



DÍOSPÓIREACHTAÍ PARLAIMINTE  
PARLIAMENTARY DEBATES

**DÁIL ÉIREANN**

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

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# DÁIL ÉIREANN

*Dé Céadaoin, 30 Eanáir 2019*

*Wednesday, 30 January 2019*

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

*Paidir.*

*Prayer.*

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## Ceisteanna - Questions

### Ceisteanna ar Sonraíodh Uain Dóibh - Priority Questions

#### Garda Youth Diversion Projects

30. **Deputy Jim O’Callaghan** asked the Minister for Justice and Equality the number of serious offences which were not addressed as a result of administrative error or as a result of Garda negligence within Garda youth diversion projects; the actions that will be taken with regard to the cases; the additional oversight of the projects required; and if he will make a statement on the matter. [4427/19]

**Deputy Jim O’Callaghan:** The Minister of State will be aware that An Garda Síochána made an announcement a couple of weeks ago about a review it had carried out on the Garda youth diversion programme. The announcement indicated that there were a number of significant concerns about the programme. It showed that many children who were arrested or apprehended were not referred to the youth diversion programme. What does the Government intend to do about this? It has serious consequences for the whole youth diversion programme.

**Minister of State at the Department of Justice and Equality (Deputy David Stanton):** I share the Deputy’s concerns about the very serious issues outlined in the Garda Commissioner’s interim report on youth crime cases from 2010 to 2017. In that period, almost 160,000 youth crime incidents were referred for consideration under the Garda diversion programme. Roughly one third of these incidents were deemed unsuitable for inclusion in the juvenile diversion system, and it has emerged that almost 8,000 of these crimes were not properly pursued. This is a completely unacceptable situation that must be thoroughly addressed in the interest of victims and the proper administration of justice, and for the future welfare of the children who committed the crimes.

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In addition to the apology which was appropriately issued by the Garda Commissioner, gardaí have commenced a process to contact victims and have also provided a helpline for anyone who might be affected by the failure to process these cases. Details of the helpline are available on the Garda website. I am anxious that all relevant information must be made available to the victims, including the steps being taken to deal with the failures that have occurred.

A number of fundamental issues have been identified by the Garda examination, including inadequate ICT and supervision, a lack of training, and alleged failings by individual gardaí.

Concerns about similar gaps surfaced previously on different issues and, as the Deputy is aware, last month the Government published the implementation plan which will give effect to the report of the Commission on the Future of Policing in Ireland. This plan is aimed at addressing, in a systematic way, all the failings identified.

The Government is committed to the implementation of the commission's report and a programme office has been established in the Department of An Taoiseach to oversee and report on progress.

In addition, the Policing Authority will continue to follow up with an ongoing examination of these specific youth justice-related matters to ensure the effectiveness of the remedial actions which the Commissioner has set in train.

As I mentioned, the issue related to Garda oversight of cases deemed too serious for diversion, and not to the Garda diversion programme or to the community-based Garda youth diversion projects which support the diversion programme. I am assured that no negative implications have been identified for these projects arising from this issue. I can assure the Deputy that I will keep in very close touch with the Commissioner and the Policing Authority to monitor progress.

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

In relation to the individual cases, the majority took place in the period from 2010-2015. Therefore, unfortunately, most of them will be statute barred. However, senior Garda managers are looking at the more recent individual cases to determine whether any further action can be taken. The Commissioner has been very clear that alleged failings by individual gardaí will be fully investigated at divisional level. The Deputy will appreciate that this is a matter for the Commissioner and his management team and any process of that kind has to be allowed to take its course and should not be pre-judged.

**Deputy Jim O'Callaghan:** The Minister of State will agree that dealing with criminal activity by children is a serious issue. Unless children can be deterred and diverted from criminal activity by the time they reach 18 years of age, there is a strong likelihood they will continue on a criminal path. The Children Act was introduced in 2001 and it established the juvenile diversion programme, which has worked very effectively. It seeks to provide community-based initiatives for children caught up in the criminal justice system, provided they accept and admit their responsibility for crimes they have committed. It very much depends on An Garda Síochána liaising with juvenile liaison officers. What is disturbing about this is that during the period from July 2010 to July 2017 approximately 7,900 offences, involving 3,500 children, were not dealt with to conclusion. That Minister of State stated that is a matter of concern. While I understand the Garda Síochána and Policing Authority are looking at this, what does the Government propose to do about it?

**Deputy David Stanton:** The Garda authorities have taken a number of technical and organisational steps to prevent the recurrence of the failures outlined in the Garda review of cases from 2010 to 2017. I am advised that these measures have led to substantial improvements in case management. More work is under way within An Garda Síochána to verify the full details of the treatment of youth crime during that time, including an external validation process which commenced in mid-January. In addition, the Commissioner has established a national bureau for child diversion to improve further the management of this whole area. As Minister of State with responsibility for youth justice, I have initiated work to develop a new youth justice strategy. I took this initiative on the expiry of the youth justice action plan 2014 to 2018 and will chair the expert steering group guiding the work. The first meeting of the steering group will take place on 6 February. The development of the strategy will provide an opportunity for broad consultation to support enhanced approaches to youth justice based on co-operation across State agencies and community partners. Not only are we following this up, but the Police Authority will continue to engage in rigorous examination of these matters and the actions outlined by the Commissioner to address the systemic cultural and disciplinary issues within An Garda Síochána. We are not only looking backwards but forwards also. I agree wholeheartedly with the Deputy that this is a very serious issue which should not have occurred. We want to ensure these young people are given the support they need and that the victims are assisted also.

**Deputy Jim O’Callaghan:** Youth justice is an extremely important matter and I am pleased to hear the Minister of State say he has responsibility for it. Sometimes, it falls between the two stools of the Departments of Children and Youth Affairs and Justice and Equality, respectively. We must recognise that it was not just the children who were not referred to the youth diversion programme who were failed, it was also the victims of the crimes. Some 7,900 crimes were committed and each victim who made a complaint is entitled to have it investigated thoroughly and dealt with, irrespective of whether a child committed the offence. Similarly, many other children went through the youth diversion programme and took the process seriously in an effort to get off the path of criminality. If they see that others who do not bother engaging with the programme simply get away with it and are ignored by the State, not having to face any consequences for the crimes, it will undermine the whole scheme. I urge the Minister of State, Deputy Stanton, to take responsibility for it and to be seen as the person within Government who is driving this crucial issue to ensure children are diverted from crime at an early stage.

**Deputy David Stanton:** I thank the Deputy for his support and sincerity on these matters, which I welcome. With respect to victims, and in addition to the sincere apology issued by the Commissioner, gardaí have commenced a process to contact victims and provided a helpline for anyone affected by the failure to process these cases. Clearly, all relevant information must be made available to victims, including the steps being taken to deal with the failures which have occurred. It is very concerning that there were repeated failures in the cases of some prolific young offenders. Justice was not done for the victims or for the young offenders whose behaviour should have been challenged repeatedly. The issues raised in the report highlight the fact that many young offenders are themselves vulnerable individuals and underline the need to address offending in a strategic multi-agency manner as recommended by the Commission on the Future of Policing in Ireland. I take this opportunity to commend the Commissioner on the work he and his team have done to date to deal with this very serious matter. I commend the Policing Authority also for the professional way it continues to handle the matter.

## Garda Youth Diversion Projects

31. **Deputy Donnchadh Ó Laoghaire** asked the Minister for Justice and Equality his views on the latest report on the Garda youth diversion programme, specifically the cases deemed not suitable for the programme that were not progressed by An Garda Síochána; his further views on similar difficulties existing in the adult justice system; and if he will make a statement on the matter. [4291/19]

**Deputy Donnchadh Ó Laoghaire:** The Minister of State has discussed already and will agree that it is unacceptable that 7,894 crimes by more than 3,500 children and young people were not progressed. This failed the children and the victims. As to the latter, 75% of these cases involved four main categories, namely public order, theft, traffic offences and criminal damage. However, there were 55 offences covering matters of rape, sexual assault and one case of child neglect. It is appalling to think that someone came forward to gardaí and made a complaint in this regard but, as is now clear, no action was taken to prosecute properly the child responsible. The Minister of State will agree that this is serious and requires action to address the systems failure and disciplinary matters.

**Deputy David Stanton:** I agree with the Deputy on this matter and thank him for raising it. It is very serious indeed. These issues arise from the Garda Commissioner's interim report on the handling of youth crime cases. As such, it was gardaí themselves who discovered the issues and sought to address them. The issues will be addressed through the implementation of the recommendations contained in the report of the Commission on the Future of Policing in Ireland. I emphasise the Government's commitment to implementing the report, which provides a strategic framework to address the full range of systemic, organisational and cultural deficits within An Garda Síochána. A high-level implementation plan was published in December and endorsed by every Minister and Government Department. It is an ambitious but realistic plan and the timescale is in line with the commission's own recommendations. It is being overseen by an independently-chaired programme office located in the Department of the Taoiseach in recognition of the multiplicity of agencies and Departments charged with implementing it.

I emphasise again that this issue should not cast any shadow over the value of the Garda youth diversion programme itself. I am sure the Deputies present will agree with me on that. These issues relate to cases that were deemed unsuitable for the Garda youth diversion programme. As such, no negative implications have been identified for the diversion programme itself, which is very beneficial and has helped generations of young people take a path away from criminal activity. Neither is it regarded as having implications for the community projects funded by my Department to support the diversion programme. We must distinguish between failures of youth crime case-management and the very valuable work of the diversion programme.

I am aware that members of the Policing Authority have asked if similar issues could arise in relation to prosecutions and case management for adult offending. The Commissioner has acknowledged that it would be necessary to examine that question further. As such, there are further questions to be asked here. I am concerned to ensure we have assurances about the quality of Garda prosecution procedures and systems in relation to all crimes, not just youth crime. The Policing Authority has indicated that it will assess whether there are any wider implications for Garda crime management and prosecution procedures which need to be addressed. The authority is responsible for independent oversight of policing and is clearly the appropriate body

to examine these matters in the first instance. My Department has already been in touch with the authority and will maintain close contact to monitor developments to ensure we get a clearer overall picture of criminal case management and prosecution.

**Deputy Donnchadh Ó Laoghaire:** I agree, of course, that the Garda youth diversion project is a successful and valuable scheme and I stated as much in the Chamber last week. I am aware from many excellent projects in my own constituency, including in Douglas and Togher, the latter of which won a national prize in the Tidy Towns competition a year or two ago, that excellent work is taking place. Nevertheless, the scale of what happened here is very significant. As I set out, 3,500 children and young people did not get case progression. If my understanding of the process is correct, these are people who had accepted responsibility in order to have been referred but were then deemed unsuitable, yet it is a very large category.

I am interested in what the Minister of State said about the possibility of wider issues involving adult criminality. There has been speculation on that in the media and the Policing Authority has given an indication in that regard. I am concerned by that. The level of detail is unclear but there is obviously something there or the chair of the Policing Authority would not say it. However, there is no scheme such as youth diversion involved and there is no form of reference of a similar nature. As such, what is the nature of the issues that appear to exist? What indication can the Minister of State provide to the House on any wider issues of crime prevention or possible failures to progress adult prosecutions?

**Deputy David Stanton:** I thank the Deputy for his questions and comments on the youth diversion programme and its projects. While it is correct to ask these questions, we must bear in mind that these issues related to juveniles who were under 18 and not adults. However, the question has been asked on adults and the Commissioner has indicated that he will look into it. As the Deputy said, it is very concerning that there were repeated failures in the case of some prolific young offenders. Justice was not done for the victims, nor was it done for the young offenders whose behaviour should have been challenged repeatedly. The issues raised in the report highlight the fact that many young offenders are themselves vulnerable and underline the need to address offending in a strategic and multi-agency manner as recommended by the Commission on the Future of Policing in Ireland. That is why I am establishing a steering group. It will consider the matter and make serious proposals on how to deal with youth justice in future. I am also very interested in looking at international best practice and what works in other jurisdictions that we can learn from and introduce here. I look forward to receiving the support of Deputies in the House on this very important matter.

**Deputy Donnchadh Ó Laoghaire:** I welcome all that but we are not any clearer. There is an indication from the Minister of State, the Commissioner and the Policing Authority that there is a wider issue. The Minister of State said the Garda Commissioner is looking into it. Can it be said, therefore, that a review is taking place into the possibility that cases involving adults were not properly progressed? If so, what is the category of offence or what scheme is involved? I do not believe the Minister of State would tell us that the Commissioner is looking into it unless he was of the view that something is amiss. If he was entirely confident, as is often the case, he would be indicating that he has no concerns about the adult prosecution system. This is clearly not the case. There is a concern but the House and the public are not being informed of the nature of that concern. Is a review taking place? What is the nature of offences, schemes or probation under which adult cases are potentially not being properly progressed and people are not being properly prosecuted?

**Deputy David Stanton:** I am aware, as is the Deputy, that members of the Policing Authority asked whether similar issues could arise in the context of the prosecution and management of adult crime cases. The Commissioner acknowledged it would be necessary to examine the question further, which is where it lies at present. The authority has indicated that it will assess how the wider implications for Garda crime management and prosecution procedures should be addressed. The Department has already been in contact with the authority in this regard and will remain in close contact to monitor developments and ensure that we get a clear overall picture of crime case management and prosecution. The authority has asked the question and the Commissioner is investigating to see whether there is anything there. I do not think there is a relationship between what we are dealing with today regarding youth diversion programmes and young people whose cases were not dealt with as they should have been. The question was asked and because it was asked it must be answered. I am sure the Commissioner will provide answers in due course to the authority, which is the appropriate place it should be answered. When we have that information, I will happily bring it to the House.

### **Civil Partnership Legislation**

32. **Deputy Jim O’Callaghan** asked the Minister for Justice and Equality his views on the ruling that the prohibition on testifying against a spouse extends only to married couples and not to civil partnerships or other forms of relationship; the actions he will take to address the issue; and if he will make a statement on the matter. [4428/19]

**An Leas-Cheann Comhairle:** Before we take Question No. 32, I do not need to remind the Minister or Deputy O’Callaghan that decisions or judgments of a duly constituted court cannot be subjected to review or discussion in the House. I presume they are both well aware of this.

**Deputy Jim O’Callaghan:** I am very aware of the ruling. A decision of the Court of Appeal made two weeks ago threw up a very interesting point for the Legislature. I do not want to deal with the details of the case but it concerned the rule that a spouse cannot be a compellable witness in a criminal trial. The argument made was whether it applied to people in civil partnerships or cohabiting people. The Court of Appeal ruled it does not do so and that it is a matter for the Legislature. I am interested to hear what the Minister has to say on it.

**Minister for Justice and Equality (Deputy Charles Flanagan):** I acknowledge what the Leas-Cheann Comhairle stated and I will of course comply. I wish to address the issues raised by Deputy O’Callaghan in a general manner. As he is aware, the provisions of Part IV of the Criminal Evidence Act 1992 do not prohibit one spouse from testifying against the other but provide that a spouse is competent to give evidence except where both spouses are co-accused. Section 22 provides that a spouse is compellable at the instance of the prosecution only in limited circumstances.

The question of amending Part IV of the Criminal Evidence Act 1992 to extend the provisions relating to the competence and compellability of spouses and former spouses to give evidence so that they would also apply to civil partners and former civil partners, which is the issue at hand, was considered during the drafting of the Bill that became the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010.

At the time, the Attorney General advised against the inclusion of such a provision because of concerns relating to Article 41 of the Constitution. The Attorney General advised that Article

41 requires a clear distinction between the institution of marriage, as recognised by the Constitution, on the one hand and a civil partnership on the other. A further reason for not including such a provision for civil partners was the constitutional protection for the institution of marriage having the effect of protecting the privacy of the marital relationship.

In the Dáil and in Seanad Second Stage speeches on what became the 2010 Act, the then Minister informed the Houses that the Attorney General had advised that in order to comply with the Constitution, it was necessary to differentiate the recognition being accorded to couples who register their partnerships with the special recognition accorded under the Constitution to persons who enter into a contract of marriage.

I should also mention that the Law Reform Commission examined issues relating to marital privilege in its 2004 consultation paper on the rights and duties of cohabitants and did not recommend any change to the existing position.

**Deputy Jim O’Callaghan:** I thank the Minister for his reply. This is obviously a complicated issue. To try to simplify the law as it stands, under the Criminal Evidence Act 1992, a spouse is not a comparable witness except in circumstances where an offence has been committed against that spouse, a child or a person under 17 years of age. The reason it is of significance to the Oireachtas is we now find ourselves in a society where not everyone gets married. People are in long-standing relationships with partners who, for all intents and purposes, have the same relationship as married people. Alternatively, people are in civil partnerships. It seems to create an anomaly in the law that only individuals in the protection of marriage are afforded a privilege that does not apply to others. I am conscious of what the Minister has said with regard to the advice of the Attorney General in 2010 and the importance of distinguishing the institution of marriage from other institutions. It seems to stand out as an unusual statutory provision when we think of how modern Ireland exists at present. Does the Minister have any proposal on how it could be dealt with to reflect more accurately modern Irish society?

**Deputy Charles Flanagan:** I mentioned the view of the Attorney General in 2010. I have no evidence to suggest it has in any way changed. I also acknowledge the importance of the role played by the Law Reform Commission insofar as it was quite clear in its not recommending any change to the existing position, whereby cohabitants do not come within either the ambit of the Evidence Amendment Act 1853 or the later Criminal Evidence Act 1992. This was for two reasons. The first is that as cohabitation was not to be equated with marriage it would be incorrect to extend marital privilege to cohabitants because the privilege developed in the context of, and is specific to, the relationship of marriage. The second is the restriction on marital privilege in the context of serious crime by the 1992 Act may be seen as a move away from marital privilege generally.

