today was true. He was a man of common sense, dignity and honour and a man easy to work with in the Parliament.

Seán Calleary was somebody I knew when I was a member of Mayo County Council, the town council and a Dáil Deputy and he was a man that I respected greatly. Sometimes people refer to someone as a gentleman when they die but Seán Calleary was a gentleman, a man of honour and dignity and a man that I enjoyed meeting. We would always start off talking about sport, be it rugby, soccer, Gaelic football or the Mayo team, but we never finished talking without talking about politics. He loved politics and he loved Fianna Fáil and he served the people of Mayo and of Ireland very well. He was a man who had great common sense and the common touch.

I have to tell his wife and family today that he loved them and he loved Fianna Fáil - there is no pretending that he did not-----

**Deputy Billy Kelleher:** It is not a sin yet.

**Deputy Michael Ring:** -----and he never let it down and he fought and battled for it, sometimes when it was not easy.

He played sport and was in politics and in sport they say not to go for the man or the woman but for the ball and that is what Seán did. He was an honourable man, a man I had great respect for and who served the people of Mayo. We have had many politicians over the years but Seán carried out his job in a very quiet, effective and decent way and when I went to him as a colleague to make representations on behalf of the constituency, he always got back to me and was always there to support and help me in whatever way he could. I will never forget him for his kindness because whenever I would meet him, he would have a kind word for me. He knew politics inside out and he knew the difficulties that people have in politics and he always had a kind word for people.

There is no doubt but that those qualities have passed onto my colleague, Dara, and Deputy Lisa Chambers was correct about that. He is somebody who I like working with, who I respect and who has carried on the tradition of the Calleary family. It is a great honour for Dara that his grandfather and his father were elected to this House, as he has been, because it is a great honour to be elected by the people of one's county to represent them in Dáil Éireann. Seán Calleary respected that, saw it as an honour and treated it as an honour. He respected the people of Mayo. He served Fianna Fáil and the people of this country very well and he will certainly be missed. Thousands of people turned up to his funeral and I said to Dara that day, joking, that I will be looking for the number twos from him because there is no doubt but that the people who turned out on the day had great respect for the Calleary family.

His wife Doris, his sons Conall, John and Dara and his daughter Síofra are the biggest losers. They have lost a great father, a great friend and someone who I enjoyed meeting because I never left him without a smile. He had that kind way about him. He is a big loss to his family and to Fianna Fáil. He served the people of Mayo, of whom he was very proud.

**An Ceann Comhairle:** I thank the Minister. Dara, we should let you have the last word.

**Deputy Dara Calleary:** I thank the Ceann Comhairle for that. I also thank the members of the Business Committee for the honour they have bestowed on us today, which is a very difficult day but one of which we as a family are very proud. I am proud of my Dad and his achievements in this House. He served here for 19 years and enjoyed every day he had the privilege of being here. He contested seven elections. For those who think this is an uncertain time, they should consider there were three elections in 14 months in 1981 and in 1982. Dad was honoured to serve as a Minister in a number of Departments but particularly loved the honour of being the Minister of State in the Department of Foreign Affairs in charge of overseas development aid.

He had a very good sporting track record, not something I have picked up. He played for an Oireachtas team in 1978 against the Westminster Wanderers, the Westminster soccer team. The former Taoiseach, Deputy Kenny, served on that team with him. As Deputy Brendan Howlin said, he would have been thrilled that Ireland beat the All Blacks last Saturday week but he would have been even more thrilled that on the same day Easkey GAA won its first Connacht championship. He also played with Easkey, even though it is a Sligo team. He would have enjoyed both wins.

He was very conscious of the honour of serving here, the integrity one had to have as a Member of this House, and of representing all of the people. My grandparents were both active in the War of Independence and in the Civil War. They raised my Dad and my uncle in a spirit of tolerance and respect for others. My Dad played sport all his life and while he played to win and played the ball hard, he respected opposition and opposition voices. If there is one thing we can do in this House now, it is to bear that in mind.

He would have been honoured to share this occasion with the late Seán Ardagh, somebody with whom he shared main traits. They were always fond of checking in on the Mayo relations of the Ardaghs. In as much as this is our loss, it is their loss - Máire's and Catherine's - as well. I am sure Catherine's Dad would have been delighted with all the endorsements she is getting from other sides of the House about taking the seat in the next general election. We will make sure that happens for him.

I thank all the party leaders for their warm words. Our grief is very private but it is very public. Dad would have been mortified by the turnout at the funeral, but I noted the Minister, Deputy Ring canvassed it well. There will be a few in the box for him from there.

I do not know if we have lost ourselves as a family in the past six months; is it possible to have a heart that is both broken and full of pride at the one time? It is. We are full of pride about the respect and integrity in which he is held and the memories people have of him. We aspire to live up to those memories and standards as we proceed forward. His view of politics was that it was not a game but a deadly serious profession, that we had to respect the people who put us here and to work collectively for those people.

Ar dheis Dé go raibh a anam agus go raibh míle maith agat le gach duine sa Teach. I thank everybody here, the Members of my party for their support during his illness and since then, and all of the staff of the House beyond the Chamber for their support. We are very grateful.

**An Ceann Comhairle:** I invite everybody to stand for a moment's reflection.

*Members rose.*

**An Ceann Comhairle:** May they both rest in peace.

### **Ceisteanna ar Reachtaíocht a Gealladh - Questions on Promised Legislation**

**An Ceann Comhairle:** We will now proceed to next item of business, Questions on Promised Legislation, for which 30 minutes is allocated. I note 18 Deputies are offering.

**Deputy Micheál Martin:** Regarding the implementation of Sláintecare, when will the detailed action plan relating to the report be published and debated at length in the House? There are many issues regarding whether Sláintecare will be followed seriously, given the meagre resources allocated towards its implementation in 2019 compared to its financial implications. The costings of it are significant, even though we have not been given comprehensive costings. A timeline for implementation and a sense of a sincere approach to the implementation of the plan are required because there is considerable scepticism about the Government's commitment to it.

**The Taoiseach:** The Sláintecare implementation office has been established, the director

has been appointed, the implementation framework has been published and the action plan will be published before the end of the year. A decision on time to debate any matter in the Dáil is a matter for the Business Committee but I am sure we would be happy to facilitate that. There is a perception, which I am sure the Deputy knows is incorrect, that the €20 million set aside next year for Sláintecare implementation is all that is set aside for it. There is a lot more to it than that. There is a big increase in the capital budget and a big part of Sláintecare involves investment in new IT, new capacity such as bed capacity and primary care centres. There is also money in it to reduce prescription charges for people who have medical cards and people who do not. There is money in it to extend eligibility for the GP visit card and increasing the income eligibility limits. There are other investments as well. Nobody should make the mistake of thinking the €20 million is all that is set aside in 2019 for Sláintecare. There is a raft of measures ranging from capital spending to eligibility for medical cards and reduced prescription charges. All of those are Sláintecare measures.

**Deputy Mary Lou McDonald:** Earlier this morning, questions on the tendering process in respect of the national broadband plan, NBP, arose. Next week, we will have the opportunity to deliberate further on those matters but I want to raise the fact that more than 500,000 rural homes, businesses and farms are due to receive fast-tracked high-speed broadband connections next year. The Taoiseach has confirmed that contract will be signed in January. Will he confirm that again for the House? When will Members and communities receive details of the locations that are to be connected next year? I was in Kerry recently where the Healy-Raes live-----

**Deputy Danny Healy-Rae:** Yes.

**Deputy Mary Lou McDonald:** -----the Healy-Raes' kingdom, in Tralee and Castleisland. The issues facing rural Ireland are manifold. They cannot be reduced down to broadband but there is significant impatience with delivery. While all of this ruaille buaille about procurement and so on plays out politically, people are left without this service. Will the Taoiseach confirm the January date? Can he tell us when we and people outside this House will know the precise locations for connection?

**Minister for Communications, Climate Action and Environment (Deputy Richard Bruton):** The position is that the final tender, which was at the end of a competitive dialogue, was lodged with my Department on 18 September. That tender is now being evaluated by the Department to examine issues such as the robustness of the technology, the governance of the project, and value for money. I hope to be in a position to bring that to Government for a decision in the near future. It would not be possible for me or anyone else to outline a particular timescale or schedule until a contract is signed and the Government makes a decision to approve a particular proposal. This is at the end of a long process of procurement and we have to wait for a decision before we can indicate the outcome and the particular schedule.

**Deputy Brendan Howlin:** This morning, I had the privilege of meeting a most impressive person, Jackie Fox. Jackie has been a campaigner since her beloved daughter, Nicole, whom she knew as Coco, died by suicide in January of this year after prolonged and vicious online harassment. She was accompanied by another woman whose son is currently enduring similar harassment. The emotion was palpable and there are many people like that who are enduring incredible pressure. The Taoiseach will recall that there was a consensus in this House to enact legislation I brought in last year, the Harassment, Harmful Communications and Related Offences Bill 2017. We had co-operation across the House and with the Department of Justice and Equality to introduce this. It is urgent. They have been to the gardaí and the gardaí say there

are no laws to address the type of appalling behaviour that drives children to suicide. I ask that we agree as a House, in memory of Nicole, or Coco as her mum called her, to try to enact this quickly.

**Deputy John Curran:** I support Deputy Howlin. This is a tragic case. The Deputy is correct that there is proposed legislation from the Labour Party but, in practical terms, the passing of legislation needs the Government to engage meaningfully. There is cross-party support on this issue. Last week, legislation relating to vulture funds was initiated here but was largely supported by the relevant Departments. I ask the Taoiseach to do the same with Labour's proposed legislation on this issue, ensures the Government deals with it on a cross-party basis and advances it as quickly as possible.

**The Taoiseach:** I thank the Deputies for raising this important matter. I am sorry to hear about the tragic suicide which they described. The Minister for Justice and Equality is committed to working on a cross-party basis to pass this legislation. I understand it is on Committee Stage and he has some amendments. There will not be a difficulty with the money message from my side. Unfortunately, the Minister is not present at the moment. He is in the Seanad where a filibuster is going on with other justice legislation. The truth, whether people wish to admit it or not, is that the ongoing filibuster of justice legislation in the Seanad is causing other legislation to back up, including important legislation such as this.

**Deputy Mattie McGrath:** I raised an issue relating to the degeneration and neglect of Tipperary town with the Taoiseach some weeks ago. Some 5,000 people came onto the streets to march. As many as 3,000 marched last Saturday. The Taoiseach acknowledged that there were issues to be dealt with in Tipperary town and I asked him to look at setting up a task force. The Taoiseach and the Tánaiste neglected the town, as did the Minister, Deputy Bruton, through the delivering equality of opportunity in schools, DEIS, programme. The people are willing to collaborate and work on this. They are not talking down the town. They are willing to talk it up. There is great community spirit and energy there. Will the Taoiseach please set up a task force to look at this? They hope to get some of the money from Project Ireland 2040. While we got money for Kickham Barracks in Clonmel, which the Government closed, and in Thurles, which we appreciate, Tipperary town and west Tipperary have been neglected. Will the Taoiseach please ask his Ministers to set up a task force to examine it and meet a deputation, trying to work with the people of Tipperary instead of having Fine Gael candidates talk about all they are doing for Tipperary? Nothing is happening there. I ask for a task force to look at the issues and to try to work positively in Tipperary town.

**The Taoiseach:** I am pleased that the Deputy has acknowledged the significant investment that has been committed to Clonmel and Thurles as part of the urban regeneration and development fund. I am not sure whether Tipperary town made an application but I know there was no allocation for Tipperary town from either the rural or urban regeneration funds. We would need a proposal to establish a task force. I have not seen any such proposal. If the Deputy wishes to draft one, I will certainly ask the Minister, Deputy Eoghan Murphy, and the Minister of State, Deputy English, to consider it.

**An Ceann Comhairle:** My apologies to Deputy Gino Kenny. I should have called him earlier.

**Deputy Gino Kenny:** I want to raise an issue which I have brought up countless times and will continue to raise in this House until there is a satisfactory resolution. That is the issue of

the lack of access to medicinal cannabis. The Taoiseach says there is a supply issue. We and other Deputies have a contrary view, which is that the Health Products Regulatory Authority, HPRA, is blocking the legislation on the medicinal cannabis programme for bureaucratic and security reasons. This is imperative because while we might have time, the countless people for whom medicinal cannabis has a medical benefit do not have time on their side. It is imperative that the Government comes out with a statement about when the medical access programme will be up and running. It has been two years and the wider public is asking for answers. I am asking the Taoiseach as leader of his party and of this country if he will give a timeframe for when the medical access programme will be running.

**The Taoiseach:** Under the Misuse of Drugs Acts from 1977 to 2016, the Minister for Health can issue a licence for cannabis on medical grounds and has done so on 23 occasions for 12 different patients. We are working proactively to make sure this product is available to people who need it and who have a prescription for it. The HPRA advises us that there is a problem finding a supplier. It should be borne in mind that medicines have to be produced to a certain standard. The HPRA says there is a difficulty identifying an appropriate supplier. I am disappointed that the Deputy seems to believe this is some sort of tactic, misinformation or disinformation-----

**Deputy Gino Kenny:** Two years. It is not an issue with the supplier.

**The Taoiseach:** -----from the HPRA. I understand the UK has run into similar difficulty. Given that Deputy Kenny is speaking about misinformation-----

**Deputy Gino Kenny:** It is not misinformation.

**The Taoiseach:** -----a concerned member of the public gave me this poster.

**Deputy Gino Kenny:** The Taoiseach is a disgrace.

**The Taoiseach:** I understand somebody from the Deputy's party or associated with his party-----

**Deputy Gino Kenny:** The Taoiseach is a disgrace.

**The Taoiseach:** -----put this poster up.

**Deputy Gino Kenny:** The Taoiseach is a disgrace.

**Minister for Culture, Heritage and the Gaeltacht (Deputy Josepha Madigan):** That is not acceptable.

**Deputy Gino Kenny:** The Taoiseach is a disgrace.

**An Ceann Comhairle:** Will the Deputy let the Taoiseach respond?

**Deputy Gino Kenny:** The Taoiseach is a disgrace. That is the lowest thing I have seen here.

**Minister of State at the Department of Health (Deputy Jim Daly):** Deputy Kenny did not call David McCullagh a disgrace when he showed it to him last night. Why would he call this a disgrace?

**Deputy Gino Kenny:** The Government has had two years to get this right and has done nothing.

**Deputy Jim Daly:** Why did Deputy Kenny not call David McCullagh a disgrace?

**Deputy Gino Kenny:** Thousands of people are suffering. The Government is a joke.

**The Taoiseach:** I have a serious concern about people spreading misinformation on health issues.

**Deputy Gino Kenny:** The Taoiseach is a disgrace. I want him to withdraw that remark.

**The Taoiseach:** I did not make any remark.

**Deputy Gino Kenny:** I want the Taoiseach to withdraw that remark.

**Deputy Josepha Madigan:** That is out of order.

**The Taoiseach:** What remark?

**Deputy Gino Kenny:** The Taoiseach is making accusations with that poster.

**The Taoiseach:** What remark?

**Deputy Gino Kenny:** The Taoiseach should do what he was about to do.

**The Taoiseach:** I think the Deputy protests too much.

**Deputy Gino Kenny:** I want the Taoiseach to withdraw that remark.

**An Ceann Comhairle:** What remark is Deputy Kenny seeking to have withdrawn?

**Deputy Josepha Madigan:** The Taoiseach has not said anything.

**Deputy Gino Kenny:** The Taoiseach is implying in the poster-----

**An Ceann Comhairle:** Implying is not a remark.

**Deputy Gino Kenny:** Why did he introduce the poster? That was a year and a half ago. It has nothing to do with us.

**An Ceann Comhairle:** I cannot even read the poster. In fact, it is contrary to the rules to introduce any posters, newspapers or paraphernalia in here. I call Deputy Broughan.

**Deputy Thomas P. Broughan:** I defer to Deputy Connolly.

**Deputy Catherine Connolly:** Mar is eol don Cheann Comhairle, tá sé deimhnithe i gclár an Rialtais go gcosnóidh an Rialtas seo muintir na n-oileán ar fud na tíre. Sa chomhthéacs sin, baineann mo cheist le hOileáin Árann. Seachtain ó lá amárach beidh lá na cinniúna ann don aersheirbhís. Beidh deireadh léi seachtain ó lá amárach. Tá ceist dhíreach, ghonta agam. Cad atá i gceist ag an Rialtas? An mbeidh aersheirbhís ann an Aoine seo chugainn? An mbeidh seirbhís eigeandála i gceist?

**Minister of State at the Department of Culture, Heritage and the Gaeltacht (Deputy Seán Kyne):** Táim cinnte go mbeidh seirbhís ann ó 7 Nollaig. Tá a fhios agam gur ceist fhíorthábhachtach do mhuintir Árann é seo. Bhí a lán cruinnithe agam, cruinniú leis an Teachta féin ina measc. Beidh cruinniú eile dé Luain seo chugainn in oifigí na Roinne sna Forbacha le hionadaithe ó na comharchumainn in Árann. Táim cinnte go mbeidh seirbhís ar fáil. Táimid ag

déanamh chuile rud chun Aefort na Mine a cheannach freisin. Táimid i dteagmháil le húinéirí Aer Arann agus le húinéirí Aerfort na Mine chun an aerfort sin a cheannach ar son an Stáit.

**Deputy Danny Healy-Rae:** Last week, we heard of massive amounts of jobs coming to Dublin. So much was promised in the programme for Government on jobs in rural Ireland but I have to point out that from Kenmare to Sneem, Waterville and Cahersiveen door after door has been closed in recent times and there are no new jobs. In one school in Cahersiveen only two children presented to be enrolled this year. I ask the Taoiseach and the Government to set up a task force. We have a new digital hub in Sneem that is all kitted out but is awaiting people. It is the same in Dromid and Mastergeehy. There are lovely new set-ups but no prospect of jobs.

**An Ceann Comhairle:** All right, Deputy.

**Deputy Danny Healy-Rae:** Will the Taoiseach send a Government or State Department to these places to revitalise these communities?

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

**Deputy Danny Healy-Rae:** All they have had in recent years is a bit of a boost in tourism but nothing by the way of new jobs, be they industrial, commercial or what have you. I appeal on behalf of the entire Iveragh Peninsula. It is decimated.

**An Ceann Comhairle:** The Deputy must stick to the one minute limit.

**Deputy Danny Healy-Rae:** I am sorry.

**An Ceann Comhairle:** If Deputies do not stick to the one minute I will not call them any more.

**The Taoiseach:** The percentage of jobs created outside the Dublin region is more than 60%. The majority of jobs created in recent years has been created outside of Dublin. Unemployment is down in every county, including Kerry. It is down by approximately half in Kerry and employment is up. I am not sure task forces create jobs but we have the rural fund and urban fund and I strongly encourage people who have workable ideas to create jobs and generate economic development to make applications to these funds. Many towns and many areas have already benefitted from the announcements made in recent days.

**Deputy Danny Healy-Rae:** The numbers are down because of immigration.

**Deputy Jackie Cahill:** The beef industry is in crisis. Farmers' returns are just not viable. We have raised this numerous times in recent months in the House. Unfortunately, the situation is getting worse on a weekly basis. Usually in the run-up to Christmas beef prices increase. Unfortunately, the opposite is happening at the back end of 2018. Cow prices, which are usually the barometer of the health of the beef business, are down one third since July. We have no live exports. As a result we have a kill that is at 40,000 head per week. It is clear we do not have the markets to sell the beef. Help is urgently needed if our beef industry is to survive. Farmers have had enough.

**The Taoiseach:** I am afraid the Minister for Agriculture, Food and the Marine is not here today. I know there is an ongoing discussion at the beef forum involving the industry, the IFA, other farm organisations and the Department as to what can be done to make sure farmers get a fair price and incomes are protected.

**Deputy Eugene Murphy:** My question is a bit close to what Deputy Danny Healy-Rae asked so I hope the Taoiseach does not mind answering a similar question. The programme for Government includes a commitment to create more than 200,000 jobs by 2020 with 130,000 or 140,000 outside Dublin. If we look at the most recent figures, this is not happening. I acknowledge the Taoiseach was on the Roscommon and Leitrim border last Friday, when he opened an extension creating 60 extra jobs and this is good, but many rural areas are really suffering and the only thing we can hope to get into them is employment. I acknowledge there are broadband issues and other infrastructural issues but we need to do something urgently to get jobs into these areas. I will quote a figure I quoted previously, which is that each day more than 900 people travel from my county to work in Dublin. Is there anything the Taoiseach can do to give hope to these people to try in some way to persuade more businesses locating in Ireland to come to some of the rural areas?

**The Taoiseach:** I do not mean this in any way to be critical but it is important to look at the numbers and not the headlines. If we look at the numbers they show well over 60% of jobs created in recent years have been created outside of Dublin. The lowest unemployment is now in the Border counties and the second lowest unemployment is in the south west, which is the Cork and Kerry region. To give some small examples of the recent announcements, there were 350 in Sligo by Abtran, 200 in Athlone by Neueda, 600 in Limerick by Edwards, 400 by WuXi in Dundalk, 200 by Combilift in Monaghan, 350 by Chanelle in Loughrea, 175 by Fexco in Killorglin, 500 by Abbott in Donegal Town, 100 by Entekra in Monaghan, 100 by Overstock in Sligo, another 90 by E+I Engineering in Donegal and 80 by Crust & Crumb in Cavan. The list goes on. The whole point of Project Ireland 2040, the investment in transport and infrastructure now under way, the investment in broadband that will start next year and the rural and urban funds is to do exactly what the Deputy suggests, which is to bring economic development to all parts of the country because we have an uneven recovery. We have a recovery everywhere but it is uneven and this is what Project Ireland 2040 is all about.

**Deputy Michael Collins:** In the programme for Government under health the Government stated efforts to increase access to safe timely care as close to patients' homes as is possible would be a priority for the new partnership Government. In west Cork, Bantry General Hospital is a modern vibrant hospital providing a wide range of services to 80,000 people in west Cork and many in Kerry. This year, more than 1,600 patients have been excellently treated in the endoscopy unit. A new endoscopy unit and a stand-alone rehabilitation unit were approved at a recent national capital appraisal meeting of the HSE and have been submitted to the Department of Health for funding. When will this necessary funding for Bantry General Hospital become available?

**Deputy Jim Daly:** I thank the Deputy. An announcement on the project is imminent.

**Deputy John Brassil:** With regard to promised legislation I want to bring the Taoiseach's attention to an issue on an insurance indemnity scheme for landowners who provide access to the MacGillycuddy's Reeks in Kerry and Mount Gable in Galway. Four years ago, working groups were established in both areas comprising the local authority, landowners, local development organisations and the Department. The key to driving forward this issue is an indemnity scheme by the Department for landowners so that anybody using the land would not be in a position to claim against the landowners. The one thing that has been holding up everything for the past 18 months is, we have been told, that primary legislation is needed to provide this indemnity insurance policy. No progress has been made and draft legislation has not been printed. Will the Taoiseach follow up with the relevant Minister to get this issue over the line

for the 2019 season? It has far-reaching implications if landowners refuse to co-operate and provide access in both of these areas and in many other areas throughout the country.

**The Taoiseach:** I am afraid I do not have any information on this at present but I will certainly make the Minister, Deputy Ring, aware of the fact the Deputy has raised it and I will ask him to provide a written answer to the Deputy on the progress being made. I certainly share the Deputy's sentiments. The development of greenways and walkways throughout the country has opened it up to recreational walkers and tourism. If done properly and fairly it can be of benefit to landowners also. I will pursue it with the Minister, Deputy Ring.

**Deputy Kevin O'Keeffe:** As the Taoiseach may have heard, in recent days, An Garda Síochána has rolled out numerous speed control vans on the M8 along the section between Naas and Newbridge in the interests of road safety. The purpose is the safety and well-being of the workers on site. Last July, I asked the Minister for Justice and Equality to consider the introduction of an average speed camera system, similar to that in operation in the Dublin Port tunnel and which has proved to be a success. The number of vehicles exceeding the speed limit by more than 10 km/h has reduced to less than 0.15%, which is a success for road safety in the Dublin Port tunnel. The reason I ask the Taoiseach to revisit the area is there are people in the speed vans. It is okay at present because people are aware of them but as time progresses their lives will be at stake. The life of a speed van operator is as valuable as that of the workers on site. I ask that the Minister for Justice and Equality review the average speed system in conjunction with the Minister for Transport, Tourism and Sport.

**The Taoiseach:** That is a good suggestion. The cameras are not popular because they work. They are effective because they pick up the average speed somebody travels at over a stretch of road rather than just the speed at the spot check or the moment-in-time speed check one gets with a GoSafe van. I will inform the Ministers concerned that the matter was raised and ask them to examine it.

**Deputy Pearse Doherty:** I wish to again raise the matter of overcrowding at Letterkenny University Hospital. This morning there were 22 patients on trolleys or in hospital wards due to the overcrowding and yesterday there were 43. The HSE confirmed to my colleague, Councillor Gerry McMonagle, yesterday that it will open the ten beds in the short stay ward in January. Has the Government not sanctioned opening the 20 beds in that ward given the current level of overcrowding? Some 4,700 people have been on hospital trolleys or in overcrowded wards so far this year as a result of the capacity issue. The ward and the 20 beds are there, yet sanction has only been given from the Government to the HSE to open ten of them. Can the Taoiseach explain why the people of Donegal are being denied the other ten beds?

**The Taoiseach:** The Government does not sanction individual beds in hospitals. We have sanctioned a very big increase of approximately €1 billion in health spending for next year, but the sanctioning of individual budgets for hospitals or parts of hospitals is carried out at either HSE or hospital group level. This morning, once again, there is an enormous variation in overcrowding. There is zero or one in some hospitals such as Mullingar or Blanchardstown and very high numbers in other hospitals, including hospitals that have received extra beds. What we must see in the new year is whether the additional beds in Letterkenny are used to the maximum benefit of the patients and whether overcrowding goes down. If they are used to maximum benefit and bring overcrowding down, it can then be extended further.

**Deputy Billy Kelleher:** Yesterday, a secret memorandum was brought to the Cabinet. Once

secret matters are brought to the Cabinet, they do not remain secret, as is evident from the front page of the *Irish Examiner* this morning. The memorandum relates to Brexit-proofing and Brexit preparedness and, in the context of transportation, Dublin Port, Dublin Airport, Rosslare Europort and other ports and the infrastructure that might be required if the Brexit deal does not go well in the votes at Westminster. If the latter proves to be the case, a hard Brexit is a potential outcome. Have there been consultations with the Attorney General about preparing legislation that could give the Government emergency powers for the acquisition of sites and to circumvent the statutory planning process to ensure that we will be able to move swiftly in the event of a no-deal Brexit? Finally, with regard to our EU obligations, have there been any tentative discussions on the idea of more flexibility with budgets in respect of state aid in view of the potential risks to our economy?

**Tánaiste and Minister for Foreign Affairs and Trade (Deputy Simon Coveney):** All the reports that have been produced on contingency planning for various Brexit outcomes revolve around what is called a central-case scenario which assumes a withdrawal agreement and a transition period. If necessary, we will produce documents on a no-deal Brexit scenario, which will be more complicated and will put more pressure on the system to deliver. We have been preparing for that for some time. The memorandum mentioned by the Deputy was a memorandum for the Government and should not have been on the front of the *Irish Examiner* today. It was a development of documents that were agreed by the Government over the summer to give an update to Government colleagues on the levels of preparation in places such as Dublin Port, Rosslare Europort and Dublin Airport, where I am glad that a great deal of positive preparation is proceeding.

**Deputy Tom Neville:** Yesterday members of the Joint Committee on Climate Action visited Tipperary and saw the good innovative work being done by the Tipperary Energy Agency and Tipperary County Council in conjunction with some of the training being done by Limerick Institute of Technology. What achievements does the Government hope to secure with the climate fund which was launched earlier today?

**The Taoiseach:** I thank Deputy Neville for raising the important issue of climate change and I thank him and his colleagues for attending the launch this morning. We must do many things to rise to the challenge of climate change. They will include investment, policies on tax and regulation and lifestyle change. The first allocations under the climate fund were announced earlier. Essentially, what is involved is using new technologies to reduce CO<sub>2</sub> emissions. The allocations include funding of over €10 million to the ESB for improving the infrastructure for electric vehicles, funding to Gas Networks Ireland for anaerobic digestion and reducing emissions related to agriculture, funding for local authorities to allow them to move to light-emitting diodes, LEDs, instead of existing lights, thus reducing emissions, funding for Dublin City Council and South Dublin County Council for district heating schemes, again enabling us to reduce the amount of oil used to heat homes, and funding for Irish Rail to invest in a new hybrid fleet. As we electrify the train lines to Drogheda, Maynooth and Sallins, it can start buying hybrid trains which can operate on both diesel and electricity.

### **Ábhair Shaincheisteanna Tráthúla - Topical Issue Matters**

**Acting Chairman (Deputy Alan Farrell):** 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

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the Member in each case: (1) Deputy Jackie Cahill - to discuss the gas network connection for Lisheen and Thurles in County Tipperary; (2) Deputy Pat Deering - to discuss a consultant psychiatrist for the south Carlow area; (3) Deputy Maureen O'Sullivan - to discuss the situation regarding lung cancer in Ireland; (4) Deputy Mary Butler - to discuss the initial funding announcement for the north quays project in Waterford; (5) Deputy John Lahart - to discuss implementing Operation Open City throughout the year to tackle congestion in Dublin; (6) Deputy James Browne - to discuss the rise in unemployment figures in the south east; (7) Deputy Frank O'Rourke - to discuss housing development in Celbridge, County Kildare; (8) Deputy Billy Kelleher - to discuss the reconfiguration of the An Post mail centre in Cork; (9) Deputy Mattie McGrath - to discuss the redevelopment of St. Patrick's Hospital in Cashel and the closure of St. Brigid's Hospital, Carrick-on-Suir; (10) Deputy Louise O'Reilly - to discuss the provision of transvaginal mesh removal services; (11) Deputy Aindrias Moynihan - to discuss the need to upgrade Crossbarry wastewater treatment plant; (12) Deputy Peadar Tóibín - to discuss the provision of a rail line from Dublin to Navan; (13) Deputy Gino Kenny - to discuss the Government's proposed cannabis access programme; (14) Deputy Declan Breathnach - to discuss funding to refurbish vacant social housing for Louth County Council; and (15) Deputy Mick Wallace - to discuss allegations of surveillance on prison officers at Irish prisons.

The matters raised by Deputies Cahill, Deering, O'Reilly and O'Rourke have been selected for discussion.

### **Supplementary Estimates for Public Services 2018: Leave to Introduce**

**Minister for Culture, Heritage and the Gaeltacht (Deputy Josepha Madigan):** I move:

That leave be given by the Dáil to introduce the following Supplementary Estimates for the service of the year ending on the 31st day of December, 2018:—

Vota 20 - Garda Síochána (*Supplementary Estimate*).

Vote 21 - Prisons (*Supplementary Estimate*).

Vote 22 - Courts (*Supplementary Estimate*).

Vote 24 - Justice and Equality (*Supplementary Estimate*).

Vote 34 - Housing, Planning and Local Government (*Supplementary Estimate*).

Vote 38 - Health (*Supplementary Estimate*).

Question put and agreed to.

### **Supplementary Estimates for Public Services 2018: Referral to Select Committee**

**Minister for Culture, Heritage and the Gaeltacht (Deputy Josepha Madigan):** I move:

That, subject to leave being given to introduce the following Supplementary Estimates for the service of the year ending on 31st December, 2018, the Supplementary Estimates be referred to the following Select Committees, as appropriate, pursuant to Standing Orders

84A(3)(c) and 182(3), which shall report back to the Dail by no later than 12th December:—

Vote 20 - Garda Síochána (*Supplementary Estimate*) - Select Committee on Justice and Equality.

Vote 21 - Prisons (*Supplementary Estimate*) - Select Committee on Justice and Equality.

Vote 22 - Courts (*Supplementary Estimate*) - Select Committee on Justice and Equality.

Vote 24 - Justice and Equality (*Supplementary Estimate*) - Select Committee on Justice and Equality.

Vote 26 - Education and Skills (*Supplementary Estimate*) - Select Committee on Education and Skills.

Vote 34 - Housing, Planning and Local Government (*Supplementary Estimate*) - Select Committee on Housing, Planning and Local Government.

Vote 38 - Health (*Supplementary Estimate*) - Select Committee on Health.

Question put and agreed to.

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

### **Departmental Advertising Budgets**

1. **Deputy Mary Lou McDonald** asked the Taoiseach if he will report on the proposed budget for social media advertising in his Department for 2019. [49146/18]

**The Taoiseach:** The cost for any social media advertising undertaken in 2019 will be met from my Department's administrative budget. Costs incurred are expected to be significantly less than the spend on digital advertising in 2018 which is estimated at approximately €450,000.

The expenditure referenced relates to a number of major cross-Government public information campaigns that the Department funded centrally during 2018. These were Healthy Ireland, Global Ireland, Project Ireland 2040 and the self-employed benefits campaign aimed at ensuring self-employed people are aware of the new and existing benefits available to them.

The majority of this expense was incurred prior to July 2018. Public information campaigns in future will be funded mainly by relevant line Departments rather than being funded centrally by my Department.

It is important to communicate across a variety of platforms, including social media, to ensure transparency and clarity for all citizens. The Government Information Service is now required to provide a 24-7 service to media organisations on all topics of public interest, often with short response times. It is also required to generate online content, including written, au-

dio and video material, as well as live broadcast on occasion.

**Deputy Mary Lou McDonald:** It is undoubtedly important to communicate and to do so on all platforms, as the Taoiseach said. Nobody is disputing that. I read a story in the *Daily Mirror* - I am sure the Taoiseach saw it as well - which is based on responses to freedom of information requests and which highlights the level of spending on communications and media advertising in the Taoiseach's Department since he took office. That spending amounts to a whopping €2 million.

*2 o'clock*

That is an extraordinary figure in its own right, but all the more so when compared with spending on public relations under the previous Taoiseach, which was just shy of €20,000. We have discussed these matters previously. Despite all of the Taoiseach's big budget communications, I believe that his approach with Deputy Gino Kenny earlier was uncalled for and unworthy of someone in the office of An Taoiseach. Deputy Kenny raised a legitimate issue of public interest and rather than simply answer it, the Taoiseach chose to try to deflect and respond in a way that I cannot fathom.

Will the Taoiseach explain the €2 million figure? Given that one of the reasons his spin unit was scrapped was the inappropriate use of the unit to promote Fine Gael election candidates I was surprised to see an image posted by the official Government website that makes me believe that things have not changed. There is a picture of the Taoiseach and four Ministers. Lo and behold, standing alongside and smiling for the camera is a Fine Gael Senator and election candidate for Mayo. Despite all of the bluster, taxpayer's money is still being spent to promote Fine Gael candidates under the guise of public information. The Taoiseach told us that this would end and it has not, so perhaps he could give an explanation for that also.

**Deputy Micheál Martin:** Will the Taoiseach outline for the House the number of staff in his Department who cover social media, contributions, advertising, putting up posts, video messaging and so on? Is this done by Government Information Service, GIS, staff or is it a mixture of GIS staff and political staff? Who co-ordinates all of that? Is there a difference between promoting Government campaigns and personal messages from the Taoiseach, or are they treated the same? It is interesting that the Taoiseach's twitter handle is still @campaignforleo, which really is a political slogan. Has the Taoiseach plans to change that with regard to the office of An Taoiseach?

I shall now turn to the issue of the spending. There has been a considerable spend and I would appreciate if the Taoiseach could confirm whether the figure quoted in *The Irish Mirror* is correct. It is a substantial amount. I also noted another figure, which was the cost to produce the campaign video for Ireland to win a seat on the UN Security Council. It is reported to have cost €100,000. I watched that video. It is a fine video and it is well produced but having been a Minister for Foreign Affairs and Trade, I realised that the campaign for the UN Security Council is a close-up campaign. I do not say it is hand-to-hand combat but the Taoiseach will be aware that it is about personally engaging with representatives from other countries. Our officials do it and our Ministers do it whenever they are overseas. When I watched the video, it looked like it was intended for a domestic audience and not one that was likely to encourage anybody on the UN Security Council to vote Ireland onto the council. Rather it was a video that made everyone look good, including the Taoiseach, for a domestic audience. I believe there is a serious issue in respect of the emphasis placed on public relations and the proliferation of videos with

the ensuing costs. We need better transparency on this. Perhaps the Taoiseach would confirm whether that €100,000 figure quoted in the media is true.

**The Taoiseach:** I am happy to reassure the Deputies that the €2 million referred to in that particular article was not spent on promoting me or Fine Gael; it was spent on campaigns such as those I outlined earlier. They were campaigns such as Healthy Ireland, which is all about encouraging people to take those little steps that could improve their physical or mental health such as giving up smoking, exercising more and healthier eating. I do not believe that anyone in this House would think it money badly spent to invest in Healthy Ireland and to put across to the public those important messages regarding their own health. One could give no better health advice than to give up smoking, exercise more and eat healthier.

There was also a campaign to inform the public about Project Ireland 2040, what is in that programme and how it will affect people in their communities and their lives. Another campaign was the public information campaign for the self-employed to let self-employed people know what new benefits are being made available to them by the Government, how their tax burden is being reduced and how the Government is increasingly investing in supporting entrepreneurship. These are all public information campaigns. When I first became Taoiseach, I took the decision to centralise this funding in my Department through the special communications unit so the spending relates to that. This is why it has almost all occurred before July 2014. My intention was to centralise communications, improve communications and reduce the costs thereof. Given the political controversy that was caused, which became such a distraction to the project, that is no longer the case. In future, and indeed currently, these campaigns and information campaigns are funded through the line Department and not through my Department.

I disagree with Deputy McDonald's comments earlier. Anything that exposes somebody who makes false claims about health or particular cures is very much in the public interest. The Deputy and her party do not have a very good record on this with regard to her own conduct and that of some of her party members around the issue of CervicalCheck and cervical screening. Some of the false claims made by the Deputy's party caused increased anxiety for women in Ireland. There were false claims in health and false information was put out. Claims of false cures can cost lives and can damage people in the long term. I do not believe that anyone in this House should be ashamed of exposing those who make false claims around health and particular cures.

I do not have a breakdown of staffing numbers but I can provide those by correspondence. It is the 21st century and people who work in media no longer tend to be broken into social media, broadcast media and print media. Increasingly the platforms are all becoming one. The number of persons dedicated to social media may well be very small, or zero, but people tend to work across platforms these days and not just in one branch of media. My Twitter account is mine. I own it and all the posts are either done by me or by me in conjunction with one of my two political staff - not by civil servants.

**Deputy Mary Lou McDonald:** I do not believe that Deputy Gino Kenny was trying to promote any false position. He simply asked about medicinal cannabis and the medical access programme. I thought it was very clear. The Taoiseach is being utterly disingenuous on that.

The anxiety endured by the women caught up in the CervicalCheck scandal was generated by people not connected at all with me but connected with the systems of the State. The Taoiseach knows this.

I note that in his reply the Taoiseach did not answer my question on the photograph I referred to, a copy of which I have here. The caption tells us that the “Taoiseach and the Minister Eoghan Murphy” - which is okay - are joined by “Minister Josepha Madigan” - which is grand - and the Ministers of State John Halligan and Kevin Boxer Moran - which is fair enough. They were announcing the fund for urban regeneration and development, but why on earth does the Taoiseach have a party colleague alongside all of his Government colleagues? What is that all about? I do not dispute the necessity to make such an announcement or to publicise it, but I ask the Taoiseach to explain to me why his candidate for Mayo is alongside him in that photo opportunity. This is taxpayers’ money. As the Head of the Government, he makes the announcements and he has Government colleagues with him. Why, however, is there a general election candidate? That is what got the Taoiseach into bother the last time around when it was regarded that State money was being used to make announcements on projects on the taxpayers’ dollar, and that it was being used, misused and abused to promote not only a party political agenda but also an agenda very much connected with the electoral prospects of his party colleagues.

**Deputy Micheál Martin:** That is the core point. I asked about the costs of the video for the UN Security Council campaign. Perhaps the Taoiseach would comment on the cost and necessity of that. The issue is to try to differentiate between Government spend, party spend and party promotion. Unfortunately, many of the campaigns the Taoiseach has spoken of - even Creative Ireland and others like it - have not been demarcated rigidly enough with regard to public service announcements and party political campaigning. Photographs will emerge in campaigns, for example about Creative Ireland, when Ministers have to turn up when they are to discuss literature, arts or whatever. There will always be a bit of it, but it is done to excess. On the two funds that were announced recently for urban and rural Ireland, while no-one has any issue with funding projects, they risk the application of the appellation “political slush fund” if they turn out to be juxtaposed or used as part of a party political campaign as well as promoting candidates and so on around the place. The original problem with the strategic communications unit was the utilisation of taxpayers’ money to promote party campaigns. That is the issue that needs to be guarded against. I would appreciate a comment on the cost of the Security Council video.