**Deputy Jim O’Callaghan:** Another way of looking at it would be that we need to question whether there is a necessity to maintain the marital privilege provision, as the Minister refers to it. The Minister has a concern and the advice of a former Attorney General was that applying it to others in civil partnerships could create constitutional difficulties but perhaps consideration should be given to the existence of the rule in the first instance. The purpose of it - and it is an archaic rule - was not wanting to put spouses in the position of having to give truthful evidence that could damage their relationships with their husbands or, to a lesser extent, their wives or place them in a position that would damage their relationships. We need to give this careful consideration. The reason it is relevant is because the Court of Appeal stated the issue that arose in the case is a matter for the Legislature and we need to give consideration as to whether

we should do something about it.

**Deputy Charles Flanagan:** I note the comments of the President of the Court of Appeal in the context of the judgment. I will not say anything further about it. Referring back to previous debates, it is clear that while there is a need to respect the entitlement to the equality that civil partners enjoy under Article 41 of the Constitution in particular, this must be balanced against the need to respect the special protection that article affords to marriage. The 2010 Bill was carefully framed to ensure a balance in any potential conflict between these two rights.

On the question of amending Part IV of the 1992 Act to extend its provisions to civil partners and former civil partners, it was decided not to proceed along those lines. I do not detect an appetite to revisit it. I am happy to engage further but I stress the importance of the position of the Attorney General at the time. I have not seen any evidence to suggest the legal position has in any way changed.

*Question No. 33 replied to with Written Answers.*

### **Garda Complaints Procedures**

34. **Deputy Clare Daly** asked the Minister for Justice and Equality the status of progress of the five section 42 inquiries established in response to the independent review mechanism; the cost of same; and if he will make a statement on the matter. [4426/19]

**Deputy Clare Daly:** I am inquiring as to the status of the five section 42 statutory inquiries into some pretty serious incidents that were initiated following the internal review that was carried out.

*11 o'clock*

Four of the inquiries related to tragic deaths. I believe three of the inquiries have been concluded. In respect of one of them, the person has withdrawn while another one seems to be in some kind of la-la land. What is the status of these inquiries?

**Deputy Charles Flanagan:** I thank the Deputy for the question. While the inquiries were formally established on 15 May 2017, in practice, it took some time to get them equipped to be fully operational. A retired judge was appointed to conduct each of these inquiries and the orders establishing the inquiries prescribe that on conclusion of each one, a report will be submitted to me.

Two of these inquiries have concluded and reports have been furnished to me. Both involved tragic fatalities and the families have each been seeking answers for what they believe were failures by the authorities regarding the circumstances. I reiterate my condolences to those families on their losses.

In each case, I sought the advice of the Attorney General about publication of the reports. I was advised that any breach of individual privacy rights or adverse comments about any party should be avoided where possible. I, therefore, arranged for anonymised versions of the reports to be provided to the families and published on the Department's website. This was done before Christmas.

The central findings of the reports were clear. Each report identifies issues that require a response from An Garda Síochána in order that the families can have as complete a picture as possible of the circumstances of the death of their loved ones. Everybody will agree that this is the very least they deserve.

Upon receipt of the reports, therefore, I wrote to the Garda Commissioner regarding the issues raised in each of these reports. Where the judges identified failings by An Garda Síochána, I have asked the Commissioner to consider these and notify me of what actions he proposes to take in light of these findings. When I receive his reply, I will decide whether any further action is appropriate. I will, of course, be in further contact with the families in this regard.

**Deputy Clare Daly:** I believe the third inquiry is complete and that the judge is simply writing up on the report. In the three cases that are complete, the families involved met the judges before the cases started, their legal teams met the inquiry team and they received a transcript of the proceedings every day. An Garda Síochána and the DPP were present with a legal team so that they could interact with the judges. Yet in the case of Shane Tuohey, a former constituent of the Minister, and his family, who are constituents of the Minister, the judge will not meet with the family or their solicitor and will not have any contact with them. He meets on his own, transcripts are not provided and neither An Garda Síochána nor anybody else, including the Tuohey family's solicitor, is allowed to be present. The family's solicitor has sought a copy of the transcript in line with other people's solicitors but, again, there has been no reply to that. They know from one person who attended the inquiry that the judge shot that individual down in terms of his testimony because that individual gave information that the judge said contradicted the evidence given by a member of An Garda Síochána in a written report. This is not adequate, fair or transparent. It is time for the Minister to intervene and appoint a new person to this inquiry.

**Deputy Charles Flanagan:** I do not intend to change the terms of reference of the inquiries but I have listened carefully to what the Deputy has said. In each case, the terms of reference were set by the Attorney General. They were also the subject of consultation with the Policing Authority of Ireland. It is clear from what the Deputy said that one of the individuals involved appears to have a concern, which appears to revolve around the conduct of the inquiry. In the event of any complainant having a concern, I suggest that such concerns be raised in the first instance with the judge conducting the inquiry. I am very conscious that these inquiries are independent of me and this House and rightly so. That is reflected in the terms of reference.

**Deputy Clare Daly:** The issues have been raised consistently with the judge in question. The solicitor hand-delivered a letter with nine serious questions, the most significant one being why the family is not being provided with the transcript. The judge replied a few days later telling the solicitor not to contact him again. That was last September. The Minister is aware of this because I have written to him and received a reply regarding this matter. I raised the matter in a parliamentary question and the Minister seemed to imply that the family could seek a judicial review. We are not asking for the terms of reference to be changed. The terms of reference are basically the same for all of the inquiries. How can the other three judges carry out their inquiries, bring in the legal teams, allow the hearings to be conducted in public, as it were, and produce the transcript at the end of every day but this judge will not do so? The family is asking whether it is because Judge McDonagh operated in the Tullamore area where gardaí have been called into question about their actions and have had their activities investigated. Is there a conflict of interest? The Minister cannot stand by and expect the family to take a judicial review at enormous expense regarding a mechanism that was supposed to be put in place to help

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them. This is causing them further pain and hardship. They have written to the judge and the Minister. Somebody needs to do something. We are not asking for the terms of reference to be changed. It is patently non-transparent and unfair.

**Deputy Charles Flanagan:** The Deputy has made very serious allegations in respect of the conduct of this inquiry.

**Deputy Clare Daly:** That is right.

**Deputy Charles Flanagan:** I do not believe it would be appropriate to intervene in these ongoing inquiries, of which there are five. Three have been concluded. An extension of time has been sought in respect of two of them. I am very anxious that all inquiries are completed as expeditiously as possible. Each inquiry, including the one referred to by the Deputy, must be conducted in line with the terms of reference but must also respect constitutional and statutory norms and norms established by the European Convention on Human Rights regarding fair procedures that may be applicable to all such inquiries. Each of the families and individuals central to these inquiries are legally represented.

**Deputy Clare Daly:** Not at this one; they are not.

**Deputy Charles Flanagan:** The families are in a position to make representations directly to the judge. Their legal advisers are in a position to advise as to the law and to liaise directly with the judge on a regular basis. I listened carefully to what the Deputy said but I am not going to intervene in what is an independent statutory inquiry. I believe there are remedies available in the event of the type of grievance referred to by her.

## **Ceisteanna Eile - Other Questions**

### **Protected Disclosures**

35. **Deputy Mick Wallace** asked the Minister for Justice and Equality if he is satisfied that the system regarding protected disclosures within An Garda Síochána is functioning properly, if he has had contact with the new Garda Commissioner on this issue since his appointment and if he will make a statement on the matter. [4387/19]

**Deputy Mick Wallace:** The Minister has told us that he has established a panel of counsel to assess disclosures made to him by members or former members of An Garda Síochána. Is he happy with the protected disclosures system? Has he discussed same with the new Garda Commissioner?

**Deputy Charles Flanagan:** Under the 2014 Act referred to by the Deputy, members of An Garda Síochána may communicate their concerns to the Garda Commissioner, as their employer if they so choose, or make a disclosure to the Garda Síochána Ombudsman Commission, GSOC, which is statutorily independent in the conduct of its investigations. The legislation also allows that an individual employed by a public body may also make a protected disclosure to the Minister with responsibility for that body. In the case of An Garda Síochána, that is the Minister for Justice and Equality.

The Garda Síochána has published a protected disclosures policy and all Garda members and civilians have been informed of this policy. A protected disclosures manager was appointed. An Garda Síochána works with Transparency International Ireland, TII, and other external providers to create an environment to ensure that whistleblowers are properly protected and supported. TII's Integrity at Work pledge was signed by the Garda Commissioner in 2017. The Garda Síochána code of ethics includes strong commitments for each individual member with regard to "speaking up and reporting wrongdoing".

The Deputy is aware that, in 2016, the then Minister requested the Policing Authority to examine and report on the policies and procedures in place in the Garda to deal with whistleblowers and whistleblowing. The authority was also asked to make any recommendation that it considered appropriate in order to ensure that the policies and procedures in place were appropriate and could provide assurance to whistleblowers that they could make complaints or allegations in a safe environment where they would be properly investigated.

**Deputy Mick Wallace:** GSOC was supposed to look after protected disclosures, but the Minister has now had to establish a panel. Does that mean that the workload is too much for GSOC or that there is a lack of confidence in its role in assessing protected disclosures?

Section 41(1)(b) of the Garda Síochána Act 2005 reads: "significant developments that might reasonably be expected to affect adversely public confidence in the Garda Síochána". The Garda is supposed to keep the Minister informed of such circumstances. Did the Garda Commissioner advise him of the circumstances around the need to suspend Assistant Commissioner Fanning before or after that suspension, or did the Commissioner give any reason for that suspension?

**Deputy Charles Flanagan:** I am in regular contact with the Garda Commissioner. The issues to which the Deputy referred are, as operational ones, exclusively the prerogative of the Commissioner. My Department's most up-to-date figures for protected disclosures from the Garda made under the Act since its introduction are as follows: 16 to the Garda Commissioner up to last December; 25 to GSOC up to December 2017; and 24 to the office of the Minister for Justice and Equality to date. It may be possible that the same individual has made a number of protected disclosures to more than one of the possible recipients under the Act and there is some overlap in that regard, but I am keen to ensure that the protocols, practice and procedure are working properly so that any complaint or grievance is adequately addressed. That is also the position of the Garda Commissioner. Deputy Wallace has raised these issues before. I assure him that the Garda Síochána, at every level from Commissioner down, has consistently and without exception encouraged all staff, sworn and unsworn, to disclose all and any wrongdoing. There are practices and procedures under the Act that allow for due process to be undertaken.

**Deputy Mick Wallace:** The Minister stated that the protected disclosure system was working well, but Mr. Nicky Keogh first complained in May 2014 and, as the Minister knows, that situation is still not resolved. Has there been a change of policy? For example, the House will be aware that Mr. Pat Murray and Mr. Aidan Glacken were the subjects of Mr. Keogh's protected disclosure. They were never suspended, yet Mr. Fanning has been. Has there been a change of policy or did the Commissioner-----

**An Leas-Cheann Comhairle:** Deputy, I would refrain from mentioning names.

**Deputy Mick Wallace:** Okay. Has the Minister discussed with the Commissioner Mr.

Fanning's suspension? Has the Minister or the Commissioner any concern about the manner in which this information was leaked to the media so quickly? It obviously came from headquarters.

**An Leas-Cheann Comhairle:** The Minister to respond, if he is in a position to.

**Deputy Charles Flanagan:** I do not have anything to say on matters relating to the media. Deputy Wallace probably knows as much about that as I do, or perhaps more. However, the policy on the part of the Garda is to ensure that there is due process and that workers, whether sworn or unsworn, in the Garda can be assured that they will be protected from any form of penalisation or threat in respect of a disclosure made.

Deputy Wallace mentioned the matter of resourcing GSOC. We will have an opportunity to return to that, but I assure the House that it is the Government's priority that GSOC be adequately and properly funded. The budget for this year is in excess of €10 million. Resources and funding are kept under continuing review so as to ensure that the body is in a position to continue to operate in an effective and efficient manner in accordance with its statutory remit. In the budget last autumn, a further €1.6 million was provided, which has resulted in an extra complement of staff for the body.

### **Garda Síochána Ombudsman Commission Funding**

36. **Deputy Mick Wallace** asked the Minister for Justice and Equality his views on whether funding issues may be impeding the ability of GSOC to deal with protected disclosures in an expedient and timely manner; if he has considered increasing the budget for GSOC; and if he will make a statement on the matter. [4388/19]

**Deputy Mick Wallace:** This is a connected question. The Minister referred to due process, but I would insist that Mr. Keogh certainly has not got due process to date. Are funding issues impeding the ability of GSOC to deal with protected disclosures in an expedient and timely manner? GSOC is getting an extra €600,000 in this year's budget, but will the Minister consider giving it more money to make it more effective?

**Deputy Charles Flanagan:** I acknowledge the concerns of Deputy Wallace and others in that regard. It is essential that we ensure that the independent complaints body, GSOC, is properly and adequately funded. Resources and funding are the matter of ongoing review. I acknowledge the provision of an extra allocation of funds.

GSOC has authority to appoint its own officers under delegated sanction. Sanction was provided in November last for an additional 42 staff members, five of whom were to be deployed to a dedicated disclosures unit. This would increase the unit's active staffing to ten full-time members. At no time has GSOC had as much access to resourcing or staffing. These additions reflect the important work undertaken by the commission and the need for it to be properly resourced in order to ensure public confidence in the independent role that it plays.

**Deputy Mick Wallace:** I am aware that GSOC has more money now than it did before, but will it not need even more if it is to do the job as effectively as we would like? Last December, the Minister announced that the Government had endorsed the report of the Commission on the Future of Policing in Ireland and agreed to accept all 157 key recommendations. According to

the Department's implementation plan, the new framework will be in place by June 2021 and legislation on the establishment of new oversight bodies is to be drafted this year. Where does that stand? The Government can introduce all the legislation it likes - we agree with giving greater powers to GSOC so that it can function - but unless that is matched with extra resources, it will unfortunately remain a toothless organisation. It will need much more funding if it is to be the body we would all like it to be.

**Deputy Charles Flanagan:** On the latter point, I am in agreement with Deputy Wallace. I would be keen to ensure that the question of resourcing on the one hand and the question of legislative update on the other are kept under review at all times. I acknowledge the Deputy's concerns in this regard.

Protection for whistleblowers rightly prioritises the privacy and confidentiality of the process, which is central to the process. It is not right or proper to discuss individual cases. This morning, I acknowledged names which were put before the House again by Deputy Wallace. While I do not doubt his concerns about the matter, it would be a pity if they were, in some way, to blind us to the basic principles of fairness. The reality appears to be that Deputy Wallace and other Deputies rush to judgment without having heard what others have to say about a particular case or a particular set of allegations. It is easy to make charges against people, as the Deputy and others do, when these people are not in a position to defend themselves. There is process involved under the Act. I have indicated to the House the practice and procedure regarding such complaints.

**An Leas-Cheann Comhairle:** The Minister will have another opportunity to respond.

**Deputy Charles Flanagan:** It is incumbent on us to allow the independent body, GSOC, proceed and carry out its investigations in accordance with its terms of reference.

**Deputy Mick Wallace:** That is contradictory. The Minister said that GSOC is a statutory independent body and that we should not rush to judgment. Why did he not wait for GSOC to investigate the protected disclosure regarding assistant commissioner Fanning before he was suspended? Why was he suspended in advance of the investigation? The Minister is the one accusing me of-----

**An Leas-Cheann Comhairle:** The Deputy is long enough in the House to know that he cannot make reference to individuals who are not here.

**Deputy Mick Wallace:** I am sorry. I will not name anyone anymore.

The Minister said that I was the one jumping to a judgment. With what is happening, it looks to me that he does not have confidence in GSOC to do its work. I have not a clue as to what Fanning did or did not do.

**An Leas-Cheann Comhairle:** The Deputy said he would refrain from naming people.

**Deputy Mick Wallace:** I am sorry. That was a slip of the tongue.

I am not the one making the judgment. If the Minister has faith in GSOC, why did he have to come up with this panel? Why was this individual suspended in advance of the protected disclosure being heard?

**An Leas-Cheann Comhairle:** The Minister to respond.

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**Deputy Mick Wallace:** I do not understand this.

**Deputy Charles Flanagan:** I have every confidence in GSOC and in its work headed up by an eminent judge of the High Court. I am keen to ensure that appropriate resources are made available. I am pleased to report progress in recent times, which I am sure, having reflected on the matter, will be agreed with by the Deputy.

I am not, however, going to comment in any manner or means on a case currently before the High Court. It is grossly irresponsible of the Deputy to make reference to aspects of the particular case in the House and to expect me, as Minister for Justice and Equality, to wish to enter into any debate on the matter.

### **International Conventions**

37. **Deputy Jim O’Callaghan** asked the Minister for Justice and Equality his plans to ratify the Budapest convention and the Lanzarote convention; the timeline for the ratification of same; and if he will make a statement on the matter. [4179/19]

**Deputy Jim O’Callaghan:** Ireland signed the Budapest Convention on Cybercrime in 2001 and the Lanzarote Convention, which deals with the protection of children against sexual exploitation and sexual abuse, in 2007. When will the Minister ratify them?

**Deputy Charles Flanagan:** The Deputy will recall that I recently outlined the position on the ratification of these two important Council of Europe conventions when he raised the matter on 16 January. At that time, I updated the House on the significant progress made in the ratification process within the term of this administration, particularly through the introduction of legislation to give effect to the key criminal law provisions in both treaties.

On the cybercrime convention, otherwise known as the Budapest Convention, the majority of the provisions in the convention are already provided for in Irish law. The most significant step towards ratification of the convention was the enactment in 2017 of the first Bill in this jurisdiction specifically dedicated to dealing with cybercrime. The Criminal Justice (Offences Relating to Information Systems) Act 2017 gave effect to an EU directive on attacks against information systems, the main provisions of which reflect the key provisions in the convention.

This recent legislation, therefore, also gives effect to provisions in the convention relating to offences against information systems and their data, as well as search and seizure powers in respect of such data. An Garda Síochána, the organisation with primary responsibility for dealing with cybercrime, has strongly welcomed this landmark legislation as a comprehensive weapon to tackle criminality against computer systems, as well as interference with such systems or their data.

Turning to the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, also known as the Lanzarote Convention, the work required for ratification is at an advanced stage. I understand from our previous debate on this matter that the Deputy’s primary concern is with the elements of the convention which deal with the criminalisation of online abuse and exploitation of children. Ireland’s laws are fully in line with the convention in this regard. This was largely achieved by the Criminal Law (Sexual Offences) Act 2017, which is groundbreaking legislation. On other elements of the convention, my Department has carried

out a detailed review of compliance, in consultation with the Department of Children and Youth Affairs and other relevant stakeholders, such as the Garda Síochána and the HSE.

**Deputy Jim O’Callaghan:** The online sexual exploitation and sexual abuse of children is one of the most serious issues that any country can face. I am sure the Minister will appreciate that we cannot deal with it on our own. It is an international problem and needs to be dealt with through international co-operation. That was the reason why the Council of Europe came up with these two conventions. The Budapest Convention, dealing with cybercrime, was signed by Ireland in 2001 and the Lanzarote Convention, which deals with the protection of children against sexual exploitation and sexual abuse, was signed in 2007. I acknowledge that steps have been taken by the Oireachtas and the Government to put in place legislation, which will achieve the requirements of part of those conventions. However, they still have not been ratified. It should not come as a surprise to the Minister because I have raised it with him previously, and Dr. Geoffrey Shannon, the child rapporteur, mentioned in his annual report as far back as 2014 that these conventions had not been ratified. I still have not received an answer as to when they will be ratified.

**Deputy Charles Flanagan:** I would like to be in a position to report progress on both of these conventions. I acknowledge there has been a delay in bringing matters towards a finality. However, much progress has been made in the context of legislation that has been enacted in recent times such as the Criminal Justice (Offences Relating to Information Systems) Act 2017 and the Criminal Law (Sexual Offences) Act 2017. Other aspects of the Lanzarote Convention do not require fresh legislation but action needs to be taken at operational level.

I agree with the Deputy that child sexual exploitation is an issue which can only be tackled by means of a cross-agency approach. I am engaged with a broad range of stakeholders, including the Department of Children and Youth Affairs, the HSE, Tusla and An Garda Síochána. I am keen that matters will be advanced during the year. I am happy to keep the House fully informed of developments to ensure we formally ratify both of these important Council of Europe conventions.

**Deputy Jim O’Callaghan:** I hope I am not being unfair but based on what the Minister said, I take it that it is hoped that the Government will ratify these conventions this year. If that is so, it is to be welcomed, notwithstanding the fact that they should have been ratified a long time ago.

We must recognise that international attention in this regard will focus on Ireland in due course. We have managed to get away with the fact that the State has not ratified these conventions. Ireland is a centre for a significant number of digital and Internet companies. We need to be conscious that we have to have in place top-of-the-range regulation and legislation to deal with the serious issue of sexual exploitation and abuse of children online. Internet companies are incapable of doing it to the fullest extent. Even if they were, as legislators we must ensure that the appropriate laws are in place.

While I welcome what the Minister said about it looking as though they will be ratified this year, there has been a long delay and I will hold him to the commitment that it will be done this year.

**Deputy Charles Flanagan:** I do not wish to offer reasons or excuses to the House about the timescale involved, but I acknowledge there has not been the type of progress which many

of us desired. Some of the delay arose from developments at EU level such as the 2005 EU framework decision on a tax on information systems, which was in the process of being implemented through well-advanced draft national legislation until 2010, before being replaced by an updated directive in 2013. The Deputy will appreciate that there are legislative priorities, which change over time due to competing issues in the justice and equality sector. Given that the issue has been raised again, I am keen to keep the House fully informed and, in particular, the Deputy, having regard to his interest in it.

### **Gambling Sector**

38. **Deputy Martin Heydon** asked the Minister for Justice and Equality if his Department considers loot boxes and mystery boxes in video games a form of gambling or an e-commerce activity; and if he will make a statement on the matter. [4383/19]

**Deputy Martin Heydon:** The gaming industry is growing exponentially and there is much concern about the harm, in particular to young adults, from loot boxes and mystery boxes. Some \$30 billion was reportedly spent on loot boxes in 2018 alone, and the gaming industry is predicted to have a value of \$160 billion by 2022, 47% of which will be generated from micro-transactions such as loot boxes. It is clear that improved regulation is needed.

In the light of the Department's ongoing work on the Gambling Control Bill 2018, will the Minister of State outline the Department's view on loot boxes? Are they considered a form of gambling or an e-commerce activity?

**Deputy David Stanton:** The Deputy will be aware that I have previously addressed the issue of loot boxes and whether they constitute a gambling or e-commerce offering. A licence is required under the Betting Acts 1931 to 2015 or the Gaming and Lotteries Act 1956 to sell gambling products, and gaming, as defined under the latter Act, is covered in that regard. While the Minister for Justice and Equality has certain responsibilities under both Acts, the Revenue Commissioners are the responsible licensing authority. In the context of video games, if a game sought to offer an activity or items for purchase that fall under the current Irish legal definition of gambling, the manufacturer of the game would require a relevant licence. To the best of our knowledge, no manufacturer has sought such licensing by gambling regulators in Ireland or other EU member states to date.

If a game offers in-game purchases, however, that are advertised to increase the chances of success in the game but do not fall within the current Irish legal definition of gambling, such purchases are an e-commerce activity. This would fall within recourse to normal consumer law where there is dissatisfaction on the part of the customer with the purchase. However one might regard in-game purchases and how they may be marketed, it must be clear that they fall within the legal definition of a gambling activity to engage the regulatory attention of my or other Departments responsible for that regulation. This position is shared by other EU member states.

I have been made aware of so-called mystery boxes, which are items offered for purchase through Internet platforms such as YouTube. I am advised they appear to be in the nature of lucky dip-type purchases and, as such, do not come under the definition of gambling. My earlier comments, therefore, regarding the requirement for a gambling licence also apply in this instance.

Through the Department of Justice and Equality, Ireland was happy to lend its support to the recent declaration issued by the Gaming Regulators European Forum, concerning the blurring of lines between gambling and gaming. The declaration reflects concern among national authorities as to whether gaming products such as video games should be appropriately licensed if they offer gambling possibilities. The declaration was intended to indicate to the gaming industry concerns expressed by several states that certain player-to-player gaming products may, in the context of in-game purchases, fall within the category of gambling as defined under their national laws. Although the declaration does not have any legal effect, Ireland will continue to co-operate with other member states in the matter.

**Deputy Martin Heydon:** I thank the Minister of State for his response and acknowledge our role in the joint declaration of European regulators. In popular games such as Overwatch where if one purchases a loot box, the box starts shaking on the screen and there are flying discs and a final reveal, and it is all designed to heighten the appeal. It is very much like watching an episode of “Winning Streak”. Similarly, in the Fortnite game, which is also popular, the “Save the World” game features blind loot boxes. While Epic Games has said the system will be replaced by an X-ray system, there are currently brightly coloured piñatas that are cracked open with the potential to win in-game goodies. There will soon be X-ray llamas in order that the player will know before purchasing what they contain, which I welcome.

York St. John University and the University of York came together to conduct an extensive study of 8,500 gamers, and they found a direct link between adults who have problems with gambling and the time they spent on loot boxes, which is something we should be conscious of. They recommended a loot box restriction and that, at the least, there should be an age restriction on loot boxes in line with other types of gambling in order that they are treated as another form of gambling, which should be borne in mind.

**Deputy David Stanton:** That was one of the reasons we supported the declaration I mentioned. Parents have primary responsibility to protect their children in the purchase and use of video games, particularly those played online. The declaration to which I referred will serve to alert parents of potential issues and costs involved and encourage them to exercise greater control over purchase decisions. That the Deputy raised the matter will, I hope, highlight to parents that they need to be vigilant about these matters.

Video products are currently regulated under the Video Recordings Act 1989. Video games are exempted works for classification purposes unless they fall within the terms provided for in section 3(1)(a) or (b), which cover the grounds for the prohibition of works. Ireland is part of a pan-European game information, PEGI, system, which is a European-wide rating system for video games, and the director of the Irish Film Classification Office, IFCO, is a member of the council of the PEGI system. It is now normal practice for IFCO to view video games which are rated as 18+ to allow the director of IFCO to form an opinion of whether such games fall within the terms provided in the Video Recordings Act 1989.

**Deputy Martin Heydon:** I raised the issue for two reasons, namely, to try to influence our view of regulation as we amend the upcoming gambling Bills and to raise awareness among parents of their responsibility. Children aged ten, 11 and 12 play the games, often in their bedrooms without parental control and without parents being fully informed of the important elements of the game.

Countries such as Belgium, the Netherlands, the Isle of Man, China, Japan and Australia

have treated loot boxes and mystery boxes as a form of gambling. Regulators are investigating the matter in 15 other areas, one of which is the US Federal Trade Commission, which is investigating pay-to-win and gameplay systems. While parental control is important, and I accept that gambling problems are covered by the Department of Health, it is incumbent on the Department of Justice and Equality, as regulator, to make a start. If somebody is susceptible to problem gambling, this type of gaming is a bad way to start as a young adult. If there are ways we can restrict that and make young adults safer in their gaming, we must take every step.

**Deputy David Stanton:** I thank the Deputy for raising the matter, which is important because children are possibly being groomed by using the games before progressing to gambling. He is correct that people with gambling problems or addictions are the responsibility of the health authorities because it is a health matter.

The Deputy made reference to the group that we established to review the main provisions of the Gambling Control Bill. The group gave attention to considering the structure of the proposed regulatory authority, having regard to the decision taken by the Government on 10 January 2018. It considered governance and logistical practicalities in the establishment of the regulator, as well as the future of licensing of gambling activities, including gaming arcades, machines, lotteries and casinos; combatting money laundering through gambling; improved protection of consumers and vulnerable persons; and the approach to be taken to advertising, sponsorship and the proportion of gambling activities, and match-fixing of sporting events.

The Deputy is correct that the matter is changing by the week. Every time we examine it, there is a new game, approach or way of making money and enticing people to get involved, which is why I am anxious that the gambling control authority is established as soon as possible with the flexibility to keep up with the industry.

## Garda Procedures

39. **Deputy Maureen O’Sullivan** asked the Minister for Justice and Equality if An Garda Síochána has a written policy regarding the use of section 12 of the Child Care Act 1991 in respect of newborn infants; and if he will make a statement on the matter. [3959/19]

**Deputy Maureen O’Sullivan:** This question is to ask the Minister if An Garda Síochána has a written policy on the use of section 12 of the Child Care Act 1991 regarding newborn babies.

**Deputy Charles Flanagan:** All Deputies will be aware that matters of policy and procedure within An Garda Síochána are matters for the Garda Commissioner. I do not have a role in the implementation of practice and procedures. I can inform Deputy Maureen O’Sullivan, however, that I am advised by the Garda Commissioner that An Garda Síochána has a specific policy regarding section 12 of the Child Care Act 1991. The relevant directive from the Garda’s policy on the investigation of sexual crime, crimes against children and child welfare states:

When members encounter incidents where the removal of a child to safety must be considered, pursuant to section 12 of the Child Care Act 1991 (as amended), two central tenets of the Act of 1991 should be borne in mind:

That it is generally in the best interests of a child to be brought up in her or his own

family, and

That the welfare of the child is the first and paramount consideration.

A balance must be achieved between those two issues when deciding whether or not to remove a child [to a place that might be regarded as a place of greater] safety.

Section 12 of the Act gives authority to An Garda Síochána to invoke its provisions where a member has reasonable grounds for believing that there is an immediate and serious risk to the health or welfare of the child. For example, Tusla personnel may form an opinion, usually as a result of an interaction with a family, that there is an immediate and serious risk to the health, welfare, or both, of a child or children. In such circumstances, Tusla may request a member of An Garda Síochána to invoke section 12 of the 1991 Act.

While an individual garda may base his or her decision on the information provided by Tusla and its personnel, it is the garda removing the child to safety who must be satisfied that there is an immediate and serious risk to the health and-or welfare of the child concerned. I acknowledge the serious nature of this authority and An Garda Síochána works diligently at all times to adhere to the principles of the Act to protect the safety and welfare of all children.

**Deputy Maureen O’Sullivan:** I thank the Minister. My question relates to newborn babies, which is a very sensitive and emotive topic. No one denies that there are times when - for their safety and welfare - babies need to be removed from the care of their parents. Section 12 allows the Garda some discretion and my understanding is that it is used in a humane way. Difficulty arises when there is a court order and gardaí must forcibly remove a newborn baby. Forcibly removing a baby is not good childcare practice. It causes great distress for everybody involved, the parents, the gardaí, the hospital staff, Tusla staff and the legal people involved. We have examples of where that has happened.

I take the point that a baby’s welfare and health are paramount. The court order, however, does not give any room for alternatives to be considered, for example, detaining a baby in hospital for a few more days with supervised access for the mother. The European Convention on Human Rights makes it clear that all possible alternatives to removal have to be considered and that it has to be proportionate. There have been cases where it has not been proportionate.

**Deputy Charles Flanagan:** Moving from the general to the more detailed, as the Deputy has done in her supplementary question, I have to say that there is no specific policy applicable to newborn babies. However, the Garda policy relating to section 12 strictly follows the requirements laid down in the 1991 Act. That Act defines a child as a person under 18, and this, of course, covers newborn infants along with all other children. The removal of a newborn infant under section 12 is a rare occurrence. It is only considered in cases where there is an immediate and serious risk to the health and welfare of the child. In all cases, regardless of the age of the child, the overriding consideration for members of An Garda Síochána is the safety and welfare of the child. As Deputy Maureen O’Sullivan will acknowledge, An Garda Síochána engaged the professional services of Professor Geoffrey Shannon to conduct an independent audit of the exercise by An Garda Síochána of section 12. His report was published in May 2017 and was welcomed by An Garda Síochána.

**Deputy Maureen O’Sullivan:** I refer to section 13 of the Child Care Act 1991. I want to return to the forcible removal of a newborn baby from its mother. I agree with the Minister that the welfare of the child is paramount. I ask him, however, to consider that there is a need for a

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more detailed protocol for a better partnership in those situations where there is a court order or where section 13 is applied. There must be a better protocol between Tusla, hospital staff, the parents or the guardian *ad litem* of the child and the Garda. I refer to there being planned guidance and direction. Perhaps there is a need to consider setting up an expert group that would consider this particular aspect of the forcible removal when there is a court order. That would definitely be for very valid reasons but this issue of forcible removal has caused great distress when it has been used. There was a particular case before Christmas. I know the Minister does not want to comment on individual cases but there was much distress caused to everybody involved. My concern is to avoid that kind of distress arising in similar situations.

**Deputy Charles Flanagan:** I acknowledge the expertise and experience of people such as Professor Shannon. I am sure Deputy Maureen O’Sullivan will agree with me in that regard. One of the main findings of Professor Shannon’s report was that the exercise of section 12 of the Child Care Act 1991 by members of An Garda Síochána has been necessary, proportionate and legally sound, and that it has been done without any form of discrimination. I assure the House that An Garda Síochána continues to work to ensure that all children under the age of 18, including newborn infants, are fully protected. Members of An Garda Síochána use their statutory powers appropriately with the sole aim of protecting children. I am advised by the Garda Commissioner that the directive to all members of An Garda Síochána covering the use of section 12 is in accordance with all aspects of the Child Care Act 1991.

### **Garda Deployment**

40. **Deputy Thomas Byrne** asked the Minister for Justice and Equality the number of Garda members in the Meath division. [4167/19]

**Deputy Charles Flanagan:** As the Deputy is aware, the manner in which the resources of the Garda Síochána are deployed is solely a matter for the Garda Commissioner and his management team. I, as Minister, have no direct role in the process. I can, however, assure Deputy Thomas Byrne that Garda management keeps the distribution of resources under continual review in the context of crime trends and policing priorities so as to ensure optimum use is made of resources.

I am informed by the Commissioner that as of 31 December 2018, the most recent date for which figures are readily available, the strength of the Meath division was 318. There are also 13 Garda Reserves and 30 civilians attached to the division.