**The Taoiseach:** To be very honest with Deputy McDonald, I do not know who took that photograph and I do not know if any public money was expended by the taking of the photograph. It is possible that Senator Mulherin got somebody to take the photograph for her on her phone, in which case no public money was-----

**Deputy Mary Lou McDonald:** It is on an official website. It is on a Government website.

**The Taoiseach:** I will check into that. I will have that taken down. I do not know which website it is on but I will certainly check into it. We need to be realistic about this. Deputies and Senators who are not Ministers, including those from the Opposition, turn up at Government announcements-----

**Deputy Micheál Martin:** If invited.

**The Taoiseach:** -----as do candidates. I am not sure.

**Deputy Mary Lou McDonald:** It is on *merrionstreet.ie*.

**The Taoiseach:** It might be overkill for me to issue an instruction that anybody who is not a Minister, including Opposition Deputies, be airbrushed out of any photographs that appear on

a Government website. In fairness, that is not what the Deputy is suggesting-----

**Deputy Mary Lou McDonald:** No.

**The Taoiseach:** -----but if we were to take what she is claiming to its natural extension, what she would want us to do would be to airbrush out from any photograph on *merrionstreet.ie* or any Government website pictures of people who are not Ministers, including of herself or her colleagues. I just think that would be overkill. I appreciate that she needs to find something to raise and I will certainly look into that.

Deputy Micheál Martin again alleged that public money was used to promote Fine Gael candidates last year prior to the controversy in respect of the strategic communications unit. I would like again to put on the record that the allegation is false. The editors of the local newspapers concerned against whom, let us not forget, this allegation is being made confirmed they were not put under any pressure whatsoever by anyone to include such photographs.

**Deputy Micheál Martin:** What about everyone else?

**The Taoiseach:** They chose them by their own volition so that is a false allegation-----

**Deputy Micheál Martin:** It is not a false allegation. Did the Taoiseach and the Government not pay for it?

**The Taoiseach:** -----and it should not be repeated.

**Deputy Micheál Martin:** The taxpayer paid for those advertorials. How is it false?

**The Taoiseach:** Both editors have confirmed that they chose the photographs and were not told or asked to pick any particular photographs.

**Deputy Mary Lou McDonald:** That is twisting the point.

**Deputy Micheál Martin:** That is an extraordinary distortion and twisting of the facts.

**Acting Chairman (Deputy Alan Farrell):** Deputy Martin, Please.

**Deputy Micheál Martin:** I know, but the Taoiseach is being provocative.

**Acting Chairman (Deputy Alan Farrell):** The rules of the House are the rules of the House.

**The Taoiseach:** On the video for the UN Security Council campaign, I understand it was funded by the Department of Foreign Affairs and Trade so the Deputy would need to raise that with the Tánaiste.

**Deputy Micheál Martin:** I have raised it with the Taoiseach.

**The Taoiseach:** I do not know the answer. The Deputy can raise it with the Tánaiste. He will be here tomorrow.

**Deputy Micheál Martin:** Of course the Taoiseach has the answer, come on. That is outrageous.

## Taoiseach's Meetings and Engagements

2. **Deputy Richard Boyd Barrett** asked the Taoiseach if he will report on his recent visit to County Derry. [47965/18]

3. **Deputy Micheál Martin** asked the Taoiseach if he will report on his last visit to Derry. [48110/18]

4. **Deputy Mary Lou McDonald** asked the Taoiseach if he will report on his recent visit to County Derry. [48233/18]

**The Taoiseach:** I propose to answer questions Nos. 2 to 4, inclusive, together.

I visited Derry city on Friday 26 October, where I had several engagements. I was pleased to visit the Apprentice Boys headquarters and museum where I enjoyed a tour of the museum. I also had the opportunity to meet the chairman of the management committee, Mr. William Moore, and some of his colleagues. I then visited Creggan Enterprises in the Rath Mór centre in Creggan, where I spoke with local business people and members of the community. I also had the opportunity to meet those involved in projects operating from the centre. During my visit, I also briefly met the local MP, Ms Elisha McCallion. Finally, that evening I spoke at the St Columb's College annual dinner which this year was in honour of one of St Columb's former students, Mr. Mark Durkan.

While my visit to Derry was short, it was a welcome opportunity for engagement with people from all communities. I believe that visits like this by me as Taoiseach and by other Ministers are important in the context of our overall North-South relations, particularly at a time when the formal structures of the North-South Ministerial Council are not active.

**Deputy Micheál Martin:** I appreciate that the Taoiseach's visit was short and I welcome the fact that he went to Mark Durkan's former college to honour him. The Taoiseach was honouring a remarkable contribution to politics and to peace on the island of Ireland. Mr. Durkan was a close confidant of, and great adviser to, John Hume. He was a member of the British Parliament. Regrettably, he lost his seat in the last general election. He is a big loss to politics in Northern Ireland. He would have cast his vote in Westminster if he had been elected to support the draft withdrawal treaty on Brexit, which is now before the British Parliament. In many ways, honouring Mark Durkan illustrates the silence in Northern Ireland of the anti-Brexit majority, who do not have any public or parliamentary forum through which they can articulate their views on Brexit. It is my genuine belief that the collapse of the Executive originally and the absence of any Executive and assembly is something that has caused great damage to Northern Ireland in terms of its capacity to make a meaningful contribution to the Brexit debate. In particular, if the Executive and assembly had not been collapsed they would act as a potential bridge between the two communities, an opportunity to channel a practical approach to Brexit that has been sorely missed to date. I recall the letter that former Deputy First Minister, Martin McGuinness, and First Minister, Arlene Foster, wrote together, basically referencing the unique circumstances of Northern Ireland and the desire of both to work together to manage the issues facing Northern Ireland in the Brexit context. How polarised it has become since that joint letter was issued. The absence of representation at all levels is a big issue for the North in the context of Brexit.

**Deputy Mary Lou McDonald:** It is most welcome that the Taoiseach visited Derry on that

occasion, albeit for a brief spell. I agree that it is extremely important that he and members of his Government regularly visit communities in the North across the board. That in and of itself is an important confidence-building measure.

I disagree that the anti-Brexit majority has been silent. The facts speak to the contrary. In fact, it has met the Taoiseach in political form - ourselves from Sinn Féin, the Alliance Party of Northern Ireland, the SDLP and the Greens. The anti-Brexit majority has spoken loudly well beyond politics in the business community with which we, and no doubt the Taoiseach, have worked closely, through agriculture, academia, the trade unions and the community sector - one could not miss them. The message is unmissable regarding the anti-Brexit position.

Of course it is absolutely disgraceful that the power-sharing institutions are not up and running. I absolutely agree with that point. However, the Taoiseach should not overestimate the extent to which the institutions would have influenced the Brexit debate. He should look to Scotland. The Scots will go into the House of Commons, 80 or so of them, and vote against the draft withdrawal agreement because Scottish interests are not to the forefront. They are irrelevant in the Westminster debate. They will tell us, if we have ears to listen, that they have been marginalised. It has been a box-ticking exercise. In fact, Scottish members of the House of Commons went so far as to leave on one occasion, such was their level of frustration. Brexit in an essential way is a very English phenomenon. It is a dispute, but that is just in a matter of shade. Brexit is happening and we need to be prepared for it.

What, from the Taoiseach's perspective, is the plan now to get the institutions back up and running? What is the game plan from Government here in Dublin?

**The Taoiseach:** I concur with Deputy Micheál Martin. Mr. Mark Durkan very much deserves his honours. He was a very effective politician as a Minister and an MP. He is an able persuader and a witty and articulate parliamentarian. He made a very thoughtful but also very witty speech on the night. I regret that he lost his seat because it has left the city of Derry unrepresented in Westminster, which leaves Derry and the residents of the Foyle constituency without a vote on Brexit.

We understand there will be a series of votes in the House of Commons; it will not just be a simple "Yes" or "No" vote on the withdrawal agreement. It will be possible for MPs to table amendments on which there will be votes. There could be specific votes on the backstop and on whether the United Kingdom should remain in the EU customs union. That matter was only defeated by three votes a few months ago when MPs last voted on it. There could be a vote on whether the UK should stay in the Single Market. The Scottish National Party, SNP, is strongly pushing that option. There could even be a vote on whether there should be a people's vote. It is regrettable that seven constituencies in Northern Ireland will be disenfranchised and will not have a say on this important matter that affects them so much.

On a level beyond simple arithmetic, I am also concerned that many MPs in the House of Commons are not hearing the full story from Northern Ireland. Many English MPs - Deputy McDonald is right to identify much of this as an English phenomenon - do not know a great deal about Northern Ireland. They do not read the *Belfast Telegraph* or the *Irish News*. They are not really hearing from business people or farmers in Northern Ireland. They are hearing what they are hearing around the tea and coffee rooms and bars in Westminster. That is why it is important to be there and Sinn Féin MPs are not. The people of Northern Ireland are being badly let down in that regard.

I was asked about the game plan. To get the assembly and the Executive back up and running, we want to work with the British Government to encourage the two major parties, the DUP and Sinn Féin, to come together, make compromises, put aside their differences and build trust. We want them to form an Executive and restore the assembly. It is my hope that if and when the United Kingdom Parliament at Westminster approves the withdrawal agreement, then at least we will have certainty about what is going to happen and what is not going to happen for the next two years or more. I hope that allows a window of opportunity for the parties to come together and to agree to the establishment of an Executive and assembly again. In the absence of that, we will ensure that the other institutions, the British-Irish Council and the British-Irish Intergovernmental Conference, work, operate and meet.

**Deputy Micheál Martin:** I will deal with the Good Friday Agreement in the next question. Deputy McDonald put forward the idea, I am sure the Taoiseach will agree with me, that the SNP is not very relevant to the debate in Westminster in a number of ways. For example, if the SNP were to vote in favour of the withdrawal agreement or aspects of it, it would pass by a wide margin. SNP Members have been involved in all the talks with the British Government - I have met them. However, nobody from the assembly or Executive in the North has been in talks as a government with the British Government on the issues relating to Brexit. How can there be regulatory alignment with the Single Market without the Executive and the assembly up and running?

As I have said for the past two years, if people do not want to take their seats in Westminster they should not stand for election and allow people who would take their seats to stand and give Northern Ireland representation on a crucial issue. This is existential in some respects economically for the entire island if the wrong call is made by the Westminster Parliament. I do not want to predict too far into the future - there could be an Article 50 extension and so on. The stakes are very high for ordinary people and their jobs in sectors from agrifood to business. Civil society has not been represented adequately. While some anti-Brexit groups have been coming, they have been reduced to deputations to Brussels, Dublin and elsewhere. The alternative was executive function and representation as per the Executive and parliamentary representation as per the assembly, and likewise in Westminster on probably the greatest economic issue to have faced the country in 40 years.

**Deputy Mary Lou McDonald:** As we will not agree on the issue of abstentionism, I will not labour the point. I assure the Taoiseach that the people of Foyle in Derry are well represented by Elisha McCallion. He said he met Ms McCallion. It was remiss of me not to mark the very significant contribution of Mark Durkan. Of course, the Taoiseach will not be surprised to hear me say that I was not sorry he lost his seat to my colleague, Elisha McCallion.

In any event, there is a split in the executive parties in the North; the DUP is for Brexit. Any fanciful idea of conjuring up an anti-Brexit position or a pro-withdrawal-agreement position from the Executive is not grounded in reality. I believe that in the 1930s Eamon de Valera stood for election in South Down and he was the last Fianna Fáil abstentionist. Of course, he did not go and take an oath in the House of Commons for the reasons that none of us here would.

**Deputy Micheál Martin:** He did what Mark Durkan did. It is called the empty formula.

**Deputy Mary Lou McDonald:** It is not an empty formula when uttered in the Palace of Westminster.

**Deputy Micheál Martin:** It was how Mark Durkan did it.

**Deputy Mary Lou McDonald:** I did not interrupt Deputy Martin.

It is entirely different matter than in the nascent Free State when the Dáil was finding its feet. They are different scenarios. We could debate that all day. The core issue on which we can agree is the necessity to get the institutions of government back up and running. To that end for the Taoiseach's benefit, I want to make it very clear that we again stand ready to do the lift that is required to make that happen. As the Taoiseach will know, because he travelled north at the time, in February I thought we had it. I thought we had a sufficiency of consensus to move forward. Nobody was more disappointed than I when that did not happen.

I invite the Taoiseach to elaborate on how he sees the pathway forward and the resolution of the outstanding issues.

**The Taoiseach:** The Tánaiste, the Secretary of State and I have some thoughts as to how we might proceed and how we might try to make another attempt to get the parties together and get an Executive and assembly up and running. Outlining that on the floor of the House with everyone listening is probably not the most conducive way to get an outcome. I will have a follow-up meeting with the assembly parties in the next few weeks and that is probably the place to discuss it.

As we are discussing the collapse of the Executive and assembly, which was very much connected to the controversy relating to the renewable heating initiative. I have been following periodically the inquiry. I was very interested to read all about Sinn Féin's involvement in renewable heating, which was much greater than we realised at the time. I was particularly interested to read about the email correspondence between Mairtín Ó Muilleoir, who, of course, was the Minister for Finance at the time, and Ted Howell-----

**Deputy Micheál Martin:** I call him "Twitter".

**The Taoiseach:** -----who would be a senior republican, if I might put it that way. Among the documents uncovered in the inquiry was an email from Mairtín Ó Muilleoir to Ted Howell, a senior republican who held no elected office whatsoever, asking if he would be content for Mr. Ó Muilleoir to "sign off the business plan on Wednesday". That is documentary evidence that Sinn Féin Ministers seek approval and consent from "senior republicans" when it comes to major decisions in government. I would be curious to know if Deputy McDonald would like to comment or expand on that and maybe inform us of the extent to which she and those on her front bench require approval from senior republicans for decisions.

## **Brexit Issues**

5. **Deputy Micheál Martin** asked the Taoiseach if he will report on his conversation with Prime Minister May on 5 November 2018. [46797/18]

6. **Deputy Micheál Martin** asked the Taoiseach if he discussed the Good Friday Agreement with Prime Minister May when they spoke on 5 November 2018. [47122/18]

7. **Deputy Richard Boyd Barrett** asked the Taoiseach if he will report on his telephone conversation with Prime Minister May on 5 November 2018. [47966/18]

8. **Deputy Mary Lou McDonald** asked the Taoiseach if he will report on his recent conversation with the British Prime Minister, Mrs. Theresa May. [48020/18]

9. **Deputy Micheál Martin** asked the Taoiseach if he has spoken with Prime Minister May since the draft withdrawal treaty for the UK from the EU was published. [48107/18]

10. **Deputy Micheál Martin** asked the Taoiseach if he has spoken to Prime Minister May since 15 November 2018 when the Brexit secretary resigned. [48375/18]

**The Taoiseach:** I propose to take Questions Nos. 5 to 10, inclusive, together.

I spoke by phone to the British Prime Minister, Theresa May, on 5 November, when we discussed the current state of the Brexit negotiations.

We both emphasised our commitment to avoiding a hard border between Northern Ireland and Ireland and the need to make sure that we had a legally operable backstop.

The Prime Minister raised the possibility of a review mechanism for the backstop. I indicated an openness to consider proposals for a review, provided it was clear that the outcome of any such review could not involve a unilateral decision either by the UK or the EU to end the backstop.

I recalled the prior commitments made that the backstop must apply “unless and until” alternative arrangements were in place to supercede it. We both expressed the hope that the negotiations could conclude in a satisfactory manner as soon as possible.

I welcome the endorsement by the European Council of the agreement on the withdrawal of the UK from the European Union, and approval of the Political Declaration setting out the framework for the future relationship.

Both sets of negotiators have worked long and hard to achieve this decisive progress, with compromises on all sides. Ireland’s key objectives for this stage in the negotiations have been fully achieved.

I can confirm that the backstop arrangements in the Protocol on Ireland and Northern Ireland provide a guarantee that there will be no hard border on the island of Ireland. We hope that the backstop will never be used and we will work closely and continuously with our EU partners during the negotiations on the future relationship treaties that will establish the alternative arrangements.

I can also confirm that the protocol includes provisions allowing for a review of the backstop. The legal text states that the backstop will stay in place unless and until alternative arrangements can be agreed and can only be ended by the mutual agreement of both sides.

The EU and the UK have committed in the finalised withdrawal agreement to protect the Good Friday Agreement in all its parts. For the avoidance of any doubt, the protocol confirms that nothing in the agreement would prejudice the constitutional status of Northern Ireland as part of the United Kingdom and that the principle of consent as set out in the Good Friday Agreement is now part of a draft treaty between the UK and the EU, therefore strengthening and copper-fastening that principle of consent.

While the backstop, if invoked, envisages some different regulatory rules applying in North-

ern Ireland, this does not represent a threat to the constitutional status of Northern Ireland in my view. In many ways, what the Prime Minister said yesterday mirrors other policy areas where Northern Ireland has different rules from other parts of the United Kingdom.

**Deputy Micheál Martin:** I thank the Taoiseach for his reply. I welcome the fact that the essentials of the Good Friday Agreement have been preserved within the withdrawal agreement. I have absolutely no doubt but that the collapse of the Executive and the Assembly was contrived nearly two years ago by Sinn Féin for political reasons. Allegedly, it was over the renewable heat initiative. We now know Sinn Féin was involved in trying to keep that extended as well. The degree of cynicism involved in that act was extraordinary. I do not accept Deputy McDonald's assertions, and I put it to the Taoiseach, that the absence of the Executive or the Assembly somehow is irrelevant to the unfolding Brexit situation. That is an absurd assertion to make. I have made those points on the importance of the Assembly and the Executive in terms of allowing the anti-Brexit majority in Northern Ireland to have a parliamentary voice and a voice at the Executive, and also to improve the dynamic in relations. Brexit has damaged relations between two communities in the North. It is polarised because of Brexit and, in my view, the absence of real politics.

When a scandal hits a government, one does not collapse it. One deals with the scandal. It is extraordinary that a renewable heat initiative scandal that has occasioned an inquiry caused the collapse of the entire edifice of Government - the Executive and the Parliament. I believe that is unparalleled in any European democracy and, in my view, unforgivable, given the gravity of Brexit, and compounded by the absence of any Brexit sentiment in Westminster where people did not get an opportunity to articulate their view.

Brexit is about damage limitation. We know Brexit will be bad. Events may unfold differently in the Westminster Parliament. We are now in the realm of speculation here as to what will occur there. I note the Taoiseach said last week that no Government could be prepared for a no-deal scenario. Can he assure us that the Government has a plan and is preparing diligently for a no-deal scenario even though nobody wants that and we will do everything we possibly can to avoid it?

**Deputy Mary Lou McDonald:** When the inquiry reports back on the renewable heat initiative, RHI, scandal, I believe it will record the central role of the DUP. At that stage, the Taoiseach can make his assessment on an informed basis as regards Sinn Féin. What he is doing at this point is simply playing party politics. He says he wishes, in an even-handed manner, with rigorous impartiality - that is what both Governments are committed to in the Good Friday Agreement - to ensure the restoration of the institutions of Government, yet at every opportunity, in a very partisan and partial way, the Taoiseach chooses to attack Sinn Féin and to attack me. That is the Taoiseach's business, and it might be the party political acoustic of this Chamber, but it is a far cry from adopting a posture of rigorous impartiality.

To respond to Deputy Martin, I have not advanced any absurdities. Unlike his party or the Taoiseach's party, we actually represent people in the North of Ireland. We have a democratic mandate from them. We live and work within the communities in question so I know full well the necessity and the value of good government and sustainable power sharing. However, I am also saying to him that he is in cloud cuckoo land if he thinks there could be an agreed all-of-Executive position on Brexit with the stance that has been taken by the DUP. He is even further in the realms of fantasy and wishful thinking if he imagines for one second that Ireland, or any representatives from Ireland, will be the decisive factor in the shape of Brexit, or Scotland for

that matter. That is not a real possibility. As I have said previously, the withdrawal agreement is the least worst outcome. In his bid to sooth unionists' nerves, I ask the Taoiseach to reassure the Dáil that he will not give any succour to the position advanced by Arlene Foster that the backstop should be ditched. I would like him to make that clear this afternoon.

**The Taoiseach:** I think what I said in the Dáil yesterday or previously is that no Government can be fully prepared for a no-deal Brexit, not us, the UK, France, the Netherlands, Belgium or anywhere. However, we will be as prepared as we can be and that involves the hiring of Revenue and customs officials, which is very much under way, for our ports and airports. It involves the hiring of veterinary officials, and the Department of Agriculture, Food and the Marine is confident it can do that. It requires significant infrastructure at Dublin Port, Dublin Airport and Rosslare. Those works are under way, and the OPW is leading on those in conjunction with the port companies and the Dublin Airport Authority. Also, the European Commission is working on its no-deal contingency plans, many of which have been published, and notices have been issued with regard to what will be done in the case of citizens' rights, aviation and so on.

I do not believe a no-deal scenario is likely. This deal can and should be ratified, but it has to include the backstop. There can be no doubt about that. That is a view of the European Union also.

On soothing unionists' fears, I am not trying to sooth but I am trying to understand and listen. Even if one does not agree with somebody, understanding where they are coming from is of benefit. Listening is a benefit as well. When I met with the Grand Master of the Orange Order, Mervyn Gibson, and some Orangemen from the Border counties on Monday, he told me that when I used the term "precious union" in this Chamber last week it was picked up in Northern Ireland, and perhaps in the UK, as me being in some way being snide or sarcastic. That was not my intention whatsoever. When I used the term "precious union" in this Chamber, I did so quoting Arlene Foster because she often refers to the precious union. I quoted it in an attempt to demonstrate that I understand how precious the union is to unionists and how important their British identity is to them. I said it and quoted it in an attempt to demonstrate that I was listening and that I understood that unionists regard the union to be precious. I did not mean it in any way to cause offence or sound sarcastic or snide, as I am happy to clarify.

**Deputy Micheál Martin:** I also have the view that we will not reach a no deal scenario, although there will be many difficult hurdles between now and 30 March. Notwithstanding that there may be a series of votes in Westminster, it could take a number of directions, namely, anything from a British general election or a referendum to a second vote or a series of votes that gives a different result, but that is in the realm of speculation. It is extremely important to prepare properly. To date, the Dutch Government, for example, has been further ahead than us and hired 1,000 customs officers. There is a significant issue with our level of preparation across the board, including in enterprise. The number of companies that describe themselves as not ready for Brexit in surveys such as Bord Bia's and others' is a concern.

On unionism, I recall the Taoiseach's comments last week and I think he was attempting to educate me about the unionist mind. I have talked with unionists for more than 30 years, on many occasions off the record, and in my capacity as Minister for Foreign Affairs I managed to co-chair the discussions that resulted in the devolution of justice, which was the final act of the St. Andrews and Good Friday Agreements and which brought the administration of justice to a devolved setting in Northern Ireland. I respect unionists' opinions, although I fundamentally disagree with them on their attitude to the withdrawal agreement because it gives Northern Ire-

land the best of both worlds economically. It is a monumental failure on all sides that we are in this situation.

When one compares all the complex decisions, such as decommissioning, that were taken to get the Good Friday Agreement over the line with the kinds of issues that are preventing a Government in Northern Ireland, the current issues bear no resemblance to the real issues of substance that had to be overcome to achieve the Good Friday Agreement, the devolution of justice and so on. It reflects a monumental failure. I do not live in cloud-cuckoo-land. I have given much time and effort to Northern Ireland over many decades to try to understand it, coming from the republican background that I do. I have worked well with unionists, people from the nationalist and republican communities and public representatives on all sides. Irrespective of one's perspective, it is careless in the extreme to allow the institutions of government collapse because of a renewable heating scheme. That is beyond the beyond.

**Deputy Mary Lou McDonald:** When the institutions collapsed, public confidence in them was at rock bottom. They collapsed because of a perception of corruption and malpractice. The Deputy might struggle with the notion that public opinion reacts adversely to corruption and bad practice, but that is how it happened. If one cares to go and listen widely, people will say with clarity that they did not want a situation where the DUP, which had never signed up to the Good Friday Agreement, was not working in the power-sharing agreement. The Deputy may say the big issue is decommissioning or policing, but many of the people whom he frequently derides and about whom he is extremely snide and sarcastic were instrumental in building that politics with others.

A whole generation of nationalists and, beyond that, progressives in the North will not wait for rights. If that upsets the Deputy or the Taoiseach, sin é. I accept that when the Taoiseach spoke of the "precious union" he was not being snide or sarcastic. If it is any consolation to our unionist friends, the snide and sarcastic commentary in this Chamber is directed towards nationalists, be they Sinn Féin or other Northern nationalists, who do not see the world through the same prism as Fianna Fáil and Fine Gael. Nationalists have lived and continue to live a different reality, their view point is not respected and their democratic mandate is consistently questioned by Fianna Fáil and Fine Gael.

I partly agree with the Taoiseach about preparation for a crash Brexit because it is unknown and uncharted territory. I accept he has obligations but I urge him to be careful and avoid talking up the prospect of a crash or a no deal scenario. It is not in anyone's interest and he should not rise to that bait.

As I said to Mrs. May yesterday evening, if unionists think that a crash is what will save their precious union, and that hardening the Border will resolve the matter, they are foolish because there cannot be a hard border on our island. We are all *ad idem* on that. While we will respectfully listen and understand, it must be understood that the interests of the whole island will be protected by all of us, not least by the Taoiseach as head of Government.

**The Taoiseach:** The interests of the whole island will be protected. I am sincere about that and I mean it. No matter what happens, we will look at this from an all-island perspective and not just from the vantage of this State.

I recognise and largely concur with some of Deputy Micheál Martin's comments. The architects of the Good Friday Agreement, many of whom, including the former Taoiseach, Bertie

Ahern, were from the Deputy's party, as well as others such as Tony Blair, John Hume, David Trimble and Deputy Adams, overcame such considerable obstacles in securing a ceasefire, securing British troop withdrawals from Northern Ireland, securing decommissioning, gaining acceptance for power-sharing across Northern Ireland, in which many people did not believe at one stage, and gaining acceptance of the principle of consent, that 20 years ago must have seemed too great to overcome. They were overcome, however, which is why it behoves those who are now in office, such as me, Prime Minister May and people who hold influence in Northern Ireland and here, not to be found wanting or fall short of the high standards that were set by those people 20 years ago.

*Written Answers are published on the Oireachtas website.*

*Sitting suspended at 2.47 p.m. and resumed at 3.47 p.m.*

### **Saincheisteanna Tráthúla - Topical Issue Debate**

**Deputy Jackie Cahill:** The town of Thurles and mid-Tipperary have lost a great number of factories and employers over the last 30 years. All the stakeholders have been making efforts and are working hard to reverse this trend. Only last year we secured the national apprenticeship centre which is located in the town and there are over 250 apprentices based on the site today. Our small and medium enterprises are showing initiative to drive forward despite the difficulties. These include OMC, an engineering company based in Thurles which was founded and driven by mid-Tipperary business people, and Dew Valley Foods, a processing company, which is also a significant employer.

An opportunity now presents itself to Thurles and mid-Tipperary which requires the support of Government and Government policy. Lisheen, just outside Thurles, has been designated as a national research centre for the bioeconomy. Thanks to the research of Professor Kevin O'Connor and his team at UCD, and the pilot work done by Glanbia, there will be a biorefinery on the site in a relatively short time. This is just the beginning. The research happening at the site has the potential to turn the waste from the agricultural and agrifood industries into high value, globally traded commodities. The resulting jobs and supports connected to that can be a game changer, not just for Tipperary but for development in rural Ireland as a whole. The energy from the bioeconomy will be to the 21st century what oil was to the 20th, and we in Ireland are ideally placed to capitalise on it.

The site at Lisheen is perfect in many ways. It is flat, it has scale, it has high voltage electricity and green energy available and it has a water supply that matches the size of the site. However, one piece of the jigsaw is missing, namely, connection to the national gas network. This can be solved at relatively small cost. If we consider the benefits to the State which I have outlined, it will be an investment that makes a return to the State of a magnitude never before seen. If this final part of the infrastructure was brought to Lisheen, the site would immediately be attractive to the pharmaceutical and food industries, or a mixture of the two. It would fit all the criteria required for a hub for the international data centre industry. It would be a shining example of how to create rural development and could be recreated throughout the country.

If Lisheen was connected to the national gas network, with a bioeconomy focus on the site, it is easy to see the biogas industry being attracted. This could help to achieve the national target of 30% of all gas used in Ireland coming from biogas by 2030. The biogas used at Lisheen

could be pulled back into the national gas grid and, given this potential payback, it is easy to justify the investment. The gas network can be connected to the Lisheen site from Cashel in County Tipperary. This would have the added benefit that the shortest route runs adjacent to Thurles, which is the nearest urban centre to the Lisheen site. Lisheen would be the anchor tenant and would justify connecting Thurles in the same way Tipperary Co-op did for connecting Tipperary town, the Goodman factory did for Cahir and Arrabawn did for Nenagh. As Thurles would provide the role of urban support to the fully functioning site, which would ultimately have hundreds of employees, it is only sensible that Thurles be connected to the network as part of this project. That would have the effect of supporting existing industry in the town and would also make the town attractive for new industry of all kinds.

A number of steps must be taken to progress this project. First, a robust feasibility study must be carried out as soon as possible and this study must have input from the Departments of Communications, Climate Action and Environment and Business, Enterprise and Innovation. It must also include input from Tipperary County Council, which is passionate about the project. The study must include all of the aspects of climate change that the project can benefit. This study can be done for €90,000. With the feasibility study done, it will be possible to make an application for funding to Project Ireland 2040 as early as next September.

**Minister for Communications, Climate Action and Environment (Deputy Richard Bruton):** I thank the Deputy for raising this issue. I am sure he knows the way this works. Gas Networks Ireland is a commercial State-sponsored body and is regulated by the Commission for Regulation of Utilities, CRU. The CRU has developed a network connections policy, under which industrial users, towns or groups of towns within a region can make an application to be considered for a connection. The criterion the regulator sets is that the net present value of the revenues over a 25-year period must exceed the net present value of the costs of the connection. I gather, from what I am told within the Department, that the last time the Tipperary region referred to by the Deputy applied was more than ten years ago and, at that stage, Thurles did not qualify for a connection. Since then, the system has evolved in that groups of towns can apply, so if there are connections with Lisheen that might add additional payload, those can be included.

Gas Networks Ireland would need a proposal to come forward with various payloads and the need for energy and gas usage from industrial users and from towns. Clearly, it cannot assume that just by providing gas, everyone will connect, given there is a connection charge and also the cost of adjusting one's own heating system to a gas system. It has to conduct this study. As I said, the area in question has not made an application in ten years. If the businesses that are developing in Lisheen have a gas requirement, that can be added as part of a submission, which would be evaluated under the connections policy the CRU has enunciated. Gas Networks Ireland would then apply that.

Based on what the Deputy outlined, I do not know which industrial users are in the area. Gas Networks Ireland does not provide speculative extension of the line without having an indication that the demand is there, which is natural, given it is a commercial user. There has to be the establishment of demand and there would have to be projects coming on stream and approved, whether by Enterprise Ireland, the IDA or Teagasc. That is the system.

My Department is examining whether there are other dimensions, such as environmental dimensions, that could be a top-up to simply looking at the pure net present value. I understand a report will come to me shortly with an evaluation of that. That report will consider issues

such as the carbon savings that might accrue and whether the net present value criteria are taking those into account. However, the overall approach is as I have outlined. Whatever the local promoters of the various initiatives are suggesting, whether it be biogas or otherwise, those will have to be developed to a point where they are close to approval as viable projects before Gas Networks Ireland could be in a position to supply its system. I am trying to be as helpful as possible. Of course, applications to the climate action fund or the disruptive technologies innovation fund can be of a more innovative type. Where there are innovative initiatives coming forward, those could apply to the climate action fund, where they would be looked on based on their value in respect of carbon impact.

**Deputy Jackie Cahill:** I am encouraged by the Minister's reply. Ten years ago there was no Lisheen site adjacent to Thurles and no bioeconomy centre there. The biorefinery has got serious funding and has got the largest ever grant from the EU. That biorefinery will start on the site next year with a capacity to deal with 50,000 tonnes of lactose whey. Tipperary County Council is very enthusiastic about the potential of the Lisheen site and what it can do. Sustainable food production will be the byword of the 21st century. Given the research going on into the Lisheen site and the fact it is a bioeconomy centre, I have no doubt the usage will be there.

I ask the Minister that the feasibility study on the potential of the Lisheen site and the gas connection, which the county council has asked for, be undertaken. We reckon the cost of the study would be €90,000. I ask him to arrange this feasibility study. I am confident in the extreme that he will recognise the significant potential of this site and the Thurles area. Glanbia has bought into this biorefinery. The location is at the heart of the agrifood industry, with Arabawn, Dairygold, Tipperary Co-op and even Lakelands in the vicinity, as well as numerous meat factories. The waste coming from those can be used in the bioeconomy to produce valuable commodities that can be traded commercially.

*4 o'clock*

The potential of Lisheen is immense, and because Thurles is adjacent there could be a twin project to connect it too. This could be a template for rural Ireland and rural development. The Minister could give us the money to do the feasibility study. We can prove that the usage will be there and the connection will ensure that this bioeconomy site thrives in the future.

**Deputy Richard Bruton:** The Deputy probably needs to consider the connection policy because it sets out the framework that needs to be fulfilled. This includes identifying the businesses that will potentially use gas and their scale - there are concessionary rates for connection charges where there are small and medium sized enterprises, SMEs; and identifying the new estates that might come on stream that would use it and other towns along the route that might connect in. Gas Networks Ireland, GNI, is not going to undertake an assessment of these. This is based on projects that are coming forward, enterprises identified that are about to be approved or supported by the Industrial Development Authority, IDA or Enterprise Ireland. When those enterprises are identified and have a demand for gas then GNI can assess whether that will be connected. Neither GNI nor the Department go speculatively looking to see if they could create a demand for gas. That is not the way the system works. This has been regulated by the Commission for Regulation of Utilities, CRU. The emergence of new biorefinery activities with a gas demand will trigger an application to the connections policy and provide the opportunity to pass the test applied. It does not lay pipes in advance in the hope that industries might set up. That is not the approval system. There has to be a baseline of work to justify the investment it makes. It is a commercial company and that is the way it has to operate under its regulations.

## **Health Services Provision**

**Deputy Louise O'Reilly:** I acknowledge progress has been made on this issue and that work is being done. I know the Minister of State would be aware of the scale of the problem. Some of the women impacted by this are in the Visitors Gallery and are watching the proceedings here.

We welcome the publication of the report. The women's voices are present throughout the report but that is coming from a fairly low base because there were not very many face-to-face interviews. We would like to see more of the women's stories reflected in that report. I acknowledge that the Minister for Health, Deputy Harris, has met the women. Before we went into the meeting, we had a very frank exchange and they had a very frank exchange with the Minister. It is not easy to talk about some of these issues. I raised them at Leader's Questions and know it is a difficult subject. It is a credit to the women that they put forward their own cases, along with Melanie their representative, in a very coherent manner. They rarely use euphemisms which is welcome. We are all adults after all but we acknowledge this is a difficult topic.

We know that the scanners are coming but by what date? It is impossible for many of the women to gauge the level of the problem and to know the best course of treatment. Is there a co-operation agreement in place or can one be put in place for use of the scanner that will be installed in Belfast? In that way at the very least we might have access to that scanner. Will the women be afforded access to the treatment abroad scheme? I know that is a tricky area. I know the rules and that the Minister of State knows about this issue not only from this debate but from constituency cases.

We have learnt from the report that the governance mechanisms were not in place at national level. Only yesterday *The Guardian* covered this story and said that mesh implants made by one of the biggest pharmaceutical firms in the world were inserted despite the company being warned that the mesh could shrink and harden. I met a woman today whose implant was inserted only six months ago. I asked previously for the suspension of its use and it has been paused but this was in use until very recently. We want to see action on all the clinical and technical issues associated with the use of mesh as a matter of urgency because while there are some women in the Gallery there are many more at home because they cannot travel, and more come forward every day of the week to tell their stories and to seek help.

**Minister of State at the Department of Health (Deputy Jim Daly):** If there is something I admire more than anything else in politicians of any hue, colour or creed, it is consistency. The Deputy's consistency in this subject matter for a long time is commendable. The report to the Minister for Health, Deputy Harris, from Dr. Tony Holohan, Chief Medical Officer, on the use of urogynaecological surgery in the treatment of stress urinary incontinence, SUI, and pelvic organ prolapse, POP, in women was published on the Department of Health website on 21 November 2018. Synthetic mesh devices have been widely used in the surgical treatment of SUI and POP in women over the past two decades. However, controversy about the safety of mesh devices has arisen in many countries because of concerns about the frequency and severity of complications associated with their use. In responding to these questions and in recognition of the complexity of the matters arising, the Minister requested the Chief Medical Officer, CMO, to prepare a report for him on the clinical and technical issues involved in ensuring both the safe and effective provision of mesh procedures in urogynaecology and an appropriate response

to women who suffer complications as a result of undergoing such procedures. Preparation of the report has involved consultation and engagement with national and international bodies. The report has been informed by a review of international reports and safety reviews of mesh surgery which have been published in recent years. The report has also been informed by the personal experiences of women who have suffered complications following mesh surgery. The Minister for Health acknowledges the bravery, commitment and dignity shown by the women he met and those women who have written to him in sharing what were harrowing and deeply personal experiences.

The report identifies that for many women, surgical procedures using synthetic mesh devices have provided a more effective and less invasive form of treatment than traditional SUI and POP procedures. However, mesh devices are associated with significant and severe complications in a minority of women. These are of concern given the difficulties of mesh implant removal. The report makes 19 recommendations, including the development of patient information and informed consent materials; surgical professional training and multidisciplinary expertise in units carrying out mesh procedures; the development of clinical guidance; the development of information systems to monitor the ongoing use of mesh devices; ensuring the reporting of mesh related complications; and ensuring timely, appropriate and accessible care pathways for the management of women with complications. A programme of work to advance some of the report's more important recommendations has already commenced in the HSE in advance of its completion. The HSE was also asked by the CMO on 24 July to pause all mesh procedures where clinically safe to do so until a number of key recommendations have been implemented. The Deputy acknowledged that in her contribution.

A priority recommendation being progressed by the HSE is the clarification and development of treatment pathways and appropriate referral services for women suffering from mesh-related complications. This includes identifying the appropriate specialist clinical expertise and facilities required at hospital group level and nationally. The HSE will also examine the need to look at sourcing services from abroad to address any immediate shortfalls identified, either through utilisation of the treatment abroad scheme or by commissioning services from abroad. Decisions to remove mesh devices in women who experience complications must be made on an individual basis following detailed clinical assessment and discussion of the risks, benefits and treatment options by women with their treating clinicians. The HSE has published a dedicated website page on vaginal mesh implants, including contact information, for women suffering complications. I hope this is a useful resource, the link to which can be made available.

I appreciate I have not answered the two direct questions on the date for the scanning machines and whether there is a co-operation agreement with Belfast. I was also asked about the treatment abroad scheme. I will get clarity on those matters for the Deputy and forward the information to her.

**Deputy Louise O'Reilly:** I thank the Minister of State for his reply and for his kind words. Anyone who has met these women could not fail to be moved by the manner in which they were treated. In his reply, the Minister of State acknowledged the bravery, commitment and dignity they have shown and I wish to associate myself with those remarks. I welcome the Minister of State's statement that he will come back to me on access. My questions were not designed in any way to trip anyone up. Like the Minister of State, I want to be able to tell these women when this will happen. There is an acknowledgement of what happened to these women and there is also an acknowledgement on the part of the HSE and the Department that action must be taken. We are looking for a timeline for that action and a date by which the women will start to see a

material difference. I spoke to the husband of a woman from the Minister of State's county, albeit not from his constituency, last week. That couple had just cobbled together enough money to get to England to have a full removal procedure there. The husband had spent five and a half years looking after his wife who is in agony and they could not wait. I would dearly love to be able to tell that man when his wife would get treated. That is all people are looking for. While the acknowledgement and the fact that some progress has been made are very welcome, we need to join up the dots now and set out the date on which women will have access to a scanner or the treatment abroad scheme. They will then be able to start the process of recovering. Some of those women will never recover, but we must ensure they can get as well as possible. I appreciate that the Minister of State will come back to me with further information. I will be happy to share that with the women and their representative, Ms Melanie Power.

**Deputy Jim Daly:** I appreciate very much the presentation the Deputy has made on this and I will ensure there is a timely response. I assure the House that I understand very well where the Deputy is coming from and the need of these people to know the where, how and, most importantly, when of the next steps. That is the assurance we would like to provide and as such I will certainly try to get a date for the Deputy without delay. The Minister for Health is committed to ensuring the safe and effective use of mesh implants and that there is an appropriate and timely response to women who suffer mesh complications. The Department has written to the HSE to request the preparation of a detailed plan for the implementation in conjunction with other stakeholders of the complete set of recommendations set out in the CMO's report. The Minister intends to meet with the Mesh Survivors Ireland group in the coming weeks to discuss the report. I assure the Deputy that I will get the answers she requests.