It is important to note that the increased specialisation within An Garda Síochána means that the number of gardaí assigned to various divisions does not include those assigned to various specialist bureaus or units that include the Garda National Bureau of Criminal Investigation, the armed support units, the Garda National Economic Crime Bureau and the Garda National Drugs and Organised Crime Bureau, all of which are particularly active, as the Deputy will appreciate, in the Meath division. Around 200 extra gardaí were assigned to the specialist bureaus within Special Crime Operations since 2017.

Since the reopening of the Garda College in Templemore in September 2014, almost 2,400 recruits have attested as members of An Garda Síochána and have been assigned to mainstream duties up and down the country. Some 73 of these were assigned to the Meath division. This accelerated recruitment of officers led to Garda numbers reaching just over 14,000 by the end

of 2018.

Furthermore, the Commissioner has been allocated an additional €100 million for 2019. This will bring his total budget to almost €1.8 billion. This substantial investment will allow the accelerated recruitment programme to continue at the same time that new and leading edge technology is deployed to An Garda Síochána to support our front-line officers in carrying out their work of delivering a visible, responsive and effective police service in Meath and elsewhere.

**Deputy Thomas Byrne:** I am grateful to the Minister for his reply. He stated that 73 new gardaí have been assigned to the Meath division and I accept that. However, although any increase is welcome, the overall increase in the number of gardaí is approximately 29. While the Garda Commissioner may have allocated 73 gardaí to Meath, approximately 40 to 50 gardaí retired from the division. That said, we welcome the increase which was provided as part of the confidence and supply agreement. More work needs to be done, particularly in County Meath due to its population among other issues. County Westmeath has twice as many gardaí per head of population as County Meath. We have approximately one garda for every 600 residents while County Westmeath has one for every 300 residents, although the figure varies. The largest town in Ireland without a Garda station, Ratoath, is in my constituency. I urge the Minister to bring that to the attention of the Commissioner if they are discussing these matters. Other towns such as Slane and Dunboyne only have part-time Garda stations. There is justified concern about crime and Garda presence. We thank gardaí for their work, but they need more resources in my constituency and wider County Meath.

**Deputy Charles Flanagan:** I am happy to immediately share the table I have in respect of the Meath division with the Deputy. However, Garda strength in the Meath division has recovered to levels last seen in 2008-09. In the past four years, Garda strength in Meath has recovered. There has been an increase of 15% from the low point of 277 in 2015. I do not have a figure for the number of retirees in County Meath but I am happy to acquire it for the Deputy. The Commissioner stated his intention to recruit 600 trainee gardaí and 600 Garda civilian staff this year. It is important that we make every effort to release gardaí from office or administrative duties to do the work on the street and in communities for which they were, perhaps, best trained. If the annual intake of approximately 800 continues and there are approximate 300 retirees annually, the force will be significantly strengthened. I have no reason to believe there are proportionally more retirees in Meath than elsewhere in the country but I am happy to get the figure for the Deputy.

**Deputy Thomas Byrne:** The population of County Meath has increased rapidly compared to other counties. In addition, it started from a low base in respect of Garda numbers.

An issue of concern is that the number of Garda reservists has dropped significantly from 20 to 16 and there are now 13. Although some may have become full-time members of An Garda Síochána and I am delighted if they have, a renewed focus on the Garda Reserve may be of assistance to policing and Garda duties in my constituency.

**Deputy Charles Flanagan:** I note the Deputy's comments on the Garda Reserve. It is somewhat disappointing that its numbers have dropped from a peak of 1,100 in 2013 to 530 in 2018. However, I acknowledge the importance of the recommendations in the report of the Commission on the Future of Policing in Ireland, which the Government published before Christmas. It is an elaborate and ambitious implementation plan that reviews all aspects of

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policing in Ireland. The commission specifically recommended that recruitment to the Garda Reserve be paused pending completion of a strategic review of the reserve with a view towards ensuring the best use is made of this valuable resource. I confirm that this year the Garda Commissioner intends to recruit a further 600 trainee gardaí along with 600 Garda civilian staff. That recruitment will allow him to redeploy a further 500 fully trained gardaí from administrative to front-line duties. I expect that County Meath will benefit in that regard.

### Visa Applications

41. **Deputy Maureen O’Sullivan** asked the Minister for Justice and Equality if he is satisfied with the turnaround time for visa application decisions; and his plans to designate additional resources to expedite the process. [4394/19]

**Deputy Maureen O’Sullivan:** My question regards the turnaround time for visa application decisions and whether the Minister plans to designate additional resources to expedite the process.

**Deputy Charles Flanagan:** I am advised by the Irish Naturalisation and Immigration Service, INIS, of my Department that decisions on the grant or refusal of visas are made in a number of INIS visa offices overseas, the visa office in Dublin and at embassies of the Department of Foreign Affairs and Trade which process many visa applications under delegated sanction from my Department.

The Deputy will agree there has been an increase in the number of visa applications across most categories of people wishing to come to Ireland for a variety of purposes. More than 140,000 applications were received last year, an increase of 12% on the previous year. This reflects the trend in recent years, with applications having increased by 40% since 2014 when slightly more than 100,000 applications were received. The trend is expected to continue in the coming years. Much of the growth is due to increased economic activity and greater connectivity generally. Notwithstanding that, processing times are on a par with those for the same time last year and in many cases have improved upon them.

More generally, there has been an improvement in processing times for visas in recent weeks. It is expected that this will improve further in the coming weeks and into the spring. However, processing times in visa offices may vary having regard to seasonal demands, the volume of applications received, the merits of individual applications, their complexity, available resources and whether there is a need to seek further information, investigate or inquire further. The work involved and the required checks may, therefore, take some time depending on the complexity or individual circumstances of an application.

I assure the Deputy that every effort will be made to keep processing times to a minimum. Several measures have been put in place to deal with the increased demand for visas to come to Ireland.

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

This has included the assignment of additional staff to help process applications and, more generally, the streamlining of visa processes where possible. I am advised that this is making a difference such that processing times are generally within the INIS administrative target which

takes into account the time required to undertake essential checks. The targets have not been adjusted to take account of the increased numbers of visa applications in certain locations. The position in this regard is being kept under review and will be monitored closely in the coming months.

**Deputy Maureen O’Sullivan:** I tabled a question to the Minister before Christmas regarding the delay in getting appointments. In reply, he stated that a new online system was being considered and would be developed over the coming year or so, that there would be additional staff and that offices would open on Saturdays and Sundays. Could those measures be implemented in the visa application process? It is only when contacted by people with particular difficulties that one becomes aware of the system. A case of which I am aware involved a person who applied three months before the deadline because a family issue required him to return to his country of origin. However, the decision on his visa was made almost at the last minute. Another person who had an offer of good employment and did not want to go into the black economy was trying to get his visa expedited as quickly as possible to take up that offer of employment because he wanted to be in genuine employment in which he would pay his taxes. Cases such as that bring home the inordinate delays experienced by some people and the need for a quicker response.

**Deputy Charles Flanagan:** I do not disagree with what the Deputy stated. It is important that every effort is made to streamline the process and reallocate staff to particular locations as the demand or requirement appears to necessitate. Several measures have been put in place to deal with the increased demand, including the assignment of additional staff to cities such as New Delhi and Beijing to help process applications. More generally, a system of streamlining the visa processing where possible has been implemented. Staff have been temporarily deployed abroad to help to process visas when the need arises. I assure the Deputy that we will continue to keep the position under review. I acknowledge her information in that regard.

**Deputy Maureen O’Sullivan:** I acknowledge that the system is fair and transparent. My engagement with INIS has been good and I acknowledge the work it does. However, there is a need to address the significant delay in processing some applications, particularly in emergencies.

**Deputy Charles Flanagan:** The situation on some parts of the international stage is improving. I acknowledge that there were some challenges. I assure the Deputy and the House that I will continue to monitor the situation and that we will do everything possible to ensure an efficient and effective process.

## **Northern Ireland**

42. **Deputy Brendan Smith** asked the Minister for Justice and Equality the progress to date in implementing new legislative measures arising from the Fresh Start agreement and Stormont House Agreement; and if he will make a statement on the matter. [4325/19]

**Deputy Brendan Smith:** The bombing incident in Derry was a stark reminder of the bad days on our island. The Stormont House Agreement and the Fresh Start agreement contain important measures to deal with paramilitarism and put an end to criminal activity.

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There is also the broader issue of ensuring that legacy issues are dealt with and that we work in the interests of victims and their families. The Minister might give us an outline of what progress has been made.

**Deputy Charles Flanagan:** The Government is fully committed to giving effect to the provisions of the Stormont House Agreement and the Fresh Start agreement. As Deputy Smith will appreciate, the continuing political stalemate in Northern Ireland has resulted in considerable delay in making progress with the legacy framework in particular. The Government remains committed to the re-establishment of the Executive and the Assembly in Northern Ireland and we continue to work with counterparts to that end.

In November 2017 the Government approved the drafting of the Criminal Justice (International Co-operation) Bill. The Bill will facilitate further co-operation by An Garda Síochána with the legacy framework in Northern Ireland, including with the proposed historical investigations unit, HIU, dealing with legacy inquests. As the Deputy will be aware, a high level of co-operation with the HIU will immediately be possible under existing mutual legal assistance arrangements. The Bill is at an advanced stage of drafting and I intend to bring this legislation to the Government in the near future to seek approval to proceed to publish.

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

The Government signed an international agreement with the British Government in September 2015 on the establishment of the Independent Commission for Information Retrieval, ICIR. The development of proposals for legislation to establish the ICIR in this jurisdiction is being progressed. In the context of giving effect to the Stormont House Agreement legacy framework, the British Government undertook a consultation process on the agreement's legacy provisions, which ended in October 2018. Irish officials are liaising with their counterparts in Northern Ireland on the outcome of this process with a view to the Governments bringing forward complementary legislative proposals to establish ICIR in our respective jurisdictions.

Under the Fresh Start agreement the Government enacted the Independent Reporting Commission Act 2017 in August 2017. This legislation, together with parallel legislation enacted in the UK, has given effect to the IRC, a cross-Border body charged with monitoring and reporting on the implementation of the executive action plan to tackle paramilitarism in Northern Ireland. I was very pleased to publish the first report of the IRC in October 2018. Progress has been made in giving effect to elements of the action plan. More work needs to be done and the re-establishment of the Executive will be critical in that regard.

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

**Deputy Micheál Martin:** Thousands of patients are being impacted as we speak because of the nurses strike. In passing, I welcome the care that is continuing to be given to cancer patients and to patients on dialysis, and that an agreement was reached with the nursing organisation. However, 25,000 appointments have been cancelled and there is a lot of anxiety out there among patients, people with chronic illness and people awaiting elective surgery in regard to what will happen in the coming weeks.

As the Taoiseach knows, this strike will be followed by more intensive action, with consecutive days of strike action throughout February. It is my view there has been no proactive

engagement from Government in regard to this dispute with the nursing representatives. The belated, 11th hour activity that we witnessed in the last number of days was far too little and far too late. The sense from officialdom was, “We are going to let this strike happen today and then see what happens after that.” I do not think any genuine attempt was made to engage with a view to preventing today’s strike.

The Government, in my view, is also in denial about the recruitment and retention issues within the health service, specifically in nursing. Agency nursing is costing €1.4 million a week. We are haemorrhaging nurses from our colleges to the United Kingdom and further afield. A young student was on Today with Sean O’Rourke this morning saying he will be offered six months accommodation in London and that he has three job offers, which is fairly typical. The UK hospitals come over to all of our college campuses on a regular basis. There will always be toing and froing, and I get that, but the imbalance today is extraordinary. We are talking about 80% to 90% of final year students not staying in the Irish system and going overseas - those are the estimates being made, so it is a serious issue. Meanwhile, we are spending hundreds of thousands on trying to recruit from non-EU countries to fill the gaps in our service. There is an imbalance that reveals something is unattractive to those who are qualifying as nurses which means they do not stay in Ireland. I have no doubt about this. Morale is low. Nurses are working in a very high-pressure environment and they are very worried about the quality of the care they are giving because of the shortage of staff, high acuity levels and all of that.

Yesterday, the Taoiseach said he wants to resolve this, that these disputes do ultimately get resolved and that Government is part of the industrial relations machinery. Can he indicate what initiative he plans to take to get this issue resolved and to prevent the anxiety many patients undoubtedly feel? Does he accept there is an excessive level of haemorrhaging of nurses from our colleges to overseas locations and what does the Government intend to do about that?

**The Taoiseach:** I thank the Deputy for raising this important matter. I am, of course, as is the Government, very aware that a strike by nurses and midwives belonging to the Irish Nurses and Midwives Organisation is taking place today across the country. I profoundly regret and am sorry for the disruption and inconvenience that has been caused to patients. Appointments and operations are often cancelled for one reason or another but for 2,000 operations and 12,000 appointments to be cancelled on one day is without precedent. We will do all we can in the weeks ahead to catch up on the lost work, just as we did when days of work were lost last year on account of the storms and bad weather. I am confident we can catch up on those lost appointments and lost operations over the spring period.

I want to recognise the fact nurses are providing cover in emergency departments, cancer care, maternity units and some other essential areas as well. I have no doubt, nor does anyone in the Government have any doubt, about the strength of feeling on the part of nurses and midwives about their pay and conditions. We have no doubt about their resolve and their willingness to strike again. I have no doubt the public is strongly behind them. We want to resolve this dispute but I believe it can only be resolved within particular parameters, which I outlined yesterday. Any solution has to be affordable to the taxpayer, has to be fair to other public servants and has to be fair and beneficial to patients as well. We are available to engage, as is the normal process, under the auspices of the Workplace Relations Commission or the Labour Court to resolve it.

What do I mean by being affordable to the taxpayer? As the Deputy knows, we ran a small budget surplus last year and hope to run a small budget surplus this year, but that is far from

guaranteed, given the uncertainty around Brexit. We are not in a position to borrow hundreds of millions of euro to fund pay increases. I can justify borrowing hundreds of millions of euro for emergency measures to save jobs, if it comes to that in the next couple of weeks. I can justify borrowing that money for one-off capital projects that will be with us for 40 or 50 years, but I think borrowing money and funding pay increases with borrowed money is bad policy. It is the kind of thing that leads to pay cuts in a few years time and I never want us to get back into that position again.

When I say it has to be fair to all public servants, we need to bear in mind we have a pay deal with all public servants and there are also other claims being made that have to be examined. If we do a special deal with one group, it will not be possible to do a special deal with all groups, so any solution has to be done under the umbrella of the agreement and with the involvement of the Irish Congress of Trade Unions.

We also need to be fair to patients. Even in one of the richest countries in the world, and we are one of the richest countries in the world, health budgets are limited. I do not want to be put in a position where we have to divert money that is earmarked for new medicines, new technologies or new treatments to pay increases - I do not think that would be right. We also need the co-operation of unions in making the kind of reforms to the health service that we want to make.

**Deputy Micheál Martin:** There was no limit to the budget for the children's hospital. It is wrong to try to pit against nurses the idea that if we do a deal with nursing, or if this issue gets resolved, it will somehow be at the expense of medicines and patients, and so on. The Taoiseach gave a very impressive, detached commentary and a series of observations at the beginning of his response, full of empathy and understanding of how committed the nurses are to getting this issue resolved. However, he then went on in the latter part to give every single reason why he does not think this can be resolved or that he is in a position to resolve it. I got no sense of any initiative he is about to take.

Nobody is asking him to borrow money. He is the person who, without any provocation, said he had €3 billion over the next three to four years for income tax cuts - out of the blue, he said he could produce €3 billion just like that. He can promise what he likes to those where he deems it to be in his interest but for everybody else and when it comes to climate change or the health service, different rules apply.

**An Ceann Comhairle:** Thank you, Deputy.

**Deputy Micheál Martin:** Brexit was never invoked at his Ard-Fheis last autumn. My point is that the Taoiseach said yesterday that this will be resolved and that all disputes end up being resolved. There are mechanisms available. We had a nursing commission in the past which dramatically transformed nursing relative to the prior position.

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

**Deputy Micheál Martin:** There are proposals around various pay mechanisms or increments that could be deployed to help bring this to a resolution but I get no sense there is any proactivity in that regard. The Taoiseach said yesterday the Government was a party to the industrial bodies and that this would be resolved, but I get no sense of how the Taoiseach intends to set in motion the resolution process for the dispute.

**The Taoiseach:** I am afraid I cannot help the Deputy with his senses. I outlined in my pre-

vious answer where I believe the parameters are for a solution to the dispute. I explained that very clearly.

In relation to tax, I have always said that any tax cuts have to be affordable. I would not borrow money to fund tax cuts and have not done so in the past two years.

**Deputy Timmy Dooley:** The Taoiseach could use the €3 billion the Government had.

**Deputy Thomas Byrne:** Where are we getting the €3 billion from?

**An Ceann Comhairle:** Members should please allow the Taoiseach to reply.

**The Taoiseach:** What we propose is that if the economy continues to grow-----

**Deputy Timmy Dooley:** The Taoiseach should not forget that nurses get up early in the morning.

**The Taoiseach:** What I propose if the economy continues to grow the way it has been growing in recent years, because there are more people working, people are earning more, the amount income tax we have taken has gone up by approximately €1.2 billion a year, if we can afford it, is to give about half of that back to 900,000 taxpayers.

**Deputy Micheál Martin:** The Taoiseach did not qualify that.

**The Taoiseach:** The vast majority of nurses and midwives would benefit from that as well-----

**Deputy Timmy Dooley:** The Taoiseach saved the detail for the Fine Gael membership but I suppose it went over their heads.