### **Hospital Consultant Recruitment**

**Deputy Pat Deering:** I apologise for not being here earlier. It was an oversight on my part. I thank the Minister of State for attending to take this Topical Issue on the lack of a consultant psychiatrist in Carlow for the last period. The position has been vacant in Carlow for a number of years at this stage. There was a mental hospital in Carlow for many years, but it closed following the policy changes of recent years. While the outreach service has, generally speaking, been good, the position of consultant psychiatrist has remained vacant with services being provided on a locum basis. The locum would come on a weekly basis to meet clients, but when a new locum attended, the client had to start from scratch all over again to explain his or her story. The lack of consistency has been a huge problem. As difficult as the locum situation was, there has been no service at all since 1 February 2018. There is no consultant psychiatrist at all, whether provided by a locum or otherwise. There is no service in Carlow at all to cover what is unfortunately a great level of need locally. Service users have now been told that their care plans will not be reviewed and that the medication they have been prescribed will have to continue to do them until a consultant psychiatrist is available or a similar service can be provided. This is totally unsatisfactory. At the very least, a locum service should be provided to meet the needs of people in Carlow. If those needs did not exist, the position would not have been created to meet them. While I appreciate that there is a huge difficulty in filling vacancies and that consultant psychiatrists are extremely hard to acquire, closing the service completely has been a regressive move. I ask the Minister of State two questions. When will the position be filled? What is the possibility of renewing the locum service in the short to medium term?

**Deputy Jim Daly:** I thank Deputy Deering for providing me with the opportunity to address

this issue. The lack of consultant psychiatry services in Carlow is an issue he has brought to my attention on numerous occasions in various fora. To refer to the broader picture first, the Deputy acknowledged the worldwide shortage of consultant psychiatrists. It affects us here in Ireland also. I note that the Acting Chairman, Deputy Connolly, has a great interest in this area too. We are currently short approximately 60 consultant psychiatrists in Ireland. No matter what action we take and no matter how much money we spend on advertisements in medical journals in Australia, New Zealand and other countries, we cannot get sufficient cover for the positions we have created in recent years. We are putting adequate resources in place. If it was a question of more money, I could solve the problem overnight. We have increased the mental health budget from the €700 million provision in place when the Deputy first came to the House in 2011. It is now more than €1 billion. Having put an additional €300 million into the mental health budget over the past five years, we still face the same challenges.

I am a firm believer that if we always do what we always did, we will always get what we always got so we have to move away from the issue of more money and resources because that is not the problem. There is a shortage, we have an over-reliance on the consultant psychiatry and we have to look at new ways of delivering consultant psychiatry. What I have done since becoming Minister of State is increase the number of training places for psychiatric nurses by more than 130 every year and I have introduced 114 assistant psychologists in the past year and brought 20 psychologists into the mental health system. We have also introduced ten advanced nurse practitioners, which are effectively one step below a consultant, to try to do as much of the work that consultants do as possible and to make sure that consultant psychiatrists are only doing the work that they absolutely have to do. We are trying to reorientate the system to be more proactive, to get more people into the system earlier, to ensure earlier intervention in the system and to get people detected at an earlier stage before they get to a higher level input. That is an ambitious target and that is the journey we are on.

I have also engaged extensively with numerous partners to try to bring about telehealth because that is what they are doing in Australia and America where they have the same difficulties as us. Telehealth works through screen to screen delivery of mental health services. A consultant psychiatrist based in Dublin can assess, diagnose, prescribe, treat and admit patients, if necessary. Many of our consultants provide cover in areas where we have gaps and as soon as I announce that I have a consultant psychiatrist for Carlow, there will be somebody else in the Deputy's seat in a few more weeks saying that there is a consultant psychiatrist missing in their area.

We need to look at the bigger picture, and recognise that we have a challenge here and that we need to look at how we do what we do, and that is why I have been championing telepsychiatry. We have made good progress and we will roll out a number of pilots this year in this area. I would love to hear from the Deputy's community health organisation, CHO, area and it is something that he might take up with HSE management in his area because we will make money available for people to apply to participate in a pilot project so that a neighbouring consultant psychiatrist can provide governance to the team that is working locally and cover without having to make a four or six-hour return journey by car. We can eliminate the travel and do it in a clinical, supervised setting.

Thanks to the Deputy continually raising this issue, he will be pleased to hear that we secured an adult psychiatrist in his area who started work the day before yesterday. It is a locum position and it is not the silver bullet that I wish it would be but it ensures that there is a service there as of this week for the short term and, hopefully, the medium term.

**Deputy Pat Deering:** I thank the Minister of State again for this result, for his comprehensive understanding of the situation and for his engagement in recent times. I welcome the fact that the position has been filled on a locum basis in the past week. I tabled this Topical Issue matter two weeks ago but the slot was not available so I am delighted the position has been filled. It is important that there is a service, albeit it is not the silver bullet service that we might want, as the Minister of State mentioned. It is important that people in an area who require that service can access it when they want.

I also welcome the Minister of State's initiative of a teleservice. No matter what the area of difficulty, I have always felt that we needed to look beyond the normal and traditional ways of doing things and a teleservice is definitely something to consider for the future. The Carlow area could be considered and I will definitely take that issue up with my CHO area. It is something that could be piloted in as many areas around the country as possible so that people will have access to that service. My genuine initial concern was that service users would not have their service plan reviewed and they might have to deal with the same medication for months without being reviewed which I would consider to be dangerous. I am delighted that has changed and that there is a little bit more certainty for the service users that they will have a system available to them. Going forward, there needs to be something more definite and better planned so that they will be able to go in whenever they have an appointment and see the same face. Continuity is important from a mental health point of view so that a patient is not starting from scratch with a clean slate every time a new issue arises.

I thank the Minister of State for his response and his interest in the matter and I will continuously engage with him on it over the next period and I will take up the initiative with my CHO area as we progress.

**Deputy Jim Daly:** I thank the Deputy and I acknowledge that he has consistently raised this issue of a chronic shortage in his area with me for many months and acutely so in recent weeks. I am glad it has been resolved and I look forward to working with him and the CHO management team if the Deputy will instigate same to try to develop a pilot.

I will give an example to the House of telepsychiatry and what I am referring to because I have visited New York and other places looking at how it works. My ambition is to see a hub established in, say Dublin, where there would be a consultant psychiatrist on duty 24 hours a day and consultant psychiatry can be beamed into six or seven emergency departments, so that if a child or a young person in psychosis presents to an emergency department, a trolley or a cart with a screen on it will be brought up and a consultant psychiatrist will be there live and will diagnose, treat, prescribe and admit, if necessary, and that consultant psychiatrist in the hub can cover six or seven emergency departments as opposed to us trying to have a consultant psychiatrist in each one of those emergency departments 24 hours a day, seven days a week, to cover the two or three cases that might present in any given 24-hour period. This is how they are tackling the shortage in other countries and in Ireland we have to be forward thinking and brave in this as well and embrace that new technology and new thinking. It has been done elsewhere and we do not need to reinvent the wheel. We just need to take up the challenge as opposed to trying to do what we always did because we will always get what we always got, which is not satisfactory and is not good enough as far as I am concerned.

I look forward to working with the Deputy to roll out some of these initiatives in Carlow and wish the new consultant who took up a post in adult psychiatry in Carlow on Monday the best of luck.

28 November 2018

**Acting Chairman (Deputy Catherine Connolly):** Bogfaimid ar aghaidh go dtí an Saincheist Tráthúla dheireanach ón Teachta O'Rourke. Fan nóiméad don Aire Stáit.

**Deputy Brendan Howlin:** Tá an tAire Stáit ag teacht.

### **Road Projects Status**

**Deputy Frank O'Rourke:** I will let the Minister of State get seated. I thank him for taking this Topical Issue matter. I raised this with him in July and there are two elements to it, one of which is to progress the delivery of the second bridge for Celbridge and the other is to look at lands that have been identified in the recent local area plan at Hazelhatch as an area of key and strategic development and to carry out a master plan for same.

I acknowledge positively the work the Minister of State, his colleague, the Minister, Deputy Eoghan Murphy and Deputy Durkan have done with me in supporting this call to deliver the funding to progress the second bridge for Celbridge. That has been positive and significant. The announcement on Monday under the urban regeneration and development fund of funding to Kildare County Council to progress the bridge to route selection brings it up to, and including, the design and tender stage, which is welcome. Celbridge has a population of more than 22,000 people and this is something that we have been seeking for many years at this stage. There is gridlock and it can take up to 45 minutes to move 300 m or 400 m through the town, which is frustrating for people living in the area. While a second bridge is not in place, at least now people can see clearly that there is path to delivering it. Timelines will start to take shape and people will see an end game in sight. That is significant and important for Celbridge to develop and grow as one of the largest towns in north Kildare.

I acknowledge again and thank the Minister of State for his support and help in ensuring that this project is progressed, because when I raised this under Topical Issue matters with him in July, I highlighted the urgency of it and the need for progress in this area. He gave me a commitment on that occasion that this funding stream would open and that he would examine it with his officials and support it as positively as he could. He has done so along with the Minister and Deputy Durkan and I thank him for that.

On the issues of the lands at Hazelhatch, they are located right beside the train station, where the frequency and capacity of services has increased in recent times.

We learned recently from a meeting with the National Transport Authority, NTA, that the DART will be extended to Celbridge by 2021, which is an extremely positive development. The location of this land will provide clear access to the M7 in Naas and on to the M50 and a very accessible route to the M4. It is beside amenities such as the Celbridge GAA club, the tennis club, schools etc. The local area plan, which has just been approved by the local councillors and by the Minister of State's Department, has identified this land as an area for key strategic development. When we discussed this matter in July we sought that the Minister of State's officials would engage with Kildare County Council and ask it to engage with the landowners to progress the master plan, which in turn, it is hoped, would lead to development of those lands sooner rather than later given the current crisis, the need for housing and the location of this land, which is not depending on infrastructure. It is almost ready to go but the master plan has to be agreed between all parties, particularly Kildare County Council, the Department and the landowners.

To the best of my knowledge, the Department has not issued that letter of comfort, instruction or detail to the local authority to engage on that as of yet. I had hoped in this discussion today that consideration could be given to how soon that correspondence can issue from the Department to Kildare County Council to get it to engage with the landowners to progress the master plan for this area, which in turn will progress the development of housing, which is greatly needed in this area. I ask that we discuss that and get a timeline for it. At the same time, I acknowledge again the positive work the Minister of State has done in progressing the funding to help deliver the second bridge for Celbridge.

**Minister of State at the Department of Housing, Planning and Local Government (Deputy Damien English):** I thank Deputy O'Rourke for raising this matter which provides the opportunity for me to discuss the advancement of housing, community facilities and planned infrastructure in Celbridge area and the continued planned growth of this important town in tandem with the supporting infrastructure and amenities required. This matter was originally tabled for last Thursday and the Minister, Deputy Murphy, had hoped to take it as it is an issue with which he is happy to engage. I welcome the Deputy's positive comments regarding the funding announced for project B for Celbridge and the other counties. Deputies O'Rourke and Durkan raised it with the Minister, Deputy Murphy, and myself on numerous occasions. We recognise the importance of it. We will have development in key areas such as Kildare and Celbridge in this case and we will be bringing forward housing proposals. We also have to provide the necessary infrastructure in order that we provide such development in a co-ordinated and planned way.

The Minister, Deputy Murphy, and the Taoiseach made it very clear when Project Ireland 2040 was announced that four or five funds would be announced later in the year, and that happened in May or June, to back-up Project Ireland 2040 and to make sure our plans are realistic. The Deputy rightly identified the importance of the bridge and the relief road for Celbridge as key areas if we are to be able to develop these lands in a positive way for the town but also to provide housing for people from the area who want to have their own homes or other people who want to live in the area. We are seeking to achieve a proper co-ordinated structure with good planning and infrastructural development, and that is what funding under the urban renewal fund addresses. I recognise Deputy O'Rourke's comments in that respect and the importance of having discussions such as this one in the House to make sure we get all this right. Deputy Durkan and himself have kept us focused on this.

The Deputy's raising of this matters gives me the opportunity to outline where we are at with the development. The Celbridge local area plan 2017-2023 was adopted by the elected members on 17 August 2017 and came into effect on 14 September 2017. It is hard to believe it is a year ago as we had many discussions on that and other parts of the Celbridge plan.

As Minister of State with responsibility for housing and urban development, I welcome the fact that the plan supports the provision of a substantial new housing development in a key urban area close to Dublin. Kildare County Council, in its current county development plan, has earmarked the population of Celbridge to grow by approximately 10,000 people over the next five to ten years. We are discussing that planned development in the coming years but also during the next seven to ten years. We need to plan for this increase and to ensure that Celbridge grows in a coherent fashion with the timely delivery of the new infrastructure that will be needed for this expanded population. That includes the lands that are ready for development today but also we need to ensure we will make good use of our infrastructure, be it bridges, roads or train stations. We planned the development close to those in a joint and co-ordinated fashion.

In particular, I welcome the provisions of the plan enabling future housing growth on the southern side of the town in proximity to the existing commuter rail station at Hazelhatch, as the Deputy mentioned, and around that area. This development strategy is consistent with established national and regional planning policy which encourages new housing accessible to such high quality public transport facilities in the interest of sustainable development.

Importantly, the local area plan also identifies the key pieces of strategic infrastructure that are required to be delivered as part of the planned new housing development areas. The phasing arrangements set out in section 13 of the local area plan include requirements regarding the provision of a new road, bridge, open space and other facilities that will support the new homes to be constructed. Design briefs are also provided for the five key development areas earmarked for future housing development which will further assist in ensuring the construction of quality residential neighbourhoods that are integrated into the existing urban fabric of the town.

As part of the roll-out of the local area plan and in the interests of supporting the integrated development of housing within the local area plan, Kildare County Council is committed to preparing a transport mobility management plan to support the sustainable growth of the town. State agencies, along with my Department and, I understand, the National Transport Authority, will be active in their support of the development of such a plan which will inform future infrastructure delivery. It is very important that we get the infrastructure right.

I understand that Irish Water is in the process of upgrading the Leixlip wastewater treatment plant which serves Celbridge, and is also actively working to address identified constraints in the local wastewater system, in particular the upgrading of the local pumping station. These measures will actively support the ongoing and future delivery of housing in Celbridge.

I mentioned the fund, which enables lands to be developed in a co-ordinated way. Celbridge was successful in that respect.

I will check the status of the communication between the Department and Kildare County Council. The planners and officials in the Department are happy to engage with the Deputy's team in Kildare County Council to develop the lands that are set aside for development now and also to master-plan the next phase of development. That is what we are to do, namely, to do this work in a co-ordinated way. We will be happy to engage around that also. The lead authority is Kildare County Council and it has been engaged in this process under its local development plan during the past year or two. We are happy to engage and build on that in the future.

**Deputy Frank O'Rourke:** I thank the Minister of State for that positive response on progressing those lands at Hazelhatch. They are defined as a key development area and strategic location.

On the wastewater plant being upgraded, which was commissioned 12 or 14 months ago, the wastewater plant in Leixlip was upgraded to the tune of €32 million. The difficulty now is the infrastructure needed to get the wastewater to that. Irish Water has carried out a number of site investigations and my understanding from working with the local authority is that it hopes to progress the start of the project some time in 2019, which would be timely because it would take some time to put together the master plan.

The key question is how we can get the master plan done. The key stakeholder, the land-owners, are willing to carry out the master plan. They will put in all the financial resources needed to do that but they need guidance and direction from Kildare County Council as the lead

player in this. We would not expect the local authority to do the master plan. It would not be fair because it is not resourced. It is under pressure doing other local area plans and dealing with planning applications for Kildare that are coming in on a regular basis. We are not looking to the local authority to resource this work on this. The landowners are willing to do all the resourcing of it. They merely want to get the local authority to engage with them, bring them into a meeting and get the process started in terms of the guidelines, being told what to do and being given a template. Once that happens, the process will progress from that point, but Kildare County Council informs me it needs some communication from the Department to get it kick started. As soon as that happens and all those stakeholders engage, my job, and the Minister of State's, is finished because they will start the discussion and the planning. It will take whatever length of time it takes to complete it but at least it will be commenced. The difficulty is that nothing has commenced between July and now. It would be welcome if that could happen as soon as possible.

**Deputy Damien English:** I will be brief because I went over the time on my initial reply. Building on Monday's announcement on the funding for the build to progress some of the infrastructure requirements, it is important that the local authority works quickly now. I hope it does that and engages with all the relevant Departments to move it through the system.

On foot of that and the existing plan, my Department will continue to work with Kildare County Council to support it in developing appropriately in the key locations such as Celbridge and other key urban centres across the country in accordance with adopted statutory plans. We will get the communication going on the master planning of the different areas and developing that out too. I want to be clear, not just in respect of Celbridge but other parts of Kildare also, that as a Minister in the area, along with our officials, we are happy to engage with both the local authority staff but also with the councillors on other zoning issues which they want to tease out and their plans for the county in regard to Leixlip and other places.

In terms of Celbridge, it would be important that our Department and the local authority have those conversations about the planning system. I will certainly engage on that and if resources are required to do the planning and the master planning, that is something we can examine in conjunction, as the Deputy said, with landowners who are happy to do that as part of their duty. Now that some of the infrastructure has been sorted out they are appropriate conversations to have. I will certainly see what is the position on that and make sure we can progress those conversations. The focus is for all stakeholders, including the council, local businesses, stakeholder estate agencies and the wider community, to be included in implementing the Celbridge local area plan. I confirm that my Department and I will work proactively with Kildare County Council on infrastructure delivery and sustainable urban development. There are many key sites that can be developed in Celbridge to make good use of infrastructure. My own train station in Dunboyne will be upgraded to DART status. It is important that we make sure stations are utilised to their full potential. We will try to get that conversation going as fast as we can.

**Irish Human Rights and Equality Commission (Gender Pay Gap Information) Bill  
2017: Second Stage [Private Members]**

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

I thank all parties and Independents for facilitating the passage of all Stages of this Bill through the other House. It is important legislation which has garnered strong support from across all parties. I hope we can see the Bill pass in the Dáil speedily so it can become law and make a difference in our society. The Government has spoken about its support for the core objectives of our legislation. We are open to any amendments the Government or anybody else wishes to table to improve on the work that we have brought forward.

Every country has a gender pay gap and in every case we have looked at, women are paid less than men. There are comprehensive statistics from across the OECD relating to that. That is a fact but does not mean that it is acceptable, much less inevitable. Equal pay for equal work is a basic principle of equality and of human rights. Ireland has made progress on this issue. We had a massive pay gap between men and women which is shown in the statistics from the 1940s through to the 1970s. It has gradually declined since more progressive legislation began to be introduced after we joined the European Economic Community. It is no surprise that when there was a marriage bar in the Civil Service and public service, there was an enormous gender pay gap. That was removed in 1973 and from that time, women's average earnings have increased.

The latest EUROSTAT figures measure Ireland's gender pay gap at 13.9% whereas the OECD has it at 10.6%. There are different ways to precisely measure the gender pay gap. We have to be careful to be accurate about which measuring stick we are using and what the basis of our measurement is. EUROSTAT measures the difference between the average gross hourly earnings of male and female employees as a percentage of male gross earnings. The OECD measures the difference between the median average earnings of men and women relative to median earnings of men. Most people are already lost with those statistics. I will put it as simply as I can. If men are paid €100 on average, women doing the same job are paid €86.89. That is a much clearer and more succinct formulation. It adds up to a very significant difference with implications not only for the lifetime of work but for pension purposes in retirement as well as income throughout a person's working life.

The Acting Cathaoirleach will be glad to know I do not intend to discuss the ins and outs of the statistics but I want to focus on the substantive issue. It is clear that there is still a gender pay gap which is real and manifest in our society and country. On average, women are paid significantly less than men. It is positive that Ireland is doing better than many countries. It is better than the EU average and the OECD average but that is not a reason to be complacent. A number of countries are doing much better than us, such as Belgium, Italy and Romania. We see from statistics that gender pay equality is greater among younger employees which probably does not come as a major shock or surprise. I am glad to say that gender pay equality is higher in the public sector than in the private sector. The worst gender pay inequality is in financial services and the insurance industry.

There are a number of explanations for the gender pay gap. Women and men play different roles throughout their lives with regard to rearing a family. That is the normal reason given. Women take time out for parenting and that often reduces women's earnings, more often than men's. There is a difference in the professions that men and women are prevalent in. More women are in healthcare and teaching, with fewer in engineering and finance. There are unanswered questions too. We do not know enough about gender pay differences in this economy. We do not know, though we might suspect, that bonus payments to men, not least in those male-dominated professions and financial services, are greater than those received by women. We want to know the truth and that is at the heart of this legislation. We want to improve informa-

tion about gender pay inequality so we can better understand and address the reasons for it, that would permit us, where necessary, to take remedial action to eliminate gender inequality. We want to increase transparency about gender pay inequality throughout the economy. That will raise public awareness on this very real, important equality issue and create pressure in society for enterprises to improve their own performance. We do not have to look beyond, for example, the national broadcaster here or the BBC in Britain. We had transparency and people were aghast to find women working side by side with colleagues, doing the same job and suddenly finding that there were manifest differences in the rates of pay for no explainable reason at all.

Unequal pay for women is clearly an issue of equality and human rights, as I have said. That is why we envisage a central role for the Irish Human Rights and Equality Commission in our legislation. We propose that it draws up a scheme for employers to publish their rates of pay by gender. This will apply to medium and large employers which employ 50 or more workers. A requirement will not be placed on the vast majority of small enterprises to comply with this legislation although we would welcome and encourage their voluntary compliance and best practice to have this sort of reporting across the economy. In the Bill, we have specified the types of employer and employee affected by the proposed scheme alongside some minimum requirements on the type of information that we will require to be published. This will include the difference between the average hourly rate of pay of male employees and female employees using both the arithmetic average and the median, or middle value, average. Publication will also have to include bonus pay and refer to part-time versus full-time workers. With regard to enforcement, we envisage fines for companies that do not meet their obligations under the legislation. Additionally, larger employers with more than 100 workers which do not meet their obligations would have the name of their company published by the Irish Human Rights and Equality Commission.

This is not complex legislation. It is not an onerous demand on employers. There is a lot of evidence that our graduates are keenly aware of equality issues and the disparity in pay. Many enterprises will put their equality and diversity policies front and centre to attract the best employees of whatever gender. This is a positive progressive direction in which our society is moving and our legislation is designed to nudge those employers who are laggards in this regard on the path to putting their house in order.

Our society offers our children and young people great opportunities. Women and men are entering into professions that did not even exist ten or 15 years ago. Women are excelling in science, engineering and technology in our universities and in the workplace. Women are active in every sector of our economy, although not in equal numbers to men in every sector. However, gender inequalities persist. Our legislation comes down to basic questions. Would parents want their sons and daughters to have access to any job available to the opposite gender? Would they want them to have the same rates of pay and access to the same bonuses as any other man or woman doing the same work of the same value? Would they want them to have the same career expectations in terms of promotion and advancement? The Labour Party has no doubt the answer to all these questions throughout Ireland will be a resounding “Yes”. This is why it is important that the Bill becomes law at the first opportunity, to advance these important principles that I believe are shared throughout the House. I ask colleagues to support the Bill.

**Deputy Jan O’Sullivan:** I also ask colleagues to support the Bill. There are approximately 140 Private Members Bills before this Chamber and I am not sure of the number in the Seanad. Overall if we add the two together there are probably about 200 Bills. This Bill is way ahead of other Bills as it has gone through one House of the Oireachtas already and is now being debated

on Second Stage here. I urge the Minister of State to help us bring it to fruition.

The Government has spoken about doing its own thing on gender pay but this is an opportunity to make it happen quickly. It certainly cannot come quickly enough for the women in the workforce who are not being paid in accordance with equality. It is a fundamental equality issue for women in particular. The concept of equal pay for equal work goes right back and I campaigned on it in the 1970s and 1980s.

**Deputy Brendan Howlin:** As a child.

**Deputy Jan O’Sullivan:** It was one of the issues that made me a feminist. One could not possibly live in a society where one did not get equal pay for equal work and not try to fight it. It was part of Article 141 of the European Community treaty.

We are now at a stage where we know there is still a big gap in the mean and median hourly rates between males and females. This is throughout the European Union, as Deputy Howlin has said. More recently, the European Union has come out with specific recommendations. In November 2017, the European Commission adopted an action plan to address the gender pay gap. This includes a number of measures to be implemented in 2018 and 2019 that are focused on eight different areas. These include improving the application of the equal pay principle, combatting segregation in occupations in sectors, breaking the ceiling with initiatives to combat vertical segregation, tackling the care penalty, better valorising women’s skills, efforts and responsibilities and unveiling inequalities and stereotypes. The other two, which are particularly pertinent to our Bill, are alerting and informing about the gender pay gap and enhancing partnerships to tackle the gender pay gap. Clearly, the European Union has already directed European countries to take action in this area and we want to take action.

There are a number of models and our Bill is closely modelled on the UK one. Iceland has a different approach, which is more punitive, and Germany has a different approach again. The main point of what we want to achieve is to have transparency so women know what is going on in their company. As Deputy Howlin said, this can be an impetus for companies to do better.

The Irish Human Rights and Equality Commission can take action through its existing powers. In effect, the Bill is in the context of an existing statutory regime that enables the commission to acquire information, assess compliance with employment equality law and direct steps to be taken by employers where it finds institutional inequalities. While the Bill is primarily about information it can lead to further action to deal with the issues. This is important and we have put the Bill in the context of the commission because of the role it plays.

I know there are other views on how we might do this and, as Deputy Howlin said, we are open to any amendments the Government or others wish to propose but we want to see this happen. As well as addressing the median and mean pay gap between men and women, we also want the Bill to address issues on bonuses. Often the advantage that male employees have, particularly at upper echelons, is the bonuses they get so we have included bonuses. We have also included part-time work in the scheme. The scheme also requires the breakdown of information by reference to the full-time or part-time status of employees and by reference to their age. In many cases, women work part time.

In some ways it is not covered under our legislation but it is statistically true that women tend to be in lower paid employment in general. Areas such as childcare are predominantly female and are atrociously badly paid considering the work childcare workers do and the signifi-

cantly high qualifications most of them have. Care generally is not well paid. There are also the hospitality, retail and cleaning sectors, to which I particularly point with regard to women. Unfortunately, because cleaning is often contracted it might not even be captured by a company's overall employment and pay status in terms of men and women. This is something we really need to tackle. There are a number of elements to the fact women in society do not have the same pay status as men. There is also the point made by Deputy Howlin on the positions women go into. As the workforce is changing this is also changing and it is to be welcomed. Statistics show that only approximately 19% of senior roles are held by women. It is slightly better in the State sector. All parties here are conscious of the importance of having gender balance on State boards. More recently, we have seen academic imbalance highlighted and people have pointed to these issues in the arts, entertainment and communications sectors.

These are all very important issues in the equality agenda. Many years ago we got equal pay for equal work but we do not have equality. Very often, women's childbirth role and the fact they take time out, particularly after childbirth, mean that in many cases there is an unconscious bias against women in the workplace, particularly women of childbearing age. Employers are wary of time that will be taken off. This needs to be addressed because it is a role that cannot be avoided if we are to have a next generation. It must be included in the culture of the workplace. What we want to achieve here, as well as having very specific pieces of information put into the public arena to change behaviour and, perhaps, force changed behaviour through the commission, is to change culture. It is good for any workplace to have this type of gender balance. It is not good for any sector of employment to be predominantly male or predominantly female. I hope we will achieve this type of change in society.

One of the statistics that comes out of the figures we have, and Ireland is at approximately 14%, is that women effectively work for free for one month a year, if we compare it with the average pay of men. Nobody can stand over this. There are reasons some countries have a much better achievement. In many cases it is because they have legislation of one type or another and because they have already implemented legislation such as the Bill that has changed behaviour. We specifically refer to larger companies that have 50 or more employees. The Government may have a view as to this figure.

*5 o'clock*

We believe it is the appropriate figure, and we are supported by many organisations in that belief. If that information is in the public arena, it will force change. It will also mean that women will have access to information they do not have at present. The data show that in many cases women who are applying for employment are offered lower wages because it is expected that they might accept them in a way that perhaps a man would not. We want to tackle that and the way we propose to do so is by having information in the public domain to change behaviour.

We urge the Members from other parties to support this legislation. It has reached this House of the Oireachtas and it should not take too long to be passed if it receives the support of other parties.

**Minister of State at the Department of Justice and Equality (Deputy David Stanton):** I welcome the opportunity to speak on the Irish Human Rights and Equality Commission (Gender Pay Gap Information) Bill 2017 which was introduced by the Labour Party in the Seanad and has been passed by that House. The fundamental aim of this Bill, which is to address the gender pay gap, is fully in line with Government policy as expressed in the programme for a

partnership Government and in the National Strategy for Women and Girls 2017-2020, with which not everybody is familiar. For that reason the Government has chosen not to oppose this Private Members' Bill in either House. We believe the debate is important and worthwhile.

That said, we differ on the mechanism to address the gender pay gap. The Bill predates the publication of the Government's proposals. We took the opportunity to engage with stakeholders, including employer and employee representative groups, in drafting our proposals. In particular, I thank the Irish Business and Employers Confederation, IBEC, the Irish Congress of Trade Unions, ICTU, the National Women's Council of Ireland and the Chartered Institute of Personnel and Development for their valuable input. We examined the possibility of bringing forward amendments to this Bill but our legal advice is that such an approach would be excessively cumbersome and that it would be much more straightforward to bring forward a new Bill. Having secured the Government's approval for the heads of the Gender Pay Gap Information Bill, we published the legislation on 26 June and invited the Joint Committee on Justice and Equality to submit its views as part of the pre-legislative scrutiny process, as we are required to do. Regrettably, we have not yet received the report of the committee. I am anxious to consider any views the committee may have and to endeavour to incorporate them into the Government's proposals. I am also anxious to move forward with the Government's Bill.

The Bill before us proposes to amend the legislation establishing the Irish Human Rights and Equality Commission, IHREC, by assigning to the latter powers to make mandatory gender pay gap information disclosure schemes. Under such schemes, specified categories of employers would be required to compile and publish information relating to differences in the pay of their male and female employees. Schemes would not apply to employers with fewer than 50 employees. Contravention by an employer of the provisions of a scheme would be an offence. I am advised that the latter provision could mean that under Article 17.2 of the Constitution and Standing Order 179 a money message from the Government will be needed before Committee Stage of the Bill can be taken. A decision on whether such a message is needed is a matter for the Ceann Comhairle and the Bills Office.

**Deputy Brendan Howlin:** A pre-emptive strike.

**Deputy David Stanton:** The principle of equal pay for women and men for equal work or work of equal value has been part of Irish law for almost 45 years and is part of everyone's contract of employment. The gender pay gap is somewhat different in that it is the difference between the average gross hourly pay of female and male employees. Not respecting the principle of equal pay is likely to be a contributory factor to the gender pay gap, but there are a number of other causes as well. Among the factors which interact in creating the pay gap a number have an obvious gender dimension. I refer to traditional role models, gender segregation in education and in the labour market, the challenges of balancing work and family life, the difference in participation of men and women in family responsibilities, the availability of quality, affordable childcare facilities and out-of-school hours care and processes within organisations where imbalance needs to be addressed.

To put the situation in Ireland in a broader context, it should be noted that, according to statistics from 2014, Ireland has a gender pay gap below the EU average. It is 13.9% here and 16.7% in the EU. However, our gender pay gap has shown no longer-term tendency to decline and, therefore, must be the focus of specific action. Pay transparency as provided for in this Bill and in the Government's proposals is one such measure and, in recognition of that, the Government does not oppose this Bill. Indeed, the gender pay gap is the subject of a number

of actions in the programme for partnership Government. Measures committed to include increasing investment in childcare and reviewing the lower pay of women and gender inequality in senior appointments. To that end we have established a strategy for the private sector called Better Balance for Better Business. It is part of the national strategy for women and girls which was published in 2017. One of the actions in the strategy is to carry out an independent review of corporate boards in Ireland focusing initially on Irish Stock Exchange companies. That will report to the Government in the first quarter of next year. It will also cover gender differences in the senior management of companies, as mentioned by Deputy Jan O'Sullivan earlier.

We are all agreed that it is important to approach this from a number of different angles. Having women in senior management at board level is an incentive and support to other women and girls to move up the line and take up such positions. Deputy Jan O'Sullivan was right to refer to diversity in companies. Many companies are recognising and valuing this now. When there is diversity in companies, it helps everybody. Ultimately, it helps with the bottom line. The companies are happier places in which to work and people are valued for their diverse ways. Many companies are beginning to realise that now but we must help them with that.

The Government is active on all of these issues. The programme states that we will also seek to promote wage transparency by requiring companies with 50 employees and more to complete a wage survey. These commitments are reflected in the actions in the National Strategy for Women and Girls 2017-2020. Action 1.22 of the strategy states that we will initiate dialogue between key stakeholders, unions and employers aimed at addressing the gender pay gap, and develop and promote practical information resources to explain and increase understanding of the multifaceted aspects of the gender pay gap and its causes. Practical tools will be developed to assist employers in calculating the gender pay gap within their organisations. Clearly, this is an action which must be addressed before legislation such as this Bill or the Bill the Government is preparing comes into effect. Action 1.23 of the strategy pledges to promote wage transparency by requiring companies with 50 or more employees to complete a wage survey periodically and report the results. This is, of course, the subject matter of the Bill before us.

The Government has concerns with the specific approach proposed in the Bill, and I will outline some of these. The Bill provides for the insertion of a new section 32A in the Irish Human Rights and Equality Commission Act 2014. Subsection (1) provides for the making of a scheme by IHREC. As set out in the subsection, the exercise of any authority or power to make a scheme would be at the sole discretion of IHREC. There is no provision under which the Minister may require or request IHREC to make a scheme. As such, there is no provision whereby enactment of this legislation is guaranteed to result in the introduction of wage surveys as promised in the programme for a partnership Government. We must bear in mind and respect that the Irish Human Rights and Equality Commission is independent under the Paris Principles. As subsection (1) is phrased, approval of the Minister is not required for any scheme.

While IHREC has undoubted expertise in this area, it would be appropriate that powers are subject to the control of the Minister, as is the case under section 31 of the Irish Human Rights and Equality Commission Act 2014 whereby codes of practice can be prepared by IHREC for submission to the Minister and the Minister may, by order, approve them. There is no similar mechanism in the Bill so it is very much out of line with the principal Act. In effect, it gives a quasi-legislative power to IHREC with no mechanism for oversight or control. The Bill provides not just for the publication of the overall gender pay gap figure for an employer but for disaggregation of this figure by reference to bonus pay, full-time or part-time status and the ages of employees. In this context, we must bear in mind the data protection aspects and my Depart-

ment is consulting the Office of the Data Protection Commissioner on the Government's Bill to ensure that it respects the general data protection regulation, GDPR.

As I said, the Government wants to legislate in this area. Our proposals have been with the Joint Committee on Justice and Equality since 5 July last. Our proposals are informed by the debate around this Bill in the Seanad. Indeed, I wish to acknowledge the great work of Senator Bacik on the Bill. She continues to make a significant contribution to advancing gender equality. Our proposals are also shaped and informed by our consultations with employer and employee stakeholders. The debate in the House this evening will be of considerable value as will the report from the Oireachtas Joint Committee on Justice and Equality, when we receive it. I hope that Members would appreciate the value of the considered approach taken by Government in respect of this legislation. I look forward to hearing the views of other Members in the House this evening.

**Deputy Jim O'Callaghan:** I will be sharing my time with some colleagues, and I am pleased to say that I will be sharing the time equally with them. I welcome the Labour Party Bill before the House this evening. Fianna Fáil will be supporting the legislation.

It is important to note that for centuries women in Ireland, and women throughout the world, have been discriminated against. Not only have they been treated as second-class citizens they have been deprived of some of the basic rights that men took for granted for centuries. This year we celebrate the centenary of women getting the vote in 1918, which was a significant event. It is also important to recall that there was significant opposition to that. It was not always the case that the path of women's suffrage and rights for women was supported by the political establishment. Some of the biggest opponents of giving women the right to vote prior to 1918 were members of the Irish Parliamentary Party, and it was not only John Redmond. Sir Edward Carson, as a member of the Irish Unionist Alliance, was also vigorously opposed to giving women the right to vote. Some Irish MPs were different in that they supported universal suffrage but the political establishment prior to 1918 was very much opposed to women getting the vote.

When the Irish Free State was established the marriage bar was introduced in 1932. This prevented women from working in the Civil Service upon marriage. This affected many women, mothers of many of us no doubt, who had to give up their jobs once they married. We only got rid of this measure in 1973. Legislation that was prompted to a large extent by the European Economic Community, as the EU was known, gradually resulted in greater rights being given to women in the workplace. In 1977 the Employment Equality Act was introduced. This important legislation was introduced by another member of the Labour Party, the former Tánaiste, Michael O'Leary, a man who appears to have been airbrushed out of Irish history but who played a significant role in improving the path for the equality of women in the workplace. Fianna Fáil introduced the Employment Equality Act 1998, which ensured that equality on the basis of gender was upheld in the workplace. That was also a significant piece of work and a significant achievement.

Today, unfortunately, we still have not attained full equality for women in the workplace. The statistics reveal that currently there is a gender pay gap. I note the Minister of State's comments on the causes of that, but it is not necessarily the case that the reason for the gender pay gap is that the laws, be they the Employment Equality Acts of 1977 or 1998, are being breached. The fact of the matter is that the pay gap exists and the Oireachtas has to do something in respect of that. We are in the fortunate position where the public sector has led the way for many

years in this. There is no suggestion or contemplation that any Member of this House who is man should be paid more than a female Deputy. This also applies throughout the public sector and the Civil Service. The problem appears to lie significantly in the private sector.

This legislation is very useful in trying to deal with a complex problem. One of the first stands that must be made in order to deal with a problem is to disclose the problem. If companies over a certain size are required to publish information in respect of the gender pay gap, then it focuses attention on the issue. Once attention is focused on the issue then we can start to resolve it and it will become a more obvious requirement for companies to ensure they do not have a significant gender pay gap.

The gender pay gap that is being statistically examined in the State is at present around 14%. We also note that the problem appears most significant at the higher end of the workforce. This question really needs to be examined closely, and answered. We should not permit a situation to develop where there is any breach in respect of the amounts that women are paid compared to men at the higher levels or the lower levels.

I will now hand over to my colleague, Deputy O'Loughlin.

**Deputy Fiona O'Loughlin:** I commend the Labour Party on introducing the Bill, and I thank Senator Bacik for all the work she has done on this in the Seanad. I also commend my colleague, Senator Clifford-Lee, and Sonya Lennon of the WorkEqual campaign. They have done a huge piece of work on bringing this issue to the businesses that we need to talk about. There is no point in us talking about this in the Dáil Chamber or our colleagues talking about it in the Seanad Chamber; we need businesses to take it on board, to stop talking about it and to put practical realities into action.

Equal pay for equal work has to be the cornerstone of any just and fair society. While we talk about this I am very conscious of the pay disparity that exists for those workers who started working after a particular year, especially between teachers. That is also absolutely wrong.

One of the most worrying aspects of recent research into the gender pay gap is the fact the gap is now widening for younger women when it absolutely should be narrowing at this stage. Progress is being made in other areas of gender equality but not, it would seem, in terms of pay. This is why Government intervention is essential. The strategies, consultations, reviews and symposiums have not worked. The Government must support this Bill. I am aware that the Minister of State has said the Government will not oppose it, but the Government should be supporting the Bill and not be neutral on it. The Bill is an important step towards pay equality. The Bill proposes legislation that will compel an employer with more than 50 staff to publish information on its employees' pay, a measure that already exists in the UK and Australia. The legislation needs to be supported by improved childcare provision, improved shared parental leave, as proposed in the legislation brought forward by myself and Deputy Lisa Chambers, and by increasing the number of women in better-paid roles and occupations.

The Bill has been described as a diagnostic rather than a curative measure. To solve the problem, however, we first need to gather all the necessary information to assist in public policy formation. This information can then be used by the Irish Human Rights and Equality Commission. Ireland continues to hold a ranking of 25th place on an international league table of overall female economic empowerment. Our latest figures say that the gender pay gap is 13.9%. As Deputy Broughan said, women are working for free for one month in the year. Our

boardrooms have an 18% female participation rate compared to 22% in the UK and 34% in France. As usual, the Nordic countries are leading the way. Progress has been excruciatingly slow in addressing the pay gap and the lack of gender diversity on boards. Ireland is one of the worst performers in Europe for gender balance on corporate boards. Half of all State boards are still failing to meet the 45% minimum target set in 2014.

Young Irish women are constantly reading news stories about their favourite actors, musicians and celebrities fighting for equal pay in the worlds of music and film. It is good that people are being upfront and out there about their fight. As their representatives, we have to try to ensure parity of pay for young women here in their own country. Great strides have been made to improve economic independence for women in Ireland in recent decades. Bold and progressive policy changes were needed to achieve this. The same approach should be taken to address the gender pay gap. We would not accept different rates of pay on any other basis. If two people are doing the same job with the same level of experience then they should be on the same salary. It is deeply disturbing that as women progress in their careers and gain experience, their earning power drops to such a level that they earn 28% less than their male counterparts after 15 years. Shocking research from the UK shows that Ryanair is in the top ten of those with the worst gender pay gap. I am happy to join my colleague, Deputy O'Callaghan, and lead in this area in saying that Fianna Fáil will support the Bill in an effort to progress the glacial pace at which pay equality is proceeding.

**Deputy Eugene Murphy:** I am delighted to speak in support of the Bill. Like colleagues, I pay tribute to the Labour Party for bringing it forward. I also pay tribute Deputies O'Loughlin, Lisa Chambers and O'Callaghan who are doing extraordinarily good work in this regard, particularly in respect of a Bill they brought forward recently. I also commend Senator Lorraine Clifford-Lee on her efforts to make improvements in this area.

Although we have had equal pay legislation on the Statute Book for more than 40 years, we still have a significant problem regarding the gender pay gap. The available statistical information has long shown that progression, if it takes place at all, is excruciatingly slow. It is high time that real action was taken and that we resolved this situation once and for all. The most up-to-date statistics from the CSO show that, on average, women are paid 14% less than men. As Deputy O'Loughlin has pointed out, that would correspond to women working one month in the year for free. While it is in some way understandable that the pay gap is widest for older employees, it is worrying that statistics suggest the gap is now widening for younger women too. While we have been making progress in so many areas on gender equality, it is extraordinary to think that this remains the case. It should not be happening. It is clear from the lack of progression in the area that the only way the gender pay gap can be addressed is through Government intervention. While I welcome the comments of the Minister of State this evening, I urge him and the Government to do everything in their power to come to terms with this issue. As my colleague stated, there have been many national strategies, public consultations, reviews and symposia on the pay gap issue. However, there seems to be very little movement at all on getting something concrete done.

Fianna Fáil introduced a Bill in July that would allow the mother of a newborn child to share her maternity benefit entitlements with the child's other parent, if she so wishes. Our party believes this is an important move towards broadening parental choice, promoting gender equality and supporting a healthy work-life balance. It is relatively unusual within Europe that parents cannot share leave. For example, in Sweden, Denmark, Iceland, the United Kingdom, Norway and Germany, there are provisions for parents to share maternity leave allocations. A woman

may wish to share her maternity leave with the child's other parent for a variety of reasons. Certain jobs are more amenable to periods of leave. A person at an established company may find it easier to take leave than a self-employed person. Certain women may wish to re-enter the workforce earlier. We believe that this should be for a woman to decide. Parental leave policies that support fathers' involvement are a powerful policy tool to tackle gender inequality.

In the EU, the gender pay gap is shown as a percentage of men's hourly earnings. It does not take into account all of the factors that contribute to the gap such as, for example, differences in education, labour market experience, hours worked, the type of job and many other factors. The Department of Justice and Equality states that the gender pay gap in Ireland was 17.3% in 2007. According to the most recent figures published by EUROSTAT, in 2014 the gender pay gap in Ireland was 13.9% while the gender pay gap across the EU overall was 16.7%. However, a report published by PricewaterhouseCoopers, PwC, in February 2017 indicated that the gender pay gap in Ireland has widened over the last five years.

I am delighted to support the Bill.

**Deputy Lisa Chambers:** I am happy to work with my colleagues in the Labour Party in supporting this Bill. In recent weeks, we have worked together on other legislation in the same vein in order to try to advance women's equality, address the stark inequalities that exist in our society and do our job as legislators in trying to bridge that gap. Where we see failings in legislation, we seek to make changes. That is what this Bill certainly seeks to do.

This is a very practical Bill in that it requires employers with more than 50 employees to publish information about their pay scales in order that we can see if there are any differences in how they pay their male and female employees. It is quite simple information but it would be very effective in making changes. It would also allow the Irish Human Rights and Equality Commission to create an information disclosure scheme for employers about a gender pay gap if one exists in an organisation. Some organisations will welcome this - those that are doing a good job - while others might not. That level of discomfort is something we need in working towards our goal. These provisions will allow employers to benchmark against their competitors and should act as an incentive to do better, because companies need to do better.

The Bill will also allow prospective employees to look at employers and decide which are best to work for, which actually value equality and which will treat them properly and equally. The fact is that in late 2018, we are looking at a 14% gender pay gap. Women in this country are being paid 14% less than men and the gap is widening. As Deputy Jan O'Sullivan pointed out, this effectively means that from 10 November each year, women stop being paid. That is unacceptable and wrong and there should be a sense of urgency in addressing it. We have to address the underlying reasons that the pay gap exists in the first instance. There are many such reasons. The fact remains that the pay gap is wrong. If employers know they are paying their female employees less, they should be taken to task. They should be forced to publish that information and they should be forced to close the gap completely.

Given that women are still the primary caregivers, are required to take maternity leave and are ones who will have absences from work, it is no surprise that they are discriminated against. A Bill that Deputy O'Loughlin and I published not long ago was not supported by Government but was supported by the Labour Party, Sinn Féin, the Social Democrats, and the Green Party. Basically, the entire Opposition supported the Bill but the Government opposed it. That Bill would have allowed women to share their maternity leave entitlements with their partner if

they so chose. The effect would have been twofold. It would have given flexibility to women to get back into the workplace quicker if they wanted. It would also have levelled the playing field in the sense that when people were going for a job the employer might look at the female candidate and the male candidate and think that actually either of them might take maternity or parental leave. That level of discrimination would have lessened. However, the Government decided not to support the Bill.

When listening to the Minister of State's response as to why he is not supporting the Bill, I have to say I think many of us were smirking at the true intention behind why it is not being supported. To say that he has examined the possibility of bringing forward amendments and that it was just too cumbersome suggests it is just inconvenient, and that really the Labour Party beat Fine Gael to it. Is that not the real reason? The Labour Party got there ahead of Fine Gael.

**Deputy David Stanton:** No. We are waiting for the committee.

**Deputy Lisa Chambers:** Fine Gael has published the heads of a Bill-----

**Deputy David Stanton:** Last July.

**Deputy Brendan Howlin:** Only the heads.

**Deputy Lisa Chambers:** -----but the lack of urgency is notable. The Bill from the Labour Party that is before the House today should be supported. Amendments are a normal part of the process of legislating. The same defunct argument was put forward by the Minister for Employment Affairs and Social Protection, Deputy Regina Doherty, as to why the Shared Maternity Leave and Benefit Bill from Fianna Fáil could not be supported, among other nonsensical arguments. The fact remains that the Bill is here. It is being supported and this notion that the Government can somehow not oppose but not support at the same time just does not make sense. The Government is sitting on the fence. It essentially wants this to be a Fine Gael Bill but it is not, it is a Labour Party Bill. The Labour Party has just beaten Fine Gael to it.

I referred earlier to discomfort, which is the other elephant in the room. Perhaps it is the case that businesses are quite uncomfortable with the thought of publishing this data and perhaps they are lobbying quite hard. Maybe that is part of the reason Fine Gael-----

**Deputy David Stanton:** Wrong.

**Deputy Lisa Chambers:** -----is not moving with a sense of urgency on this.

**Deputy David Stanton:** No. No evidence.

**Deputy Lisa Chambers:** Let us call a spade a spade. By publishing those figures, companies would have to put in black and white what they are paying their male employees and what they are paying their female employees. That might be quite embarrassing for some companies.

**Deputy David Stanton:** So what?

**Deputy Lisa Chambers:** I am sure such a requirement would very quickly become an incentive to close the gap. Let us have a sense of urgency, and get the Bill passed and get these laws on the Statute Book. Let us do our bit to gently encourage companies to close the gap once and for all. The message we need to send to the business community is that equality is a cornerstone of our democracy. We want to live in a just and fair society. Women are not being treated

equally and continue to be paid less. Until we do our job as legislators and ensure they can no longer pay women less than men, that gap will persist and widen. Let us all work together in the spirit of equality and advancing women's rights to ensure that pay gap is closed once and for all.

**Deputy Donnchadh Ó Laoghaire:** Ba mhaith liom mo chuid ama a roinnt leis na Teachtaí McDonald agus Cullinane.

I commend the Labour Party and in particular Senator Bacik on bringing the Bill through the Seanad and into this House. We are very happy to support the Bill and we hope to see it pass as soon as possible. The fight to ensure pay equality is another step in the battle to ensure equality between women and men. Deputy O'Callaghan made reference to the distance travelled and it includes battles such as the fight to win universal suffrage - the vote essentially - a century ago; the fight against the marriage bar; in very recent times the fight to repeal the eighth amendment that caused so much harm and suffering to women over more than 30 years; and indeed now this fight for equal pay.

It is a relevant issue across the world, perhaps starker in other parts of the world than here. According to the World Economic Forum it would take 217 years to close the economic gender gap globally. However, it is also quite significant in Ireland. With a gap of 13.9% it would take 55 years to close the gender pay gap in this jurisdiction if we were to continue as things are. This is a mechanism that has been introduced in other jurisdictions. Britain has gender pay gap reporting and similar proposals have been implemented in other EU countries and in the United States. Measures similar to the ones proposed are due to be signed off in the North in the coming months. We welcome these moves. They are not a silver bullet, as I am sure the Bill's proposers would agree, and many other issues need to be addressed. It is right to shine a light particularly on those businesses that might be fearful of the Bill's provisions where there is a significant pay difference - inexplicable in many circumstances. It is a way to bring pressure to bear.

I am mystified at the Government's attitude. It is very common to see Government Bills where the Government introduces on Committee or Report Stage practically an entirely new Bill. It is unusual and very positive to see a Private Members' Bill pass through all stages in the Seanad and arrive into the Dáil. That is a sign of the support for it and the consensus not only in here but in society as a whole. The Government should work with that. The framework of the Bill is good enough and I do not know why the Government is starting with another Bill. It should work with this Bill and we should advance it.

I was pleased that a Sinn Féin amendment proposed in the Seanad was accepted. This ensures that where a company does not comply with the legislation by refusing to publish data, the company's title would be published by the Irish Human Rights and Equality Commission. It is positive that that was accepted. Publicity will be as powerful as any fines in this. There is a role for fines, but the focus needs to be on shining a light and putting pressure on those companies that are discriminating.

Many other issues need to be addressed in tackling the gender pay gap. Reporting of this kind will not of itself address the overall gender pay gap. It will not capture large childcare providers which may not have a large gap between male and female employees, but the majority of them are likely to be female and the majority of them are likely to be low paid. Throughout society in low-paid work women predominate. Therefore, we need to take other steps to address that and ensure the playing field is levelled and people have greater flexibility with leave.

I commend the Bills introduced by Deputy Lisa Chambers and Senator Clifford-Lee in that regard. Much more needs to be done on that and on the social welfare side as well.

Sinn Féin will support the Bill. There is a good framework here to deal with an issue that is important for society. The Minister of State should work with it rather than try to work in a different direction at the same time.

**Deputy Mary Lou McDonald:** I also commend Senator Bacik on introducing this important legislation. As my colleague stated, we will support the Bill. Indeed, we share the frustration of the Labour Party with Government foot-dragging on the issue. The gender pay gap is not a new issue. A multitude of research has been undertaken across the EU and in Ireland on the subject. Back in 2002 the Department of Justice, Equality and Law Reform commissioned Indecon to undertake a study on male-female wage differentials in a number of sectors. So accepted is the fact of the gender pay gap that the EU has an annual European Equal Pay Day to highlight the gap which we all know now stands at just under 14%.

With all this in mind, why on earth is the Government frustrating the introduction of gender pay gap reporting in Ireland? When this legislation was first introduced 17 months ago, the Minister of State with responsibility for equality acknowledged that the Bill echoed current programme for Government commitments. However, despite this, the Government failed to engage and dragged its heels before finally producing its own heads of Bill more than a year later.

In justifying this decision, the Taoiseach told us last week that a new Bill was necessary as changes were needed to the Long Title and Short Title. That is simply not credible, nor is the Minister of State's concern with the new section 32A. His concern seems to be that oversight and initiative are robbed from the Minister and that it falls to the Irish Human Rights and Equality Commission. I am very happy to see such a change. We have waited so long and the political establishment and the Government have been in such a state of splendid inertia on this issue, I am very happy for a commission with responsibility for human rights and equality to set the pace on this. God knows, if we were waiting for the Government we would be waiting a very long time. Irish women and Irish society are no longer prepared to wait.

It is not just about the reporting of gender pay differentials. We need to be honest about this and look at low-paid sectors in our economy. We need to be honest about this and look at cost of living. We need to be honest and say we need to do so much more, including the introduction of a living wage and rent caps. We need market interventions. For today, we support this legislation. The Minister of State, Deputy Stanton, is a reasonable person and I do not question his good faith on these matters. I appeal to him; for God's sake let us stop the delay. This is good legislation. If he wants to argue for amendments, I think he is concerned unnecessarily.

**Deputy David Stanton:** The Deputy should await the committee report.

**Deputy Mary Lou McDonald:** I have far more faith in the commission charged with equality and human rights than I would have in many who have graced ministerial office. I appeal to the Minister of State to support the legislation, allow it to proceed and give the women of Ireland some Christmas cheer.

**Deputy David Stanton:** Where is the committee report?

**Deputy David Cullinane:** I commend the Labour Party on introducing this Bill. I do not accept the reasons the Minister of State gave for not accepting it. I heard Deputy Lisa Cham-

bers outline the reasons the Government should support the Bill. There are various stages in legislation that enable us to perfect Bills. We have introduced many Bills to improve workers' rights and Fianna Fáil did not support them for exactly the same reason. That party seems to support the softer Bills but not Bills that make a real and tangible difference. While I do not say this Bill does not do that, it simply puts an obligation on employers to publish information. It is easy to support such Bills but there are more fundamental Bills Fianna Fáil would not support.

According to CSO figures, on average, women are paid 14% less than men. Those figures are based on gross hourly earnings, and that gap has been growing. At the same time, the CSO figures show that more than 55% of all women aged between 25 and 34 years had a third level qualification in 2016 compared with 43% of men in the same age group. Even though it seems that women tend to be more highly educated and qualified than men, that is not translating into earning power.

It is obvious from all the data and the figures which have been presented by the Labour Party spokespeople, my Sinn Féin colleagues and the Fianna Fáil Teachtaí also that there is a problem. Not enough is being done. This Bill would go some way to at least identifying the problem and I do not see why the Minister of State's Government is not in a position to support it.

**Deputy Bríd Smith:** I welcome the opportunity to discuss this very important issue. The PwC index is very interesting where it shows that the level of inequality - 14% less pay for women than men - is up from the figure in 2014 when it was 12%. It is 18% in the United Kingdom, the United States and Canada. An interesting comparison is that Iceland has had equal pay for the genders since 1961 - 57 years of neutral pay rates. Interestingly, it is not a member of this great European Union - the great club - that is supposed to have brought women equal pay in the first place, an argument I have often refuted, and the statistics are before us in terms of Ireland, Britain and the rest of Europe.

Self-professed experts often say there is no such thing as a pay gap and that it is a fiction. They argue that differences in pay for the same work is illegal, that we have equal pay legislation across the European Union so how can there be a gender pay gap. The reality is that some employers will brazenly break the law. However, much of that gap is structural because women end up in the jobs and professions that are overwhelmingly female and overwhelmingly undervalued by this society. It is not incidental that happens. It is because of the structured attitude of society to the sort of work women do, such as cleaning, caring, maintenance and hands-on work that is undervalued in comparison to the muscular, more physical sector in which men generally work.

I believe that gap worsened during the years of austerity under the measures the proposers of the Bill brought in. For example, the Labour Party, in government with Fine Gael, enforced legislation on workers' rights, the financial emergency measures in the public interest, FEMPI, legislation, of which we are still feeling the impact, where workers in this House and across the public sector, both men and women, earn 10% less than people they work alongside. It is one of the reasons teachers and nurses are threatening strike.

**Deputy Brendan Howlin:** Fianna Fáil did that.

**Deputy Bríd Smith:** It is also the case that during those austerity years pensions were cut for women. Services like home help and special needs assistance, SNA, were cut, again jobs largely done by women. Their levels and their pay were cut. The legacy of austerity also looms

large here. It is good to document these things but they will not go away until we set out to improve our industrial relations machinery, which barely recognises the existing legislation.

I note that the provisions in the Minister of State's proposed Bill argue for personnel from the Workplace Relations Commission, WRC, to conduct on-site inspections to ensure compliance on gender information, but there is a problem. We recently attended a committee on bogus self-employment with the Minister for Employment Affairs and Social Protection, Deputy Regina Doherty. From questioning the Department we were able to show that when inspectors go on-site to check the statistics on bogus self-employment, they do not actually do it. They do not keep statistics on bogus self-employment. We have industrial relations machinery that is not fit for purpose. It is certainly not fit for purpose in terms of keeping track of inequality that exists between men and women on the one hand and the same workers in the same sectors on the other because of the austerity.

We have had a plethora of strikes recently including Lloyds Pharmacy, Dunnes Stores, Tesco, teachers and nurses, of which the workforce is largely female. Those strikes in the private sector in particular are often based on the lack of a permanent secure job, precarious work, the lack of contracts and issues of inequality. I am glad to say all those strikes took place because the workers were unionised. From that we should learn that as well as producing papers that record inequality in a particular manner, we have to end the impact of austerity and the inequality. However, we also must ensure that in every workplace we do as much as we possibly can to get workers into unions, and get them mobilised through those unions, to achieve their rights.

In April of this year, it was revealed that Ryanair pay women on average 72% less than men in terms of mean hourly pay. That means for every €1 a man earns, a woman earns 28 cent. Ryanair said that eight of the 555 pilots in the UK are women. That is equivalent to 1.4% of all pilots. The inequality is impounded by companies in which unions do not exist. I greatly welcome the unionisation earlier this year of Ryanair and that the company, given those unequal statistics as well as its record, was forced to recognise the trade unions, which hopefully will be able to do something to close that gender pay gap. We all know the reason for that is the nature of the work women largely do in the airline such as ground staff and crew as against the number of women being trained as pilots.

We can safely say the gender pay gap in Ireland is probably the worst in the EU. We should stop eulogising the European Union as some kind of deliverer of rights for women or advances in terms of equality because that is not the case. Where women have fought and won equality in pay and in status in their jobs, which was mentioned by Deputies earlier in terms of fighting for same sex marriage, the repeal of the eighth amendment on abortion rights and proper child-care, that was done by women campaigning both through their unions and outside the gates of this House.

**Deputy Brendan Howlin:** And men.

**Deputy Bríd Smith:** There is a good deal of work to be done, and I welcome a Bill that attempts to begin to document what is required in that work, but there was a level of tongue and cheek in the way the Labour Party approached this issue, given its record when it was recently in government.

**Deputy Jan O'Sullivan:** Check the facts.

**Deputy Brendan Howlin:** That is a complete falsehood.

**Deputy Danny Healy-Rae:** I am glad to have the opportunity to talk about this Bill. It is very important because for far too long women have been treated unfairly. The further back we go, the worse it was for women. It is only right that where women are doing the same work as men, they should be paid the same. That inequality has existed for far too long, and I am glad to have the opportunity to support the Labour Party for bringing forward this Bill.

We must recognise that women have played a very important role in all our lives. We would not be here if it were not for women. In the past, women worked inside and outside the home. They kept the home going but were hardly ever remunerated. My grandmother's husband was invalided from early in their marriage. She had to work outside and do all the work to cut turf for sale. I am so agitated when I hear people suggesting people should not cut turf because I know what she and that generation went through to survive. It must be recognised and made possible that women be paid the same as men. There are many inequalities in our system, even now. Young teachers are not paid the same as teachers used to be or as teachers who work alongside them and were qualified earlier. It is wrong, degrading and frustrating for young teachers who spend five or six years in college but end up working for much less than people who entered the workforce before them.

Likewise, nurses on the front line do vital work. It is no wonder that many of our young graduates emigrate and take up employment in other countries because it is not fair or right that nurses are not remunerated for the hard work they do in caring for sick people to the same degree as the people who entered the workforce before them. They must work so much harder because of all the paperwork, liability and pressure that is put on them. They must work long hours and it is not right that they are not paid the same as the other nurses.

I am sorry to say that the Labour Party played a role in this issue by what it did to women in the home whose pension entitlement was changed. We are only now starting to address that but it was wrong and unfortunate. I met so many women who were not going to receive the same pension and they were so hurt because they felt they had paid their contributions but, as the playing pitch was changed, they would not get the same pension that other women received, and would continue to receive, alongside them. As these women came of pension age in only 2012, they were subject to the new regulation and it hurt them badly. I am glad this matter will start to be addressed in the coming year.

As I said at the outset, women, whether they be wives, daughters or mothers, play such an important part in the running of our country and homes. We must ensure that they are treated the same and that they receive the same remuneration for the same work as men. It is great that the Bill acknowledges the great work that women and girls around the country do on behalf of men and their country. They are as proud of our country as anyone else and they have played such an important role, not least in past times of trouble when they cared for men. Circumstances must change and we must move on and ensure women are treated properly. I am 100% in support of the Bill and I hope it is brought to a conclusion as soon as possible. This situation has gone on for too long and it needs to be corrected.

Debate adjourned.

### **Visit of French Delegation**

**An Ceann Comhairle:** Before proceeding with business, on my own behalf and on behalf

of the Members, I welcome to the Dáil and offer a céad míle fáilte to a parliamentary delegation from the Assemblée Nationale in France, comprising members of the Ireland-France parliamentary friendship group, led by Monsieur Paul Molac. The delegation is accompanied by H. E. Mr. Stéphane Crouzat, French ambassador to Ireland. Our French visitors are in the country for three days, visiting Leinster House today for a series of meetings and travelling to Dundalk tomorrow to discuss Brexit with stakeholders in the region. We are grateful for their visit. They are most welcome and we hope they find it to our mutual benefit.

I do not know if there is a gender pay gap in France but we are trying to rectify matters here.

### **Irish Human Rights and Equality Commission (Gender Pay Gap Information) Bill 2017: Second Stage (Resumed) [Private Members]**

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

**Deputy Catherine Martin:** Táim sásta tacaíocht a thabhairt don Bhille seo. I am delighted to support the Bill and I commend the ongoing work of Senator Bacik, who has long been a champion of women’s rights, on introducing it.

While there has been much change in society over the past few decades and many barriers to gender equality have been broken down, this does not mean we can afford to be complacent. Structural and cultural issues that prevent true gender equality remain and they must be overcome through positive measures such as the Bill. It has been more than 40 years since Ireland introduced the Anti-Discrimination (Pay) Act and yet the most recent CSO figures show that, on average, women in this country are paid 14% less than men. There are many complex reasons such a difference persists, despite laws to prevent gender pay discrimination. Fortunately, overt discrimination has become less frequent, but there continues to be significant gender segregation by occupation and the undervaluing of occupations in sectors that are predominantly female.

Gender equality, like all matters of equality, cannot be achieved by passive acts. It must be won through positive action. We can write the words on paper and pass laws calling for an end to discrimination but without active enforcement, follow-up, research and work, we cannot overcome the more subtle problems. The Bill will work to tackle these subtleties through the collection of data. Detail will show us exactly where problems lie and inform us how we must tackle them. In particular, I welcome the Bill’s call for companies with more than 50 employees to publish information on the proportion of male and female employees in the lower, lower middle, upper middle and upper quartile pay bands. There are many organisations where, while men and women on the same band are paid equally, women comprise the majority of the lower pay levels and men the majority of the upper pay levels. Last year we learned this was the case for Departments, where women fail to break through to upper and managerial levels. With data we can learn how systemic this is and develop the policies and supports necessary to address it.

Ending the pay gap will not only be beneficial for women; rather, it will be beneficial to the economy at large. PricewaterhouseCoopers estimated that cutting the pay gap could boost OECD economies by €4.9 trillion. I hope the measures outlined in this Bill will be extended to cover companies and enterprises with fewer than 50 employees and ensure that areas with precarious employment, in which women are more likely to be employed than men, are monitored and assessed for gender biases.

There is much more work to be done to value women's work across all sectors and advance gender equality, which is a priority of the Oireachtas women's parliamentary caucus. Senator Bacik's Bill will make a significant positive impact in addressing gender pay issues.

**Deputy Thomas P. Broughan:** I strongly support the Bill. A few weeks ago, I was struck that the charity, Dress for Success Dublin, which launched its #WorkEqual campaign, found that on 13 November the women of Ireland would effectively work for free for the remainder of 2018.

*6 o'clock*

While our gender pay gap of 13.9% is lower than the European average of 16.7%, it is still far too high. Across Europe, the gender pay gap ranges from just 5.2% in Romania up to 25.3% in Estonia. We have had an annual European Equal Pay Day since 2011.

The Bill brought forward by Senator Bacik is superior to the Government's Gender Pay Gap Information Bill, which is undergoing pre-legislative scrutiny before the Joint Committee on Justice and Equality. The heads of the Government's Bill were published on *genderequality.ie* at the end of June. When addressing the Seanad on the Bill before us, the Minister of State, Deputy Stanton, said that the "thrust and philosophy behind both [Bills] are exactly the same." The Government's Bill, however, would amend the Employment Equality Acts 1998 to 2015 but would only apply to companies with no fewer than 250 employees. In the Seanad debate, Senator Bacik spoke of how we all wish to see pay transparency legislation. I understand that she met the Minister and his officials to see how they could work together to progress the most legally sound Bill. She also stated that given that the gender pay gap has only narrowed by 4% in the past 11 years, it could, according to estimates from the National Women's Council of Ireland, take up to 170 years to close it completely. We cannot wait that long.

Senator Bacik's Bill is superior because it provides for the publishing of information on gender pay gaps in companies with no fewer than 50 employees.

**Deputy David Stanton:** Eventually.

**Deputy Brendan Howlin:** Eventually.

**Deputy Thomas P. Broughan:** Okay. In Iceland, however, the figure is 25 so the legislation there applies to even smaller companies. I agree with the National Women's Council of Ireland that this should be reduced further but at least it would cover far more companies than provided for in the original Government Bill.

The Bill includes a number of new provisions. The new section 32A(4) sets out the type of information to be published including the differences in mean hourly rates, median hourly rates, bonuses, etc. The new section 32A(5) provides for the status of employees to also be included in the breakdown referencing the ages of employees and whether they are full-time or part-time. This will be particularly interesting given the over-representation of women in part-time employment, and in the huge and growing precariat, and also given the increasing use of if-and-when contracts. The new section 32A(6) provides for the imposition of a class A fine on conviction if these provisions are contravened. The new section 32A(7) provides for the publication of the name of the employer of at least 100 staff who contravenes provisions but I am not sure why there is a difference here for employers with between 50 to 99 staff. Why are all eligible employers also not liable to be publicly named if they are not complying with law?

Why make a difference between the size of the companies in this respect?

I recently spoke on the excellent Report on Gender Budgeting produced by the Committee on Budgetary Oversight, of which I am a member. That report was worked extensively on by the Parliamentary Budget Office. Examining gender and equality budgeting has been a big part of the committee's remit. We have heard from many distinguished stakeholders on the topic, including the National Women's Council of Ireland, Members of the Scottish parliament, IHREC, the Disability Federation of Ireland and the Irish Wheelchair Association. We had hoped that the Minister for Finance, Deputy Donohoe, would produce a gender budgeting report alongside budget 2019, which was one of the committee's fundamental recommendations. Hopefully, this will happen in future along with green budgeting. Six pilot projects on equality budgeting are being undertaken by the Departments of Business, Enterprise and Innovation, Transport, Tourism and Sport, Children and Youth Affairs, Culture, Heritage and the Gaeltacht, Education and Skills and Health. Just under €2 million has been spent on these programmes, which include initiatives such as requiring more apprenticeships to be available to young women.

The Central Statistics Office produced research on historical earnings in the period 1938 to 2015. That research included an earnings by gender section. Between 1942 and 2007, female industrial workers earned less weekly than their male colleagues. The weekly difference in earnings was €79 in 1942 and this jumped to €215 in 2007 but the actual percentage gap reduced from 50% in 1942 to 31% in 2007. In 2014, the gap for industrial workers was 22.6%. Earlier this year, a marketing agency, Alternatives, released the results of a survey it carried out which showed that in the marketing and advertising sectors men are more likely to receive a higher wage and additional non-salary benefits. As Deputy Catherine Martin noted, that is the case in many professions across the public and private sectors.

In 2017, when Ireland was reviewed by the UN for compliance with the Convention on the Elimination of All Forms of Discrimination Against Women, IHREC reported on the 14% gender pay gap, the 38% gender pension gap and the prevalence of women in lower paid jobs. We know from that report and our own evidence that it is working lone parents who are more likely to live in poverty or at risk of poverty and yet the Government has consistently introduced measures that would continue to harm this cohort of women. One of the characteristics of the policies of the austerity Governments since 2011 has been that the cohort of the most vulnerable women were damaged most. We still have not undertaken fundamental reforms for groups such as women returners, the women who have been out of the workforce for several years and who do not have access to programmes such as community employment. The latter is something in respect of which we did nothing year after year. There is a great deal of ground to be made up but this Bill is an important step. With this and hopefully with the Minister of State's initiatives, we will achieve vast improvements in this area.

I mentioned Iceland earlier. Iceland introduced a gender equality law in mid-2017. It is now mandatory for companies with over 25 employees to obtain an equal pay certification. It is working to eradicate the gap by 2022. We have seen many reports on the pay gap. In the UK, we saw the outrageous differences in pay between men and women presenters at the BBC across a range of activities.

The legislation introduced by Senator Bacik and the Labour Party is a small step towards transparency and echoes the thrust of my own High Pay and Wealth Commission Bill, which I introduced in the previous Dáil. I warmly support Senator Bacik's Bill and I commend her and the Labour Party on their work on it.

**Deputy Joan Burton:** I thank everyone who has spoken this evening for their support for the Bill but especially for their commendation of our colleague, Senator Bacik, who brought this legislation forward in the Seanad. It is part of her very long record in advancing the cause of women and men in the Seanad.

St. Augustine was an early father of the Church who was reputed to have said “Lord make me pure, but not yet”. Much as I like the Minister of State, Deputy Stanton - he a lovely man, just as they used to say about women-----

**Deputy David Stanton:** I thank the Deputy.

**Deputy Joan Burton:** ----- but his contribution was straight from the school of St. Augustine. He must have been looking at the books last night to put it together. I have had this treatment from Fine Gael in the past, both in government and in opposition. What is happening here is the legislative equivalent of putting something in the fridge and then the deep freezer so that it becomes so covered over in icicles, the Government can grab its own legislation - inferior and all as it might be - and tell us we must run with it instead. I am very glad of the expressions of support for the Bill before the House and the principles contained therein. The Bill can be further improved and we are totally open to that.

I have a friend, Mary Upton, a former Deputy for Dublin South Central who departed this House some time ago. She has a theory about a potted plant and it describes well something to which the Government is prone. I refer to the situation where women cluster around male politicians to create a doughnut, or as Mary used to call it, a potted plant effect. There is far too much of this clustering in photographs on social media posted by various men in the current Government, although I will not name names. There is also an approach whereby women are flattered. Flattery will get you everywhere, as Marx - it might have been Groucho Marx - said. Flattery does not cut it.

The sentiments in the Bill are very clear. In effect, the gender pay gap means that, from November, women work for free. In other words, they are working for free for two weeks of November and all of December. I want to be clear to women at home that this is what we want to erode and end, namely, the difference whereby women, despite working just as much as men, end up earning less. We have had many examples of this. All of it needs to be changed.

The Minister of State was a little self-satisfied when he said that the public service is better. I draw to his attention a table the Minister for Finance, Deputy Donohoe, gave me yesterday which refers to the three top grades in the Civil Service. In 2012, 23% of Secretaries General were women and that has fallen to 21% in 2018, which is a small fall. For second secretaries general, who are usually in large Departments such as the Department of Finance, 40% were women in 2012 and that has fallen to 25% in 2018. At deputy secretary general level, which, again, is a significant public service position, 36% were women in 2012 and that has fallen to 24% in 2018.

The Government should wake up and look at what is happening. We have capable men and women in all parts of the public service and in all walks of life in Ireland. Our demand is simply to mind the gap and to ensure equality between men and women. It is important for young people growing up today, whether they are boys or girls in school, that they feel they can aspire to any field of work or any occupation they wish to pursue, and that our public education system and other services will make their aspirations possible to fulfil. That is what we are looking for.

We would not like professions in which there were only women and no men. In that sense, we need to look at areas like teaching to see if more young men might be encouraged to take part in various elements of teaching.

I refer to my involvement, as a politician, in advancing the cause of women. Almost every woman who comes into the House seeks to take one or more steps in favour of women. When I was elected in 1992, I put forward on behalf of the Labour Party, and, to be fair, the then Fianna Fáil Minister, Michael Woods, accepted the proposal to provide 20 years of home care credits for women in the social welfare system, which was important. As Minister of State with responsibility for overseas development aid, I was involved in orienting our development programme to the poorest people in Africa, who are women and children, and that very much arose out of the Labour Party's philosophy. In more recent years, when we went into government with Fine Gael, as the country was on its knees, in our first budget, in which I was involved as Minister, we reversed the €1 an hour pay cut that had been made to the minimum wage. For a woman working 30 hours a week on the minimum wage, that was worth €30. I have always been proud of that.

During my period as Tánaiste, we established the Low Pay Commission to research the issue of who has low and precarious pay in order that all of us in the Dáil could better address that. We also brought in registered employment agreements to allow for proper trade union negotiations, which made us the only country in Europe, in a difficult economic era, that significantly expanded trade union rights. That is very much in keeping with the philosophy of Connolly and Larkin and our Labour Party history. Not all colleagues are aware of this, or perhaps not all want to be aware of it, but it is worth pointing out. When Deputy Frances Fitzgerald and myself were the only female members of the Cabinet, alongside Máire Whelan as Attorney General, we worked to ensure that women and girls who had been affected by the Magdalen laundries had a process whereby they did not have to go to court and could get redress. It was not perfect but it provided a solution, particularly for women living in England and the United States. Very often, when women left Magdalen laundries, they just got on the first boat and headed away from this country. I am again grateful that the Labour Party, together with Fine Gael, was able to achieve what was a fundamental address of an issue that caused people to suffer all of their lives.

I would like the Minister of State to think again. Sometimes in politics it is better to be generous than to be mean, and this is one of those occasions. We have heard an extraordinary range of agreement. In the end, the Government can produce its own Bill and it can listen to people in business saying, "We cannot do that because we have only 80 employees. Why do people want to know about our business?" In any modern interpretation of what should be available politically in a country, information about firms and companies that command large swathes of our economy is important in regard to how, ultimately, people experience life. If we want to help women in low paid employment or women on social welfare who want to get into employment, we have to make sure we have a way of getting the information from companies. Where companies are not treating women on an equal basis to men, that must be immediately addressed. We have had examples in the public service going back 30 or 40 years and we have addressed them, by and large, except in terms of promotion.

We are in an era of exceptionalism in regard to the appointment of women. For example, in the justice area, recently the Minister, Chief Justice, Director of Public Prosecutions and the head of the Garda were women. For a variety of different reasons, several of them left office and we are now back to a male dominated structure. I have nothing against any of the men and

I know they have achieved their positions on merit. However, this is what the Bill is about. We have to bring in structures that force us to look at whether the proper balance between men and women is present. That is what the debate on the gender pay gap is all about. A society is poorer in a situation where women are treated less well than their male counterparts, particularly when they are doing the same or more work.

**Minister of State at the Department of Transport, Tourism and Sport (Deputy Brendan Griffin):** I am pleased to have the opportunity to contribute to the debate and to respond on behalf of the Government, specifically the Minister, Deputy Flanagan, and the Minister of State, Deputy Stanton. The explanatory and financial memorandum to the Bill does a good job of explaining its purpose and context. It identifies three uses for the information to be published by employers who come within the scope of a scheme. The primary purpose is to provide information to diagnose the causes of the gender pay gap in organisations so as to inform the formation of public policy. I assume this would require the compilation and analysis of responses from all employers subject to a scheme and for such analysis to be available to the Government for policy purposes. The second use is by employers, providing them with the means to benchmark their gender pay gap against that of their competitors. I note that this would require employers' information to be publicly available. The third use is by IHREC, whereby a scheme would provide it with an additional source of information on differences in the pay of male and female workers employed by an organisation. Such information could inform a decision by IHREC to use its existing powers to invite employers to carry out equality reviews and to prepare and implement action plans. It could also inform a decision by IHREC to carry out such equality reviews and action plans on its own initiative. When the Minister of State, Deputy Stanton, spoke on Second Stage in the Seanad on this Bill, he mentioned his concern that we should not enact legislation in this area without having full consultations first with interested stakeholders, in particular with employers and trade unions. We need to ensure the legislation asks for the right information, that it is reported in the most efficient and useful manner and that it will produce the best indicators for future policy direction, not only for national policy but crucially also to support analysis and inform change where it is most needed at the level of the individual employer. I am pleased to say that in the intervening period there has been intensive consultation on the subject. In August 2017 the Minister for Justice and Equality, Deputy Flanagan, and the Minister of State, Deputy Stanton, launched a public consultation on the gender pay gap which resulted in 38 written submissions. In January of this year the Minister and the Minister of State for Justice and Equality, Deputies Flanagan and Stanton, and the Minister for Business, Enterprise and Innovation, Deputy Humphreys, hosted a very successful symposium, 'Rising to the Challenge: Addressing Ireland's Gender Pay Gap'. The Minister of State, Deputy Stanton, has met the social partners and officials of the Department have held additional meetings with them and are in ongoing contact on the Gender Pay Gap Information Bill 2018. Deputy Stanton has also met with other organisations with an interest in the subject and will take on board their concerns and suggestions insofar as it seems appropriate.

The Oireachtas Joint Committee on Justice and Equality invited the Irish Business and Employers Confederation, IBEC, the Irish Congress of Trade Unions, ICTU, and the National Womens Council to its pre-legislative scrutiny session on 21 November and if Deputies consult the official report of that session, when it is available, they will see the views of these organisations on the issues which arise. The present Bill covers similar ground to the Gender Pay Gap Information Bill 2018 which is at an advanced stage of drafting and on which the report of the Oireachtas joint committee is awaited. The Government's preference is for its Bill to proceed to enactment because very extensive amendments to the present Bill would be needed to make

it acceptable. The long and short titles would need to be amended as with the substance of the Bill. We do not believe the making of rules on gender pay gap reporting as an IHREC function and therefore we do not think it appropriate that the Bill amends the IHREC Act 2014 but rather that it amends the Employment Equality Acts which already cover discrimination on the grounds of gender in pay.

The 2016 programme for Government said that the Government would promote wage transparency by requiring companies of 50 or more to complete a wage survey. We await the report of the Oireachtas committee on the Bill and we will publish our own Bill after that. Nevertheless, I wish to welcome the initiative of the Labour Party and in particular its Seanad Members in tabling this Bill and I look forward to the enactment and the coming into operation of legislation providing for gender pay gap reporting as soon as possible.

**Deputy Brendan Howlin:** I thank all Members of the House who contributed to this debate and in particular for the very broad acknowledgement of the work done by my colleague in the other House, Senator Bacik, who, I think, has an extraordinary reputation not only on this issue but on a wide range of areas in advancing gender equality the equality agenda and human rights in this country. I appreciate the kind words of other Members of the House on that.

This issue is a real and present one. If there is anything that has come from the contribution of every Member it is that this is an issue that must be addressed and resolved. As we said in the explanatory memorandum of the Bill, this is not a silver bullet or a curative measure but it is a mechanism to understand the nature and scale of the problem and more important the location of the problem so that we can provide a solution to it. It has gone on for 17 months. We cannot delay this further and continue discrimination for longer, and no matter what way the Minister of State dresses it up, that is the impact and import of what he told the House today.

**Deputy David Stanton:** It is not.

**Deputy Brendan Howlin:** My colleague, Deputy Burton, has said that the Minister of State, Deputy Stanton, is a decent man, and he most certainly is, a most honourable man.

**Deputy Joan Burton:** A national treasure.

**Deputy David Stanton:** Thank you.

**Deputy Jim O'Callaghan:** Let us not get carried away.

**Deputy Brendan Howlin:** He is normally also a reasonable man. I have had many discussions with him including only last week about Travellers' rights. He is normally open to progressive ideas but not tonight.

**Deputy David Stanton:** Yes I am.

**Deputy Brendan Howlin:** Not tonight.

**Deputy David Stanton:** I am not opposing this Bill.

**Deputy Brendan Howlin:** Technically, it seems the Government will not oppose this Bill because-----

**Deputy Jim O'Callaghan:** It will not support it.

**Deputy Brendan Howlin:** -----that would bring odium upon it. It cannot be seen to manifestly oppose it but it wants to hide behind - and just in case the Ceann Comhairle was not paying attention, it slotted in very overt phrases-----

**An Ceann Comhairle:** I was paying attention all right.

**Deputy Brendan Howlin:** In case the Ceann Comhairle was not alert to this, the Bill surely requires a money message. Just in case this matter might be at the Ceann Comhairle's sole discretion, ar eagla na heagla, the Minister of State decided to point that out to him.