**The Taoiseach:** -----but it would not just be one group who would benefit; nearly 900,000 taxpayers would.

**Deputy Mary Lou McDonald:** The reason nurses and midwives are on picket lines today is the Taoiseach's failures. I refer to his inaction and absolute failure not just in regard to the pay issue but the recruitment and retention crisis associated with it. I stopped to stand on picket lines with nurses and midwives this morning on my way to work. I was at Temple Street, the Rotunda and the Mater hospitals. Nobody to whom I spoke this morning wanted to be on strike; in fact, it is the very last thing they want. They are upset and angry. They want to be at work and they are aware better than anyone else of the stresses and strains their hospitals are under. However, they are resolute. They feel they have been failed and let down, they have not been listened to and they have been backed into a corner and, therefore, they have taken the action of last resort, which is to strike.

They reject the Taoiseach's reaching for the Brexit excuse. In fact, that made them more angry. I suspect when they hear that the Minister for Health, Deputy Harris, is also running for cover behind Brexit, they will be even more deeply angered. As the Taoiseach noted, they have broad support from the public and there is a reason for that. People recognise the quality of care delivered by staff who are underpaid in unbelievably difficult circumstances, particularly in emergency departments but not only there. They are astonished that the Taoiseach, above all people, because he is a medical doctor, does not grasp or get this. They are annoyed that he is sitting on the sidelines. He is acting as a commentator, a dispassionate observer of events. He

is in charge, he is the Head of Government, he is the employer, and he has a duty not to pass the buck on this issue and to intervene.

Nurses and midwives are not looking for a special deal. They are not looking for condescension and to be told to wrap up warm and well. They are not looking for sympathy. They are not looking for tears. They are not looking for praise. They are looking for a just and fair settlement. They believe that it can be achieved within the scope of the current pay agreement. That is their view. What they want the Taoiseach to do, as Head of Government, is to come off the sidelines and to engage.

I assume that he accepts that there is a recruitment and retention crisis in nursing. That is a fact. The figures on agency nursing tell us part of that story. I also assume that he accepts that nurses, who are incredibly well qualified, deserve to be well paid, and not insulted by being treated almost as second-class employees within the system. He has accepted that those workers are resolute in their position and that they will not back down.

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

**Deputy Mary Lou McDonald:** I invite the Taoiseach, therefore, to take the next logical step, and commit to directly and personally intervene and engage. I ask that of him today as Head of Government.

**The Taoiseach:** I am not entirely sure there were any questions there or solutions, just commentary. We have a mechanism by which industrial relations disputes are resolved - and all industrial relations disputes are resolved - namely, the Workplace Relations Commission and the Labour Court. They are State bodies and that is the mechanism through which we will engage and, I have no doubt, in due course resolve this dispute.

I accept that recruitment and retention is a real issue for the nursing and midwifery profession but it is important to understand what that means and what it does not mean. The number of nurses working in the public health service has increased by more than 3,000 in the past five years since the recruitment embargo was lifted. The number of nurses working in the public health service in December 2018 compared with December 2017 is 860 higher. That does not include student nurses. The impression created by some that there are more nurses leaving the country than coming into the country is not correct. The impression created by some that there are more nurses leaving the public service than are entering it is also not correct. Those are the facts and I hope the Deputy will at least acknowledge them.

**Deputy Mary Lou McDonald:** Are the pictures of our young nurses in Melbourne and Sydney and all around the globe asking the Taoiseach to give them a reason to come home fake news? If he will pardon the pun, are they doctored images? I do not believe that they are. People know that certain nursing staff go abroad for a year but then they come back but the reality now is that we are losing so many of our best and brightest and they are not coming back.

I refer to another fact. There is a strike on today. How is that for a fact? As the Taoiseach acknowledged, procedures have been cancelled. How is that for a fact? Should any of us or our loved ones get sick, every man, woman and child in this land want the best of care for them. All of us know that is only possible if one has the right staff and one will only have the right staff if they are treated with dignity and they are paid and rewarded at an appropriate level. How are those for facts?

What nurses and midwives want is very reasonable. I know all about the industrial relations mechanisms of the State. The Taoiseach does not have to keep repeating that to us as though we are morons. We are all well acquainted with and well versed in all of that. I do not accept that it is satisfactory or acceptable for him to passively sit on the sidelines while this strike is on.

**An Ceann Comhairle:** I thank the Deputy. She is way over time now.

**Deputy Mary Lou McDonald:** I speak on behalf of the nurses and midwives I spoke to this morning who asked me to tell the Taoiseach to engage. Deputy Varadkar is their Taoiseach and Head of Government. They are asking him to engage. If he is interested in sorting this dispute, that is what he will do, and he will do it speedily.

**The Taoiseach:** I do not think the Deputy is a moron.

**Deputy Mary Lou McDonald:** I thank the Taoiseach.

**The Taoiseach:** I can assure the Deputy that I am not a moron either, but if she keeps asking me the same question, I will keep giving her the same answer. We have a mechanism under which we resolve industrial relations disputes, namely, the WRC and the Labour Court, which are State bodies and we are happy and willing to engage through that process.

**Deputy Mary Lou McDonald:** We know what they are. I thank the Taoiseach.

**The Taoiseach:** This dispute can be resolved but, as I explained previously, it can only be resolved in a way that is affordable for taxpayers and in a way that is fair to all other public servants with whom we also have a pay deal, and in a way that is fair and beneficial to patients. If those are the parameters, there is a very strong basis for engagement.

It is important to set out again what the pay deal we have with the INMO and all the other unions says. It runs until 2020. On the Government side, we have a responsibility to honour pay rises of approximately 7% during that period, restore pay for anyone earning less than €80,000 a year, and pay annual increments and special pay rises to low paid staff and new entrants recruited after 2012 and 2013. We will honour that agreement.

**Deputy Mary Lou McDonald:** The nurses are on strike.

**The Taoiseach:** On the other side, the unions agreed there would be no strikes and there would be no cost increasing claims.

**Deputy Mary Lou McDonald:** But there is a strike.

**Deputy Danny Healy-Rae:** I too sympathise with the nurses who are on strike today. I ask the Taoiseach to ensure that they get properly paid and remunerated for the work they do.

I again wish to raise the Road Traffic (Amendment) Act with the Taoiseach which has changed rural Ireland forever. The social fabric that was known to the people of rural Ireland has been blown to smithereens. Before, during and since Christmas, many people found they could not come out, socialise, meet their friends and do the things they have traditionally done since the foundation of the State. Transport was promised. Rural Link was to get funding. Now we find it is still on a trial basis and is only funded until the end of March. The Minister for Transport, Tourism and Sport, Deputy Ross, the Minister of State, Deputy Griffin, and Deputy Heydon promised they would provide plenty of funding for transport, yet there has been

no extension of services as promised. What we have are plenty of Garda checks. It is not the gardaí who are to blame, because direction is coming from on high. This is happening across every county and every Garda division. People are being checked going to and coming from Mass. Last week an elderly man was stopped coming home from Mass with his invalided wife. What is going on is absolutely ridiculous. People taking their children to school in the morning and women who never drank are being stopped. They are outraged at what is happening. The Government has turned the people against the Garda with its instructions and directions. That is what is happening.

I have to clarify one thing. Eight of us voted against the Bill because it was wrong. Some 75 Deputies voted for it and 74 abstained. I must correct Deputy Brassil, who said on Radio Kerry this morning that Fianna Fáil abstained. That is not true. Some 11 Fianna Fáil Deputies voted for the Bill. That is the truth. The rest abstained. Fianna Fáil abandoned the people who voted for it over the years. Part of the Bill hits drivers with provisional licences. Young people cannot drive unaccompanied. These youngsters need a car to go to school or college, to work at an apprenticeship or to go to sports training.

**Deputy John Brassil:** What about their insurance?

**Deputy Danny Healy-Rae:** I never interrupted Deputy Brassil. That is the kind of blackguarding he is at. I represent the people of Kerry here. All Deputy Brassil is doing is interrupting me and that is not fair. There are parents and mothers out at 5 a.m. driving their sons and daughters to work or school. They are out again in the evening to bring them home and take them out to football training. They have to go out again at 9 p.m. to bring them home. They are out all day, from 5 a.m. to 9 p.m. That is what the Government has done to the people in rural Ireland. They must also wait nine months for a driving test.

**The Taoiseach:** I thank the Deputy. When we talk about road traffic legislation we should never forget why we have those laws. It is because of road safety. Thousands if not tens of thousands of Irish people in urban and rural Ireland have lost their lives on the road or become disabled for life as a result of road traffic collisions. Many of us have been affected by deaths on the road in our own families. People never forget the anniversary and always think about it at Christmas time and other times of year. When we talk about road traffic we should never forget the people who have died on our roads and the families that have been left behind. That is the whole point of having road traffic laws. It is why we have them. It is why they have been strengthened in recent years, and they have worked. Last year fewer people died on our roads than in any year since records began. It is in rural Ireland that the lives are being saved. That is historically where most road traffic deaths have happened.

I totally appreciate that the new rules have made it harder for many people to get out and about and to socialise if that involves drinking alcohol. That is why we have invested in Rural Link. I recall that Deputy Healy-Rae criticised that at the time. I am glad to see that he now wants it to continue and to be extended.

**Deputy Michael Healy-Rae:** None of us criticised it.

**Minister for Agriculture, Food and the Marine (Deputy Michael Creed):** I refer to the *Irish Independent*.

**The Taoiseach:** In some cases, the uptake and the demand for these services has been very poor. We need to look at other solutions and we are doing that, particularly around rural taxis

and hackney licences. We are trying to liberalise that system and make them more available, particularly at night-time and on weekends.

There are more Garda checks because there are more gardaí. We now have 14,000 gardaí again. How they are deployed and the work they do is entirely a matter for the Garda Commissioner. It is not done under political direction and it should not be done under political direction. Deputies should bear in mind what Garda checks are all about. They are not just about checking people to see if they are over the limit or have been taking drugs or alcohol before driving. It is not just about making sure they are taxed and insured. It is also about denying the freedom of the road to people who are committing crimes. There are a lot of people, as Deputy Healy-Rae knows very well, who are travelling around rural Ireland committing very serious crimes and burglaries. Gardaí say to us that when they run these checkpoints on the roads, they deny freedom of the road to people who commit those crimes. It is not just about drink-driving or catching people out. It is about catching people who are burglarising people's homes, farms and businesses.

**Deputy Danny Healy-Rae:** The Taoiseach is hurting a lot of good people. We talk about deaths. Surely he knows about isolation and what it causes. We are losing a lot of people through suicide. That is a fact in Kerry and Cork, witnessed before, during and since Christmas. The Government promised to provide transport and promised plenty of funding for it. It has done nothing but hurt the people. The Government promised it would do something to speed up the driving test. Youngsters have been waiting anything from six to nine months to get a driving test. As a result, parents are out in the morning and at night-time to keep the family together and to keep the children going. The Government has done massive harm to people in rural Ireland. It has affected good people who never did any harm, never did anything wrong on the road and never caused a fatality. This is the result of what the Government has done. Its members have abandoned the people who traditionally voted for them over the years. All parties here have done that, in spite of how hard we fought to tell them that what they were doing was wrong. The Taoiseach says this was about saving lives. I will tell the House what it was about: it was about saving the Minister, Deputy Ross, keeping him on the Government's side-----

**Deputy Michael Collins:** Hear, hear.

**Deputy Danny Healy-Rae:** -----regardless of what he asked it for and preventing a general election. I will tell the House one thing. Members of the Government should take Deputy Ross to the doorsteps with them when they go canvassing in the local election or the general election. He will get an answer whoever he travels with. One thing is sure; he will not be travelling with me.

**Deputy Timmy Dooley:** Maybe Deputy Healy-Rae will go to Deputy Ross's constituency.

**The Taoiseach:** People who abide by the laws passed by this Oireachtas have nothing at all to fear from the Garda. People who take alcohol or drugs and then drive are a threat to themselves and others. People who drink several drinks, get a few hours' sleep and then drive in the morning are impaired. They do cause accidents, they do kill people and they do cause injuries. That is a law that should be enforced and that is what the Garda is there to do.

On a separate matter, I absolutely acknowledge that there are unacceptable delays faced by people getting driving licences. It varies in different parts of the country but it is something we are working on. We want to get that waiting time down to a reasonable level as soon as we can.

**Deputy Róisín Shortall:** I want to return to the issue of the nurses' strike. I find it very hard to understand the Taoiseach's thinking. What is his strategy, or does he have any strategy at all for resolving this issue? Sometimes I think it is more about being seen to be tough than playing his part as leader of this country in dealing with a very serious and pressing issue. The question must be asked whether the Taoiseach actually wants a solution. If so, what action, if any, is he taking to achieve one? The Government has been engaging in a campaign of consistently denying the seriousness of the shortage of nurses in the health service. It has also sought to misrepresent the case being made. At no stage did the Irish Nurses and Midwives Organisation, INMO, lodge a pay claim of 12%, or of any other percentage for that matter. Could the Taoiseach please stop saying that? The INMO has not lodged a pay claim so I call on him to stop misrepresenting the situation.

The nurses state that they want to engage with the Government on a number of key issues relating to the future of the health service. They want to engage in respect of the significant problems relating to recruitment and retention and the implications of these for the health service as it operates currently. They want to engage in respect of the fact that there is now only one applicant for every four vacancies in nursing. How do we address that? They want to engage in respect of the fact that the health service is spending over €100 million per year on agency nurses. There is no sense to that whatsoever. Not only are there major problems regarding the cost of that, there are also various issues in terms of a lack of consistency, a lack of stable teams in hospitals and so on. Agency nursing, apart from being expensive, is not a solution. The nurses also want to engage in respect of the fact that the HSE has an expensive unit which is supposed to recruit nurses from all over the world but which has not been very successful in its efforts. There have been a couple of expensive and long-running campaigns aimed at trying to bring Irish nurses back home. However, those nurses have not been available to return.

That there is an issue in the context of pay parity cannot be denied. There is also a point about graduate pay. The Taoiseach cannot defend the fact that there is a €7,000 gap in pay in circumstances where nurses are required to have the same academic qualifications as allied health professionals. Does he accept that this is a genuine issue which has not been resolved or addressed over many years and which must be contemplated in the context of any attempt to tackle the difficulty we face?

**The Taoiseach:** I thank the Deputy. I am really not sure who is misrepresenting the facts here. I heard the Deputy state that there is no cost-increasing claim.

**Deputy Róisín Shortall:** There is no pay claim.

**The Taoiseach:** Pay parity is, by definition, a cost-increasing claim and it is one that is not accepted by other unions. They have indicated that in writing to their members and also to Government. It has never been the case that all of those who have four-year degrees are paid the same. Many people in various professions - accounting, teaching, etc. - have such degrees. It has never been the case that because one's degree takes three or four years to complete, one gets paid the same as everyone else who pursued a similar degree. To my recollection, that has never been the case.

**Deputy Róisín Shortall:** The front-line-----

**The Taoiseach:** As stated earlier - I appreciate that I am repeating myself but the questions are the same so it is only reasonable that I be allowed do so - those of us on the Government

benches have no doubt about the strength of feeling among nurses and midwives regarding their terms and conditions. We have no doubt at all about their resolve and their willingness to strike and strike again. We also have no doubt that the public will be very much behind them. We absolutely want to resolve this matter. We are willing to engage, as is the norm, through the WRC and the Labour Court, the State bodies that have been set up to resolve disputes of this nature. However, that can only be done within certain parameters. Any resolution has to be affordable for the taxpayer. I cannot justify borrowing money to fund pay increases. It has to be fair to other public servants, including those who are not on strike, those with whom we have a deal which has been adhered to and those who work in the health sector as well. It also has to be fair to patients.

**Deputy Róisín Shortall:** The Taoiseach is quoting the public service stability agreement, PSSA, quite a lot. That agreement allows for additional measures to address problems with recruitment and retention. In fact, clause 4 specifically allows for Government action in respect of those two issues. The Government needs to engage. The General Secretary of congress, Patricia King, has been reported as stating that a resolution can be found within the PSSA. Ms King is probably the most experienced union leader in the country. She has more industrial relations experience than the entire Cabinet. Will the Taoiseach agree to set up a meeting with her as a matter of urgency in order to examine how this issue can be addressed, how we can break the current logjam and how we can get people to the table for talks, a matter to which the Minister for Employment Affairs and Social Protection has referred. We must have genuine engagement on this matter and the employers, who are represented by the Department of Public Expenditure and Reform, must come to the table with a proper attitude rather than the kind of dismissive and disingenuous attitude they have displayed up to now. This matter is in the Taoiseach's hands. He can address it and he can stop further strikes taking place. Will he make a significant intervention and meet Patricia King in order to examine strategies for resolving this issue?

**The Taoiseach:** I have met Patricia King and I have spoken to her about this issue. I would have no difficulty meeting or speaking to her again. That is the way we engage with the trade unions. The Minister for Public Expenditure and Reform, Deputy Donohoe, and I, as Head of Government, engage regularly with the Irish Congress of Trade Unions, ICTU, on issues such as this. Such engagement will continue.