**Deputy David Stanton:** I have not.

**Deputy Brendan Howlin:** If the Government does not want the political odium of opposing it outright, it is not an appropriate way of dealing with it, to send this Bill, as seems to be the intention, into the new limbo we have created in this Dáil. We have created a state of non-existence for Bills that require a money message. This is new politics. My colleague, Deputy Jan O'Sullivan talked about 140 Bills but I think it is closer to 200 Bills from this House alone now in that state of no grace that awaits in the pretence that new politics advances things. As I raised in the House with the Minister for Justice and Equality last week, resolutions of this House, formal decisions of this our national parliament are increasingly being treated like formal decisions of the local debating society in a third level institution. That is very dangerous for our democracy. It is undermining, and cannot be sustained.

The Minister for Transport, Tourism and Sport, Deputy Ross, who sits close by me said that in the beginning there was a degree of real concern at Cabinet that resolutions would be passed by the Dáil and the Government would be defeated but now it happens three times a week and it is a matter of indifference. That is not the way Parliament should work. We have to address this issue collectively because if it goes on that resolutions of the House or Bills passed on Second Stage are simply put on a shelf to die of old age and neglect, we undermine our democracy. I ask people to reflect on that point.

I was concerned too by the view expressed obliquely enough by the Minister of State, his curious concern about the role of the Irish Human Rights and Equality Commission, which would have fairly universal support and admiration around this House. He was concerned that we were giving it a "quasi-legislative power". It is simply to ask it to do up a scheme for reporting, authorised by legislation of these Houses. We often devolve authority to agencies of State, such as the Environmental Protection Agency, EPA, to bring in regulations to monitor environmental matters. Somebody crafted that speech, perhaps even the Minister of State himself. It underlines a worrying attitude within the Department to the Irish Human Rights and Equality Commission and I will certainly be more alert to that in future. I have underlined for my own benefit the concerns expressed by the Minister of State in his speech but I will not rehash them in the three minutes I have left. However, the Minister of State knows well that all of them can be addressed on Committee Stage if he wants to do so. The Bill has passed through one House of the Oireachtas and it can pass Second Stage in the Dáil this week. As such, there are only a couple of hurdles left. We could go through Committee and Remaining Stage this side of Christmas if the Minister of State really wanted to solve this issue and address pay inequality. The Minister of State, Deputy Griffin, came to the House to say his preference was to advance a Government Bill, but no such Bill exists. Rather, there are heads of a Bill which have been sent by Government to a joint committee for pre-legislative scrutiny. The clue is in the term "pre-legislative". It does not exist as a Bill yet. No matter what happens, that is a year away.

**Deputy Brendan Griffin:** We have to do that. We have no choice.

**Deputy Brendan Howlin:** That is true but the point is that there is a Bill here now which the Seanad has gone through and it debated amendments on Committee Stage. It was open to the Government side to present its own amendments and Sinn Féin amendments were accepted. If there are further amendments to make, let us debate them rather than to pretend there is a difficulty.

I thank Deputies for the thoughtful contributions. I should not be enticed to respond to Deputy Bríd Smith, who is congenitally incapable of making a speech in the House without attacking the Labour Party, but I need to correct a few factual points. She said as a matter of course that Ireland was the worst in the EU in terms of pay equality. In fact, if one looks at the actual statistics published by the OECD, Ireland is better than Spain, Lithuania, Cyprus, Sweden, the Netherlands, Portugal, the Slovak Republic, Germany, the Czech Republic, Austria, Finland, the United Kingdom, Latvia and Estonia. She also said the European Union was no good as it was no guarantee of gender pay equality. In fact, eight of the ten best performers on pay equality are EU member states. I will not bother going into her other inaccuracies about our term in government. She said that during the term of Deputy Jan O'Sullivan, who is sitting beside me, as Minister for Education and Skills, SNAs were reduced. In fact, they were massively increased in our time in government. In some politics, facts matter no more, but I try to be factual here.

As a smaller party, the Labour Party's Private Members' time is scarce. We have selected this Bill to bring through all Stages because it has been already passed by the other House. I ask the Minister of State to think again. He will be defeated anyway. He knows that. However, it does not matter because he will use other tactics and deny the Bill a money message. Nevertheless, I ask him to allow the Bill to proceed on Committee Stage and to provide the money message. I give him my own guarantee that if there are insuperable problems that the Minister of State finds with the Bill then and his own Bill is galloping up apace, we will address that problem with an open mind. Let us solve the problem now. Let us pass the legislation and show across the House that we are committed to pay equality in this country.

Question put and agreed to.

**Irish Human Rights and Equality Commission (Gender Pay Gap Information) Bill  
2017: Referral to Select Committee [Private Members]**

**Deputy Brendan Howlin:** I move:

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

Question put and agreed to.

**Health (Regulation of Termination of Pregnancy) Bill 2018: Report Stage (Resumed)**

Debate resumed on amendment No. 4:

In page 6, between lines 29 and 30, to insert the following:

“(2) No public moneys shall be provided by the Oireachtas to pay for the carrying out of a termination of pregnancy other than a termination of pregnancy in accordance with *section 10* or *11* in a case where there is a risk to the life of the pregnant woman.”.

- (Deputy Carol Nolan)

**An Ceann Comhairle:** When the debate adjourned last night, Deputy Nolan was on her second contribution. The Deputy has two minutes if she wishes.

**Deputy Carol Nolan:** No, that is fine.

**An Ceann Comhairle:** Is anyone offering? I call Deputy Mattie McGrath.

**Deputy Mattie McGrath:** We had a very lengthy discussion on this issue last night and I thank the Ceann Comhairle, who has just left, for his intervention asking for a reasonable and respectful debate. Amendment No. 4 was put down in good faith by Deputy Nolan and I support it wholeheartedly. As we know from the Amarach polls, 44% of those who voted to repeal the eighth amendment said they did not want to have to pay for abortion in Ireland. That is obvious but polls suit the Minister when they suit him and more times they do not suit him. There were attacks on us at the committee and there have been attacks on those who have put down a limited number of reasonable amendments. They were 10% of the total on Committee Stage. On Report Stage, we have 16 amendments of a total of approximately 60. As such, we cannot be accused of holding up, delaying or frustrating this process in any way. As Oireachtas Members, we have the right to put down amendments and deal with them. The fact that there was no pre-legislative scrutiny is all the more reason we had to table them. The Minister requested that we would have no pre-legislative scrutiny. The Adoption (Information and Tracing) Bill was introduced in the House in 2016 by the Minister for Children and Youth Affairs, Deputy Zappone, and it is only now on the same Stage as this Bill. It is clear, therefore, that this is being rushed with gusto. People are trying to intimidate us and rule us out. We are told the people have voted and that we must go with the flow and let the Minister do what he likes and care as he likes. We are doing no more than we entitled to do, namely move the amendments and speak to them. We are entitled to do so with respect and to be respected for these amendments. It is no different to the position with the amendments we tabled to the Finance Bill this week. It is what we are doing with the Social Welfare, Pensions and Civil Regulation Bill tomorrow. It is the same with all legislation. Oireachtas Members have been subjected to totally unfair criticism, including in the media. If we did not do this, in particular in the absence of pre-legislative scrutiny, we would be errant in our duty.

**Deputy Danny Healy-Rae:** I am not happy either with the attacks made by other Members on us in the media to the effect that we were holding up the debate. I have spoken only at minimum length to raise my concerns in the context of the amendment. Many people have said to me, and I meet a lot of people in the course of my constituency work, that they are concerned about the state of our health service and the way in which this money has been found to pay for the termination and ending of little babies' lives. I spoke already yesterday evening and that is all I will say on the amendment. Anyone is entitled to a view. The people who are for the Bill are entitled to their view and I will not suggest that they should not have one. I want that reciprocated and to see respect for our views in the House. We were elected also and a sizeable proportion of the population voted “No.” While more voted “Yes” and we have to respect that,

there also must be respect for the views of those who voted “No” and who have raised concerns. Like us, they are entitled to their views and opinions.

**Deputy Michael Collins:** I spoke on this amendment last night and I felt that, following a poll that was carried out after the referendum, it was clear that the people did not fully realise that the taxpayer would have to foot the bill.

I raised questions on this last night and the Minister did not answer them. The questions were about the large numbers in the UK who have a second abortion and the many cases of women who have up to eight abortions. I asked the Minister to provide clarity on whether the State would pay for multiple abortions and whether there is a reason for this. It may not always be what it seems and it could be a situation where a person is being abused and is being forced to abort. We are being asked to pay for multiple abortions which is questionable, but we also need to see if there is a reason for that, so I ask if we will work with the person in that situation? It is important that we find that out.

I am also unhappy with the way many of the Deputies conducted themselves last night because it was like bully boy tactics in some cases, but that is their way of dealing with this issue. I will certainly not be frowning, laughing, smirking, nodding and winking about other Deputies' amendments when they move them because they feel they are genuine in what they want to do. I support this amendment going forward.

**Deputy Michael Healy-Rae:** On the amendment, I was disappointed to hear some of the personal attacks that were made on Deputy Nolan, which were totally wrong, because everybody has his or her mandate when he or she comes in here and everybody is entitled to say what he or she wants to say and move the amendments that he or she wants to move.

Certain sections are trying to box a group of Deputies into a corner and make us out to be something that we are not. The people of Ireland voted the way they voted and I am not allowed to speak on behalf of anybody else but I know I am not generalising when I say that we are democrats, we understand that the people voted the way they voted it and that is it, end of story.

However, what has happened since has been remarkable. As I said last night, the Minister has changed and made so many U-turns at this stage that it is amazing. He is entitled to do that.

The people are now getting something that is completely different from what they voted for. The vast majority of amendments that were moved by Deputies to support the Bill are changing it. Just because we question it and because we want to have legislative scrutiny, which of course the Oireachtas should have, we are being questioned and the big issue seems to be that we are delaying the Bill. Nobody is delaying anything by as much as one minute. This is taking the time it would take regardless. The Minister will be able to bring in the legislation by the date that he has given and debating it is doing nothing to interfere with that. No Deputy here will speak for one second longer than what they should and I am sticking to that as the Acting Chairman will note.

**Acting Chairman (Deputy John Lahart):** The Deputy is and I appreciate it. As Deputy Nolan moved the amendment, does she wish to conclude?

**Deputy Carol Nolan:** No, it is fine.

Amendment put:

<i>The Dáil divided: Tá, 9; Níl, 90; Staon, 0.</i>		
<i>Tá</i>	<i>Níl</i>	<i>Stاون</i>
<i>Aylward, Bobby.</i>	<i>Bailey, Maria.</i>	
<i>Collins, Michael.</i>	<i>Boyd Barrett, Richard.</i>	
<i>Fitzpatrick, Peter.</i>	<i>Brady, John.</i>	
<i>Grealish, Noel.</i>	<i>Brassil, John.</i>	
<i>Healy-Rae, Danny.</i>	<i>Brophy, Colm.</i>	
<i>Healy-Rae, Michael.</i>	<i>Broughan, Thomas P.</i>	
<i>McGrath, Mattie.</i>	<i>Bruton, Richard.</i>	
<i>Nolan, Carol.</i>	<i>Buckley, Pat.</i>	
<i>Tóibín, Peadar.</i>	<i>Burke, Peter.</i>	
	<i>Burton, Joan.</i>	
	<i>Butler, Mary.</i>	
	<i>Byrne, Thomas.</i>	
	<i>Cahill, Jackie.</i>	
	<i>Calleary, Dara.</i>	
	<i>Carey, Joe.</i>	
	<i>Casey, Pat.</i>	
	<i>Cassells, Shane.</i>	
	<i>Chambers, Lisa.</i>	
	<i>Collins, Joan.</i>	
	<i>Collins, Niall.</i>	
	<i>Connolly, Catherine.</i>	
	<i>Corcoran Kennedy, Marcella.</i>	
	<i>Coveney, Simon.</i>	
	<i>Cowen, Barry.</i>	
	<i>Creed, Michael.</i>	
	<i>Cullinane, David.</i>	
	<i>Curran, John.</i>	
	<i>D'Arcy, Michael.</i>	
	<i>Daly, Clare.</i>	
	<i>Daly, Jim.</i>	
	<i>Doherty, Pearse.</i>	
	<i>Doherty, Regina.</i>	
	<i>Donnelly, Stephen S.</i>	
	<i>Durkan, Bernard J.</i>	
	<i>Ellis, Dessie.</i>	
	<i>Farrell, Alan.</i>	
	<i>Fitzgerald, Frances.</i>	
	<i>Flanagan, Charles.</i>	
	<i>Funchion, Kathleen.</i>	
	<i>Harris, Simon.</i>	

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	<i>Harty, Michael.</i>	
	<i>Healy, Seamus.</i>	
	<i>Heydon, Martin.</i>	
	<i>Howlin, Brendan.</i>	
	<i>Kehoe, Paul.</i>	
	<i>Kelleher, Billy.</i>	
	<i>Kelly, Alan.</i>	
	<i>Kenny, Martin.</i>	
	<i>Kyne, Seán.</i>	
	<i>Lahart, John.</i>	
	<i>MacSharry, Marc.</i>	
	<i>McConalogue, Charlie.</i>	
	<i>McDonald, Mary Lou.</i>	
	<i>McEntee, Helen.</i>	
	<i>McGrath, Finian.</i>	
	<i>McHugh, Joe.</i>	
	<i>McLoughlin, Tony.</i>	
	<i>Mitchell O'Connor, Mary.</i>	
	<i>Mitchell, Denise.</i>	
	<i>Moynihan, Aindrias.</i>	
	<i>Munster, Imelda.</i>	
	<i>Murphy, Eoghan.</i>	
	<i>Naughten, Denis.</i>	
	<i>Naughton, Hildegarde.</i>	
	<i>Neville, Tom.</i>	
	<i>Noonan, Michael.</i>	
	<i>O'Brien, Jonathan.</i>	
	<i>O'Callaghan, Jim.</i>	
	<i>O'Dea, Willie.</i>	
	<i>O'Dowd, Fergus.</i>	
	<i>O'Loughlin, Fiona.</i>	
	<i>O'Reilly, Louise.</i>	
	<i>O'Rourke, Frank.</i>	
	<i>O'Sullivan, Jan.</i>	
	<i>Ó Broin, Eoin.</i>	
	<i>Ó Caoláin, Caoimhghín.</i>	
	<i>Ó Laoghaire, Donnchadh.</i>	
	<i>Ó Snodaigh, Aengus.</i>	
	<i>Pringle, Thomas.</i>	
	<i>Ring, Michael.</i>	
	<i>Rock, Noel.</i>	
	<i>Ross, Shane.</i>	
	<i>Ryan, Brendan.</i>	

	<b><i>Scanlon, Eamon.</i></b>	
	<b><i>Shortall, Róisín.</i></b>	
	<b><i>Smith, Bríd.</i></b>	
	<b><i>Stanley, Brian.</i></b>	
	<b><i>Stanton, David.</i></b>	
	<b><i>Wallace, Mick.</i></b>	
	<b><i>Zappone, Katherine.</i></b>	

Tellers: Tá, Deputies Carol Nolan and Peadar Tóibín; Níl, Deputies Seán Kyne and Tony McLoughlin.

Amendment declared lost.

**An Ceann Comhairle:** Amendment No. 5 is in the names of the Minister, Deputies Copping, Barry, Paul Murphy, Catherine Martin, Clare Daly, Wallace, Joan Collins, O'Reilly, Bríd Smith, Gino Kenny, Boyd Barrett and Catherine Murphy and it arises out of committee proceedings. Amendments Nos. 5 to 10, inclusive, 57 and 58 are related, amendments Nos. 6 to 9, inclusive, are physical alternatives to amendment No. 5, and amendment No. 9 is a physical alternative to amendment No. 8. Amendments Nos. 5 to 10, inclusive, 57 and 58, therefore, will be discussed together.

*7 o'clock*

**Minister for Health(Deputy Simon Harris):** I move amendment No. 5:

In page 6, to delete lines 30 to 37, and in page 7, to delete lines 1 to 11.

As I set out on Committee Stage, I note that the section on offences was placed in Part 1 of the Bill. As I outlined on Committee Stage, this was purely for technical reasons. The Bill was drafted in accordance with recognised drafting convention and legislative practice regarding the structures and arrangement of Acts. There was no other reason to place it in this Part of the Bill and certainly no symbolic or other considerations behind it. Moving the offence provision has no bearing on the substantive operation or application of that section. However, in light of the concerns raised on Committee Stage of the Bill in the Dáil, I asked the Office of the Parliamentary Counsel to look again at the positioning of this section. A number of Deputies made the point that a Bill about access and healthcare for women should not have, as the first thing when one picks up the Bill, the offences section. We asked the Office of the Parliamentary Counsel to look at it again and therefore I am submitting amendments which will have the effect of moving the offences section to Part 3 of the Bill. They propose deleting sections 5 and 6 from Part 1 of the Bill as it currently stands and instead inserting them as new sections, 25 and 26, in Part 3 of the Bill. While this move will have no bearing on the substantive operation of the section, I hope it will address some of the concerns that people raised on Committee Stage about a chill factor in having these sections upfront in the Bill. I will address the other amendments later.

**Deputy Louise O'Reilly:** My amendments in this group cover offences. I have tried to ensure that medical practitioners and people who are acting with the explicit permission of the pregnant person are excluded from offences. When we had the Joint Committee on the Eighth Amendment of the Constitution, we had lengthy discussions about the chilling effect of offences and the impact that has on doctors and pregnant people. We concluded that there was a considerable chilling effect from the offences, which were acting in a way that was deeply unhelpful and not necessarily a medical necessity. Medical professionals need to be assured that if they act with good faith and do their job in good faith, they will not be exposing themselves to prison sentences merely for administering healthcare. If we do not explicitly protect doctors, we will continue to see this chilling effect and this could end up endangering women's health. We found at the committee that the chilling effect has an impact and can put women's health in danger.

Amendment No. 7 seeks to ensure that in cases where a pregnant woman explicitly requests someone to help her obtain abortion pills from the Internet or in another manner, that person will not subsequently be guilty of an offence. We do not want to end up with a situation similar to the one we have seen in the North where a woman who was helped by her mother to obtain abortion pills is now under investigation and could possibly be jailed for acting on the explicit instruction of and within the bounds of what her daughter had requested. I believe we have to remove the reference to a 14-year prison sentence. To me, this is just the eighth amendment coming back into the legislation.

**Deputy Bríd Smith:** The Minister just said that he has taken this from the front of the Bill and put it in the back because in our discussions and we talked about the chill factor for doctors. I am sure he is not misinterpreting anything but I think he is misplacing the sentiment. What we said and still mean is that having it upfront makes this Bill look like it is about criminalising abortions rather than being about women's healthcare. We have always argued that it has to be centred on women and women's healthcare. Taking the chill factor from the front to the back is like closing the front door and opening the back door and letting the wind come through. It does not get rid of it. The fact that there is a 20-year sentence for a doctor or medical practitioner is still a chill factor and it is part of the legacy of what we are trying to leave behind us and what the country said we need to leave behind and move on from. The 14-year sentence is still there and will be still a big negative to the provision of services. In fact, it could lead to putting the brakes on midwives and doctors in maternity care services participating in the scheme.

I understand that these amendments will technically fall if we support the Minister's but the Minister having put his name to our amendment does not mean we will vote against our own amendment. Now is probably the appropriate time to speak to why we want to get rid of criminalisation, which is why we say "delete", and the Minister's name is now on that, though he is moving it to amendment No. 57. If he cannot do that, will he at least try to lessen the impact of criminalisation, including, as proposed by Deputy Clare Daly, the removal of the 14-year sentence? If one combines the 14-year sentence and criminalisation with the compulsion of notifications for all doctors who administer abortions and the serious harm wording in the matter of where a woman's health or life are at risk, I think the Minister is compounding the fear that doctors and medical practitioners of all sorts will have about providing proper, full, sustainable healthcare for women. It was that chill factor and the question of how they could engage with this process that stopped doctors from treating Savita Halappanavar in the way she should have been treated. I appeal to the Minister not to go down this route and to call out those in his Department and those providing the legal opinion that he must do this. There does not

have to be a 14-year sentence.

I think Lawyers for Choice have made recommendations in the case of anybody being coerced or treated violently, and having an abortion forced on her, which would be a rare case indeed. Nevertheless, they argue that this can be dealt with under existing legislation, the Non-Fatal Offences Against the Person Act, by inserting two small paragraphs. I think the Minister is aware of them. They state that the following two paragraphs could be inserted:

It shall be an offence for a person intentionally or recklessly

(a) to cause injury or death to a pregnant person such as to cause their pregnancy to end; or

(b) without consent to administer any drug or substance to a pregnant person such as to cause their pregnancy to end.

Section 5(2): It shall be an offence for a person intentionally to coerce or deceive a pregnant person into having [a termination of pregnancy, as defined by this Act,] against their will or without their knowledge.

Surely that addition into other legislation would do what the Minister is attempting to achieve here and do women of this country a service by removing the chill factor that lingers over doctors and medical practitioners.

**Deputy Clare Daly:** This section and this group of amendments are the most important before us in our adjudication of this legislation. Our names are on amendments Nos. 5 to 9 in this grouping. At the core of this is the decriminalisation of abortion in Ireland in line with the ancillary recommendations of the Citizens' Assembly, the Oireachtas joint committee, the United Nations and the World Health Organization. Anybody who even glanced at the proceedings of the Joint Committee on the Eighth Amendment of the Constitution would see that the issue of decriminalisation came up at every single session. It is reflected in our report, which cited the case Amanda Mellet brought to the UN Human Rights Committee. It found for her and against Ireland. It found Ireland had subjected her to discrimination and inhuman or degrading treatment because of our laws against abortion in circumstances of fatal foetal impairment. It found her suffering was aggravated by the shame and stigma associated with criminalisation. We know the report of the Oireachtas joint committee stated the criminal provision also has the potential to create a chill factor for doctors and clinical risk by distorting clinical decision making. Moving it to the back means it is great it is not at the front but we are not decriminalising abortion.

At lunchtime today, I happened to bump into one of the leading people in the Well Woman Centre, which will be at the forefront of delivering the services. We have received a statement from the Irish Family Planning Association, which will also be at the forefront of delivering the service. These eminently respected and key arenas for women's health are warning us we must remove criminalisation from the Bill. They are not alone in this. The World Health Organization has long called for an end to criminalisation and defines decriminalisation to mean removing specific criminal sanctions against abortion from the law. By supporting our amendments we will be supporting the World Health Organization's position.

I want to draw attention to a statement made in September by the Office of the United Nations High Commissioner for Human Rights. It urged governments throughout the world to

decriminalise abortion and enhance their progress towards ensuring the right of every woman or girl to make autonomous decisions about her pregnancy. The statement warned that:

Legal frameworks for abortion have typically been designed to control women's decision-making through the use of criminal law. Many legal frameworks generally prohibit abortion and make it legal only on specific grounds that do not capture the range of circumstances in which women and girls may need abortions. Moreover, strict time limits for abortion often cause women to be in situations where their abortions become illegal. These legal restrictions frequently converge with the practical barriers to effectively deny abortion to pregnant women and girls at the expense of their dignity and well-being.

These are very serious words.

We are at an important juncture in the development of Irish society in terms of women's reproductive health. If we pass this legislation but maintain a criminalisation sanction in it, albeit a slightly watered down one, we will fail any organisation that gave this issue serious consideration, which every one of them has. Even at this late stage, I am pleading on these issues.

The provision is unusually wide ranging. It has the potential to still have a chilling effect. It is broad enough to leave healthcare providers open to malicious reports and criminal investigation with regard to their decisions as to gestation stage or the nature of risk to health after 12 weeks. We do not need them operating in that climate. I know the Minister will speak about good faith and reasonable opinion but they are defences to being prosecuted. They might work or they might not but it does not preclude the initiation of criminal proceedings with all the consequences for healthcare providers this would involve. There is ample medical regulation and other legislation in place to cover such situations. Given that the eighth amendment was removed by popular vote there is no requirement to include this clause. As we pointed out on Committee Stage, the Irish Family Planning Association and others have pointed out new offences should only be included if there is a public interest in addressing a clearly identifiable potential harm to women that would otherwise fall outside the remit of medical regulation. I have not seen any that fall into this category.

Amendments Nos. 6 to 8, inclusive, would become relevant in the event of amendment No. 5 falling. They would send a signal that if we are maintaining some form of sanction we need a clear statement in defence of doctors who might be worried about the chill factor associated with the Government's offences provisions and, therefore, might be deterred from providing abortion care to their patients. It is also there to ensure others, such as friends and family members of pregnant women, who ask for assistance are not criminalised in the process of acquiring pills. Where they act in good faith and on explicit instruction from a pregnant woman they should not be subject to a criminal prosecution. This would protect against somebody being coerced.

I echo the point made that we need to move away from associating abortion with a 14 year jail term. It is being consistently mentioned as the term, which leads people to believe it is an automatic sentence. If we were to do nothing else we should do this. I know the Minister will support the first of the amendments but he must support the removal later of criminalisation or not move its insertion. Obviously, we will oppose its insertion. It is absolutely critical because of all of the empirical medical and legal evidence before us. Even at this 11th hour I plead that we deal with this once and for all in the proper clinical medical setting and not as a stand-alone issue open to any extra criminal sanctions, which is what we are still doing.

**Deputy Richard Boyd Barrett:** On a point of order, I would like clarification. If amendment No. 5 is agreed, do amendments Nos. 6 to 9, inclusive, fall? Is this correct?

**Acting Chairman (Deputy John Lahart):** That is correct. That is my understanding.

**Deputy Bríd Smith:** Even though we would be introducing them.

**Deputy Richard Boyd Barrett:** I do not want to make accusations but it is a bit of a slight of hand. We will all vote for the same amendment to remove the criminalisation clause but the way the amendments have been grouped means that by doing so we cannot move the subsequent amendments that would at least mitigate the worst effects of the decision the Minister has made.

**Deputy Simon Harris:** The grouping was not my decision.

**Deputy Richard Boyd Barrett:** Fair enough but that is the effect and it is unfortunate. The points have largely been made but the fact of the matter is that doctors seeking to ensure the health and welfare of women in pregnancy situations will now be labouring under an anxiety and fear that if they do certain things they may be guilty of a criminal offence and subject potentially to a 14 year prison sentence. To my mind this is patently unacceptable. It is a throw-back and concession to the viewpoint of those who were defeated in the referendum, where the people made a very clear decision they do not believe that women making a decision to have an abortion should be guilty of a criminal offence and that women should have the right to do it. The Minister is retaining a criminal offence and that chill effect of a potential prison sentence.

**Deputy Bríd Smith:** Not for the woman, just the doctor.

**Deputy Simon Harris:** Not for the woman.

**Deputy Richard Boyd Barrett:** Sorry, not for the woman but for the doctor. The doctor will be labouring under that anxiety. It is not an acceptable situation if doctors in these difficult, often crisis driven situations, are wondering whether they are guilty of a criminal offence and outside the law if they do this. We know where this has led us in the past. It has potentially disastrous consequences. I really think the Minister has got to reconsider this. As other speakers have said, this is the most important issue before us in terms of the amendments and I really think the Minister should reconsider.

**Deputy Joan Collins:** I will be brief because Deputy Clare Daly covered most of the points I would like to have made. This is one of the most important parts of the debate we will have tonight. We cannot ignore the World Health Organization's warning of what keeping criminalisation in a Bill on women's health and abortion can impose on doctors or others, such as a sister or a mother.

If a daughter is approaching the 11th or 12th week and cannot access a doctor because of a potential conscientious objection and things are getting quite difficult, her mother might access a website and seek an abortion pill. That woman, or a father, could then be criminalised and jailed for 14 years.

I will read into the record what the other amendments propose. Amendment No. 6 states:

In page 7, between lines 2 and 3, to insert the following:

“(4) *Subsections (1) and (2)* shall not apply to a medical practitioner acting in good faith.”.

Amendment No. 7 states:

In page 7, line 3, to delete “It” and substitute “Save in the case where a person is acting with explicit instruction from the pregnant woman, it”.

Amendment No. 8 states:

In page 7, line 7, to delete “for a term not exceeding 14 years” and substitute “for a term proportionate to the scale of the offence”.

Amendment No. 9 states:

In page 7, line 7, to delete “for a term not exceeding 14 years”.

As Deputy Clare Daly stated, we submitted these amendments on the basis that amendment No. 5 would fall. However, these four amendments will fall if amendment No. 5 is accepted. I appeal to our colleagues in the Seanad to carry these amendments when the Bill is sent back there and to argue for them to be included in the new section the Minister will create. In the meantime, I ask the Minister to take what we have said on board. The joint committee made this point very clearly with regard to criminalisation. It was probably the issue that was most debated in the committee. Leaving this provision in place will damage the Bill rather than enhance the fact that women will be able to access women’s healthcare in a way they have never been able to previously in the history of this country. Removing that section would enhance the Bill and I appeal to the Minister to do that.

**Deputy Simon Harris:** The reason I am removing this section is that a number of Deputies asked me to remove it at the outset. I am happy to do that. After the people voted to remove the eighth amendment, I told the House that I felt a responsibility to stick to what we said we would do in the general scheme. These offences were included in that scheme. The Bill provides that it shall be an offence for a person, by any means whatsoever, to intentionally end the life of a foetus other than in accordance with the provisions of the Bill. Officials from my Department and the Office of the Attorney General considered these issues in a number of ways. Deputies have submitted amendments which propose to delete the offence entirely so that the termination of pregnancy is decriminalised. I cannot accept them. In many countries, this matter is covered by law in penal or criminal codes so Ireland is not unusual in providing for offences in law and for penalties to be applied when the law is broken.

A number of Deputies have proposed deleting the subsection which makes it an offence for a person to aid, abet, counsel or procure a pregnant woman to intentionally end or attempt to end the life of that pregnant woman’s foetus other than in accordance with the provisions in the Bill. However, criminalising a person who does this is necessary from a policy perspective. The health and well-being of pregnant women are at the heart of this policy. Helping a pregnant woman to end her pregnancy outside of the provisions of the Bill is not in her best interests and may on occasion put her health or her life at risk. One of the primary purposes of this legislation, and the amendment to the Constitution that preceded it, is to eliminate the health risk to women from illegal abortion. The Bill also provides that women can access, free of charge, safe medical procedures carried out by registered medical practitioners. That is an important point.

The provisions in the Bill protect people from forced abortions or an attempt to intimidate women, for example, in a situation of domestic or sexual abuse. A dominant personality trying to forcibly terminate a woman's pregnancy might induce a woman to terminate the pregnancy herself instead of attending a medical practitioner. I accept there is a difference of views on this, but we proposed these offences in the general scheme of the Bill which the people saw in advance of the referendum. It is important that termination of pregnancy remains illegal outside the circumstances in which it is legal. I have taken significant advice from the Attorney General on this matter and I am not in a position to accept the proposed amendments.

**Deputy Clare Daly:** We must deal with this from the perspective of where we came from. In the context of the various scenarios outlined by the Minister, there are ample medical regulations and other legislation that would cover those rogue operators and coercers and deal with those issues. The reason it must be decriminalised is precisely because of our history, the possibility of malicious complaints and so forth. The Bill provides for abortion to be carried out in accordance with the provisions of the law. Take the example of a doctor who, in good faith, is examining a woman who may be approximately ten weeks' gestation but who is not sure whether she is within the 12 weeks. If the doctor makes the diagnosis, he or she has hanging over him or her the threat of criminal sanction and a potential 14-year prison sentence. One can state that he can say he was acting in good faith and that he will get away with it. However, he could also decide that the risk is too great and that he does not want to take it. Suddenly, the doctor is concentrating on possible legal penalties rather than on what is in the best interests of his patients.

Similar judgment calls will be impeded for our medical practitioners in the case of the health of a woman, for example, where they are considering serious health risk. What does this mean? The doctor has to wonder how serious it is. That is a big thing and now the doctor cannot concentrate on her health as he or she must worry about the potential legal sanction. It is that serious. This is an extremely important measure to protect women's health. We need decriminalisation. I echo the points made by Deputy Joan Collins. The other clauses minimising the offences can be dealt with in the Seanad if the offences provision does not fall later. Full decriminalisation must be dealt with first.

**Deputy Bríd Smith:** This is probably the final comment I will get to make on this. This provision will come home to roost in the most dangerous situations for women. I do not believe that it is envisaging somebody forcing a woman to take the pill or forcing her to have an abortion under the ten or 12-week limit, when 95% or 96% of women generally seek terminations. The number of women who seek terminations in the early term is very high. This will come into its own as both a chill factor and a dangerous legal implement when women are at their most vulnerable and endangered. When their lives or health are at risk, when they are undergoing abortions for fatal foetal abnormality or when there are questions about viability is when this will have the most impact. This section is putting the most risk on the most vulnerable women at the most vulnerable time of their lives. Applying the logic of shoving pills down one's throat and so forth is not what this is about. As I said earlier, the Minister has been asked by Lawyers for Choice and others to consider using other existing legislative measures in terms of offences against the person rather than inserting this provision. It must be considered very gravely indeed. We run the risk of not having the obstetricians, doctors and midwives step up to the plate if they think they might become criminals with potential 14-year sentences hanging over them at the most urgent time of the most vulnerable woman's life.

**Deputy Billy Kelleher:** I said from the start of this debate and in advance of the referendum

that we should stick with the heads of the Bill. The public made its decision emphatically and any deviation undermines the process we presented to the people. However, I am concerned - I have always expressed this view - about the criminalisation of people. We should always place matters in a context. It might be a vulnerable girl whose friend helps in the procurement of abortion tablets. When they are administered, it could all go horribly wrong. In that context, it is not good for the health of the girl if, by presenting to a medical professional, her friend or colleague could be prosecuted and criminalised for helping her to procure an abortion.

There are downsides to this as well. We must consider the practicalities of what can happen. I accept that there must be a system in place whereby people are not able to provide abortions without criminal sanction in the event that they do it regularly and outside of good faith. Equally, consider those particularly vulnerable young girls or women from immigrant backgrounds or women without access to major supports who, in the event of this going wrong, may be very slow to come forward for medical assistance because the person who assisted them could be criminalised and sent to jail for 14 years. Even people who have very strong views against this legislation are concerned. The criminalising element with the severe sanction of 14 years was also an issue of major concern for many people during the previous debates around the Protection of Life During Pregnancy Act that we discussed years ago, well in advance of this legislation. While I say in one breath that I do not like any deviation - I accept that it is in the heads of the Bill - I believe that we have to keep an eye on this to ensure we are not discouraging people from presenting to medical professionals if things go wrong, and I put it to the Minister that things do go wrong.

**Deputy Louise O'Reilly:** We all agree on the deletion of those lines but we just have some disagreement about reinsertion and where they should go. I do not think there should be any element in the legislation that causes a doctor to think about anything other than the woman who is sitting in front of him or her and who needs to be treated. We have heard enough evidence about the chilling effect of criminalisation and about the stigmatisation. All that, however, is bound up with criminalisation. We will be discussing this aspect with our colleagues in the Seanad when it goes to that House, but at this stage I would encourage the Minister to reflect. I understand fully what was in the heads of the Bill but equally we do not want any part of the legislation to cause a doctor to think about anything other than providing the care, or for any part of the legislation to dissuade any woman or pregnant person from coming forward if they were in need of help.

**Deputy Simon Harris:** Deputy Kelleher speaks a lot of sense on this; it is something that needs to be very carefully monitored. This is why we are going to get on to issuing a review clause shortly, which is quite important. To be clear, the Oireachtas all-party committee gave me my instructions in preparing for the referendum and in drawing up the general scheme. The committee asked me to make sure the law was amended to allow for surgical terminations to be legally carried out in a hospital setting and to allow for medical terminations be provided for through the licensing of medications for that purpose and prescribed by a qualified practitioner acting in good faith. The committee recommended that where terminations occur in such settings, no criminal sanctions should apply, and in any case no woman should ever be guilty of a criminal sanction. This is what the Members on the Oireachtas committee charged me with doing as the Minister for Health. This is what we put into the general scheme of the Bill and this is what we put to the people. The woman never commits an offence in any circumstance. The woman should not ever be criminalised. This is very important.

We have come from a situation where termination was illegal in Ireland, except in the nar-

rowest of circumstances when the woman was about to die. We are now in a situation where we will rightfully allow access to termination, without a charge and on a universal basis, to any woman and without specific indication, although there is always a reason, up to 12 weeks. There is a legal difficulty with what some Deputies are asking me to do. They ask if this can be caught in other Bills. I looked at this quite carefully and it cannot. Under section 7 of the Criminal Law Act 1997, referred to by some Deputies, “Any person who aids, abets, counsels or procures the commission of an indictable offence shall be liable to be indicted, tried and punished as a principal offender.” Given that the pregnant woman will never be, nor should ever be seen to be, committing an offence this section of the Act will not apply and cannot be relied upon to charge any person who aids or abets, counsels or procures a pregnant woman to end her own pregnancy. I worry that we have yet to find a better vehicle by which to do this. We have had numerous conversations with the Attorney General. Based on those conversations, on the work of the all-party committee and on the general scheme of the Bill, I am not in a position to accept the amendments to remove the offences section. I would take Deputy Kelleher’s advice about the importance of keeping this under active and ongoing review.

**Acting Chairman (Deputy John Lahart):** Before I put the amendment, I note that if amendment No. 5 is agreed then amendments Nos. 6 to 9, inclusive, cannot be moved.

Amendment agreed to.

Amendments Nos. 6 to 9, inclusive, not moved.

**Deputy Simon Harris:** I move amendment No. 10:

In page 7, to delete lines 12 to 22.

Amendment agreed to.

**Acting Chairman (Deputy John Lahart):** Amendments Nos. 11 and 12 are related and may be discussed together.

**Deputy Simon Harris:** I move amendment No. 11:

In page 8, line 9, to delete “5 years” and substitute “3 years”.

I do not intend to take any time on this. It is prudent and sensible to review the operation of an Act and that we would not make the mistake of other countries by passing a Bill and considering that we had done our job here. It is important that we check the Act, which is about access and about women’s healthcare, is working for women and for the medical profession. I had proposed on Committee Stage that the review would take place after five years. After engaging with colleagues across the House, there was a view that five years was a little bit too long. I now propose an amendment to reduce that to three years. There is also an amendment in from colleagues to specify what the review should do. I understand that my colleagues are very keen to ensure that the information they require is covered in the review. I do not believe that it is appropriate or desirable to set that out in legislation. It could have an unintended consequence of limiting the scope of any future review situation, a consequence which I know we would all wish to avoid. Amendment No. 11 proposes to reduce from five years to three years the period after which a review should be carried out.

**Deputy Joan Collins:** On a point of order, or for clarification, the last group of amendments included amendments Nos. 5 to 10, inclusive, and Nos. 57 and 58. Have we moved on from

that discussion?

**Acting Chairman (Deputy John Lahart):** We will take it consecutively.

**Deputy Louise O'Reilly:** I wish to discuss amendment No. 12, which arose out of discussions we had around the current practice. The purpose of this amendment is to ensure that we are a bit prescriptive around what is recorded. It is important. We need proper records, similar to the hospital in-patient enquiry data, HIPE. This will be a new service so the data could give the review some real and tangible meaning. We are all conscious of the vote and that people voted for this new service, but equally we need to make sure that the service delivers for those women. I do not believe we can rely on the data collected and collated to date in the context of the protection of life during pregnancy legislation. It does not give us enough information to be able to inform the service and make sure that women are accessing the service. I am especially conscious of areas where there may be a geographic element to it, for example. We could then look at the data and surmise why there was either a large number of terminations in one area or no terminations in another area. Having spoken with doctors and legal practitioners, they are very much of the opinion that this needs to be in the legislation so that we can make sure it is collected and collated, and that it is used to give us a realistic picture of abortion statistics and, more important, of the trends. The collation of data will facilitate the improvement of the service. It will make sure the service is meeting the needs of those who need it and it will ensure that any future policy changes are undertaken with meaningful data in mind and with the services informed on that basis.

**Deputy Clare Daly:** I support the Minister's amendment No. 11, and welcome the reduction in the review period. However, our amendment No. 12 must accompany it. I reassure the Minister regarding his fears that specifying these elements might limit the type of review. He need not worry about that at all because the amendment states it, "shall include"; it does not state "shall only be" or "shall exclusively". The review must include these things but that does not prevent the Minister from adding in a rake of other stuff, if he wants, as well.

**Deputy Simon Harris:** That is true.

**Deputy Clare Daly:** It is important in order to inform the type of review which must be conducted. We are talking about access to abortion. In fairness, points made by everybody on all sides of the House during the debate yesterday demonstrated that Members want access not just for some people but for all women. I am particularly struck, for example, by the document submitted earlier from Disabled Women Ireland in respect of access to this legislation for women with disabilities and so on. It is critical that we would examine this to ascertain whether the legislation is fit for purpose. Crucially, the question of access for women in Northern Ireland needs to be evaluated and affirmed.

**Deputy Simon Harris:** Yes.

**Deputy Clare Daly:** It would be hypocritical of us to deny access to women outside the State, given our history and our exporting of well in excess of 100,000 over the years to the UK. That needs to be evaluated and we should specify it. My concern is that these reviews can sometimes be used to legitimise privatisation, for example. This needs to be about protecting a public service that gives access. Data need to be analysed to do that. Our specification adds to the review and makes it the type of review that benefits women and does not limit the service. It should be welcomed. I welcome the fact that amendment No. 12 was not ruled out of order.