**Deputy Róisín Shortall:** We are discussing this particular issue-----

**The Taoiseach:** Yes.

**Deputy Róisín Shortall:** -----not "issues such as this". Will the Taoiseach meet Patricia King?

**The Taoiseach:** It is not my practice to organise meetings in the Chamber and I do not think the Deputy-----

**Deputy Róisín Shortall:** It is the Taoiseach's responsibility-----

**The Taoiseach:** -----should be organising meetings for third parties-----

**Deputy Róisín Shortall:** -----to take action to avert further strikes.

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

**Deputy Micheál Martin:** In the context of the general scheme of the miscellaneous provisions (withdrawal of the United Kingdom from the European Union on 29 March 2019) Bill 2019, I understand that the Taoiseach had a telephone conversation with the British Prime Minister, Theresa May, yesterday in respect of the Brady amendment and the decision of the House of Commons to jettison the withdrawal agreement and to seek its amendment. Can the Taoiseach indicate if, during the course of that conversation, anything transpired which would impact on the passage of the miscellaneous provisions Bill through the Dáil? Is it still his intention that it will be published on 22 February? Is it clear - on the basis of his conversation with her - that the British Prime Minister is adamant that we are looking at a no-deal Brexit and hence the need for the legislation to be put through the House? It is only in the past two to three days that we have obtained more information about what a no-deal Brexit would involve. There was significant reticence in this regard in recent months but information is coming hot and heavy now from the Central Bank and the Department of Finance. We have also had the legislative proposal. The Taoiseach might indicate if there is a need to get this legislation through the Houses as quickly as possible in light of the current state of play.

**The Taoiseach:** The timeline we discussed last week when I convened a meeting of the party leaders stands. We expect to have that legislation ready for publication on 22 February, which will give us more than a month to bring it through these Houses.

**Deputy Micheál Martin:** The conversation-----

**The Taoiseach:** This afternoon.

**Deputy Micheál Martin:** How long-----

**The Taoiseach:** A very brief one.

**Deputy Micheál Martin:** A very brief one.

**Deputy Mary Lou McDonald:** The programme for Government states that the Taoiseach will end the need for rough sleeping by providing a high level of funding for the homeless services that support emergency beds and accommodation options. Yesterday, the Minister for Housing, Planning and Local Government stated that in light of the cold snap we are experiencing, there will be places in emergency accommodation for all those who need them. I want to bring to the Taoiseach's attention, therefore, some information that came my way from Inner City Helping Homeless, which reports that outreach volunteers found that there were no beds available by 11.30 p.m. last night for people who wanted them and that 86 people slept rough in Dublin as a result. Not alone that, people have contacted my office this morning to state that those who were in hostels last night were turfed out into the cold first thing this morning and are now sitting around in tents near Heuston Station. I am sure the Taoiseach will agree that this is unacceptable. Can he move immediately to ensure that there will be beds available for those who need them and that those who need that accommodation will not be turfed out at first light into freezing conditions?

**Minister for Housing, Planning and Local Government (Deputy Eoghan Murphy):** I thank the Deputy for the question. We have to be careful in addressing this situation with the cold weather initiative that is in place and we must ensure that the information we are getting is accurate. We work with a number of NGO partner organisations to make sure that in these

types of events when there is severe cold weather outreach teams from all the different organisations are out working with the Dublin Regional Homeless Executive to get people into safe, secure accommodation.

In the past number of months, we put an additional 200 permanent new beds into the system. We also put in place an additional 150 emergency beds.

**Deputy Mary Lou McDonald:** Is my figure wrong?

**Deputy Eoghan Murphy:** The outreach teams are out to get people into accommodation. No one will be turned away. Also, when we have the cold weather initiative in place, people are not just being turfed out onto the street. We have to be mindful of the fact that it is very cold-----

**Deputy Mary Lou McDonald:** They are out at Heuston Station in tents.

**Deputy Eoghan Murphy:** -----and we must ensure that people are protected. We do that with our NGO partners. The cold weather initiative will remain in place during the cold snap.

**Deputy Brendan Howlin:** We have moved from the speculation phase into the planning and preparation phase for a hard Brexit. The Taoiseach told the Irish Farmers' Association, IFA, last night that the State had already informed the European Commission that an application for emergency European funding for aid will be made in the event of a no-deal hard Brexit. Back in 2016, one of the clear proposals made by both my party and the Irish Congress of Trade Unions was to seek changes in the European Globalisation Adjustment Fund to make sure that it was Brexit ready. Little has happened since then according to my information. At that time, we also proposed a two year suspension of state aid rules in the event of a hard Brexit. As the Taoiseach acknowledged yesterday, there are thousands of manufacturing jobs and other jobs at risk, particularly where there are integrated supply chains across these islands. What specific supports for small businesses and small and medium enterprises, SMEs, particularly in the Border area, has the Government put in place so that we can explain to them now what will happen because they are extraordinarily anxious about there being fewer than 60 days to 29 March?

**The Taoiseach:** There are a number of different instruments that we can use should we have to and should we end up in a no-deal hard Brexit scenario. For example, for farmers in the agri-food sector, the Common Agricultural Policy, CAP, already provides the common organisation of the markets, CMO, regulation, which allows for emergency aid for farmers if their markets are cut off. For example, when the Baltic states were cut off from the Russian market, the CMO regulation was used to provide emergency aid so we do not need a change to the globalisation fund. For small businesses, we already have approval for the rescue and restructure intervention and that allows us to rescue a company and restructure it should it find its market lost as a consequence of Brexit. However, I do not want to create the impression in any way that because we have these instruments on standby that everything will be fine, it will not. There is no good Brexit. It will be harmful for our economy but we will be able to mitigate it by using some of the instruments that are available.

**Deputy Danny Healy-Rae:** I respectfully ask the Taoiseach and the Minister of State at the Departments of Employment Affairs and Social Protection, Justice and Equality and Health, Deputy Finian McGrath, to ensure that the people from Down Syndrome Ireland who have children with Down's syndrome, get what they are looking for, namely, the extension of the July provision and to deal with the concerns raised by people on behalf of those who are deaf. If Members have a duty to represent people, we have to represent people who cannot talk or who

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cannot hear and these deaf people are outraged at the indications that there will be cutbacks to their funding. I ask the Taoiseach to address that.

**The Taoiseach:** I know the Minister of State, Deputy Finian McGrath, is working very hard on that particular matter with the intention of finding core funding for the Irish Deaf Society to make sure it can continue its work. He will meet with and regularly meets with Down Syndrome Ireland to discuss its concerns.

**Deputy Mary Butler:** Today is a sad day for the health service with 35,000 nurses throughout Ireland on the picket lines. This is not a decision they took easily or lightly. To hear the individual stories of nurses and of the challenges they face every day in their working lives is heartbreaking. The Government has repeatedly ignored nurses as they warn of major problems in recruitment and retention. We are too late to stop the strike today but it is not too late to stop the other five days of threatened action, the further cancellation of appointments, the further upset for nurses and patients alike. I do not expect the Taoiseach to repeat all the answers he has given already because I listened carefully to them and they have not filled me with hope. Can the Taoiseach please give some hope to the nurses and the patients today however?

**Deputy Pat Buckley:** I want to speak on the same issue. We have heard many Members speak this morning about the nurses and midwives and I have listened to the Taoiseach speak about the fear of borrowing money or about it being affordable for the taxpayer. However, the Taoiseach can still propose - and we will be discussing it later - taking €500 million of taxpayers' money and putting it into a so-called rainy day fund. That will only bail out the banks and it will not assist the health system or the housing system.

I will ask the Taoiseach another question. Does the Government have a plan B because after the nurses and midwives, we will see the Psychiatric Nurses Association and the paramedics on. Then we have our GPs coming down the road and we have an ongoing issue with the Defence Forces. What will the Government do? If it is not going to engage with the nurses and midwives, it will be the same agenda. Will we be coming in here for the next couple of weeks and discussing all these other issues?

**Deputy Peter Fitzpatrick:** We spend €1.4 million per week on agency nurses. There is one nurse available for every four vacancies. There is a €7,000 gap in pay and negotiations are ongoing in the WRC. There is a trolley situation, there are waiting lists and there is the issue of the winter bug, and I could go on and on. We always say one's health is one's wealth in life and the Taoiseach said this morning, and he keeps repeating it, that this will be sorted out. If it can be sorted out, can we not sort it out now before it gets worse? I am pleading with the Taoiseach. I hear talk about it costing €200 million or €300 million. I said yesterday that we all agree we need a new children's hospital but the best thing for the people of Ireland is to get this sorted because they have gone through a tough time for the last number of years. I ask the Taoiseach to please meet the nurses and get this sorted out.

**Minister for Public Expenditure and Reform (Deputy Paschal Donohoe):** Deputy Buckley has actually summed up the difficulty the Government faces very well because he listed every other member of our public service that has a concern, a difficulty or even a grievance in respect of pay. What every one of those groups will ask the Government, if we move in the way that some Deputies want, is what will it do for them and what will it do to respond to their needs? That is the challenge the Government faces.

When the Taoiseach speaks about the need to be fair to all public servants, he is speaking about the teachers who have campaigned on pay equality and the progress we have made on that. He is speaking about the members of our Defence Forces who are currently involved in the Public Service Pay Commission. If we go the way that some Deputies are advocating-----

**Deputy Mary Lou McDonald:** The Government is not being fair to any of them.

**Deputy Paschal Donohoe:** -----we face into the very risk that Deputy Buckley described. The Government has engaged on this issue through the Public Service Pay Commission. We have been in the Workplace Relations Commission and the Labour Court and we have done that because of our respect for the professionalism and the ability of our nurses and the work they do every day and also because of the need that we alone face to be conscious of all the other demands that many public servants are raising.

**Deputy Michael Moynihan:** I tried to raise this issue yesterday but I got no response. There is an ongoing review of people who have been claiming the contributory pension and people who were cut under the Social Welfare and Pensions Act 2012. Letters have been issued to people who are predominantly aged between 66 and 72 looking for further information in line with the ongoing review and asking this cohort of people to respond online to the queries. There is also a helpline which is grossly under-resourced. We have had a large number of telephone calls and people coming into our offices over the last number of days on this. I am asking the Taoiseach if the Department can reissue the letters with the application form attached, rather than asking people between 66 and 72 years of age to go online? Of course, there is also an issue with broadband in rural communities. Can the application form be attached to the letters that are being issued to pensioners to get their pension entitlements reviewed?

**The Taoiseach:** I will certainly ask the Minister, Deputy Regina Doherty, to examine whether a paper option can be provided. I am sure that can be done although I recall that when we brought in free GP care for over 70s that 97% of people over 70 were able to apply online. When people are getting a benefit or an increase in their pension they are generally able to apply online but perhaps a paper option should be there as well.

**Deputy Michael Collins:** On page 46 of A Programme for a Partnership Government, under road investment, the Government promised to increase the budget for local and regional roads by 50% in the years ahead. Almost three years after A Programme for a Partnership Government was commenced, the conditions of many of our local and regional roads are appalling. In west Cork, we are continuously fire-fighting with our roads by spending some funds on roads damaged after bad weather. In 2017, an announcement was made which stated that funding was in place for the extension of the Bandon bypass. Government politicians were patting themselves on the back with this announcement but we are now two years on and not a sod has been turned. What has happened since then? The answer is nothing. West Cork is tired of false announcements without any follow-up. What are the commencement and completion dates for the Bandon bypass?

**The Taoiseach:** The budget for roads is increasing considerably this year. However, it is also open to local authorities to use their income from rates, property tax and other sources to fund projects. I do not have any information to hand regarding the Bandon bypass. If the Deputy wants to raise it either when questions are being taken by the Minister for Transport, Tourism and Sport or as a Topical Issue matter, I am sure he will receive a detailed reply.

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**Deputy John Brassil:** On the day when nurses in Kerry are striking in the cold for improved terms and conditions, it is interesting that my colleague would choose this unique opportunity to raise his support for drink-driving when their case is-----

**Deputy Michael Healy-Rae:** It would serve the Deputy well to mind his own business. It was wrong of him to refer to a person who is not here. He should mind his own business. Is he not able to do that?

**Deputy Patrick O'Donovan:** The Deputy will be on Radio Kerry tomorrow.

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

**Deputy John Brassil:** The question I would like to raise under the programme for Government-----

**Deputy Michael Healy-Rae:** The Deputy is referring to Deputy Danny Healy-Rae, who spoke about nurses in Kerry and elsewhere. Deputy Brassil should not be paying lip service to the issue now and trying to be a smart Alec.

**Deputy Patrick O'Donovan:** The Deputy has grabbed the headlines for Radio Kerry.

**An Ceann Comhairle:** Will the Deputy please resume his seat? He is out of order.

**Deputy Michael Healy-Rae:** I am very sorry, but Deputy Brassil is a smart Alec or he tries to be.

**Deputy Patrick O'Donovan:** The Deputy will make the 1 o'clock news.

**Deputy Michael Healy-Rae:** Deputy Brassil goaded me.

**An Ceann Comhairle:** Deputy Brassil, without interruption.

**Deputy John Brassil:** The question I wish to raise in the context of the programme for Government relates to the delivery of the national children's hospital. On 18 August last, the Government was informed that there would be substantial overruns in the budget. In November, the Government was made aware of the board's recommendation to accept the €450 million overrun and it signed off on that in December. This month, following a public outcry, it was announced that PricewaterhouseCoopers, PwC was to carry out a review at a cost of €500,000 approximately. Why was the review by PwC not ordered in August when the Minister for Health was first made aware of the overruns and when something could possibly have been done about it? Now that we have signed off on the €450 million, we are at the point of no return.

**An Ceann Comhairle:** I call Deputy Kelleher on the same matter.

**Deputy Billy Kelleher:** There is a €1 billion overrun in respect of the national children's hospital, a tax cut of €3 billion promised by the Taoiseach and a report published by the Department of Finance yesterday indicating that 55,000 thousands jobs could be lost in the context of a no-deal or very damaging Brexit. Will the Taoiseach accept that it is time to be honest about which capital projects will run into difficulties because of his promise to cut tax and the overspend in respect of the national children's hospital? The metro project has been mentioned. What other potential capital projects will or could be shelved? Has the Government begun to identify those which may be shelved? Bearing in mind that we are entering into an electoral cycle - I am sure the Members opposite would not want to be the bearers of bad news - honesty

on the issue would be very much appreciated.

**An Ceann Comhairle:** I call Deputy Mattie McGrath on the same issue.

**Deputy Mattie McGrath:** The Rural Independents tabled a motion on 29 March 2017. We pointed out all the failures. We were in profit as it turned out, but we never claimed to be. The Fianna Fáil members sat on their hands and abstained during the vote on it, while Sinn Féin and the Labour Party backed the Government, therefore, the overrun, the scandal and the way it will affect every hospital is on all their heads.

As for Deputy Brassil attacking Deputy Danny Healy-Rae, we are entitled during Leaders' Question to ask about whatever issue we want. We do not accuse Fianna Fáil in that regard. Whatever issue Fianna Fáil wishes to ask about during Leaders' Questions, that is its business. We are entitled to pose our questions during Leaders' Questions. It is tough luck but the Deputy is not a leader.

**An Ceann Comhairle:** This is not Leaders' Questions, as I stated.

**Deputy Mattie McGrath:** I know it is not but we are entitled to raise our questions.

*(Interruptions).*

**An Ceann Comhairle:** Deputies, please. I call the Minister.

**Deputy Paschal Donohoe:** In the interest of----

**Deputy Mattie McGrath:** Why is the Deputy Kelleher going to Europe? It is because he is not leadership-----

**An Ceann Comhairle:** Stop it.

**A Deputy:** In fairness, the Deputy jumped before the gun.

**Deputy Mattie McGrath:** He is jumping a sinking ship. There are no prospects for him here.

**An Ceann Comhairle:** The Deputy is bringing the House into disrepute.

**Deputy Mattie McGrath:** Those Deputies sat on their hands-----

*(Interruptions).*

**An Ceann Comhairle:** Will the Deputy allow the Minister to answer?

**Deputy Paschal Donohoe:** In the interests of clarity, the report I published yesterday indicates that more jobs will be created in our economy in the future. However, it also acknowledges that significantly fewer jobs will be created. In fact, it states that 55,000 fewer jobs will be created if we end up with a no-deal scenario. Given that some people called on the Government to be clear in the context of what it believes might happen in a no-deal scenario, that is exactly what we have done.

On the point relating to the national children's hospital, I am currently working with all my Government colleagues on how the cost will be managed. It is worth making the point that the total amount of money we are dealing with across all of Government for this year is €50 mil-

lion. That is outside of the Department of Health and in the context of capital spending for this year increasing by €1.4 billion. This issue will be dealt with.

Deputy Kelleher referred to accountability. The Government is considering how we can best bring the matter to a conclusion. We have to be fair to everybody. On the sequencing to which the Deputy referred, it is important to emphasise that the first priority we had was to make a decision regarding the national children's hospital-----

*(Interruptions).*

**Deputy Paschal Donohoe:** -----which we have done. Like the Minister for Health, Deputy Harris, I strongly believe that if we had not made the decision, we would not have a national children's hospital available for a number of years to come. Those who would suffer on foot of that would be children.

**Deputy Fiona O'Loughlin:** Understandably, the prospect of a no-deal Brexit in March is concentrating all our minds. However, another potential event in March is also a matter of concern. I refer to the possibility of increasing VAT from 0% to 23% on health vitamins, supplements and fish oils. Such a development would lead to people who make good and positive choices in looking after their own health being penalised. The Taoiseach advocates a healthy lifestyle and certainly it is incumbent on all of us to look after our health. There are many people who make that positive choice and also vulnerable people who need those supplements who would be penalised by this change. In addition, some independent health stores and pharmacies could possibly close with the imposition of 23% VAT on the products in question. Does the Taoiseach agree such a change would be wrong and will he make any efforts to ensure that it is repealed?