I thought it might have been.

**Deputy Richard Boyd Barrett:** I do not see how the Minister could argue that the provisions of amendment No. 12 could limit a future review. It is just insisting that certain important indicators of whether women who need abortion services are gaining access to them are met. We are trying to ensure that women who need abortion services have genuine access to them. If over the next three years we discover that, for example, women who need abortion services and should have them are still travelling to Britain, it would be an indication that the legislation had failed and needed to be examined to ensure that additional hardship was not being put on Irish women. Similarly on the issue of Northern Ireland and the recommendations of the Citizens' Assembly, which have not been fully followed through on in this legislation, all of these issues should be examined to ascertain whether the legislation has had its desired effect in guaranteeing the welfare and health of pregnant women and their right to access abortion services. I do not see why the Minister would have a problem with amendment No. 12 and he should accept it.

**Deputy Stephen S. Donnelly:** I support the intent of amendment No. 12 but in practical terms the best data collection is probably served by not inserting this amendment. The section covers the issue, stating that the Minister shall, after not later than three years, carry out a review of the operation of the legislation. The amendment makes some reasonable suggestions as to what needs to be in that review, including barriers to access to service. However, we do not know where we are going to be in three years. Some unexpected issues will inevitably have arisen. I am all for more and better data and comprehensive reports. I am sure that is what will happen.

By prescribing what needs to be in here, while it is all perfectly reasonable and well intentioned, the amendment potentially runs against us. One or two civil servants will be tasked with putting this review together. They will have a significant volume of work to do. Data collection in the system is appalling generally. Some of the areas specified in amendment No. 12 may not be the highest priorities in three years. However, if officials are mandated to report on them it is where people are going to focus, because they have to focus. It is where people reading the report might focus because it has been in the legislation. We might pull focus and resources away from some areas that could become more important.

I fully agree that the report must be comprehensive. It should have the input of the House beforehand to agree exactly what is in it. The best mechanism, when the three-year period is about to be reached, probably would be a debate in Dáil, or at the health committee or an informal meeting with the Minister and whoever wants to be involved. We could do it that way. Providing this level of specificity about what data needs to be included in a review that is to take place in three years is not helpful.

**Deputy Alan Kelly:** On amendment No. 11, I agree with the Minister about changing the review period to three years. A number of us are glad that the Minister listened on that issue. Five years was certainly the wrong timeframe. I support amendment No. 12. It is a good amendment because God knows we have issues in respect of proper data collection when it comes to healthcare. The specifications set out are not absolute and the Minister can add to them quite broadly. I accept some of Deputy Donnelly's comments that priorities will change and different issues will arise. As the services are put into place, we will find out what issues arise and they can be added to the review. All of these are issues that are going to have to be analysed one way or the other. We are going to have to see how it is working under each and every heading. From a scoping point of view, including this in the legislation might help to

focus minds from the outset on the level of detail and data gathering that is required. I will support amendment No. 12.

**Deputy Bríd Smith:** I want to respond to something that was just said by Deputy Donnelly in support of the Minister. He called for something he did not table as an amendment, which is that when it comes to having the review after three years, as amended by the Minister, we would have the input of this House. If he wanted the input of the House before the review takes place, the he should have tabled an amendment to that effect. Amendment No. 12 has had the input of many Members and it is prescriptive about the review but provides that “it shall include” the elements listed, as was said. We are discussing barriers to access such as criminalisation and the chill factor. We will later discuss other barriers when it comes to whether doctors who avail of conscientious objection will have to report to the Minister that they have conscientiously objected. That is not provided for in the Bill. Amendments providing for access to services from Northern Ireland have been ruled out of order. Let us see the impact of these provisions in three years. Deputy Donnelly thinks we should have the input of the House; this amendment results from the input of a large section of the House, including those of us who are on the joint committee and many female Deputies. We want to see these issues included in the review and there is no amendment that provides for going back to the House in three years.

**Deputy Catherine Murphy:** Amendment No. 12 is in my name among others and obviously I support it.

What is different about this Dáil is that we went through a pretty unique process in advance of the referendum. It is important we leave a marker giving the context of the review. This Dáil will not deal with it because there will be a general election in the meantime. It will be dealt with by a subsequent Dáil and some of us may not be here. It is valid for us to leave a marker of what is intended because we have been through that unique process that included the Citizens’ Assembly, the all-party Oireachtas committee and the referendum campaign in which we had very real engagement on the doorsteps. We do not know how the legislation will play out, but these are markers that we at least want to see in a review.

**Deputy Richard Boyd Barrett:** Chairman-----

**Acting Chairman (Deputy John Lahart):** The Deputy has already spoken. I am going to call the Minister and then I will come around again.

**Deputy Simon Harris:** Data are very important. We might even disagree about some of this as we go through the legislation later. More data are likely to be collected on this health service than on any other. I and my successors will lay a report before the Houses annually. Among the numbers and statistics to be laid before the Houses annually will be the number of refusals of reviews under the legislation.

I fully agree that women from Northern Ireland should be able to access termination in this country. Deputy O’Reilly and I had a very good meeting with advocates from the North. They will be able to access it. We have not yet found a mechanism on the eligibility to make it free, as we have for citizens in the Republic of Ireland, but they absolutely will be able to access it. We will have a follow-up meeting with advocates from Northern Ireland when these services are operational in the Republic of Ireland in January.

I know Ministers come and go. Deputy Catherine Murphy is right in saying that elections happen and we all change. For the sake of my successors I want to put on the record of the

House that the Oireachtas Joint Committee on Health or the Dáil should agree the terms of reference for any such review. I have no difficulty with that; it is sensible and prudent. I say that on the record of the House so that any successor should have to explain why they are changing their mind on that. I also think it should be an external and independent process. I do not think in primary legislation we should be prescriptive on what that review encompasses for the reasons outlined by Deputy Donnelly.

I obviously proposed my amendment to reduce the period of time for the review from five years to three years. I emphasise that we are not waiting three years to get data or statistics. Obviously a mechanism under the Health Act is available to me to demand any information and data from the HSE at any time. Under the health committee and these Acts I am accountable, as is the HSE, to various committees for keeping Members up to date. A comprehensive, independent review in three years with the buy-in and agreement of all Members of the House on the terms of reference is the way to proceed.

**Deputy Louise O'Reilly:** This is not an issue of trust. Nobody is saying people do not trust other people, but there is a problem with collecting data and there is a problem with the existing data. Including it in the legislation will mean that what should be done will be done. The list is by no means exhaustive. Obviously it can be added to as required. The list represents what I and others believe should be a minimum. Specifically section 2(e) proposes reviewing the recommendations of the Citizens' Assembly, which is extremely important. We should not leave it up to chance.

We support the Minister's amendment No. 11. Sinn Féin with others had called for the review period to be reduced in any event.

**Deputy Richard Boyd Barrett:** I listened to the Minister's arguments against amendment No. 12. Obviously we agree with his amendment to reduce the review period to three years. If we do not pass amendment No. 12, very important information will not necessarily be collected to inform us whether women are being left outside this legislation in terms of their access to healthcare.

Deputy Donnelly said that in three years the Dáil can input into what we want included in the review. In three years' time it will be too late to gather the information we need to start gathering from the moment the legislation passes. We need to start to collate the information immediately the legislation is implemented and the services are established, to establish whether the legislation and the services are achieving what we want them to achieve.

Unless the Minister can tell us right now that he is guaranteeing us that all this information will be gathered - I do not really see how he could really do that - why would he not want it in the legislation that we are now committing that this information will be gathered? It should be the responsibility of the HSE and the various people involved in providing the services to log information as to whether, for example, significant numbers of women are finding it difficult to access the services, whether there are barriers, whether women from the North who need the services are able to access them and all of the other possible issues largely related to access and the effectiveness of the legislation. Unless the Minister gives us some other commitment, which he has not done at the moment, we need a commitment that information will be gathered. To wait for three years will be too late. We need the information from the word go.

**Deputy Simon Harris:** I thought I had, but I will try again. I am giving this House a com-

mitment that there is no intention whatsoever that we pass this legislation and do not have data available to Members of this House-----

**Deputy Richard Boyd Barrett:** These data.

**Deputy Simon Harris:** -----and much more importantly to clinicians and women. Amendment No. 12 is specifying that in three years' time this is what should be done. I am saying that we will do better than that and that we will lay before the Houses a report with statistics and data. I am saying that - this is not a new commitment the Deputy needs from me - the HSE, as the operators of the service, can and will appear before Oireachtas committees to answer questions from the Deputy and his colleagues regularly.

This is a review of the operation of the Act. This should be about talking to doctors, the Institute of Obstetricians and Gynaecologists, and women's advocate groups about how the Act is operating and not reviewing the recommendations of the Citizens' Assembly which at that stage will be relatively old. It is about checking what I believe the people voted for in passing the referendum and what their representatives voted for in legislating is working on the ground.

Much of the data the Deputy is seeking already exist. For example, section 2(b) calls for information on "the number of pregnant people who may require travel to other jurisdictions to avail of terminations of pregnancy". Without being in any way flippant, insofar as people give addresses, we can find out this evening, on the British Department of Health and Social Care website, how many Irish women have travelled to Britain.

I certainly do not do not intend to wait three years before we address the issue of women from Northern Ireland accessing services. Barriers to access to services under the Act are very much at the core of the three year review. The only one that presents a challenge to calculate is the categories of pregnant people who may be unable to avail of services under the Act. We would need some research methodology from an external reviewer to get to the bottom of that.

This is a three year review that will learn from the mistakes of other countries that passed legislation and left it on the shelf gathering dust without checking whether it was working for women and doctors. We will not do that. However, we should not be overly prescriptive. If we were being prescriptive, we would probably have missed a number of the core things that should be part of any review.

Amendment agreed to.

*8 o'clock*

**Deputy Clare Daly:** I move amendment No. 12:

In page 8, between lines 10 and 11, to insert the following:

“(2) The review under this section shall include a review of:

(a) any barriers to access to services under this Act;

(b) the number of pregnant people who may require travel to other jurisdictions to avail of terminations of pregnancy;

(c) the categories of pregnant people who may be unable to avail of services under this Act;

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(d) access to services for those from Northern Ireland; and

(e) the recommendations of the Citizens' Assembly.”.

Amendment put:

<i>The Dáil divided: Tá, 34; Níl, 64; Staon, 0.</i>		
<i>Tá</i>	<i>Níl</i>	<i>Staon</i>
<i>Boyd Barrett, Richard.</i>	<i>Aylward, Bobby.</i>	
<i>Brady, John.</i>	<i>Bailey, Maria.</i>	
<i>Broughan, Thomas P.</i>	<i>Brassil, John.</i>	
<i>Buckley, Pat.</i>	<i>Bruton, Richard.</i>	
<i>Burton, Joan.</i>	<i>Burke, Peter.</i>	
<i>Collins, Joan.</i>	<i>Butler, Mary.</i>	
<i>Connolly, Catherine.</i>	<i>Cahill, Jackie.</i>	
<i>Coppinger, Ruth.</i>	<i>Calleary, Dara.</i>	
<i>Cullinane, David.</i>	<i>Carey, Joe.</i>	
<i>Daly, Clare.</i>	<i>Cassells, Shane.</i>	
<i>Doherty, Pearse.</i>	<i>Chambers, Lisa.</i>	
<i>Ellis, Dessie.</i>	<i>Collins, Michael.</i>	
<i>Funchion, Kathleen.</i>	<i>Collins, Niall.</i>	
<i>Healy, Seamus.</i>	<i>Corcoran Kennedy, Marcella.</i>	
<i>Kelly, Alan.</i>	<i>Cowen, Barry.</i>	
<i>Kenny, Martin.</i>	<i>Curran, John.</i>	
<i>McDonald, Mary Lou.</i>	<i>Daly, Jim.</i>	
<i>Mitchell, Denise.</i>	<i>Doherty, Regina.</i>	
<i>Munster, Imelda.</i>	<i>Donnelly, Stephen S.</i>	
<i>Murphy, Catherine.</i>	<i>Doyle, Andrew.</i>	
<i>O'Brien, Jonathan.</i>	<i>Durkan, Bernard J.</i>	
<i>O'Reilly, Louise.</i>	<i>English, Damien.</i>	
<i>O'Sullivan, Jan.</i>	<i>Fitzgerald, Frances.</i>	
<i>O'Sullivan, Maureen.</i>	<i>Fitzmaurice, Michael.</i>	
<i>Ó Broin, Eoin.</i>	<i>Fitzpatrick, Peter.</i>	
<i>Ó Caoláin, Caoimhghín.</i>	<i>Harris, Simon.</i>	
<i>Ó Laoghaire, Donnchadh.</i>	<i>Harty, Michael.</i>	
<i>Ó Snodaigh, Aengus.</i>	<i>Healy-Rae, Danny.</i>	
<i>Pringle, Thomas.</i>	<i>Healy-Rae, Michael.</i>	
<i>Ryan, Brendan.</i>	<i>Heydon, Martin.</i>	
<i>Shortall, Róisín.</i>	<i>Kehoe, Paul.</i>	
<i>Smith, Bríd.</i>	<i>Kelleher, Billy.</i>	
<i>Stanley, Brian.</i>	<i>Kyne, Seán.</i>	
<i>Wallace, Mick.</i>	<i>Lahart, John.</i>	
	<i>MacSharry, Marc.</i>	

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	<i>Madigan, Josepha.</i>	
	<i>Martin, Micheál.</i>	
	<i>McConalogue, Charlie.</i>	
	<i>McEntee, Helen.</i>	
	<i>McGrath, Mattie.</i>	
	<i>McGrath, Michael.</i>	
	<i>McHugh, Joe.</i>	
	<i>McLoughlin, Tony.</i>	
	<i>Moynihan, Aindrias.</i>	
	<i>Murphy O'Mahony, Margaret.</i>	
	<i>Murphy, Eoghan.</i>	
	<i>Murphy, Eugene.</i>	
	<i>Naughten, Denis.</i>	
	<i>Naughton, Hildegard.</i>	
	<i>Neville, Tom.</i>	
	<i>Noonan, Michael.</i>	
	<i>O'Callaghan, Jim.</i>	
	<i>O'Dowd, Fergus.</i>	
	<i>O'Loughlin, Fiona.</i>	
	<i>O'Rourke, Frank.</i>	
	<i>Ó Cuív, Éamon.</i>	
	<i>Ring, Michael.</i>	
	<i>Rock, Noel.</i>	
	<i>Ross, Shane.</i>	
	<i>Scanlon, Eamon.</i>	
	<i>Stanton, David.</i>	
	<i>Tóibín, Peadar.</i>	
	<i>Varadkar, Leo.</i>	
	<i>Zappone, Katherine.</i>	

Tellers: Tá, Deputies Bríd Smith and Louise O'Reilly; Níl, Deputies Seán Kyne and Tony McLoughlin.

Amendment declared lost.

**Deputy Simon Harris:** I move amendment No. 13:

In page 9, line 9, to delete “*section 14(2)(a)*” and substitute “*section 14(2)*”.

Section 14(1) states:

A termination of pregnancy may be carried out in accordance with this section by a medical practitioner where, having examined the pregnant woman, he or she is of the reasonable opinion formed in good faith that the pregnancy concerned has not exceeded 12 weeks of pregnancy.

Section 14(2) states:

A termination of pregnancy shall not be carried out under this section unless —

(a) the medical practitioner referred to in *subsection (1)* has certified his or her opinion as to the matter referred to in that subsection, and

(b) a period of not less than 3 days has elapsed from the date of certification referred to in *paragraph (a)*.

Section 14(3) states:

The medical practitioner referred to in *subsection (1)* shall make such arrangements as he or she shall deem to be necessary for the carrying out of the termination of pregnancy as soon as may be after the period referred to in *subsection (2)(b)* has elapsed but before the pregnancy has exceeded 12 weeks of pregnancy.

The requirement that the certifying medical practitioner must carry out the termination of pregnancy is necessary to ensure the process for accessing a termination of pregnancy is clear for the woman and her medical practitioner. The lack of a direct link between the four stages of the process, namely, examining, forming the opinion, certifying and carrying out the termination has the potential to act as a barrier to the woman wishing to access termination of pregnancy. For example, if the law did not require under the section the termination to be carried out by the medical practitioner who forms the opinion referred to in section 14(1), it could lead to a situation where a medical practitioner certifies in his or her reasonable opinion formed in good faith that the pregnancy concerned has not exceeded 12 weeks of pregnancy and after the required three days has elapsed from the date of certification, the woman could be refused termination by a different medical practitioner on the grounds that he or she is not of the required opinion, which could create a barrier to access that none of us wants to see. Furthermore, the law should not impose an obligation on a medical practitioner to carry out a medical procedure on the opinion of another medical practitioner if he or she does not agree with that opinion.

From a legal perspective, I am advised that not linking the four steps in the process would have the effect of breaking the chain of causation necessary for an unlawful termination of pregnancy to be prosecuted effectively. Having set out the rationale for the policy behind the requirement of the legislation, I must note the following points raised on Committee Stage, concerns raised by medical practitioners and discussions within my Department about implementation and service provision.

A difficulty was identified in the section, which we discussed at length, because it would require without exception the certifying medical practitioner to carry out the termination of pregnancy. Should the section be left as it stands, it may create a barrier to access for women in certain cases, where, for example, the medical practitioner is subject to unanticipated events such as illness or other issues which mean he or she is not available when the woman returns for the termination of pregnancy. In addition, rostering issues and practical realities of medical practice in a hospital setting mean that following the three-day period the same doctor may not

be on duty when the pregnant woman returns to undergo the termination of pregnancy. In both cases, the requirement for the same doctor to carry out the medical procedure could result in the woman having to start the process all over again with another medical practitioner and also to have to undergo a three-day wait period again, which no one wants to see happen.

It remains my policy that the medical practitioner who forms the opinion and certifies the termination of pregnancy should be responsible for carrying out the medical procedure. I do not wish to create any other mechanism in that regard, but it is important that we acknowledge the practical realities of service provision. I propose, therefore, amendments in this group to the section, which would allow a second medical practitioner to become involved following the three-day period if the first is available. The amendments keep the safeguards and legal requirements which the section currently contains but aim to clarify the pathways for accessing the service and avoid creating an additional barrier for women trying to access the termination of pregnancy under this section. The effect of my amendments is to provide that where a medical practitioner has formed the reasonable opinion in good faith that a woman's pregnancy has not exceeded 12 weeks, and certified that opinion, and the woman has fulfilled that three-day period a second medical practitioner may carry out the procedure without a further period having to elapse, where he or she has formed the reasonable opinion in good faith that the pregnancy has not exceeded 12 weeks and has certified the opinion. This does not change the grounds but it recognises that following the period after the woman returns to see the doctor, it may not be the same doctor on duty. The doctor may be ill or on leave and we cannot have a situation where a barrier is put in front of that woman.

This tries to respond to the concerns expressed to us as a health committee by the medical profession and concerns which many colleagues have expressed in this House and discussions in my Department. It is a sensible amendment, which recognises the practical reality that when a woman returns to her doctor, the same doctor may not be able to see her and she should not have to start the process all over again.

**Deputy Louise O'Reilly:** I will speak to amendments Nos. 33 and 34 in this grouping. The Minister said that we cannot have a situation where there is a barrier but the three-day waiting period constitutes a barrier. There are different degrees by which it does so. It might not be so much of a barrier for a wealthy woman who can easily take time to access her GP, but for a woman who lives in the North who might have to make multiple journeys, it represents a significant barrier. For a woman subject to domestic violence, it will be a barrier that will effectively render this legislation useless. A woman in direct provision might not be able to get out. These are serious considerations.

I reiterate my statement on Committee Stage that the Joint Committee on the Eighth Amendment of the Constitution did not recommend the three-day waiting period. It is a political construct. It was not recommended by doctors, lawyers or any of the politicians on the committee, yet it somehow found its way into the public discourse. While we accept it was in the heads of the Bill and formed part of the discourse, nevertheless barriers to access – I will not speak of cooling-off periods – must be minimised because access is key. We have discussed whether access should be put into the Title of the Bill. Surely we can accept that if we must live with the three-day waiting period, it can start from when the appointment is made, two or three visits to a doctor are not necessary and a requirement of this nature will have different degrees of impact on women, having the least impact on wealthy women who have time, if they are not in a domestic violence situation, and the most impact on women who do not have the financial means. As I said on Committee Stage, ultimately, the test of this legislation will be whether

there is a marked reduction in the number of women sourcing tablets from the Internet. If there is not, then this legislation will have failed. If we stick with multiple visits to a GP, we will put an unnecessary barrier into this legislation.

This legislation also has a blind spot relating to women under the 12-week period but in a situation where the three-day wait could take them over 12 weeks. It would be sensible to ensure that if the three-day period is overly burdensome, then we can do what is necessary to minimise the impact of that, if we cannot eliminate it altogether.

The Joint Committee on the Eighth Amendment of the Constitution did not put this in but it was put in. We could probably schedule a rake of debates on how, why and where this happened, however, it was part of the public discourse. I would like to be eliminated completely but the purpose of my amendment is that we limit its impact on access, especially for the groups to which I referred.

**Deputy Mick Wallace:** I will make effectively the same points. We also support amendment No. 31. It was tabled at Committee Stage but was not successful. The World Health Organization, WHO, has said that waiting periods like this demean women as decision makers, and we ought to keep that in mind. Waiting periods will only lead to delays in accessing treatment. The UN committee on the elimination of discrimination against women also recommended the elimination of medically unnecessary waiting periods for abortion as they pose a barrier to access. The legislation is supposed to facilitate access to abortion services and we should remove any barriers. There is no medical basis for the waiting period, which will particularly hit poorer people, those living in rural, isolated areas and people who may be in abusive relationships.

Amendment No. 34 seeks to waive the three-day waiting period if the woman in question would otherwise be denied a pre-12 week abortion. While we advocate a complete removal of the three-day period, if we cannot achieve that, then surely amendment No. 34 is a reasonable alternative. If a woman decides that she wants to have an abortion and cannot access one here because of an arbitrary barrier to access with no basis in medicine, then she will still have to travel to the UK.

Amendment No. 33 has a similar intention to that of amendment No. 32 tabled by Deputy Kelly. Its intention is to reduce to some extent the negative and harmful effects of the three-day waiting period by ensuring that the clock starts from the time of the appointment, irrespective of how long one must wait for the appointment.

**Deputy Stephen S. Donnelly:** As I set out on Committee Stage, I do not agree with the three-day period and there is no medical evidence to back it up. However, it is unambiguously in the heads of the Bill and, therefore, it is part of what people voted for. If we are applying a principle that says we must stay in line with what the people voted for, inevitably we will sometimes vote for provisions that we personally agree with and sometimes against provisions we personally agree with. This is one of those times. I will support the retention of the three-day waiting period because it was part of the heads of the Bill which people knew when they voted.

I thank the Minister for his clarification on section 13. An issue I raised with him at length on Committee Stage, as have senior clinicians, is that it would have been unworkable for a woman to have to go back to the same GP in any circumstances. GPs get sick, they work in different practices, locums are used, GPs go on holidays and so on. I acknowledge that the

Minister has taken this on board. Amendment No. 35, which is not in this group but is related, essentially brings that in and allows a woman to be seen by a second GP after the three days. I acknowledge that the Minister committed to bringing that in on Report Stage and has done so. I will support it, as it is important that if a GP changes, a woman can still access healthcare services.

**Deputy Ruth Coppinger:** I will formally move amendment No. 31 and I will refer to a number of other amendments in the grouping. From the outset, Solidarity has pointed out that this will be an unnecessary barrier to many women and pregnant people. We said that it was not discussed in any great depth by the Joint Committee on the Eighth Amendment of the Constitution and any time it was raised, every expert swiftly said that no such delay should be implemented. The WHO opposes these barriers being put in the way of women accessing abortion and healthcare. We have established that it was a political decision, which came after the committee reported, to make it easier for some Deputies to accept the legislation. However, it was ill informed because no real discussion had taken place about it. This is being done away with in France, for example, where abortion legislation is much older. In any country where these waiting periods apply, they always act as a barrier to the most vulnerable in society - the poorest women and people who live in isolated areas, who may not, by the way, have a GP near them to supply this service and who have to travel. It will hit ordinary working women, who will have to take a half day or a day off work for the first GP appointment, take more time off for the second appointment and then take time off to have the abortion itself, which could involve a few days. We currently have many people in precarious work who do not have official leave or even sick leave, and we are making life much more difficult for them. It is already a difficult situation for people to manage, particularly for those who are working or who may have children, in that they will be asked to make an unnecessary second visit. As has been pointed out, people who are in abusive relationships or controlling relationships will also find it very difficult to get to a GP surgery on two occasions, given they need transport and time on their hands. This is just not needed.

Many of the points have been made before and we will not labour them. People voted in the knowledge that this was in the legislation. However, there was no necessity to put it in legislation. It did not have to be nailed into a law. Once it is nailed into a law, we all know how difficult it is to amend it or change it if we find it is a major problem. It could have been put in medical guidelines as an option for a GP to recommend that somebody needed more time to think, for example. We could all tell our anecdotes about talking to people on the doorsteps but it certainly was not a big feature for the people I spoke to. Even if people were aware of this, what was proven by all of the exit polls at the referendum was that people voted "Yes" to give people a choice. It was a very pro-choice sentiment, probably more so than the Government realised. Trusting the person to make this decision was the overriding point that came back at the doors. Since this has been proposed, we have had the whole situation with cervical cancer and a recognition there has been a paternalistic model of not trusting women, not giving them full information and not treating them as agents with brains and thoughts to make these decisions for themselves.

I will make two final points. This will not just be a three-day delay. The reality is that GP surgeries open five days a week. If a person rings up for an appointment on Monday or Tuesday, they will then have to go back for the second appointment and, as the surgery will be closed on Saturday and Sunday, many people will have two extra days added on to the delay. In addition, doctors do not want this as they know how unworkable their surgeries are going to

become. As it stands, there are queues and long waiting times, particularly in urban areas. This is not wanted by GPs as an added burden. Anywhere these waiting periods have been brought in, it has proven to be much more than three days.

Trump and people who are attacking abortion rights all around the world start by bringing in or proposing these kinds of measures. Why do they do it? It is because they want to erode those rights and make it much more difficult for somebody to have an abortion, if that is their own decision. We should recognise that when people pick up the phone to ring their doctor to make an appointment to discuss something like this, they have thought about it; in fact, they have thought about nothing else. I object to the idea that the Minister needs to tell them to go away and think for another three days when that does not apply to any other group in society who wants to access medical care. We should start trusting women and pregnant people to make these decisions for themselves.

If we are going ahead with them, I support the other amendments in the grouping, which at least would make it somewhat easier in practice to access these services.

**Acting Chairman (Deputy Frank O'Rourke):** To clarify, the Deputy cannot move amendment No. 31 until we reach it.

**Deputy Bríd Smith:** I want to speak to amendments Nos. 33 and 34. Insofar as I want to challenge what has been said in regard to this being in the heads of the Bill that was put to the people, which got us the vote to repeal the eighth amendment, I want to make the following points. As has been said, it was not a decision or a recommendation, it did not even form part of the discussion for those of us who sat on the joint Oireachtas committee, and it was not a recommendation of the Citizens' Assembly. It came into the political discourse as we were clearly moving towards a referendum and the heads of Bill were then published with this in it. I remember thinking, "Where did that come from? I am quite shocked." The only reference I could remember to a waiting period from the time one would contact a doctor was from the Netherlands, where there is a waiting period of up to five days, although it starts from the time one contacts the doctor to make the appointment.

As has been said, it is making an assumption that no full thought is given to the request that is being made to the doctor, which is pretty patronising. However, let us say full thought was not given to it and that it was just an impulse along the lines, "I will pick up the phone now and look for a termination but I have not really thought it through." The Minister said he envisages a 24-7 helpline that would guide people towards a practitioner who would give them an abortion or deal with their request for an abortion. It is just a thought, but what if such a helpline was geared to say to people who call that they have to get a doctor's appointment and that their request has been noted, that it is 28 November and that in three days' time, 2 December, if they have not had an appointment, at least it will have been noted that they requested one and that three days have to elapse before their doctor gives them the pills they require. That would make sense, given a helpline is to help, so questions can be asked and the person can be referred to a counselling service.

Nonetheless, I can tell the House this will apply in very few cases. It is a big decision in one's life to seek a termination, and it is not something anyone does without thinking about it. This is an obstacle to access. We are going to hear this again and again, just like we did in the last discussion. If we want to create an accessible service for women in crisis pregnancies, then we should not put these obstacles in the way, and I see this as an obstacle. There are many pro-

visions in amendments Nos. 33 and 34 that would allow for the three-day period to be inclusive of when the appointment was first sought. It could be sought by email, by text or by phone call, for example, through the 24-7 helpline. Whichever way it is sought, there are means of recording the three-day period after it is sought.

The measure is cruel and highly political. When we went to the people with this as part of the heads of the Bill, it was not part of the major discussion but neither was it completely clear that the three days would start from the time the termination is sought. That was ambiguous in the heads of the Bill and this needs to be taken into account when one makes the argument that we must deliver on the outcome according to the heads of the Bill. As I said, the heads of the Bill were ambiguous. We need to take cognisance of the fact this did not form part of the discourse of either the Citizens' Assembly or the joint Oireachtas committee.

**Deputy Clare Daly:** These are key amendments in our deliberations. They were discussed at length at committee. I want to echo the points made about where this came from. When this was discussed at the committee, to be fair, the Dutch representatives were incredibly good and this certainly did not come from them, so any idea we are basing it on the Dutch model is wrong. It was designed to facilitate and encourage careful decision making. The Dutch service is very much based on women consulting with their doctors but the woman's decision and input is the key one. No woman makes this decision lightly. When she decides to make an arrangement with her doctor she has already given the issue an incredibly serious amount of thought and we have to see this provision in the context of other provisions and restrictions that are there. It is the combination of those factors that make the waiting period a barrier. It is not like the Dutch service where abortion provision is much broader. It is not on as strict a clock of 12 weeks. The circumstances where they can access abortion are far more broadly available. The decision to implement it here in this way if it is not amended will act as a substantial barrier and other Deputies have made the point that if we are keeping the three-day limit, which is the case, we have to get real on when we say that. It should be the date on which an appointment is requested for all the reasons highlighted, including the geographical inequality, the problems in our health service, the difficulty in getting a doctor's appointment and all the rest. That is a reality and by combining that with the provision as currently constructed the clock could tick and women who are in danger of exceeding the 12-week limit would be in a situation where they are forced to travel or access an unsafe abortion which was one of the key situations that people in putting forward this legislation did not want because it causes delays and delays mean harm. It is critically important that it be the date on which the appointment is requested.

Amendment No. 34 is key also because it states that unless the three-day period is overly burdensome to a women, including because it might contribute to her exceeding the 12-week limit. This is critical in the context of those vulnerable groups. I used the example last night of the challenges for deaf women, that the helpline, the phone option, is of no value to them. A website is not of much value either when a large chunk of the country does not have access to broadband and all the rest. It is still not good enough. When a deaf woman needs to see a doctor there is the added burden of procuring an Irish Sign Language interpreter to go with her. There could be a significant shortage of qualified interpreters available, and an even smaller number who are experienced in a medical setting which is difficult. The woman may not want to bring her family along for privacy reasons. She may live in a rural part of the country where it is even more difficult to get a sign language interpreter and not to mind all of the other barriers. In circumstances like that, there has to be an option for a waiving of the three-day period if there is a risk of it going over the 12 weeks. I am particularly worried and I would hope the

Minister would say how he envisages the situation of a woman in a domestic violence scenario or one who is coming from a remote direct provision centre is to attend the second appointment after three days. The Minister kind of led us to believe on Committee Stage that section 12 might be used to waive the waiting period but we need to put that on the record because there has to be a facility for waiving that period. Otherwise we are in danger of forcing people to continue to travel who are at that juncture.

**Deputy Alan Kelly:** I want to speak to amendment No. 32 in my name. It is very similar to amendment No. 33. The Minister should listen to the previous speakers. I agree wholeheartedly with what they have said. The three-day period was in the heads of the Bill, we have to accept that. How it got in there we can possibly debate another time. It is a barrier for all the reasons that have been stated. If we have to stick to the three-day period, my amendment proposes that we consider the period in which the woman makes the arrangements to attend the medical practitioner, when the clock begins to tick.

I know it was in the heads of the Bill and the public voted on it. I am not of the opinion that, while it was in the heads of the Bill and the discourse at the time, it was in people's minds that there was an absolute doctrinal three days. It would be within the spirit of what was proposed if my amendment or, indeed, amendment No. 33 – I am not hung up on which amendment is passed – was accepted. It does not change anything that the legislation and heads of the Bill proposed.

There are many practical reasons the Minister should accept one of these amendments. Many women find themselves in vulnerable situations, where they may, within a fairly defined period, have to create a circumstance where they can start the clock ticking by making arrangements for this procedure. There is a range of reasons they might find themselves in that situation. I have met many of the doctors' groups which are in favour of this legislation but in certain parts of rural Ireland, there will be geographical problems with provision of service from day one, for many reasons which I will not go into here. It is going to be quite difficult for some women, some young girls and some people in vulnerable situations to adhere to this requirement. That is why it is necessary, if we are going to stick to this three-day period - I believe is a barrier but it is there and was in the heads of the Bill - that we at least accept one of these amendments to ensure the clock can start from the time they make their arrangements with the relevant doctor. We will be treating young girls and vulnerable women in many different circumstances very badly if we do not do that.

This does not transgress what we put to the public in the heads of the Bill. It very much fits within the demarcations on which this was put to the public and on which it voted. The Minister should be comfortable accepting this sort of amendment.

**Deputy Billy Kelleher:** I am in a slight dilemma on this issue because I have said we should stick as closely as possible to the heads of the Bill published in advance of the referendum. The Oireachtas Joint Committee on the Repeal of the Eighth Amendment of the Constitution did not make a recommendation on this. To be honest with the House because I would like to be honest in this debate, and I think we should all be honest about it, this was inserted primarily to address concerns of the Tánaiste and Minister for Foreign Affairs and Trade, Deputy Coveney, last March. He is entitled to that concern because this is a very difficult issue. It was inserted for that reason alone. There is no clinical or other evidence to suggest why it could be in there. I distinctly remember at the time that issue being raised on several occasions by the Tánaiste and subsequently the three days counselling was floated and now we have the three-day cool-

ing off period, which was in the heads of the Bill. That is why it was in the heads of the Bill. There may be other views on the other side but I am fairly certain that is the reason. Whether it was in the heads of the Bill or not, it will act as a barrier. Some people may have wanted it in to act as a deterrent. It will certainly act as a barrier for several reasons. Women or young girls who find themselves in a crisis pregnancy and a very vulnerable position may have difficulty going to the GP twice for several reasons. First, if the GP in the surgery a woman in a rural area normally goes to is a conscientious objector, she may have to travel a long distance to a GP who is not a conscientious objector. It would mean taking time off, finding someone to mind children and travelling long distances. That is a simple example of the practicality of the three-day wait. The other issue is that of vulnerable women, namely, women who may be in very abusive relationships or who may have chaotic lives where one day just rolls into the next. Given that chaos, they may not be able to organise themselves to attend a GP service on the third day or close to it.

There are many reasons this might act as a barrier, even though it was put in to act as a deterrent. Those are fundamentally different. I am very concerned about it. The fact it was in the heads of the Bill suggests that what was put should be passed. The review, however, will have to be very clear in assessing this particular issue. If we continue to find that women are procuring abortion pills online on a continual basis, this will evidently have been a barrier to people availing of services. I expressed concern about the three day provision when the heads of the Bill were published, but I accept that it is there and do not want to deviate from it for the reasons outlined. People on both sides of the debate will simply rerun the campaign itself whereas we have to accept the verdict of the people and try to implement what was put to them. To be helpful and honest, that is why the provision is there. It is not there for any clinical reason that I heard listening to many hours of professional evidence presented at the committee. Nothing flowed from that to suggest this was a good idea. It was never really mentioned by people advocating for women's health or by doctors who care for women in obstetrics and gynaecology. For that reason, I have major concerns about it. There is a three-year review, although there is nothing to stop the Minister coming to the House next month or next year to amend the legislation in advance of a review. I record the fact that I have been very uncomfortable with the inclusion of this provision in the heads of the Bill and with the reasons that was done. However, I am purist about the legislation we put on the Statute Book being as closely aligned as possible with the Bill as published in advance of the referendum.

**Deputy Mary Butler:** I refer to amendments Nos. 32 to 34, inclusive, and the 72-hour provision. On 26 May, the people voted to repeal the eighth amendment and provided the Oireachtas with the opportunity to legislate for the termination of pregnancy. When the people cast their votes, they had the heads of Bill to guide them. They stated clearly that there would be a 72-hour waiting period before an abortion could be carried out. It is irrelevant why that was promised or who promised it. It was in the heads and that is what is relevant. The 72 hours were referred to in some instances as a cooling off period, but this was put forward by the Taoiseach as a safeguard. Its inclusion in the heads of the Bill was the important point because when the people voted on 26 May, they were guided by what they saw in those heads. The removal of the waiting period would mean the Government misled the Irish people deliberately on the safeguards during the referendum campaign. Many people could be described as having voted by way of a soft "Yes". They passed the vote on the basis of the guarantees provided by the Government. The Government has to be held to its word. There is a great deal in the Bill with which I do not personally agree but I am a realist and I realise that when the people voted, they did so according to their conscience based on what was contained in the heads of the Bill.

Those heads included a 72-hour waiting period. No removal of the waiting period should be permitted.

**Deputy Lisa Chambers:** I do not like the three-day waiting period. It is not something I would have included in the Bill. As other Deputies have said, however, it is part of what was put before the people and voted on. There are many aspects of the legislation of which other Members do not approve, but that is what was voted on. We have to be consistent as we move through this process. The three-day waiting period does not serve the interests of women. It serves to placate some of those who are more concerned about having services at all. As has been said, however, it was part of what was put before the people in May. No woman comes to a decision to request a termination lightly. It is not a decision that is taken at the last minute or without have considered the situation. However, the provision suggests that one needs three days to cool off because one does not really know what one is doing, does not know one's own mind or has not really thought about it properly. It suggests that if one has three days to think about it further, one will change one's mind. In my view, when one has come to the stage of asking for the service and for help, one has thought about it and knows what one is doing. One knows one's own body and mind and has one's own reasons for wanting the service. As such, the review will be important. We must consider sections like this in particular in that context as they may have a very negative impact on women.

I refer in particular to the amendment to which Deputy O'Reilly spoke and the potential for the three-day waiting period to be overly burdensome on some women. There will not be many cases of it, but it is possible that there will be women who, for whatever reason, find out and make that decision very late and close to the 12-week mark. It is possible in those circumstances that the three-day requirement will put them over the 12 weeks, thereby precluding them from accessing services in the jurisdiction. It is one of the potential consequences for women. This provision suggests somehow that women do not know what they are doing when they request the service and that if a woman has a bit more time to think about it, she might change her mind. It undermines the validity of her decision in the first place. It is insulting to suggest that a woman has not thought about it properly before she makes that call or sees her GP.

However, I understand the concerns on the other side of the debate and I understand that some people genuinely believe that with more time to think, one might change one's mind. I understand why the three-day waiting period was requested. I appreciate fully and acknowledge that it was voted on and formed part of the heads of the Bill. For that reason, I support the position of Deputies Donnelly and Kelleher that we have to pass legislation that is very much in line with what was before the people in the referendum.

**Deputy Catherine Murphy:** When witnesses from Holland were before the all-party committee, they outlined the kind of care available in their country. Some of the very good ideas they brought to the committee were helpful, in particular in relation to ancillary measures such as those around unmet contraception needs. They were a very good set of witnesses. The matter of the waiting period came up in the context of a discussion with those witnesses.

*9 o'clock*

I particularly remember asking how that works because I was trying to visualise somebody from this jurisdiction who had to travel and went to the Netherlands. How would that practically happen for them? Would they arrive in Amsterdam, turn up at a hospital and wait for three days? We were absolutely assured that it did not work like that. The way it worked was that

it was from the date where the contact was first made, be that a phone call or the first time an appointment was made. That is what we were told happened and there was good reason for us to ask that kind of question because we obviously have women travelling from this jurisdiction.

I see no good reason to include a three-day waiting period and it is part of the reason why my name is on some of these amendments. If it is being relied on as the origin of this idea, it should similarly be relied on in how it happens in practice. It happens in practice in the Dutch experience when people make an appointment. That is what amendments Nos. 32 to 34, inclusive, are reflecting. They are accepting that if the three-day waiting period will not be dropped, there are a set of criteria that we can include in the Bill and they are very reasonable amendments from that point of view. There are not just difficulties in accessing primary care services in terms of conscientious objection but as the Minister knows, there are real difficulties in the availability of GPs and the length of time that it takes to get an appointment and this is an unnecessary imposition. If we are using the Dutch experience, it demonstrates to us that the three-day period is from the time that the appointment is made.