**Deputy Paschal Donohoe:** I acknowledged last week that I understand this issue is a cause of concern for people in the sector. The decision in this regard was made the Revenue Commissioners, who are responsible for deciding how VAT law is implemented. The Revenue Commissioners were concerned that a growing number of decisions that were not credible were being made in respect of how VAT was being applied. They made their decision as a result of the latter. As the Minister of State, Deputy D'Arcy, acknowledged yesterday in reply to a Topical Issue matter, we will work with stakeholders to see if there is a way in which this matter can be dealt with. It is worthwhile acknowledging that these changes are not due to be implemented until March.

**Deputy Niall Collins:** I have a question for the Minister of State, Deputy Halligan, regarding school transport. I ask if he could help address a crisis that has developed in Limerick and most likely in other parts of the country. I met a group of the school transport service providers recently. They are facing a crisis in the context of two issues. One relates to the recruitment and, in particular, the retention of drivers. The second issue is the upper age limit of 70 applies. I have been informed that this is enforced by Bus Éireann. We need to move into the modern era and review that age limit. If a person is able-bodied, willing and qualified to drive at 69 years of age, he or she should also be able to drive at the age of 70, 71 or 72 as long as he or she is physically capable and qualified. The bus transport company operators informed me that retaining drivers is a major issue. Another issue is that the vetting approval cannot be transferred in circumstances where a driver moves from one bus company to another. Will the Minister of

State address these issues?

**Minister of State at the Department of Education and Skills (Deputy John Halligan):** The school transport scheme is complicated and complex in the sense that thousands of vehicles are used to transport 117,000 children - 12,000 of whom have special needs - twice a day throughout the country and that 100 million km are covered in doing so. The transport of that number of children, some in buses and some in taxis, can be difficult.

*1 o'clock*

We are consistently having difficulty in securing appropriate and sufficient vehicles. We have been quite successful up to now. The 70 year matter is not an issue that the Government can interfere with. It has been brought to my attention and I have been speaking to the Department about expanding that. I am not sure if it is in my remit to decide how old the driver of a vehicle can be. It is in my remit to make sure that the transport scheme operates efficiently and that every eligible child and child with special needs is carried on that scheme. I will come back to the Deputy regarding the matter.

**Deputy Robert Troy:** I will quote a press release that the Taoiseach's Cabinet colleague, Deputy Coveney, issued on 13 June 2017 relating to wind energy guidelines:

I envisage following the completion of the SEA process, the new statutory Guidelines will be finalized and issue to planning authorities in Q1 2018

In the first quarter of 2018, every planning authority in the country was to have the new revised wind energy guidelines. Some 12 months on, there has been no further word to local authorities. Renewable energy is essential if we are going to address our climate change obligations. I realise that it is not the Government's top priority but it is an important issue. We must embrace it and address it but it must be done in a sustainable manner which does not impinge on our communities. Our communities want new, updated guidelines, which have been long overdue and promised. When can we see those guidelines implemented? In advance of the guidelines being implemented, is it possible that a moratorium will be put in place on any new applications until such a time as we have new, robust guidelines in place?

**Deputy Eoghan Murphy:** I thank the Deputy for the question. This is a priority for the Government. As I informed the House two weeks ago, over the course of 2018 the World Health Organization changed its guidelines relating to noise from wind turbines. As a result, the EU changed its directives in October last year.

**Deputy Robert Troy:** If they had been published when the Government said they would be-----

**Deputy Eoghan Murphy:** We decided it was prudent to take cognisance of the change in the directive from the EU before we went to public consultation. We will go out to public consultation within the next two weeks. It will be a short public consultation but as we go out to public consultation for the draft guidelines, we will expect planning authorities to take cognisance of them in the decisions that they make.

**Deputy Michael Healy-Rae:** I want to express my support, as I always have, for the nurses who find themselves in the situation they are in.

When people are asked to review their medical cards, they are sent a letter telling them

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to do it online or to telephone a number. When they ring that number, the telephone is never answered. I inquired on people's behalf to discover there is no such thing as being sent out a form that one can fill out to renew one's medical card. There is no such form. There is total confusion. I spoke to excellent people who work in the medical card processing unit and they are embarrassed about the letter that has gone out. The Taoiseach kindly intervened when he was Minister for Social Protection. He saw an anomaly on a form that I put in front of him and changed it right afterwards. I ask him to do that and-----

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

**Deputy Michael Healy-Rae:** -----also to address people being told to do pension reviews online and that they cannot do it manually. We have to accept that there are older people who cannot do a thing online so forms have to be made available, whether for pensions or medical cards.

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

**Deputy Michael Healy-Rae:** It is very important, a Cheann Comhairle, for older people-----

**An Ceann Comhairle:** It is very important for other Members to get a chance to come in and they will not.

**Deputy Michael Healy-Rae:** I have been waiting diligently for my answer to this question.

**The Taoiseach:** I understood that there were still paper forms available for people applying for a medical card or its renewal. I will double-check that and correspond with the Deputy on it, by paper.

**Deputy Martin Ferris:** My question is for the Minister, Deputy Creed. Like me, he has been contacted by a number of fishermen in the south and south west over the last ten days regarding the opening of the spurdog fishery. We discussed this almost two years ago and the Minister indicated then that he would look at pilot areas where we could do trials in various bays and so on. Nothing has happened yet, to my knowledge. Will the Minister give immediate consideration to opening the spurdog fishery because of the abundance of spurdogs there? I have been told that by people who are fishing, gilnetting and so on. It is an opportunity and a lucrative industry for depressed fishermen if the Minister is prepared to open it.

**Minister for Agriculture, Food and the Marine (Deputy Michael Creed):** The Department takes advice on non-quota species from the Marine Institute. I am not aware of any advice on opening a fishery opportunity for spurdog but I will check on the matter and revert to the Deputy.

**Deputy Aindrias Moynihan:** I want to follow up on the road traffic legislation. There is great anxiety among many younger drivers and their parents who are waiting for the driver test. They have completed the lessons and are well-practised, but are stuck in the queue waiting for the driver test. It is four or five months in many centres in Cork, Mallow, Skibbereen and Killarney. That contrasts with five and six weeks in Waterford and Carrick-on-Shannon. It is clearly possible to address this in some places but not in others. I am aware that the Minister has been talking about taking on additional testers. That is being proposed over the next 12 to 18 months. The problem is there now and waiting for a long time for testers is not realistic. Will the Taoiseach raise it with the Minister and ask him to prioritise having additional testers

so that people who are stuck waiting for the driver test can have a realistic test time?

**The Taoiseach:** The recruitment of additional testers will happen and that will reduce the waiting times for a driver test. However, there are many cancellations around the country every day and if somebody has a pressing need, especially if he or she needs a full licence for work, he or she can contact the Road Safety Authority and those cancellations can be made available.

**An Ceann Comhairle:** There are two Deputies remaining. If they take 30 seconds each, we will get their questions in. I call Deputy Durkan.

**Deputy Bernard J. Durkan:** I previously raised the issue of the Garda compensation Bill which is before the House for consideration. Is it likely to come before the House soon?

**Deputy Seán Crowe:** There is a crisis across the country relating to home care packages. In many cases, families are allocated hours but there is no funding to follow up on those hours. I am told, although I may be misinformed, that a money package will be agreed with regard to the extension of this. Will the Minister or Taoiseach reply? There is a crisis. I am dealing with a family of a woman in her mid-90s. Her family have taken her home. She is entitled to 23 hours of home care. She needs 24-hour home care but the woman wanted to go home and die in her own home. No funding is available even though she has been allocated the hours. It is sad and it can probably be seen across the State.

**Deputy Charlie McConalogue:** I hope the Taoiseach enjoyed his steak last night and that it fortifies him for his role as an ambassador for the Irish meat sector and increasing exports abroad. My question relates to his comments last night, asking for support for the beef sector and agricultural sector in the event of a hard crash-out Brexit. I put it to the Taoiseach that it is too late to ask. We need to be prepared in advance for the hard crash-out. It unfortunately seems that we do not have those contingencies ready to go. Will the Taoiseach elaborate on what he has asked for, if Europe agrees on it and whether we are in a position to provide the support that will be required in the event of the worst coming to pass, which we of course hope to avoid?

**Deputy Michael Creed:** I will take Deputy McConalogue's question. As he is aware, under the Common Agricultural Policy common organisation of the markets, CMO, regulations, there is provision for exceptional aid. We have engaged with the Commission about exceptional aid that would be necessary in the event of a disorderly Brexit threatening our market access. From our engagement with the Commission, we are satisfied that that exceptional aid provision, under the CMO regulations, would be available to us. We are not clear yet as to what shape or form the UK's departure may take. Until that and any subsequent actions on the part of the UK are clarified, that provision cannot be invoked.

**Minister for Justice and Equality (Deputy Charles Flanagan):** Regarding the matter of the Garda compensation scheme and a revised scheme thereto, I advise Deputy Durkan that matters are proceeding; however, it is unlikely we will be in a position to proceed by way of legislative change this term. I am happy, however, to speak directly to the Deputy, and I acknowledge his interest in this matter.

**An Ceann Comhairle:** I call the Taoiseach to respond to the question about home care packages.

**The Taoiseach:** There has been a substantial increase in funding for home care packages for 2019. Unfortunately, I am unable to answer Deputy Crowe's question in any other way. If,

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however, he would like to provide me or perhaps the Minister for Health with more details, I am sure we could give him a better answer.

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

**An Ceann Comhairle:** I wish to advise the House of the following matters in respect of which notice has been given under Standing Order 29A and the name of the Member in each case: (1) Deputy Pat The Cope Gallagher - to discuss Irish fisheries' concerns about access rights to UK fishing grounds and territorial waters post-29 March 2019; (2) Deputy Kevin O'Keeffe - to discuss funding to deal with the breach of Fermoy weir on the River Blackwater; (3) Deputy James Browne - to discuss the revision of the local electoral area boundary committee report concerning Wexford; (4) Deputy Peadar Tóibín - to discuss the impact of insurance on businesses here; (5) Deputy Maureen O'Sullivan - to discuss the proposed closure of the East Wall health centre; (6) Deputies Louise O'Reilly and Seán Crowe - to discuss the lack of respite care and home care packages; (7) Deputy Peter Fitzpatrick - to discuss the SMEs' self-administered pension legislation; (8) Deputies Fiona O'Loughlin and Sean Fleming - to discuss funding for Rath school, Ballybrittas, County Laois; (9) Deputy Seán Haughey - to discuss a new emergency department and cystic fibrosis unit at Beaumont Hospital; (10) Deputy Catherine Connolly - to discuss the impact of the closure of orthopaedic facilities at Merlin Park hospital, Galway; (11) Deputy John Curran - to discuss the problem of street-level drug-dealing impacting on public safety and businesses; (12) Deputy Mary Butler - to discuss the runway extension at Waterford Airport; (13) Deputies Ruth Coppinger, Paul Murphy and Pat Buckley - to discuss the industrial action by nurses and midwives; (14) Deputy Martin Ferris - to discuss opportunities for spur-dog fishing by our trawlers; (15) Deputy Mattie McGrath - to discuss the closure of Clogheen post office in County Tipperary; (16) Deputy Donnchadh Ó Laoghaire - to discuss the progress of the Cork events centre; and (17) Deputy John Brassil - to discuss concerns about the implementation of the falsified medicines directive.

The matters raised by Deputies Pat The Cope Gallagher, Peter Fitzpatrick, Donnchadh Ó Laoghaire and Seán Haughey have been selected for discussion.

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

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

1. **Deputy Micheál Martin** asked the Taoiseach if he has spoken with the leader of the Democratic Unionist Party, DUP, about Brexit since December 2018; and if issues were discussed. [1714/19]

2. **Deputy Brendan Howlin** asked the Taoiseach if he will report on his engagement with the DUP on Brexit over the past six months. [2546/19]

3. **Deputy Michael Moynihan** asked the Taoiseach if he has spoken to the leader of the DUP since the withdrawal treaty was rejected by 230 votes on 15 January 2019. [2658/19]

4. **Deputy Mary Lou McDonald** asked the Taoiseach if he has spoken with the leader of

the DUP, Ms Arlene Foster, recently. [2542/19]

5. **Deputy Joan Burton** asked the Taoiseach if he will report on his most recent engagement with the DUP. [4208/19]

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

I last met the DUP leader, Ms Arlene Foster, on 15 October, when we discussed a range of issues, including the current political situation in Northern Ireland and Brexit.

At our meeting I emphasised the Government's full commitment to all aspects of the Good Friday Agreement and our continuing determination to secure the effective operation of all its institutions. We discussed what could be done to get the institutions in Northern Ireland up and running again.

I reiterated to Ms Foster that the Government wants to put a political system in place that can secure an agreement on the operation of the devolved institutions and that we will continue to engage with the UK Government and the political parties in Northern Ireland to seek progress within the period immediately ahead.

We also discussed Brexit, including the negotiations that were ongoing at that time on the backstop to avoid a hard border on the island of Ireland. Ms Foster explained her difficulties with the backstop, while I outlined why Ireland and the EU considers it necessary. The withdrawal agreement agreed between the UK Government and the EU includes the important backstop provisions. Unfortunately, this agreement has not been ratified by the House of Commons, and this House will be aware of the current situation in Westminster.

The Government has had discussions with a number of DUP representatives in recent months. For example, the Tánaiste met Arlene Foster and other DUP members in Belfast on 10 January as part of a round of meetings with the leaders of all political parties and a range of civil society groups in Northern Ireland. The Tánaiste will continue to engage with the Secretary of State for Northern Ireland and the leaders of all political parties in the weeks ahead.

**Deputy Micheál Martin:** We can all agree that the great position we are in today regarding Brexit would be much better if the Northern Assembly and the Executive were active. Instead of the DUP promoting its hardline pro-Brexit approach, the majority in Northern Ireland would be in a position to pass resolutions and other measures supporting the current withdrawal agreement. History will not look kindly on the fact that Northern Ireland was left voiceless because its institutions were collapsed over a heating scheme, or, indeed, that the inquiry into that scheme has revealed an incredible story of the involvement of background forces that operated to an unknown agenda. The situation yesterday confirmed yet again that the lack of any relationship outside of increasingly rare meetings is an important part of the barriers we face. There is no doubt about that now.

Last year, the Taoiseach said he expected a significant initiative to get under way to get the institutions re-established. He then said this initiative would wait until after Brexit. Can he indicate to me the current status of the initiative? Given the seriousness of Brexit for the Good Friday Agreement, when will he produce the promised analysis of areas for action that need to be addressed, irrespective of the nature of Brexit? For example, the human rights architecture of the agreement specifically includes the direct justiciability of European-level rights in Northern Ireland's courts. I raised this as an issue as early as July 2016. What discussions has the

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Taoiseach had with the British Government on this specific matter? As it is a purely bilateral issue, I think he will agree that it is entirely separate from the withdrawal agreement, so he might enlighten me in this regard.

**Deputy Joan Burton:** It may turn out to be an historical tragedy that the people in Northern Ireland who voted to remain have not been represented and that the Executive in Northern Ireland has not been reconvened. We all understand there are political difficulties in this regard, but the consequences of Brexit are so great that those difficulties need to be addressed and overcome, and they can be. In view of the difficult circumstances that have arisen, what proposals, if any, does the Taoiseach have to meet Arlene Foster and to reach out to her and the DUP, who are representatives of a large segment of unionist and pro-Brexit sentiment in Northern Ireland? Does he have plans to meet her regularly? He indicated in his reply that their latest meeting was in the middle of October. In the context of the important events that are happening, that is a long time ago. Has he, for instance, had an opportunity to engage with any of the MPs of the DUP, specifically Nigel Dodds, or any MEPs and establish their concerns about the backstop? Has he sought a bilateral meeting? Has he engaged with the DUP concerns about a no-deal exit and its impact on Northern Ireland? In the event of a no-deal proceeding, have he and, say, the IDA given consideration to how Northern companies may be facilitated by having a presence south of the Border in the Republic, to try to ease the obvious difficulties that may arise from a hard Brexit?

**Deputy Mary Lou McDonald:** Like previous speakers - perhaps more so, given that Sinn Féin is a national organisation and we represent a substantial portion of the electorate north of the Border - I am anxious that the institutions of government be re-established. I am also a realist. We have a mandate from the North of Ireland and we know there is no appetite among Northern nationalists or progressives to re-establish the institutions on anything other than a grounded, sustainable and full-blooded power-sharing basis. It is not that we have minor political difficulties, and anyone in this House who is seized by that delusion is on the wrong track. The issues at play are significant and long-running. I remind Members that we arrived at a fair accommodation last February. This was not acted on and the DUP did not deliver. I regret that but those are the circumstances we are in. I met Arlene Foster in January and we had a very frank and friendly conversation, but it is absolutely apparent that the DUP has not moved one inch or one iota, nor does it intend to. For the purpose of the record of the Dáil if nothing else, I wish to identify why this is the case. It is because both governments, Theresa May's Tories and Deputy Leo Varadkar's Government, have acquiesced with the DUP agenda of delay - delay on Brexit and delay while they hide at Westminster. This is why we have had no substantive process, despite having been promised one. This is why the Taoiseach and Ms Foster can meet until the cows come home; if there is no real political pressure on the DUP to do business, it will not do business. It is as stark as that.