**Deputy Michael Harty:** This three-day rule presents practical difficulties to the women, which have been outlined by other Deputies, but it also presents practical difficulties for the doctor. When we had a hearing on guidelines in September, the experts who gave evidence could not present any international evidence on why there should be a three-day waiting period. When the Minister is responding, he might outline what he feels the purpose of that three-day period is, because there does not seem to be any medical evidence to support it.

The other practical difficulty is the question of when it starts and when it finishes. I know the Minister has mentioned that it may be that six o'clock on a Monday evening and nine o'clock on a Wednesday morning would fulfil the three-day period, but that also presents practical difficulties, because how will that actually be monitored?

The Minister must also understand what happens in a consultation. When a woman presents to a GP to discuss an issue such as this, a substantial discussion and consultation are carried out. It is not something that happens in the space of two or three minutes and it is quite often a prolonged consultation. That is an important point because if it is being suggested that the waiting period starts when a phone call is made or a text sent to a practice, that is not practical because it calls confidentiality into issue. Who is the woman sending the text to or leaving the message with? She might be leaving the message with a secretary and what is being discussed is confidential information which cannot be discussed with non-medical personnel. Those are the practical difficulties of it but the issue of confidentiality is also so important. If there is to be a waiting period, the starting period needs to be a conversation with the doctor who will be in charge of providing the termination. It should be a consultation and not purely a conversation with a member of staff or a text.

Within the medical profession, there is the well known concept of a deferred prescription. For example, if a woman comes in and wishes to have a termination and the doctor is happy that everything can be certified, the doctor can issue a deferred prescription and tell the woman that if she is not sure or if there is any uncertainty about it, she does not have to cash the prescription in today or tomorrow, but that she has that prescription, she can use it at her discretion and she should contact the practice if she is going to defer it for a period of time. There does not have to be an instantaneous decision making process.

Perhaps the Minister will expand on the purpose of the three-day rule but there is much

discretion within the consultation on when the taking of the medication is triggered. It is not a one for all decision that has to be made right on the spot.

The three-day rule has no international evidence to back it up. It presents a barrier to the woman and to the doctor and it interferes with the process of what we are trying to do, which is to deliver a safe and timely termination.

**Deputy John Curran:** I was not a member of the Joint Committee on the Eighth Amendment of the Constitution but I am well aware that this issue had been discussed, although it did not form part of any recommendation. However, the 72-hour period was clearly part of the Heads of the Bill. I disagree with comments made by Deputy Kelly when he said that he felt that it was not a substantial issue in the referendum. It is difficult for any of us to try to second guess what people voted for because in reality, there was a huge spectrum of reasons why people voted. Some wanted a very liberal regime of abortion, others wanted a very restrictive regime of abortion and some did not want abortion at all and that was the whole spectrum.

To suggest that this issue of 72 hours was not important is wrong. It may not have been important to some people, but I am certainly aware that it was a significant issue for a number of people. It appeared and presented in the Heads of the Bill and for people who wanted to see termination in controlled and limited conditions, this 72-hour period was not to be seen as a barrier or an obstacle as portrayed by Deputies earlier. The other side of the coin was that during that 72-hour period, the woman in question would not just be left there, but that other options, advice, counselling and supports would be made available to her, which she may not have had the option to consider or access beforehand, and it was taken in that context.

To try to second guess what people thought is wrong. It was clearly part of the debate and it was clearly a significant issue for a number of people although maybe not all people. It is not a question of just saying that if we delay it for 72 hours they might change their mind because that was not what people were thinking. They were thinking that the 72-hour period was to afford an opportunity to look at other alternatives, advice and supports.

I disagree with my colleague Deputy Kelleher when he said that if abortion pills continue to be sold online in Ireland, it will show that this legislation has failed. That is too simplistic a view because all sorts of medications are online and that is a different debate and I would not go there, but I concur with Deputy Kelleher when he clearly indicated that the 72-hour period was part of the original Heads of the Bill and it was hard for him to do so because he disagrees with this. It is imperative that it stays because that is what the people expect to see from this legislation.

**Deputy Richard Boyd Barrett:** I directly disagree with the previous point. I and many other Deputies in the House canvassed throughout the campaign for weeks and not once in the thousands of doors upon which we knocked did the issue of the three-day waiting period come up. The issue raised was always the substantial one, the issue of whether there were circumstances in which it was justified to have a termination or whether people believe women had the right to choose. On the finer detail we are discussing around the three-day waiting period, not once did I hear that come up. I am not saying that because it suits me to say it. I am telling the Minister as a statement of fact that I never heard it discussed in the course of the campaign. I do not believe that particular point had any bearing whatsoever on the votes that were cast. I do not believe for one second that to question this and to propose amendments that would delete this three-day waiting period is somehow flying in the face of the democratic decision that was

made by people. It is paternalistic. A woman might go to the doctor uncertain and she might say she wants to talk it through and think about it or she might say she has thought about it and wants the abortion. The idea that the State will enforce a three-day wait on a woman in that difficult circumstance, whatever her thoughts might be about it, is paternalistic and wrong, and I do not see any justification for it. Deputy Harty asked a very good question of the Minister, namely, could he please explain what the rationale for it is? I cannot understand the rationale for it. I do not believe there is any evidence that it serves any useful purpose and I do think it is a concession to people who are essentially trying to deter women from having abortions. I am very happy to support the idea that we remove that completely and I do not see any problem with that. However, if that does not happen, and I suspect it will not, although I would be interested to hear what the Minister has to say in terms of trying to explain his support for enforcing this three-day wait, and if he is going to persist, then he has an obligation to seriously consider the other amendments. What is his answer if that three-day waiting period takes the woman over the 12 weeks? That would be very wrong and very unfair to women if that were the case. I do not believe it can be justified. The Minister certainly needs to answer that question about what happens in that dilemma and if he cannot answer it, he has no choice but to support amendment No. 34.

Similarly, regarding amendment No. 33, all the obvious practical difficulties have already been presented to the Minister. Unless he has good answers, and I do not think there are good answers, we know there are difficulties in getting GP appointments and that money, geographic location, disability or difficult personal circumstances for the woman involved can be an issue. They are all real practical problems and impediments that will create barriers for women in a difficult and vulnerable situation where they do not need barriers, obstacles and further difficulties heaped upon them. If the Minister insists on the three-day period, he has an obligation to consider the issue of it being from the point at which contact is made with the doctor and the appointment is made rather than insisting otherwise because, effectively, then, it becomes not a 72-hour period but quite considerably longer than that in many circumstances, and that is unfair.

**Deputy Seamus Healy:** I want to comment on the 72-hour waiting period and to express my opposition to it. I believe it should be removed from the Bill. There is no medical evidence whatsoever for this provision and no clinical indication for it. It is not an evidence-based provision. In my view it is a barrier and it will be used as such for access, particularly for rural women and women who are in abusive relationships.

Another factor is that GP surgeries primarily operate now on a five-day week basis. There may be consultations on a Saturday morning for very urgent cases but there is effectively no weekend cover. It is also a fact that there are no same-day appointments in GP surgeries, certainly not where I come from. One could be waiting for two or three days for a GP appointment. Also, particularly in rural areas, it could be the case that the local GP is a conscientious objector and a woman would have to travel quite a distance to a different surgery for a consultation.

We must remember that provisions of a similar type have been dropped in other jurisdictions. There is also the question of when does this 72-hour period start and when does it finish. It is impractical, not evidence based and will be used as a barrier. I believe it should be removed.

**Deputy Bernard J. Durkan:** I, too, was a member of the committee and like most other members, I attended all the hearings and listened to the submissions made by the various witnesses. The origin of this item in the Bill is that the committee sought advice on what applied

in other jurisdictions. It transpired there was some national criticism that an attempt was being made to bring in legislation here which was equal to that available in the UK, where there was virtually no restriction. It also transpired that in a number of other European countries there was a time for reflection. In the Netherlands and in Germany the length of time was greater. It was five and seven days in some cases. As Members will recall, I felt that was a good idea for the reasons put forward by those witnesses. Contrary to what some people say, it was in place to assist women, particularly those who felt threatened and were in a vulnerable situation where they might be ill at ease with their siblings or whatever the case may be and that they needed to have a discussion. The change came after the referendum when the medical practitioners then said there was no necessity for it and indicated that they were not in favour of it. That was after the referendum and it was too late to say that then because a clear indication had been given to the voting public, and some of the Members present were at the meeting at the time the decision was taken to reduce it to three days from five. I went along with that at the time, notwithstanding the fact that this applies currently in other jurisdictions in Europe.

*(Interruptions).*

**Deputy Bernard J. Durkan:** I hate to disagree with my colleague from the southern hemisphere but I can assure him that it does apply. Otherwise, there was no necessity to go along with it. I have a total recollection of the discussion that took place. Equally, various people have spoken - I am sure in good faith - about what the public asked them. The public asked me if this would be the case and that reassured some members of the public. Other members of the public were not in favour of it but that was put into the public arena before the referendum, and nobody can deny that. On that basis, I strongly urge that it be retained because one thing is certain: we as legislators cannot afford to break the trust with the public. There is no use going into the public arena and saying we will do something about this - after a long drawn-out debate such as this one - and that we will include a period of reflection in the legislation for the benefit of all women, if we do not do it. Incidentally, the Dutch representatives at the time said that contact with the patient was beneficial from a counselling point of view. It was felt by them at the time that it was beneficial to the woman and the legislation with regard to making the legislation relevant and meeting the needs of the people. I have no hesitation in saying that was what I understood to be necessary and in line with the general thrust of the discussion. I was only one member of the committee but I know what was said since I was there.

**Deputy Éamon Ó Cuív:** I do not want to hold things up unnecessarily with repetition, so I would like to put on the record that I agree with the position put forward by Deputies Curran and Butler.

**Deputy Peadar Tóibín:** It has been mentioned here that the three-day wait was brought in as a political sop to a certain extent to the Tánaiste, Deputy Coveney. That is quite obvious. It was an effort to get the Tánaiste over the line with regard to a Bill that he probably did not agree with at the start. There was a question about the rationale for this three-day wait. The rationale is that there are two lives involved in each pregnancy. The Bill says that. An abortion will end one of those lives forever. It is a life and death situation, and therefore time needs to be taken to make a decision. It is also understood that crisis is often the worst time to make a lifelong decision. In an effort to offer support, help and advice, those three days can be beneficial with regard to making a decision. People have asked what the medical evidence is for this three-day wait. The Joint Committee on the Eighth Amendment of the Constitution heard evidence to say that most abortions do not have medical reasons. The majority of abortions are for socio-economic reasons, not medical reasons.

One thing that greatly disappoints me with the debate we have had over the past while is that so many people, especially on the Government side, have said that they are pro-choice but the economic policies they are pushing have forced many women to feel that they have no choice. Some 19 women who gave birth last year were homeless. One can imagine, if one was homeless and pregnant, the feeling one would have with regard to one's ability to proceed with that pregnancy. I imagine most women feel that they do not have a choice whatsoever. It is also disappointing that in all of this debate, there has been little effort to focus on the socio-economic causes, to try to fix the economic pressures that so many mothers feel that they have and that they cannot proceed to give birth to their child. There is no real effort in this debate to give confidence to mothers that they will have all of the necessary socio-economic supports to make a real decision on this issue. That is disappointing.

**Deputy Jan O'Sullivan:** I was a member of the committee and my recollection is that the only discussion on the three days was when we had the Dutch delegation in. I do not think we had any real discussion among committee members as to whether it was a good idea. If it is to be there, I cannot see any practical reason for bringing the woman to the doctor twice. That is why I support either amendment No. 32 or amendment No. 33. Those relate to the three days starting when she first makes the arrangement. The purpose of the examination is for the medical practitioner, having examined the pregnant woman, to determine in good faith that the pregnancy concerned has not exceeded 12 weeks. There is no reason that the three days should be after the examination and that they should not start from when she first makes contact. I do not see any practical reason to bring her back twice. There are obviously economic and other practical reasons why going twice would cause difficulty. Deputy Kelleher spoke about where there are conscientious objections and one does not have many alternatives. That can be difficult because the woman may have to travel far from home. Assuming that there will be a three-day period, which seems to be what has been determined to happen, it seems to make sense to have it start at the time when the woman first contacts the doctor's surgery to make the arrangements.

**Deputy Simon Harris:** I thank everyone for their contributions. I know people on both sides of the debate have strong feelings on this issue. I feel that we have to stick to what is in the general scheme of the Bill. I remember one of the big reasons and main arguments leading "No" advocates had for campaigning was that one could not trust politicians. They said this was the draft law but that if given a mandate, politicians would do something completely different. They said politicians would provide reasonable discussion and a deliberative process but would change their minds as soon as people voted "Yes". I have no intention of being one of those politicians. The Bill that I proposed in March, which was approved by the Government and published in advance, is the legislation that I told the people I would endeavour to enact if they voted "Yes". People in this House are within their rights to try to amend that legislation. I fully respect that but I feel a responsibility to enact legislation that is not substantively different from the draft general scheme.

We made some changes to try to improve the operation of this. As Deputy Healy referred to, it was 72 hours in the original scheme. That does not work for many reasons, so we changed that to three days. I also clarified on Committee Stage how the three days would start, so the issues Deputy Coppinger mentioned are not as stark with regard to it not being three full days. I do not believe it runs over the number of days but Deputy Coppinger believes it does. Deputy Daly raised the issue of what happens if a woman turns up in a particularly difficult situation. The Deputy specifically raised domestic violence. We discussed this at the committee. We also discussed it in a meeting with the Chief Medical Officer. He was clear and I am clear that there

are emergency provisions in the Bill which will be used by doctors in accordance with their own clinical discretion. This legislation will be kept under review. I will run out of time to talk about the Dutch model but the way in which people describe it is not my full understanding. If I get back in, I might outline it. They have a five-day waiting period as a minimum. We are proposing three days.

**Acting Chairman (Deputy Frank O'Rourke):** The Minister will have another opportunity.

**Deputy Bríd Smith:** On the Dutch model, one thing they have in Holland is compulsory non-ethos-based sex education from an appropriate early age onwards. Those here who have a difficulty with legislation for abortion but simultaneously complain that not enough is being done about socio-economic policies will, I assume, support recommendations from the Citizens' Assembly that will bring in free contraception and a non-ethos-based compulsory sex education system. I assume that would be the logic of somebody who is concerned about socio-economic issues.

Deputy Harty raised an interesting point and I would like the Minister to address it. With regard to section 14, I think Deputy Harty was asking if it is necessary to bring the pregnant person back in front of the doctor twice. Can a doctor see a person on one day, prescribe ahead and tell that person to take the prescription on the third day, then call the doctor to say how she got on? The doctor can keep an eye on the patient from there on. Is it possible to do that in the context of this legislation? It is an interesting question coming from somebody who is at the coalface of delivery of general practitioner, GP, services and understands better than most of us how difficult it is to get GP appointments in a country that has a ratio of GPs to population that is probably lower than most of the rest of Europe. We have a crisis in that aspect of our health service as well as everything else. Will the Minister address that in the context of best international practice for abortion services, which is having them take place as early as possible?

**Deputy Louise O'Reilly:** I know the Minister has said he will elaborate on the decisions. We have gone over where it came from and know where it did not come from. It was there and I do not want to disagree too much with people. It came up at the doors during the referendum. We talked to people about it. Some people loved it and some people hated it but it was certainly a feature. That said, I do not know that it changed anybody's mind. People were curious about how it would work. We have outlined the reasons we think it will be difficult. We have outlined the fact that barriers to access will not be helpful. There are women in particular circumstances, and I have mentioned domestic violence, women in direct provision and women who live in the North, and I hope we will come away from this evening with some sort of understanding as to how they will be able safely to access the service. I respect what the Minister has said with regard to the emergency provisions but realistically speaking it would probably be better if they did not have to access the service through them or, indeed, have that access at the discretion of the doctor. That is probably not a good idea.

I do not see why we cannot start that time period from when the appointment is made. I do not know that people should necessarily have to state why they are making an appointment to see the GP if they do not feel comfortable doing so. Certainly there will be no difficulty with stating it is the reason for an appointment with the Irish Family Planning Association or the Well Woman Centre.

How the 72 hours is calculated is good because it minimises the time but we would be dis-

honest if we were to say anything other than this will act as a barrier. We should be trying to eliminate those barriers so access to terminations is free, safe and legal.

**Deputy Clare Daly:** It is important go back and state amendments Nos. 33 and 34 accept the three day provision. The Minister's concerns about giving false commitments are not appropriate in this context. I want to say again with regard to the point on the Dutch model made by Deputy Catherine Murphy that the people we spoke to were very clear. We asked how could an Irish person avail of it if there is a five-day waiting period. We asked whether Irish people would have to book a hotel in the Netherlands for almost eight days, with five days before and a couple of days afterwards. We were told that when they get there five days after the first point of contact they can have the termination. It is a real five days.

For all of the reasons outlined by the other Deputies, in Ireland three days in the context of the other provisions will not mean three days and could provide a barrier. In this context I plead with the Minister, particularly on amendment No. 34. I heard what the Minister said about the emergency provisions, and I get that in the case of a woman escaping a domestic violence situation or a woman in direct provision a doctor can state it is an emergency, that the woman clearly does not have the ability to return within the time and that he or she will make a call under the emergency provision to waive the three day period. That is fine but there is probably only a small number of doctors who have this confidence. They are experienced doctors who are prepared to take that risk. We had a discussion on Committee Stage about how younger doctors might not be so confident to make that evaluation and take the chance. Therefore, given that it is only a small number of circumstances, the provisions of amendment No. 34 would mean it could be waived if there is a risk it might exceed the 12 weeks. Essentially, the Minister is stating it is trying to do the same thing. However, it would make it easier for doctors.

**Deputy Ruth Coppinger:** We have debated this at length but several points should be put on the record because this provision in the legislation could prove to be very problematic for many people and it is important to recognise this on Report Stage. People did not vote on the three day waiting period. I know the point being made by Deputies but people voted to repeal the eighth amendment. There was a piece of legislation and people might have agreed with some parts. In general, the big bullet point in bold big font was 12 weeks. That was the big debate. I do not think the idea of making people wait three days was a huge factor.

In actual fact, the parliamentary committee did not accept all of the recommendations of the Citizens' Assembly. It was not willing to go that far. The Citizens' Assembly was made up of 99 ordinary people selected from an opinion poll so using logic we can deduce the people are ahead of politicians on this entire issue. If this provision had not been there the referendum would have been passed anyway.

In terms of people voting, I certainly did not know for sure that two visits would be involved when I spoke to people about it. I agree with what people have said on it being a three day waiting period and not two day visits for a woman who is pregnant. This is the way it has worked out. It is a pity this was introduced to appease some politicians because women will suffer. I know the bind the Minister is in but he could have implemented it in a different way.

I ask the Minister to listen to the debate. All of the people who spoke in favour of this, probably bar one Deputy, are against abortion so of course they are in favour of this. This seems to be about punishing women and making it as difficult as possible for them. These types of waiting periods are being introduced in the US by very conservative religious fundamentalist

Republican Trump-type people. We have just introduced it in a state of the art Bill, which is a pity. We definitely need to agree this will be reviewed if it becomes a major problem.

**Deputy Thomas Byrne:** I have said previously in the debate that I believe the will of the people should be implemented. There were lots of issues in the debate. Many people had various issues and a lot of discussions and points were brought up. I have to say the Irish people were extremely well educated as to what exactly they were voting on. Yes, they were voting on an amendment to the Constitution but they were also voting on that amendment in the knowledge that, by and large, Members of the Dáil had said if the referendum was passed the draft legislation put before them would be the basis for the change the people made. As this was part of it we would be rightly accused of not doing what was put before the people and what the people agreed to.

It is true, as Deputy Coppinger said, that not everyone might have supported this bit or that bit of the Bill but not everyone who voted “Yes” supported all aspects of it. By the way, not everyone who voted “No” was opposed to every aspect of the Bill put forward either. It was a very nuanced decision by the people and, ultimately, a compromise was put before the people and debated. Overwhelmingly, whether I or others like it or not, the public voted for it. It is incumbent on us at this juncture, with the first legislation introduced after the referendum was passed, to execute faithfully what we can discern to be the will of the people as expressed in the referendum. It is a political will rather than simply the straightforward legal will of the people, which was to amend the Constitution. The political will of the people was certainly evidenced by their listening to and taking part in the debates. As someone who spoke on the media during the referendum I have to say our broadcast and written media did a fantastic job. I had no complaints whatsoever. Certainly, the public was able to discern the information available and make the decision. This is the decision the people took and we are bound by it.

**Deputy Simon Harris:** Deputy Byrne and others are right that we have to be careful that none of us second-guesses the Irish people. One of the reasons we published a general scheme, and one of the reasons many Deputies in the House called on me to do so, was so we would not be in this position after the referendum, whereby we would all look into our hearts and decide what the Irish people thought. We published it. Many people who campaigned for a “Yes” vote campaigned in the knowledge this would be the general scheme.

To respond to Deputy Daly, 12 weeks is the outer limit in the legislation and I accept this. I also accept the overwhelming majority of women will access termination much earlier than this. We have already seen this with women having to travel to other jurisdictions. Outside of that, the scenarios outlined by the Deputy would fall under the emergency provisions and it would not be appropriate for me to deviate further from that.

I want to put on record some of the Dutch law because it has been referenced so many times. The law in the Netherlands on the termination of pregnancy states a pregnancy shall be terminated not earlier than six days after the woman has consulted a physician and on that occasion discussed her intention with him or her. On its website, the Dutch Ministry of Health, Welfare and Sport states the law imposes a mandatory five-day wait time so the woman can think carefully about her decision. That is language we are not using in Ireland. These matters can be kept under review. I hope that as the technology develops, as Deputy Harty said where there is electronic booking and the like, the issue of when the three days start could be considered. However, that is not how our health service works at present in terms of making appointments with a general practitioner and so forth. Obviously I support my amendments in terms of pro-

viding clarity about the two doctors and I cannot accept the other amendments.

Amendment put and declared carried.

**An Ceann Comhairle:** Amendments Nos. 14 to 22, inclusive, are related, amendments Nos. 16 to 22, inclusive, are physical alternatives to amendment No. 15 and amendments No. 21 and 22 are consequential on amendment No. 15. As such, amendments Nos. 14 to 22, inclusive, may be discussed together.

**Deputy Stephen S. Donnelly:** I move amendment No. 14:

In page 9, to delete lines 10 to 12.

I will discuss amendments Nos. 14 and 18 together. These are the amendments I tabled on Committee Stage in an effort make the legal situation around what happens when a foetus becomes viable very clear. The legislation requires some thinking through to get there. A number of people whose views on the legislation vary widely have asked me for clarity. The Bill states that a termination is only allowable where the foetus has not reached viability. The direct inference from that is that once a foetus has reached viability, a termination of pregnancy, which is defined in the Bill as ending the life of the foetus, is no longer allowable under the legislation. That is my understanding but one must read through the Bill and make that extra logical step. I asked that clarity be provided in the explanatory memorandum and the Minister has done that.

Can the Minister confirm on the record whether my understanding is correct? Some people have a fear that a viable foetus could have its life ended, but my understanding is that this is expressly prohibited. In fairness to the Minister, he confirmed my understanding on Committee Stage but I am seeking confirmation again that it is correct. That understanding is that once a foetus has become viable, termination of pregnancy is no longer possible. If a pregnancy must be ended to protect the mother, the baby will be delivered and everything will be done to keep the baby alive in the same way as if it was a premature birth. We would not have a circumstance in which a termination of pregnancy would be carried out when a foetus had reached viability. In other words, a viable foetus would not have its life ended. I would appreciate if the Minister could tell me whether my understanding is correct, incorrect or correct with caveats.

**Deputy Mary Butler:** I also ask the Minister to address the issue of viability. It is a matter I raised a good deal during the campaign and since the referendum. I am also seeking clarity here because it is a very important point. Page 9 of the Bill states that viability “means the point in a pregnancy at which, in the reasonable opinion of a medical practitioner, the foetus is capable of survival outside the uterus without extraordinary life-sustaining measures.” Can the Minister clarify what “extraordinary life-sustaining measures” means? I believe viability is the point at which a child can survive outside the womb with or without medical assistance. In some cases it can be at 22 weeks and in others it can be at 23 or 24 weeks. It can vary according to the baby and the mother. It can also vary depending on which hospital one is attending. Obviously, a wide range of facilities is available in the Rotunda Hospital and the Coombe, whereas all that equipment will not be available to a baby born in a community hospital in a more rural area unless the baby is transferred to another hospital. Will the Minister again clarify for me that a viable baby, a baby who will survive outside the womb, will not be aborted?

**Deputy Clare Daly:** A number of our amendments are included in this group so I will try to deal with them briefly. They largely relate to a requirement to consult the woman, ascertain the views of the woman and other issues in terms of serious harm and the issue of risk. It is quite

a broad berth but I will be as brief as possible. First, in the Bill, as drafted, there is no requirement to consult the pregnant woman. That is very problematic and is not reflective of the rights based approach to the provision of women's healthcare. Amendments Nos. 15 and 16 seek to do this in part. Amendment No. 15 deals with the pregnant woman having a right to deem that the risk to her life or health is unacceptable. We have discussed this. Pregnant women are competent adults. We removed the eighth amendment to recognise bodily autonomy, and we should do that.

Examples were given at the committee of where a woman knows best. A doctor might think there is a risk to a woman's health but the woman might think, "I am in my early 40s, I have no other children, I desperately want a child so I want to take the risk and continue with the pregnancy even though it may result in a risk to my health." She makes that decision, whereas perhaps a younger woman with children at home and other responsibilities might feel that the risk to her health is too great a risk to take. There was much talk during the referendum campaign about trusting women and that was very much a sentiment of the electorate, but it is not reflected anywhere in the Bill. The amendment is an addition. It is not eliminating anything but allowing the voice of the woman to be put centre stage in the legislation.

Amendment No. 17 relates to the term "serious harm". We have discussed this a great deal so I will not labour the point. The term is not helpful given the climate we have come from on this issue. It is not women centred and the points made repeatedly to the committee were about the challenges in fixing risk and that it is best considered in a clinical setting, not defined in legislation as serious or severe. Many of the medical practitioners made the point that risk of the development of serious harm can fluctuate and in that context mothers can slip through the net. We cannot have that situation.

Amendment No. 19 is also important and deals with the issue of risk. It proposes deleting the word "avert" and substituting the word "reduce". This would ensure access to abortion if it reduces the risk to the woman's health even if it does not eliminate that risk. With the current wording the intervention would have to eliminate the risk. That is very dangerous so we must change the language. There will be scenarios where the pregnancy is a significant contributing factor to the risk to the health or life but not the sole determinant, and its termination may significantly mitigate but not entirely avert the risk. We must be very careful and amend this to support the medical practitioner's clinical judgment.

Good information has been brought forward by Lawyers for Choice on the legal sense of the word "avert", which Deputies will have read. Avert in the legal sense means prevent. That is a definitive view in the context of risk and harm. Lawyers for Choice give the good example that in situations where an abortion would reduce the risks to health but not fully avoid them, there is a legal risk that the pregnant person could be forced to continue the pregnancy on the ground that the need for aversion rather than reduction or considerable reduction had not been met. Lawyers for Choice gave examples of conditions that might develop as the pregnancy continued where it would be safer for the person to have an early termination but where it did not quite tick that box. They suggest the ending of such a pregnancy at the earlier gestation would reduce but not eliminate the risk. In other words, under the current wording, a person who is at 14 weeks gestation and requires an abortion owing to a condition that might get worse during the pregnancy would meet the criterion of risk to health. As the pregnancy had not reached the point of viability, that box would be ticked, but the person might not meet the criteria in section 10(1)(c), as the abortion would not completely avert the risk; it would only reduce it. That is why we need to have the word "reduce" in order that the person would not have to travel to ac-

cess abortion care. That is why we have put forward many of these amendments. If we do not have them, there is a risk the person who needs to access this service might have to continue to travel. Amendments Nos. 21 and 22 in this group for the purposes of discussion are really just technical amendments to facilitate amendment No. 15.

**Deputy Louise O'Reilly:** Witness after witness who attended the Joint Committee on the Eighth Amendment of the Constitution was very clear with us about the difficulties or impossibility of grading risk. It is different, depending on a person's circumstances, the number of children the woman already has and the person's state of health. Doctors, including Professor Sabaratnam Arulkumaran, Dr. Peter Boylan and Dr. Rhona Mahony, were very clear when they told the committee that it was very difficult, if not impossible, to grade risk in this context. We have referred a lot to the chilling effect of the eighth amendment on practice. The purpose of this legislation has to be-----

*(Interruptions).*

**Deputy Louise O'Reilly:** There is a massive amount of beeping. Can it be stopped?

The purpose of the legislation has to be to get rid of the-----

*(Interruptions).*

**Deputy Louise O'Reilly:** Could we have silence, please?

**An Ceann Comhairle:** The devices should not be in use in the Chamber.

**Deputy Louise O'Reilly:** Somebody is taking a phone call. Will whoever has the phone that is beeping, please, just go outside? It would probably just be easier.

The purpose of the amendments, as proposed-----

*(Interruptions).*

**Deputy Louise O'Reilly:** The noise is very irritating, a Cheann Comhairle.

The purpose of the amendments, as proposed, is to bring the legislation into line with what doctors want. In the case of amendment No. 16, it is to do what we said we wanted to do, that is, to trust women and put them at the heart of this legislation. It includes a reference to consulting the woman, where possible. In compiling the amendment we were cognisant of the possibility of a woman not being able to engage fully in that consultation, for whatever reason. It is simply states, "...where possible".

Amendment No. 17 references the term "serious harm". Again, for all of the reasons we have stated, it is not possible to grade harm and risk in that way and it will just continue the chilling effect.

On the deletion of the word "avert" and its substitution with "reduce", the reasons for it have been outlined and I do not propose to go over them. We have had a debate about including the word "access" which is only mentioned once in the offences section. It does not send a brilliant message about what we are trying to do. It is important to include a reference that explicitly puts the woman at the centre of the legislation. That would send a very clear message to those who voted "Yes" in what has been called a landslide result in the referendum. It would send a message to them that we had heard them, that we wanted to make the legislation as good as it

could be and that we wanted it to deliver for those who need it.

**Deputy Alan Kelly:** I shall speak to amendment No. 20 which is very similar to amendment No. 19. Page 9 of the Bill contains the section which deals with “Risk to life or health”. Section 11(1)(c) contains the word “avert”, as Deputy Clare Daly has outlined; perhaps other Deputies have, too. The use of the word “avert” is too absolute. I have spoken to the Minister about this issue before. Section 11(1)(c) reads, “it is appropriate to carry out the termination of pregnancy in order to avert the risk referred to in paragraph (a)”. However, what will happen if there is a judgment that a termination would not avert the risk and that one might need to mitigate, prevent or reduce the risk? I will not get hung up on whether the word is “reduce” or “mitigate”. I believe the word “avert” is too absolute. It is too defining and doctrinal. It does not give scope and creates a nervousness in ensuring women can receive the service they need. I ask the Minister to reconsider. I am happy enough with the alternative amendment also because it is more or less a variation of what I am saying. It could cause issues if we do not change it. I do not see why the Minister would not look at the amendment and he might explain why. We are getting into dictionary territory, but I believe the word “avert” is too absolute. We need to allow the conditioning that will ensure women can be provided with the service they need and that those who provide it will not have to worry or be concerned about the doctrinal nature or the use of the word “avert”.

**Deputy Ruth Coppinger:** This is a section to which the Minister could readily agree to amendments. People voted in the spirit of the amendments proposed by a number of Deputies. I shall speak to a number of the amendments in the group, particularly amendment No. 15 because I did not speak to it before. I raised the issue on Committee Stage, but I felt it was necessary to insert a new clause into the definition of when a person can access an abortion owing to a risk to life or health. Having two doctors was mentioned, which is fine. Doctors need to have rules about when they can intervene, but it had become obvious on Committee Stage that many were concerned about one aspect; that there was no voice for the person who was pregnant in the horrendously difficult situation where life or health was at risk. I proposed the insertion of the clause “(b) the pregnant woman deems the risk to her life or health to be unacceptable”. This is because the law, as it stands, mentions doctors, but it does not give a voice to the woman. This has echoes of the case of Savita when she asked for an abortion. It was a different situation because the clinicians had deemed that her life was not at risk, that it was only her “health” and that, therefore, they could not act. One can see, however, how quickly that situation developed completely and utterly into a scenario where her life was at risk. The fact that a woman like her was not listened to and that she had to go through that trauma resonated with the entire population. That was the filip or impetus for the abortion rights movement six years ago and it reinvigorated the campaign for the repeal of the eighth amendment to the Constitution.

Let us consider a situation where a woman lands in a conservative hospital where two doctors are to decide. Let us say there is a chilling effect of a law and they are very afraid in a difficult situation that a decision could be challenged. What if they say “No”? What will happen if the woman points out that she believes the pregnancy presents a huge danger to her health or life? She may have her reasons for saying so.

*10 o'clock*

It may be because of a previous pregnancy, that they know nothing about how that evolved, or it could be for mental health. I am really concerned about this. It is very difficult to judge when somebody’s mental health is such that there is a risk of them taking their life. However,

two years ago, a teenager was sectioned by a psychiatrist; I do not know what happened since but it was reported that she was sectioned for a period because the psychiatrist had that power. That pregnant person who said that her life was at risk through suicide, due to which she should have been able to have an abortion, was not listened to. I think the Minister has to be cognisant that this is definitely something that people wanted changed in this country, where women themselves do not have their voices heard at all. I echo Professor Sir Sabaratnam Arulkumaran, who appeared at the Oireachtas Joint Committee on the Eighth Amendment of the Constitution and whose testimony was among the most memorable we heard at the time. He has dealt with these situations over many years and when he was asked by the committee members if it was possible to define a risk to health in law, he said it was not. People asked what we should do and he said the woman has to be listened to. She is the ultimate arbiter. It is disappointing that this is not being taken up in law. This clause is an attempt to rectify that.

On serious harm, it is disappointing that the wording was changed from what was discussed by the committee, from “risk” to “serious harm”. Even taking out the word “serious” would have been helpful. The definition of what is serious is very broad. I agree with the point about the words “mitigate” and “reduce” and stress that the woman should be consulted where possible. If somebody is unconscious, they cannot be consulted. I really cannot understand how no amendments have been accepted all along the line on this one because this is not a case of the Minister breaching faith with the people who voted in the referendum.

**Deputy Simon Harris:** I thank colleagues for their contributions. For Deputy Donnelly, I confirm that his understanding in respect of viability is correct. We discussed this on Committee Stage and doctors have already told us all through the Oireachtas Joint Committee on Health and through the Oireachtas special committee that they do not need this to be in law as it is the practice. However, we have put it in law anyway just to provide absolute, complete and utter clarity and reassurance to people. Our doctors are in the business of wanting to deliver babies and where a baby has reached viability, that baby will be delivered. I think the legislation is clear on that. We have also heard from the Institute of Obstetricians and Gynaecologists to the effect that it is already the practice in Ireland.

In response to Deputy Butler’s question about what entails extraordinary life-sustaining measures, and indeed Deputy Donnelly’s raising of this issue, I thank the Deputies for acknowledging that we have now put this in the explanatory memorandum, again to provide absolute clarity and certainty on what is meant in that regard. Deputy Butler is entirely correct; we have not put a timeline on viability and I think that is really important for the reasons she outlined. The committee has considered this as well. The timeline for viability can vary from woman to woman and from pregnancy to pregnancy. It should be a clinical decision and we should not have a rigid point in law. With medical advancements, viability may come earlier and earlier in pregnancy. It is appropriate that our clinicians are empowered to make those decisions. For the reasons I have outlined, I believe Deputy Donnelly’s amendments, while well intended, have been dealt with through the clarification and the explanatory memorandum.

Deputies have proposed a number of amendments to insert a provision in the Bill whereby a termination of pregnancy may be carried out under section 11 in cases where the pregnant woman deems the risk to her life or her health to be unacceptable. I did say on Committee Stage that the law should not impose an obligation on a medical practitioner to carry out a medical procedure on the opinion of another medical practitioner if he or she does not agree with that opinion. While I appreciate that the Deputies wish to ensure that attention is paid to the woman’s wishes, as do I, and indeed to her opinion of the risk to her life or health in this situation, I would go

further and say that it would be wholly unacceptable to force a medical practitioner to arrive at that reasonable opinion based on his or her patient's view. The medical practitioner has to be able to satisfy him- or herself or the risk. That is the job with which clinicians are entrusted.

However, I think it is really important to say that medical practitioners should not decide on a course of treatment without reference to the wishes of their patient. As I have pointed out previously, the Medical Council's *Guide to Professional Conduct and Ethics for Registered Medical Practitioners* specifies that a medical practitioner's responsibility to provide patient-centred care does mean treating patients as individuals, taking into account their personal preferences, goals and lifestyles, and acting with compassion and respecting patients' dignity. That is the obligation our doctors have signed up to under their regulator, the Medical Council.

Amendment No. 16 concerns the process by which a medical practitioner can ascertain whether a termination of pregnancy may lawfully be carried out. This is set out in sections 11 to 14, inclusive, of the Bill. Apart from emergency situations, which are covered in section 12, the Bill clearly sets out the steps which must be undertaken to assess termination of pregnancy in this country. The medical practitioner must examine the pregnant woman, form a reasonable opinion in good faith, certify that opinion and carry out the termination of pregnancy. In order to form a reasonable opinion in good faith, the Bill is clear that the medical practitioner is required to examine the pregnant woman. I thought long and hard about this on the basis of the very detailed discussion that we had on Committee Stage. A number of Deputies put forward different wordings to replace "having examined", for example with "following a medical consultation with" or "ascertain her views". There was quite a number of suggestions put forward. I have taken a lot of legal advice on this and I am advised that it is important that there is consistency between the various sections of the Bill from a legal point of view in order not to differentiate between them or cause unintended consequences in the way the Bill is interpreted. Given that there is a requirement for examination included in the Protection of Life During Pregnancy Act, leaving it out of the current Bill would result in a lessening of the clarity around the process, potentially causing undue confusion both for medical practitioners and for the woman. The important aspect of the requirement set out in the Bill is that medical practitioners providing the service and women accessing it are clear as to how a medical practitioner is expected to reach the reasonable opinion formed in good faith. It is therefore my opinion, heavily influenced by legal advice that I have received, that to remove this requirement would result in a lessening of the clarity around the process, potentially causing undue confusion for both medical practitioners and for women. This is something that I did insert in the Bill after publication of the general scheme on the basis of the legal advice I received in terms of providing clarity.

I also took a look at the issue in respect of the word "avert" rather than "mitigate". This wording, used in section 11, was considered at some length during the drafting of the legislation. The formulation set out in the Bill is based on the position approved by Government and set out in the general scheme published last March in advance of the referendum. The phrase "serious harm to the health of the pregnant woman" was used in the general scheme and has not been changed since. This is a phrase that, again, if we are sticking to what we said we would do in advance of the referendum, was there from the start of March. The qualification "serious" was included in section 11 to clarify from a legal perspective that the nature of the risk to a woman's health goes beyond the normal risk of harm to a woman's health which pregnancy would pose, even to a healthy woman. It was inserted on the basis of advice from the Attorney General. Pregnancy by its very nature does involve a risk to a woman's health. Evidence shows that an early termination of pregnancy, if done safely and according to best medical practice,

will always - factually - pose less of a risk to a woman's health than continuing with the pregnancy to delivery. We did need to clarify in law what exactly we meant when we were talking about risk of harm. In addition, the wording used in this section makes it clear that the risk to a woman's health would not include, for example, poor health from a respiratory tract infection or another ailment that could harm a woman's health while she is pregnant but would not have sufficiently serious consequences for a termination to be justified on health grounds.

Deputies, particularly Deputy Kelly, sought on Committee Stage to replace the word "avert" with "mitigate". However, I have taken legal advice in respect of that as well. The language used in the Bill has regard to the need to clarify that the scale of risk of harm involved goes beyond that normally involved in pregnancy and that a termination of pregnancy is appropriate in cases where it can prevent rather than reduce or mitigate such harm. Under the terms of the Bill, a medical practitioner can take the decision in consultation with the woman to carry out a termination of pregnancy on the grounds that it would be appropriate in order to address that risk. Use of the word "appropriate" was deliberate to try to provide the sort of clarity that Deputy Kelly is looking for. Termination of pregnancy is not restricted to cases where the medical practitioner believes the termination is necessary in order to avert the risk. For these reasons, I am not in a position to accept these amendments.

**Deputy Louise O'Reilly:** The Minister read out the regulations in place for medical professionals about how to talk to patients and treat them with respect. Despite all that, we still had the issues with CervicalCheck all of which have been highlighted in the Scally report. The report the Minister commissioned into the transvaginal mesh issue also highlighted a similar issue. With the greatest respect to doctors, on whom we all rely, all those regulations were in place.

We are seeking to ensure the woman is at the centre and is consulted where possible. There is nothing outrageous about that amendment. Even though the regulations the Minister cited are in place, women are sometimes left out of very important decisions and information regarding their own care.

Amendment, by leave, withdrawn.

**Deputy Ruth Coppinger:** I move amendment No. 15:

In page 9, lines 14 to 20, to delete all words from and including "where" in line 14 down to and including line 20 and substitute the following:

"where—

(a) 2 medical practitioners, having examined the pregnant woman, are of the reasonable opinion formed in good faith that—

(i) there is a risk to the life, or of serious harm to the health, of the pregnant woman,

(ii) the foetus has not reached viability, and

(iii) it is appropriate to carry out the termination of pregnancy in order to avert the risk referred to in *subparagraph (i)*,

or

(b) the pregnant woman deems the risk to her life or health to be unacceptable.”.

Amendment put and declared lost.

**Deputy Clare Daly:** I move amendment No. 16:

In page 9, line 15, after “woman” to insert “and consulted with her, where possible”.

Amendment put:

<i>The Dáil divided: Tá, 43; Níl, 45; Staon, 3.</i>		
<i>Tá</i>	<i>Níl</i>	<i>Staon</i>
<i>Brady, John.</i>	<i>Aylward, Bobby.</i>	<i>Byrne, Thomas.</i>
<i>Broughan, Thomas P.</i>	<i>Bailey, Maria.</i>	<i>Murphy O'Mahony, Margaret.</i>
<i>Buckley, Pat.</i>	<i>Brassil, John.</i>	<i>Murphy, Eugene.</i>
<i>Burton, Joan.</i>	<i>Bruton, Richard.</i>	
<i>Butler, Mary.</i>	<i>Cahill, Jackie.</i>	
<i>Chambers, Lisa.</i>	<i>Calleary, Dara.</i>	
<i>Connolly, Catherine.</i>	<i>Carey, Joe.</i>	
<i>Coppinger, Ruth.</i>	<i>Collins, Michael.</i>	
<i>Cullinane, David.</i>	<i>Corcoran Kennedy, Marcella.</i>	
<i>Curran, John.</i>	<i>Daly, Jim.</i>	
<i>Daly, Clare.</i>	<i>Doyle, Andrew.</i>	
<i>Doherty, Pearse.</i>	<i>Durkan, Bernard J.</i>	
<i>Donnelly, Stephen S.</i>	<i>English, Damien.</i>	
<i>Ellis, Dessie.</i>	<i>Farrell, Alan.</i>	
<i>Funchion, Kathleen.</i>	<i>Fitzgerald, Frances.</i>	
<i>Harty, Michael.</i>	<i>Fitzmaurice, Michael.</i>	
<i>Healy, Seamus.</i>	<i>Fitzpatrick, Peter.</i>	
<i>Howlin, Brendan.</i>	<i>Flanagan, Charles.</i>	
<i>Kelleher, Billy.</i>	<i>Grealish, Noel.</i>	
<i>Kelly, Alan.</i>	<i>Griffin, Brendan.</i>	
<i>Kenny, Martin.</i>	<i>Harris, Simon.</i>	
<i>Martin, Micheál.</i>	<i>Healy-Rae, Danny.</i>	
<i>Mitchell, Denise.</i>	<i>Healy-Rae, Michael.</i>	
<i>Moynihan, Aindrias.</i>	<i>Heydon, Martin.</i>	
<i>Munster, Imelda.</i>	<i>Kyne, Seán.</i>	
<i>Murphy, Catherine.</i>	<i>MacSharry, Marc.</i>	
<i>O'Brien, Jonathan.</i>	<i>Madigan, Josepha.</i>	
<i>O'Callaghan, Jim.</i>	<i>McConalogue, Charlie.</i>	
<i>O'Keefe, Kevin.</i>	<i>McEntee, Helen.</i>	
<i>O'Reilly, Louise.</i>	<i>McGrath, Mattie.</i>	
<i>O'Rourke, Frank.</i>	<i>McGrath, Michael.</i>	

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<i>O'Sullivan, Jan.</i>	<i>McHugh, Joe.</i>	
<i>Ó Broin, Eoin.</i>	<i>McLoughlin, Tony.</i>	
<i>Ó Caoláin, Caoimhghín.</i>	<i>Mitchell O'Connor, Mary.</i>	
<i>Ó Cuív, Éamon.</i>	<i>Naughten, Denis.</i>	
<i>Ó Laoghaire, Donnchadh.</i>	<i>Naughton, Hildegarde.</i>	
<i>Ó Snodaigh, Aengus.</i>	<i>Neville, Tom.</i>	
<i>Pringle, Thomas.</i>	<i>Noonan, Michael.</i>	
<i>Ryan, Brendan.</i>	<i>O'Dowd, Fergus.</i>	
<i>Shortall, Róisín.</i>	<i>Ring, Michael.</i>	
<i>Smith, Bríd.</i>	<i>Scanlon, Eamon.</i>	
<i>Stanley, Brian.</i>	<i>Stanton, David.</i>	
<i>Wallace, Mick.</i>	<i>Tóibín, Peadar.</i>	
	<i>Varadkar, Leo.</i>	
	<i>Zappone, Katherine.</i>	

Tellers: Tá, Deputies Clare Daly and Louise O'Reilly; Níl, Deputies Seán Kyne and Tony McLoughlin.

Amendment declared lost.

**An Ceann Comhairle:** Amendment No. 17 in the names of Deputies Ruth Coppinger, Mick Barry, Paul Murphy, Catherine Martin, Clare Daly, Mick Wallace, Joan Collins, Louise O'Reilly, Bríd Smith, Gino Kenny, Richard Boyd Barrett and Catherine Murphy has already been discussed with amendment No. 14. How stands this amendment?

**Deputy Ruth Coppinger:** I move amendment No. 17:

In page 9, line 17, to delete "of serious harm".

I am pressing it.

Amendment put:

<i>The Dáil divided: Tá, 31; Níl, 61; Staon, 0.</i>		
<i>Tá</i>	<i>Níl</i>	<i>Staon</i>
<i>Brady, John.</i>	<i>Aylward, Bobby.</i>	
<i>Broughan, Thomas P.</i>	<i>Bailey, Maria.</i>	
<i>Buckley, Pat.</i>	<i>Brassil, John.</i>	
<i>Burton, Joan.</i>	<i>Bruton, Richard.</i>	
<i>Coppinger, Ruth.</i>	<i>Butler, Mary.</i>	
<i>Cullinane, David.</i>	<i>Byrne, Thomas.</i>	
<i>Daly, Clare.</i>	<i>Cahill, Jackie.</i>	

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<i>Doherty, Pearse.</i>	<i>Calleary, Dara.</i>	
<i>Ellis, Dessie.</i>	<i>Carey, Joe.</i>	
<i>Funchion, Kathleen.</i>	<i>Chambers, Lisa.</i>	
<i>Healy, Seamus.</i>	<i>Collins, Michael.</i>	
<i>Howlin, Brendan.</i>	<i>Corcoran Kennedy, Marcella.</i>	
<i>Kelly, Alan.</i>	<i>Curran, John.</i>	
<i>Kenny, Martin.</i>	<i>Daly, Jim.</i>	
<i>Mitchell, Denise.</i>	<i>Donnelly, Stephen S.</i>	
<i>Munster, Imelda.</i>	<i>Doyle, Andrew.</i>	
<i>Murphy, Catherine.</i>	<i>Durkan, Bernard J.</i>	
<i>O'Brien, Jonathan.</i>	<i>English, Damien.</i>	
<i>O'Reilly, Louise.</i>	<i>Farrell, Alan.</i>	
<i>O'Sullivan, Jan.</i>	<i>Fitzgerald, Frances.</i>	
<i>O'Sullivan, Maureen.</i>	<i>Fitzmaurice, Michael.</i>	
<i>Ó Broin, Eoin.</i>	<i>Fitzpatrick, Peter.</i>	
<i>Ó Caoláin, Caoimhghín.</i>	<i>Flanagan, Charles.</i>	
<i>Ó Laoghaire, Donnchadh.</i>	<i>Grealish, Noel.</i>	
<i>Ó Snodaigh, Aengus.</i>	<i>Griffin, Brendan.</i>	
<i>Pringle, Thomas.</i>	<i>Harris, Simon.</i>	
<i>Ryan, Brendan.</i>	<i>Harty, Michael.</i>	
<i>Shortall, Róisín.</i>	<i>Haughey, Seán.</i>	
<i>Smith, Bríd.</i>	<i>Healy-Rae, Danny.</i>	
<i>Stanley, Brian.</i>	<i>Healy-Rae, Michael.</i>	
<i>Wallace, Mick.</i>	<i>Heydon, Martin.</i>	
	<i>Kelleher, Billy.</i>	
	<i>Kyne, Seán.</i>	
	<i>MacSharry, Marc.</i>	
	<i>Madigan, Josepha.</i>	
	<i>Martin, Micheál.</i>	
	<i>McConalogue, Charlie.</i>	
	<i>McEntee, Helen.</i>	
	<i>McGrath, Mattie.</i>	
	<i>McGrath, Michael.</i>	
	<i>McHugh, Joe.</i>	
	<i>McLoughlin, Tony.</i>	
	<i>Mitchell O'Connor, Mary.</i>	
	<i>Murphy O'Mahony, Margaret.</i>	
	<i>Murphy, Eugene.</i>	
	<i>Naughten, Denis.</i>	
	<i>Naughton, Hildegard.</i>	
	<i>Neville, Tom.</i>	

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	<i>Nolan, Carol.</i>	
	<i>Noonan, Michael.</i>	
	<i>O'Callaghan, Jim.</i>	
	<i>O'Dowd, Fergus.</i>	
	<i>O'Keeffe, Kevin.</i>	
	<i>O'Rourke, Frank.</i>	
	<i>Ó Cuív, Éamon.</i>	
	<i>Ring, Michael.</i>	
	<i>Scanlon, Eamon.</i>	
	<i>Stanton, David.</i>	
	<i>Tóibín, Peadar.</i>	
	<i>Varadkar, Leo.</i>	
	<i>Zappone, Katherine.</i>	

Tellers: Tá, Deputies Ruth Coppinger and Louise O'Reilly; Níl, Deputies Seán Kyne and Tony McLoughlin.

Amendment declared lost.

Amendment No. 18 not moved.

**Deputy Clare Daly:** I move amendment No. 19:

In page 9, line 19, to delete “avert” and substitute “reduce”.

Amendment put:

<i>The Dáil divided: Tá, 31; Níl, 59; Staon, 0.</i>		
<i>Tá</i>	<i>Níl</i>	<i>Staon</i>
<i>Brady, John.</i>	<i>Aylward, Bobby.</i>	
<i>Broughan, Thomas P.</i>	<i>Bailey, Maria.</i>	
<i>Buckley, Pat.</i>	<i>Brassil, John.</i>	
<i>Burton, Joan.</i>	<i>Bruton, Richard.</i>	
<i>Coppinger, Ruth.</i>	<i>Butler, Mary.</i>	
<i>Cullinane, David.</i>	<i>Byrne, Thomas.</i>	
<i>Daly, Clare.</i>	<i>Cahill, Jackie.</i>	
<i>Doherty, Pearse.</i>	<i>Calleary, Dara.</i>	
<i>Ellis, Dessie.</i>	<i>Carey, Joe.</i>	
<i>Funchion, Kathleen.</i>	<i>Chambers, Lisa.</i>	
<i>Healy, Seamus.</i>	<i>Collins, Michael.</i>	
<i>Howlin, Brendan.</i>	<i>Corcoran Kennedy, Marcella.</i>	

*Dáil Éireann*

<i>Kelly, Alan.</i>	<i>Curran, John.</i>	
<i>Kenny, Martin.</i>	<i>Daly, Jim.</i>	
<i>Mitchell, Denise.</i>	<i>Donnelly, Stephen S.</i>	
<i>Munster, Imelda.</i>	<i>Doyle, Andrew.</i>	
<i>Murphy, Catherine.</i>	<i>Durkan, Bernard J.</i>	
<i>O'Brien, Jonathan.</i>	<i>Farrell, Alan.</i>	
<i>O'Reilly, Louise.</i>	<i>Fitzgerald, Frances.</i>	
<i>O'Sullivan, Jan.</i>	<i>Fitzmaurice, Michael.</i>	
<i>O'Sullivan, Maureen.</i>	<i>Fitzpatrick, Peter.</i>	
<i>Ó Broin, Eoin.</i>	<i>Flanagan, Charles.</i>	
<i>Ó Caoláin, Caoimhghín.</i>	<i>Grealish, Noel.</i>	
<i>Ó Laoghaire, Donnchadh.</i>	<i>Griffin, Brendan.</i>	
<i>Ó Snodaigh, Aengus.</i>	<i>Harris, Simon.</i>	
<i>Pringle, Thomas.</i>	<i>Harty, Michael.</i>	
<i>Ryan, Brendan.</i>	<i>Haughey, Seán.</i>	
<i>Shortall, Róisín.</i>	<i>Healy-Rae, Danny.</i>	
<i>Smith, Bríd.</i>	<i>Healy-Rae, Michael.</i>	
<i>Stanley, Brian.</i>	<i>Heydon, Martin.</i>	
<i>Wallace, Mick.</i>	<i>Kelleher, Billy.</i>	
	<i>Kyne, Seán.</i>	
	<i>MacSharry, Marc.</i>	
	<i>Madigan, Josepha.</i>	
	<i>Martin, Micheál.</i>	
	<i>McConalogue, Charlie.</i>	
	<i>McEntee, Helen.</i>	
	<i>McGrath, Mattie.</i>	
	<i>McGrath, Michael.</i>	
	<i>McHugh, Joe.</i>	
	<i>McLoughlin, Tony.</i>	
	<i>Mitchell O'Connor, Mary.</i>	
	<i>Moynihan, Aindrias.</i>	
	<i>Murphy O'Mahony, Margaret.</i>	
	<i>Murphy, Eugene.</i>	
	<i>Naughten, Denis.</i>	
	<i>Naughton, Hildegarde.</i>	
	<i>Neville, Tom.</i>	
	<i>Nolan, Carol.</i>	
	<i>Noonan, Michael.</i>	
	<i>O'Callaghan, Jim.</i>	
	<i>O'Dowd, Fergus.</i>	
	<i>O'Rourke, Frank.</i>	
	<i>Ó Cuív, Éamon.</i>	

28 November 2018

	<i>Ring, Michael.</i>	
	<i>Scanlon, Eamon.</i>	
	<i>Stanton, David.</i>	
	<i>Tóibín, Peadar.</i>	
	<i>Zappone, Katherine.</i>	

Tellers: Tá, Deputies Louise O'Reilly and Clare Daly; Níl, Deputies Seán Kyne and Tony McLoughlin.

Amendment declared lost.

Amendments Nos. 20 to 22, inclusive, not moved.

**An Ceann Comhairle:** Amendments Nos. 23, 24 and 26 are related. Amendment No. 24 is a physical alternative to No. 23. Amendments Nos. 23, 24 and 26 may be discussed together.

**Deputy Clare Daly:** I move amendment No. 23:

In page 9, to delete lines 27 to 32.

As it stands, the Bill requires that a termination of pregnancy must be carried out by the certifying obstetrician. This is an unnecessary requirement without a clinical rationale. It runs contrary to normal procedure, such as rostering and annual leave, and could introduce barriers that cause pregnancies to exceed the time limit.

**Deputy Simon Harris:** I am not in a position to accept the amendments. They propose to delete lines in sections 11 and 13, which require an obstetrician to carry out the termination of the pregnancy concerned or, alternatively, propose to allow the certifying obstetrician to make arrangements for the carrying out of the termination of pregnancy. Sections 11 and 13 both set out four steps which must be carried out by two medical practitioners. These steps are carrying out an examination, reaching a reasonable opinion formed in good faith that the requirements set out in the section have been fulfilled, certifying the opinion and carrying out the medical procedure. These steps are linked and follow each other sequentially. If there is no direct link between each of these steps, there is potential for confusion or for a woman in a crisis situation wishing to access termination of pregnancy to face additional barriers before she can access the service she requires.

In both sections one of the medical practitioners must be an obstetrician. Section 11 provides that the other medical practitioner must be an appropriate medical practitioner, which refers to a medical practitioner appropriate to the care or treatment of the woman in respect of the risk of the life or serious harm to her health. In section 13, a medical practitioner of relevant specialty is required, which refers to a medical practitioner registered in the specialist division of the Medical Council.

Both sections provide that the termination of pregnancy must be certified by the certifying obstetrician. In cases where both certifying medical practitioners are obstetricians, which

will often be the case, the medical procedure to terminate the pregnancy may be carried out by either of the certifying obstetricians. This requirement for the termination of pregnancy to be carried out by one of the certifying obstetricians is necessary to ensure the process for accessing terminations of pregnancy on these grounds is clear for women and their medical practitioners. Importantly, it also ensures continuity of care for the pregnant woman and places patient safety at the heart of the service.

I have discussed this matter with Dr. Peter Boylan and others. I accepted earlier in the debate that an issue arises in respect of early pregnancy - there was no doubt about that - and it had to be rectified. This is a different situation. This is a situation concerning health and life, and it is important there is a continuum of care. In addition, there is not a time period that needs to elapse, as there obviously is in early pregnancy.

The requirement for the procedure to be carried out by an obstetrician is necessary in recognition of the likelihood that the terminations carried out under these sections are likely to take place at a more advanced stage of pregnancy and may require more complex care, particularly in the view of the fact they may involve co-existing medical conditions. It is my Department's view, given the medical expertise contained within it, that from a patient safety perspective it is essential the highest possible standard of care is provided in these situations, although I know Deputy Daly and others will not agree with that, and that such cases are supervised and services delivered by the most highly experienced and qualified medical personnel, in this instance, consultant obstetricians. We do not want to do anything unintentionally that would in any way jeopardise a woman's health or lead to less than optimal outcomes.

Amendments were also proposed on Committee Stage to allow the certifying obstetrician to make arrangements for the carrying out of the termination of pregnancy. However, if the Bill did not require the termination under this section to be carried out by a certifying obstetrician, it could lead to a situation where one obstetrician certifies that, in his or her reasonable opinion, formed in good faith, the pregnancy concerned has fulfilled the requirements, but the woman could then experience a delay at a critical point if a second obstetrician must then be found to carry out the procedure. There is a duty of care, which is the point in these situations. In the worst-case scenario, a woman could be refused a termination by a second obstetrician on the grounds that he or she has not formed the same opinion as the obstetrician originally involved, and this would create a barrier to access for a woman when time is of the essence, and it could cause considerable distress or confusion.

I am of the strong belief the law should not impose an obligation on a medical practitioner to carry out a medical procedure based on the opinion of another medical practitioner, as we discussed earlier. I genuinely do not believe these amendments are required. I believe the unintended consequence would be potentially to reduce the optimum level of care that a woman would receive, considering that, under these sections of the legislation, we are talking about a woman who might be very sick and at an advanced stage of pregnancy. There is a duty of care on the obstetrician. There is also a situation where no time period needs to elapse, unlike in early pregnancy.

**Deputy Alan Kelly:** I will be withdrawing amendments Nos. 24 and 26, based on the clarification the Minister gave me earlier. However, I believe it is important the amendments were put down because they have brought about a clearer thought process and changes that have improved the Bill. The fact of the non-requirement for a time period makes a difference, as well as what has been explained to me in regard to the potential for the second obstetrician to have

possibly formed a different opinion. There is also the law of unintended consequences. While I will withdraw both amendments, I am glad the Minister has seen fit to make changes based on these amendments, especially as this has improved the Bill as a consequence.

Amendment, by leave, withdrawn.

Amendment No. 24 not moved.

**An Ceann Comhairle:** Amendments Nos. 25 and 27 are related and may be taken together.

**Deputy Clare Daly:** I move amendment No. 25:

In page 10, line 14, after “woman” to insert “and consulted with her, where possible”.

This is the same as the amendment we voted on earlier in regard to consulting with the woman, “where possible”, so I am not going to repeat the point. Amendment No. 27 is somewhat linked and seeks to replace “examined” with “consulted with”. This is to ensure the person accessing an abortion prior to the 12 week deadline is not required to submit to a physical examination at the first appointment, which could cause unnecessary delay and be a barrier. Instead, it replaces this with “consulted with” as a better alternative. This does not mean the doctor would never examine her but it would not be a requirement in every case.

**Deputy Louise O’Reilly:** I will not go over old ground except to say the Minister outlined the regulations that are in place with regard to consultation, and I pointed out we still had the CervicalCheck scandal and all that went with that. Will the Minister confirm that this issue and the position of the woman will be dealt with in the regulations? As they stand, the regulations are obviously not good enough, so the Minister is open to some change on that or to discussing it with the medical community, which will be devising its own guidelines. I do not believe there is any disagreement with what Members are saying, which is that the person who is intended to be helped by this legislation is the person at the centre of it. I do not believe anyone will disagree with that and I would like to hear from the Minister that he has taken the point on board. While there have been similar amendments, I ask that this be addressed in some shape or form.

**Deputy Simon Harris:** To be clear, the draft Bill I published in March, before the referendum, did not contain a reference to “examined”. I want the Deputy to know that, from a policy perspective, I did not deem it to be necessary. From a legal perspective, and based on significant and deep consultations with the Office of the Attorney General, there was a very strong view that it provided a degree of legal clarity that was lacking without it. From a policy perspective, quite frankly, I would love this not to be in the Bill. I would love to be able to come here today and say we should delete the line containing “examined”. However, the legal advice available to me is that that is not without risk and, of all the legislation we debate in this House, I do not wish to take any risks or chances with this legislation.

I am meeting the Medical Council in the morning and I will raise this issue with it because it is the regulator. The Deputy is right that the Medical Council has regulations which are there to be enforced, yet we still see a worrying degree of paternalism from time to time in the Irish health service, whether it is the issues the Deputy referred to earlier in regard to CervicalCheck, transvaginal mesh or more generally in terms of reproductive healthcare. I will raise it with the Medical Council and also with Dr. Boylan in the context of the clinical guidelines. We can certainly keep this under review, and I have no doubt we will be doing that. To be clear, the reason I voted the way I voted earlier was that the strong legal view is that the word “examined”

should be there and that it provides greater clarity than “consulted with”.

**An Ceann Comhairle:** How stands the amendment?

**Deputy Clare Daly:** As we voted on this issue earlier, I will withdraw this amendment based on having lost the earlier one.

Amendment, by leave, withdrawn.

**Deputy Alan Kelly:** I move amendment No. 26:

In page 10, to delete lines 23 to 28 and substitute the following:

“(4) The obstetrician referred to in *paragraph (a)* of *subsection (2)* shall make such arrangements as he or she shall deem to be necessary for the carrying out as soon as may be of the termination of pregnancy to which the certification referred to in *subsection (3)* relates.”.

Based on discussions with the Minister, I will withdraw the amendment.

Amendment, by leave, withdrawn.

**Deputy Clare Daly:** I move amendment No. 27:

In page 10, line 31, to delete “examined” and substitute “consulted with”.

On the basis that the Minister will consult the medical profession and given the way the debate has gone, I will withdraw the amendment.

Amendment, by leave, withdrawn.

**Deputy Mattie McGrath:** I move amendment No. 28:

In page 10, lines 32 and 33, to delete all words from and including “that” in line 32 down to and including line 33 and substitute the following:

“that—

(a) the pregnancy concerned has not exceeded 12 weeks of pregnancy, and

(b) a termination of the pregnancy concerned is not being sought because of the sex or race of the foetus concerned or because of any condition or disability affecting the foetus concerned.”.

**Deputy Michael Healy-Rae:** I will speak first while Deputy Mattie McGrath prepares his speaking notes. The amendment deals with our concerns that the pregnancy concerned has not exceeded 12 weeks of pregnancy, and that the termination of the pregnancy concerned is not being sought because of the sex or race of the baby concerned or because of any condition or disability affecting the baby concerned.

It was Deputy Mattie McGrath who introduced me and others to a person who had survived an abortion. We met that person and it was deeply concerning to all of us at the time. The story that lady had to tell us was frightening, and that is where the amendment came from in the first instance. Quite simply, when one is told of a factual event that happened in a person’s first hours or minutes of life, it is sobering.

*11 o'clock*

It had a profound effect on me and some of my colleagues who were also deeply affected by what we were told.

**Deputy Mattie McGrath:** I hope that people here tonight and looking in will understand that we made no effort to delay this Bill in any shape, make or form and the number of amendments should show that also. I am happy to make some brief remarks about these amendments. Given the gravity of what we are dealing with here I hope a certain latitude will prevail in the discussion but I do not see it. I am not holding out any great hope that any of our amendments will be accepted. The Minister set his face against any amendments we put down in good faith on Committee Stage. I thank the Ceann Comhairle for his intervention last night when we were being told that we were doing all kinds of things and that we had ulterior motives in putting down amendments. Every Deputy is entitled to table and move amendments. I am glad that none of that occurred tonight and that we have had a reasonable and respectful debate.

Every Deputy has a duty with a Bill like this to peruse the Bill and take advice on it, look at international practices and try to sanitise the ferocious nature of this Bill. That is merely what we were doing with our amendments. I do not want to be critical of the Bills Office but there was a problem with it on several fronts regarding names on the amendments. One or two of them were sent in without the names of people who did not want to be on them but then they were added. It is a pity because it is a very fraught issue and people have reasons for not supporting an amendment or for supporting it. The Minister said he was not going to break his word and his commitment given to the people during the referendum. When the three-day period was discussed I refrained from getting involved and commenting on it. We know that came from the Minister's colleague who told us all that it was going in for good reasons. The Minister described it in other terms on Committee Stage.

Dr. Peter Thompson told the Oireachtas Joint Committee on the Eighth Amendment of the Constitution that 40 years ago the Parliament in Westminster passed a Private Members' Bill ensuring that doctors who performed abortion under certain circumstances would not be performing an unlawful act. Despite the fact that this was amended by the Human Fertilisation and Embryology Act 1990 all subsequent attempts to have the Act amended have failed. I believe the same will happen here in respect of positive life-affirming amendments. That is of serious concern.

The most striking aspect of the Bill and indeed of the majority of the amendments before us is the total absence of any positive reference to the unborn child. That is what I feel so strongly and passionately about, as do many people who voted. They had the heads of the Bill but they had no feeling of what the outcome would be or what legislation would come before us. They voted to repeal the eighth amendment and rightfully handed the duty of legislating to the Oireachtas Members elected for the time being. I am privileged to be one of them for the moment.

I am doing my best to ensure the Bill is sanitised and reflects the people whatever which way they voted. We had many debates, interaction, canvassing and everything else in an honest effort to engage, to find out and imagine what might be put before us after the eighth amendment was removed. People on the Government side like to think about polls. I am not a big man for polls but in the exit poll 44% who voted "Yes" did not realise they would be paying for abortions and did not want to be paying for them.

The protections afforded to the unborn child and mother which were guaranteed by the eighth amendment no longer remain in place. Tá siad imithe. They are gone. The people have that on their hands. They voted for that and we have to accept democracy.

That being said, the heads of the Bill, as they were presented to us, and indeed the Bill before us now, should not be seen as a blank slate from which we can draw the most extreme conclusions. Our laws in this area and the amendments which seek to modify them ought to express the guiding and deepest principles of our nation. That is where we are in 2018. I see nothing in the majority of the amendments before us which gave expression to that view. They are by a significant majority devoid of any reference to the right of the unborn child to die a painless death where possible. Deputy Michael Healy-Rae is right, we did meet several people who travelled here to educate us, whose lives were intended to be ended in the womb by abortion but they survived by some miracle. They were aborted and left to die but thankfully in both cases that I met a nurse or a paramedic had compassion and offered some sustenance and they are now adults and have families themselves.

Those experiences left a deep impression on me and on anyone who cares to listen. We know that when they tried to speak here and book hotels to express their views the hotels were picketed and threatened. That is water under the bridge now but it is important to recognise that. No matter what happens here, or when this Bill is finished, and we are not delaying it by one minute, history will record what we said and did and how we voted. Only time will tell what that history will be. We know the history in England and America, safe legal and rare, but there have been millions of abortions. It is a slippery slope.

**Deputy Peter Fitzpatrick:** Amendment No. 28 deals with the possibility of abortion on the grounds of disability and in particular for conditions such as Down's syndrome. For all the wrongs that have taken place in this country over the past century we can be proud of how we cherish Irish citizens born with Down's syndrome. This legislation looks as if it will bring an end to this because all the European countries with similar liberal abortion regimes have seen the number of people born with Down's syndrome dwindle to almost zero. In the UK, 90% of children diagnosed with Down's syndrome are aborted and in Denmark that number is 100%. There is now a test which can screen for Down's syndrome with 99% accuracy at ten weeks, two weeks before the 12-week limit for abortion on demand under this legislation.

In an article in the *Irish Independent* on 24 May, the day before the referendum, the Minister for Health said the Government specifically excluded disability as grounds for abortion in the legislation. In a post on a Twitter account during the campaign the Minister for Arts, Heritage and the Gaeltacht, Deputy Madigan, reproduced a graphic design from Fine Gael's head office to explain the Government's abortion proposal stating that termination on grounds of disability is prohibited. Both these statements were absolutely and totally false as it stands and there is no provision in the Bill that prohibits abortion on the grounds of disability. As abortion campaigners admitted during the referendum campaign and, as has been said many times in the House, the availability of screening tests can detect a range of disabilities and genetic abnormalities as early as the third week of pregnancy. There is nothing in the Bill to in any way prohibit children who test positive for these conditions being aborted within the 12-week time limit. The Ministers, Deputies Harris and Madigan, seemed to agree on prohibiting abortions on the grounds of disability during the referendum campaign. Why do they not include a clear provision to that effect in the legislation?

I strongly support amendment No. 28 which seeks to do so and the Government should do

likewise, otherwise it will have sold a pup to the electorate on this issue. If the Minister for Health, Deputy Harris, is a man of his word, as he stated on 24 May, he would specifically exclude disability as grounds for abortion in the legislation. He would support this amendment.

**Deputy Lisa Chambers:** I will be brief as I do not wish to take up more time on the amendment than is necessary. However, the suggestion in subsection (b) of the amendment that someone would seek to procure an abortion on the basis of race or sex is an abhorrent one to make in the Chamber. It is deeply insulting to any woman who finds herself in that situation. The Deputies who have signed their name to the amendment need to explain why they would even suggest that any woman would make that decision. There is no evidence to support that. I have heard some incredible things over this entire process since the committee and through the opportunities to speak here and the engagements we have had outside the Chamber through the media and other fora. However, this is at the top of the pile in terms of how insulting it is to women. I will not support the amendment and those who do will find themselves in a lonely place. That needed to be recorded.

**Deputy Michael Healy-Rae:** On the record-----

**An Ceann Comhairle:** No.

**Deputy Lisa Chambers:** I am entitled to speak.

**An Ceann Comhairle:** Yes. She is quite entitled.

**Deputy Michael Healy-Rae:** Yes, but it must be stated that it is a well-known statistical fact that in other countries abortions take place due to the medical condition of the unborn child. To suggest that is not the case is non-factual. There was an attack on people who put forward an amendment, which they are perfectly entitled to do, and the people who signed their names to this were questioned. I would not dare to question anyone else in the Chamber because of what he or she signed his or her name to.

**An Ceann Comhairle:** The Deputy is going beyond a point of information.

**Deputy Lisa Chambers:** I specifically said race and sex.

**An Ceann Comhairle:** Let us not have an argument about it.

**Deputy Mattie McGrath:** She challenged those who signed the amendment.

**An Ceann Comhairle:** Please Deputies. Deputy Tóibín is next.

**Deputy Peadar Tóibín:** There is a dispute here about whether abortion happens on the basis of gender. It is estimated that there are 100 million missing women in the world today due to gender selective abortion and infanticide. To give Deputy Chambers some of the facts in that regard, I note that in China the sex ratio for the generation born between 1985 and 1989 was 108 men for every 100 women. By the generation born between 2000 and 2004, it was 124 for every 100 women. In some provinces, it is at unprecedented levels of 130 men for every 100 women. In countries like Taiwan, South Korea, Pakistan, India, Armenia and Azerbaijan, they are also having major problems with this. In India, there is a radical gender ratio divergence because for economic, social and cultural reasons, unfortunately and shockingly, they favour sons over daughters. These facts can be seen clearly by anyone who takes a second or two to investigate them. People might think this only happens in these particular countries, but it is happen-

ing in western countries also. I am happy to let Deputy Chambers understand that a lecturer in statistics at Imperial College London says that among immigrant groups from these countries, there is clear evidence of a trend and that the only reliable available explanation consistent with a statistically significant gender shift observed in the census data is gender selective abortion.

It is shocking to me that this could or would happen, yet it is happening in western countries. It is happening in Canada, Britain and the United States of America. Deputy Chambers should realise that it is happening to such an extent that Labour Party MP Naz Shah, the shadow women and equality minister in the United Kingdom, has called for a ban on gender selective abortion in Britain. The Labour Party in Britain is no bastion of pro-life views but it knows non-invasive pregnancy testing at nine weeks makes it possible to identify the gender of the unborn child and to have an abortion on that basis. The Labour Party knows that is happening in Britain. I do not think Irish people are morally superior to British people. We live in a globalised society and there are many people from these cultures living in Ireland who share the views people have in India and China. It is clear that this is possible under the legislation. It is clear in the legislation that this is legal. All I am saying is that we should follow the advice and example of the British Labour Party and lay down a clear marker that gender selective abortion will not be allowed here.

I refer to disability in respect of which the following is very important. In an earlier contribution, the Minister, Deputy Harris, said it was important for the Government to stick with the general gist of the debate around the referendum. The Minister noted that before the referendum, people were saying “Don’t trust politicians because when they legislate, what they introduce will be radically different to what they articulated in advance of the referendum.” In February, the Minister said there would absolutely not be a right to have an abortion on the basis of disability in the Bill. He said that would explicitly not be allowed. Non-invasive pregnancy testing at nine weeks is available in Ireland and the results are available within three days. That will tell one what disability may be present within the pregnancy.

It is absolutely practical and feasible under the legislation as drafted for a person to have an abortion on the basis of disability. It allows for it. This is one of the issues that motivated many people on our side of the debate when the referendum was happening. I was at a public meeting in Kerry on Monday and two women who had voted “Yes” told me they had done so on the understanding that under the legislation, it would be explicitly illegal to have an abortion on disability grounds. It is not. It is explicitly allowed because an abortion without indication is allowed up to 12 weeks. By definition, that allows it to happen.

People will say this will not happen in Ireland. However, we need only look at our nearest neighbour where there is an organisation called Don’t Screen Us Out. I ask Members to think about that for a second. In the 21st century, people with disabilities in Britain have come together to create an organisation with that name to ask able-bodied people not to select out people with disabilities before birth. To quote the statistics from a government health body in Britain, the birth rates for children with Down’s syndrome are falling by approximately 13% because 90% of children diagnosed in the womb with Down’s syndrome are, unfortunately, aborted. It would be a very strong message for us to send if we say we will protect people with disabilities 100% under this legislation. We should simply provide in the Bill for the promise the Minister made before the referendum took place.

If Members are looking for another example from a European country, the minister for health in the Netherlands was asked what would happen if the right to choose led to a situ-

ation in which no more children with disabilities were born. The Minister said “Well that is something we would have to get used to.” That is a startling situation. Anyone who believes a gap should be left in the legislation in this regard must look into his or her own heart and ask whether that is fair. There are people on the other side who are decent and who want abortion rights. There are decent people whose instinct is not to restrict those in any way at all because they believe access is so important. However, all I say is that in these two situations, we should be able to take a step towards each other to provide some protection.

**Deputy Stephen S. Donnelly:** When it comes to termination on the grounds proposed - race, gender and disability - the Bill clearly makes it an offence that carries a prison sentence of up to 14 years and it does so by stating the starting position is that it is an offence to procure and aid. It is a wide ranging group of offences, except in certain circumstances, none of which include race, disability, gender or anything else to do with the condition of the foetus. After 12 weeks, no one can seek or be involved in a termination in any way on the grounds set out in the amendment - disability, race, gender or anything else, other than what is stated very clearly in the legislation - a fatal foetal abnormality, a risk to the life of the mother or a serious risk to the health of the mother. Anything other than that carries a potential prison sentence of 14 years. That is what the Bill states and it could not be stronger in disallowing terminations on grounds of disability.

There is a counter argument that it does not state before 12 weeks and that, theoretically, a woman could undergo screening and decide that she will have an abortion on those grounds. Let us think that through. The figures used for China, Pakistan and India were related to a culture in which terminations were sometimes sought, outrageously so, if the data are correct, where the foetus was a girl.

**Deputy Ruth Coppinger:** There is actually no such evidence.

**Deputy Stephen S. Donnelly:** That is the allegation being made to which I am responding. Let us play it out. What would happen if we were to pass this amendment is that if there were screening to determine gender, the law would state something along the lines that a woman could have a termination if the foetus was male but could not if the foetus was female. That would be the essential implication. If there were screening for a disability, the law would state that if the foetus was deemed to be healthy, the pregnancy could be terminated, but if the foetus was deemed to have a disability, it could not be terminated. That is what would actually happen.

Let us talk about race. If we were able to screen to determine the race of the foetus, there would be a situation where if it was of a certain race or races, a termination would be allowed, but if it was of a certain other race or races, it would not be allowed.

There are people who passionately believe in the protection of life during pregnancy and I am not casting aspersions on anybody. The assertion that the Bill allows for termination on all of these grounds is incorrect. It could not be stronger in disallowing it and doctors to whom I have spoken about amendments such as this have said they get the issue and that the Bill states very clearly that a termination is not allowed, except in the four areas I mentioned. They have said the moment a grey area was introduced such as a hierarchy of permissible grounds, there would be a question about which gender or disability, for example. The question would be raised as to whether it was Down's syndrome, an intellectual or a physical disability. That would start to make life very grey and make the legislation very confusing. Several doctors

have said that in their view it would weaken protections which disallow termination on the grounds of disability because it would start a conversation about whether a termination could be carried out, depending on the disability. Ultimately, we cannot live in a world where any woman would ever be in a situation before 12 weeks where she would be told that she could have a termination if it was one gender but not the other, that she could have a termination if the foetus was healthy but not unhealthy, or that she could have a termination if it was of a certain race but not of a certain other race.

**Deputy Peadar Tóibín:** That is not what the amendment states at all.

**Deputy Stephen S. Donnelly:** That is not something that could ever be implemented in our society. For that reason, I will oppose the amendment. I am not suggesting for one second that it was written in a mischievous way, but its implications would be profoundly bad in terms of what would actually have to happen in reality were it to be passed.

For those who do not believe termination should ever be allowed on grounds of disability and so forth - I agree with that position - I believe the amendment would muddy the waters and doctors have said as much. They get it and say the legislation is crystal clear, that termination is only allowed in the four categories laid out in the Bill. Regardless of which side one is on or where one is in between, the practical implications of the amendment in passing into law and being implemented would be grotesque. Ideally, it should be withdrawn, but certainly it should be opposed.

**Deputy Carol Nolan:** Deputy Donnelly has definitely misconstrued the amendment. He has his own interpretation which he is entitled to have, but it is certainly wrong. What we are looking for is reasonable and fair. The Minister gave himself a pat on the back earlier for sticking to what he had promised the people before the referendum. He did state abortion would not be allowed on the grounds of disability. We just want to have safeguards and that is all we are asking him for.

We hear the Government talk about how inclusive we are becoming as a society and how we are giving equality to all of the people. We have seen the United Nations Convention on the Rights of Persons with Disabilities ratified after a scandalously long period of ten years, yet here we are unwilling to provide any safeguard to protect the lives of unborn children who may have disabilities. I find that very hard to stomach.

As somebody who came from the education profession, who strongly and firmly believes in treating every child equally, who strongly believes in inclusion in society and inclusive schools and who strongly believes in giving everybody a fair chance, what we are saying to society? Are we saying some people deserve to live and others do not because that is the way it appears? This is a fair and reasonable amendment and it is beyond me how the Minister could overlook it.

On gender selection, I remember some months before the referendum being absolutely shocked after I had discussions with a couple of women. They told me that when they had been expecting their babies, they had gone to well known maternity hospitals in Dublin and received a high standard of treatment, for which they were very grateful. However, they mentioned to me that one of the ladies had asked to be given information on the sex of her baby and had been told quite firmly by a nurse that they could not give her that information. When she asked why, she was told that a high number of women who had asked the sex of their baby had not returned

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to the hospital. We can draw our own conclusions from this. I am just stating I would be worried about it. We cannot say with absolute certainty-----

**Deputy Ruth Coppinger:** What is the name of the hospital?

**Deputy Carol Nolan:** Excuse me; we did not interrupt other Deputies. Have respect, for God's sake.

**Deputy Danny Healy-Rae:** Have manners.

**Deputy Carol Nolan:** This is just unbelievable. The cheek-----

**Deputy Mattie McGrath:** We have sat here all night, a Cheann Comhairle.

**Deputy Carol Nolan:** I genuinely remember being shocked to the core and we can draw our own conclusions, but we cannot say anything with absolute certainty. As we know, this nation includes all cultures. We are inclusive as a society. We do not know and cannot say with absolute certainty that somebody who goes into a hospital will not ask for or want an abortion on grounds of gender. We have to make sure there are safeguards because there are human and civil rights.

Debate adjourned.

The Dáil adjourned at 11.30 p.m. until 10.30 a.m. on Thursday, 29 November 2018.