The Taoiseach is the person in charge. What is his plan to get the institutions back up and running?

**Deputy Eamon Ryan:** I reiterate a call I made in this House several weeks ago to get the institutions of Northern Ireland back up and running. It is intolerable, at this most historic and sensitive time, where the issue of Northern Ireland and the Irish Border is centre stage of politics in Ireland, the UK and Europe, that the only active politician representing the majority opinion of the North in the House of Commons is Lady Sylvia Hermon. The absence of the assembly is inexcusable at a time when we may need it to manage a crash out Brexit that could not be left to civil servants. I encourage the Taoiseach to do everything in his power to see those

institutions return.

We are all scratching our heads after the votes in the House of Commons last night. What should, or could, our approach to that be? One option for the Taoiseach in any negotiations or discussions he will have with the UK Prime Minister today, or in the coming days, is to go back a year and two months to the initial agreement of December 2017 which stated that the Irish Border would be maintained open and there might be some regulatory and other checks in the Irish Sea, *per se*, to allow us do that. That may not be to our advantage in the sense that it might hinder east-west trade. It may be to the disadvantage of the UK because it might like the customs arrangement to which it agreed in the withdrawal agreement. However, it would be one way of responding to the UK Prime Minister by which we maintain our insistence around maintaining our Border and offers a flexible mechanism.

The DUP will not like it. The DUP stopped it after the UK Prime Minister agreed it in December 2017. Given that Prime Minister May and her officials signed off on that agreement with the EU negotiating team, it might be a suggestion to come back to the British Government within what is going to be a fraught two weeks. I put that idea to the Taoiseach.

**The Taoiseach:** I am, of course, very aware of the votes which took place in the House of Commons last night and I will speak to Prime Minister May by phone again this afternoon. We scheduled a call yesterday and that call will take place this afternoon in light of the position the UK Government took yesterday to support the Graham Brady amendment and in light of the two votes which occurred last night which passed the Spelman amendment and the Brady amendment.

The European Union, including Ireland, stands by the withdrawal agreement, including the protocol and backstop relating to Ireland. As European Council President Tusk said yesterday, we are not offering a renegotiation. That is not on the table and there are no plans to organise an emergency summit to discuss any changes to the guidelines, nor is there any pressure to hold one. The message which came from the European institutions and the European Union yesterday was abundantly clear: the withdrawal agreement is not up for renegotiation and is not going to be reopened.

It is important to acknowledge that two amendments were passed last night. The first was the Spelman amendment which says that there should not be a no-deal exit by the UK from the European Union. It is in the hands of the UK Government and the UK Parliament, at any time, to take away the threat of no deal. They have the authority to do that either by revoking Article 50 or seeking an extension to Article 50. Ireland and the European Union are not threatening no deal. The UK Government and the UK Parliament have it in their authority to take the threat of no deal away at any time they wish to do so.

The Brady amendment speaks of alternative arrangements. I do not know what those alternative arrangements are. We have been down that track before and I do not believe that such alternative arrangements exist and that is why we have the agreement that we have now. The only way we can avoid a hard border, physical infrastructure and checks and controls in the way foreseen in the original December agreement is through full regulatory alignment, to use the language of that December agreement.

It is really regrettable that the Northern Ireland Assembly and Executive are not functioning and have not been in operation for the past two years. Absent a functioning assembly and ex-

ective, parties do what parties do. They have taken party positions that have largely appealed to their bases. Had the parties been in the executive, and holding ministerial office, they might have been more willing to think about what was best for Northern Ireland business and agriculture and what was best for Northern Ireland as a whole, rather than taking positions which very much derive from party policy.

The Tánaiste has been in touch with the Secretary of State for Northern Ireland this week but we need to focus on ratifying the withdrawal agreement and creating some certainty around Brexit. Perhaps after that there will be a space to re-engage with the parties.

Fundamentally, the assembly and the executive cannot function unless the two major parties, the DUP and Sinn Féin, are able to agree. The Irish and UK Governments can facilitate, help and cajole, but we cannot force those two parties to come to an agreement. I understand the DUP and Sinn Féin now hold the world record for failing to negotiate a coalition agreement and form a government and that is not something of which either party can possibly be proud.

We understand that the European Convention on Human Rights, ECHR, will continue to apply to all of the UK, including Northern Ireland. The UK is leaving the European Union but it is not leaving the ECHR.

**Deputy Mary Lou McDonald:** Not yet.

**The Taoiseach:** That, of course, may change. People in Northern Ireland who have Irish passports and are Irish citizens will continue to have the rights that EU citizens have, that is the right to travel freely and to reside and work in any part of the European Union. That is something that, unfortunately, UK citizens may not have in a few weeks' time. EU citizens and Irish citizens in Northern Ireland will continue to have those rights that come with European citizenship, the right to live, work and study in any part of the European Union.

In terms of rights that are linked to residency, as opposed to citizenship, such as participation in the ERASMUS programme and the European health insurance card, the withdrawal agreement proposes that that continues throughout the transition period and that, even though people in Northern Ireland would not be in the EU anymore, they would continue to have access to the European health insurance card and to be able to participate in the ERASMUS programme, for example. It is our intention, as part of the future relationship treaty, to negotiate a position whereby EU citizens living in Northern Ireland would still be able to access all those different programmes.

### **Cabinet Committee Meetings**

6. **Deputy Micheál Martin** asked the Taoiseach when Cabinet committee C (European Union including Brexit) last met. [2651/19]

7. **Deputy Brendan Howlin** asked the Taoiseach when Cabinet committee C (European Union including Brexit) last met. [3861/19]

8. **Deputy Mary Lou McDonald** asked the Taoiseach when Cabinet committee C (European Union including Brexit) last met; and when it is scheduled to meet again. [3891/19]

9. **Deputy Richard Boyd Barrett** asked the Taoiseach when Cabinet committee C (Euro-

pean Union including Brexit) last met. [4068/19]

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

The remit of Cabinet committee C covers EU and international issues, including Brexit, and assists my participation as a member of the European Council. It last met on Thursday, 21 June 2018, in advance of the European Council meeting on 28 and 29 June 2018. It was the third such meeting of this Cabinet committee. The next meeting has not yet been scheduled.

Cabinet committees are often used to prepare topics for discussion ahead of consideration by the full Cabinet. Given the significance of Brexit for the country, we have discussed it at full Cabinet level several times in recent months, as was the case most recently on 15 January, again on 22 January and again indeed yesterday. It is important that all Cabinet Ministers should be fully across what is happening in relation to Brexit. Several other important EU issues have also been discussed at full Cabinet level in recent months.

I also meet regularly with individual Ministers, or groups of relevant Ministers, to focus on particular issues, including those relating to Brexit and other EU and international issues, with a view to seeing how Government can best assist the delivery of priorities and commitments.

**Deputy Micheál Martin:** It is interesting that the Cabinet sub-committee is basically redundant in terms of Brexit, but that is for another day.

As the Taoiseach said earlier, as things stand, there is deadlock over Brexit. The British House of Commons has voted in favour of Brexit, against the draft withdrawal agreement, in favour of having a deal and against the proposed backstop. Obviously, as the Taoiseach has just articulated, he is simply going to keep repeating that the deal is closed. Can he be clear with the House for a moment? Is the Taoiseach saying that unless the British Parliament changes its position, there will be a no-deal Brexit on 29 March? In recent weeks, we have had entirely contradictory statements from Government on important matters. The Taoiseach may recall the Tánaiste went as far as to tell the Minister, Deputy Ross, to shut up when he said there might be security measures at the Border. Yet a few days later, the Taoiseach said not only the same thing but much more in terms of what would happen at the Border in a no-deal scenario. The Taoiseach and Tánaiste have also said they are not contemplating a hard border and that a hard border is inevitable. They said both things. Two months before Brexit, we have no legislation before the House. The majority of businesses are not Brexit ready and the Central Bank is warning of a more dramatic impact this year than the Government's official projection. Can the Taoiseach be clear and explain exactly what security or other measures are likely in March, if there is no deal? Enough time has been wasted in telling us what is not being contemplated seven months after the Taoiseach first announced the acceleration of no-deal preparations and 58 days before a possible hard Brexit. What will happen on the Border unless the deal is ratified in London?

**Deputy Joan Burton:** I understood the Taoiseach to say Cabinet committee C on the European Union has not met since June. Cabinet subcommittees have a purpose. The Taoiseach indicated to us before that he is not too fond of them. They allow very senior civil servants to brief in detail on the detail of papers and, for example, to set out how they imagine the backstop would work in detail and what considerations and planning are required and who they have talked with. That kind of information is not normally at a full Cabinet meeting nor are people other than members of the Cabinet, the secretary to the Government and the Attorney General normally present. Is the Taoiseach saying he is bringing some of these people, who have an

enormous skillset, from the Department of Foreign Affairs and Trade and his own Department in to brief the Cabinet or is it the Taoiseach who is doing all the briefing? I am not surprised that the Minister, Deputy Ross, was very surprised because clearly, as the leader of the minor party in the Government, he would need to be kept very well briefed and possibly have access to something like a Cabinet subcommittee to be aware that there were or were not going to be issues and how they were likely to pan out at the Border. I have not heard that Cabinet meetings have gone on extraordinarily long. If the Taoiseach is having Cabinet subcommittee meetings at Cabinet meetings, we should be reading that the Taoiseach is coming out grey and exhausted ten hours later because he is piling them on. We deserve to know a little bit more about how the members of the Cabinet are briefed and about the subcommittee and the minor party because it is a very big issue for Ireland. We want the people who are representing us to do so to the best of their ability. Has the Taoiseach spoken with any of the leaders in the European Union, the President of the Commission or the President of the Council since the votes last night? When does he anticipate he will go on a tour of Europe to meet the leaders to discuss the situation? What he is indicating to us now is, if I understand it correctly, there will be no change and that he is not anticipating meeting anyone from Northern Ireland such as the DUP and those on the leave side. Is Theresa May planning to come to Dublin? The Taoiseach said he spoke to her yesterday and will speak to her again today. Will he tell us something about that?

**Deputy Mary Lou McDonald:** I direct the Taoiseach to the hearings of the justice committee of the House to familiarise himself with the extent of the loss of citizens' rights that Brexit will entail. He should inform himself in that regard. It is a matter of astonishment that the events in the House of Commons last evening were being depicted as a great success for Theresa May within sections of the British media. The reality is that Mrs. May whipped her own MPs to vote against and press the destruct button on an agreement which she herself negotiated. The truth is that Theresa May has acted absolutely in bad faith in respect of an agreement that she brokered with the European institutions. More fundamentally, and more importantly for our purposes, it was an act of absolute bad faith in respect of the Good Friday Agreement and the obligations of the British state under international law. I read last evening's turn of events not as some gaffe or something borne of ignorance but as an act of belligerence by an element of the British political establishment. I regard it as an act of aggression against the Irish people, North and South, and against Irish interests. It did not happen by accident. This is a calculated matter that comes from the thinking of the Boris Johnsons and the Jacob Rees-Moggs, all the other extremist Brexiteers and the DUP. It has to be faced down. It is absolutely essential at this stage that the Taoiseach's will is not bent, that he does not blink and that he is not cowed irrespective of the overtures from London. In terms of contingency planning, the facts are this: if there is a crash and if the extremist Brexiteers have their way, there will be a hard border on our island. The Taoiseach may be aware there was a demonstration over the weekend on the Border. The communities there have made it absolutely clear they will not tolerate any hardening of that border. Therefore, part of the Taoiseach's contingency planning has to be in the event of a crash to reach back to the Good Friday Agreement which all have vowed to protect and implement and to look towards the provision for a referendum. In other words, if the political system cannot deal with and resolve the issue of the Border, put the question in the hands of the people by way of a democratic referendum.

**Deputy Seán Haughey:** We are preoccupied with the issue of Brexit in the House, and rightly so, so I am reluctant to raise another issue. I will ask the Taoiseach about the debate on the future of Europe. Many developments are happening with regard to the European Union at present. There are big issues such as migration, the rise of populism on the far right and far left,

moves towards corporate tax harmonisation and further integration within the European Union. The Minister of State, Deputy McEntee, engaged in a public consultation process with regard to the future of Europe and produced a report on the citizens' dialogue on the future of Europe. The report concludes with reference to the summit which will take place in Sibiu in Romania on 9 May. It will be an informal summit. The report states: "In advance of this summit, we will publish a statement on our strategic priorities for the European Union, capturing your ideas [which were put forward during the consultation process] to set out Ireland's vision for the coming years." Can we get some indication of how the Taoiseach intends to approach the summit? There is plenty of time in advance of that European summit. I am interested to know the Taoiseach's thinking at this stage and the Irish stance. Will he keep the House fully informed about this particular debate because the future of Europe is obviously of consequence to us all?

**Deputy Eamon Ryan:** I will return to the Brexit issue. I encourage the Taoiseach to continue to brief the leaders of the Opposition and to convene later this week or early next week the meeting he had last week to allow us to discuss in private what the latest developments are. It is important we retain cohesion and consensus as best we can. We need to be careful with our language. We need not to inflame it or to be antagonistic towards the UK political system which is in a real mess on this. We also need to keep very close to our European colleagues. I hope to have one of the co-leaders of the European Green Party in Dublin next week. It will help us to brief each other on the approach. I imagine each party or grouping here will be doing the same with its European colleagues. As Deputy Burton said, it would help if the Taoiseach could share his sense of what the approach will be from the European institutions, the negotiating team and the Presidents of the Council and Commission. Have they given any indication to the Taoiseach as to their approach in the coming two weeks in response to yesterday's votes in the British House of Commons?

**An Ceann Comhairle:** The questions have gone way over time. Would five minutes be adequate for the Taoiseach to respond?

**The Taoiseach:** Sure.

I agree with the Deputies that Cabinet committees serve a purpose, but my preference is to use the Cabinet itself as much as possible to discuss matters of major importance. Meetings are longer and more frequent than they were in the past. We regularly have two meetings in a week, which allows us to be focused and not to have to come out tired and looking grey, which I can assure Deputy Burton will never happen.

**Deputy Micheál Martin:** It will not happen with your sound-bite Cabinet.

**The Taoiseach:** Cabinet briefings are done by me, or the Tánaiste, or in some cases depending on the issue by other Ministers or the Secretary General to the Government. However, there are other briefings. Ministers will regularly receive briefings from officials in the EU section in my Department. Sometimes we will do that in the Sycamore Room, but it is exactly that - a briefing. It is not a meeting of a Cabinet sub-committee which requires a senior officials group before it, agendas and lots of other things. Briefings are much more straightforward than a Cabinet sub-committee.

I heard how Deputy Micheál Martin described the position of the British Parliament. It is not really for me to interpret the will of the British House of Commons. As I understand it, its position is that there should not be a no-deal exit on 29 March, based on the Spellman amend-

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ment passed last night. It is obviously up to them to realise that should they choose to do so.

Nobody knows for sure what would happen in the event of a no-deal exit. It is uncharted territory.

**Deputy Micheál Martin:** Is the Taoiseach saying if the British Parliament does not change, or is he saying there will be a no deal?

**The Taoiseach:** However, we can prepare for different scenarios and eventualities, which is exactly what we are doing.

I was asked if I had spoken to other the EU Heads of State and Government. In Davos last week I spoke to about seven in person, anticipating the events. We are all *ad idem* that the withdrawal agreement is not up for renegotiation and cannot be reopened. I obviously spoke by phone to President Juncker from Davos on Thursday. I will probably travel to Brussels next week, but that will depend on other business and the availability of other people. The EU-League of Arab States summit will take place in a few weeks' time. That will be another opportunity to meet people in person.

At the moment there are no proposals for the British Prime Minister, Mrs. May, to visit Dublin. There was a proposal for her to do so back in November or December, but she could not make it on the day because some of her own party members tabled a confidence motion on her.

I absolutely intend to meet the party leaders again. That is done when there is something new to say or to talk about. Perhaps that will be next week. It is right and important that party leaders should be able to meet in private. Hopefully that will be possible.

On Mrs. Foster, we reached out to each other last week by phone. Efforts are under way to convene a meeting involving the Irish Government and the DUP. However, it is always important to remember that these negotiations are between the EU, including Ireland, on the one hand and the United Kingdom on the other. We are not negotiating or even approaching any type of negotiation with any political party. There are many political parties in Northern Ireland. When we listen to the voice of Northern Ireland we should not make the mistake of thinking that is the voice of only one party; there are many other parties in Northern Ireland. Of course, there is the voice of Northern Ireland, which includes people who are not members of political parties, including those in business groups, the Ulster Farmers Union and many others with whom the Government has regular engagement. There is, of course, regular informal engagement with DUP MPs and MLAs as Ministers visit Northern Ireland and in London as well.

**Deputy Micheál Martin:** Could the Taoiseach answer my question? Is he saying that unless the British Parliament changes position, there will be a no-deal Brexit in March? Is that where we are?

**The Taoiseach:** That is a kind of hypothetical question, is it not?

## Departmental Operations

10. **Deputy Mary Lou McDonald** asked the Taoiseach if he will report on the work of the international, European Union and Northern Ireland division of his Department. [2541/19]

11. **Deputy Brendan Howlin** asked the Taoiseach if he will report on the work of the international, European Union and Northern Ireland division of his Department. [3862/19]

**The Taoiseach:** I propose to take Questions Nos. 10 and 11 together.

The international, EU and Northern Ireland division of my Department covers work on all international, EU and British-Irish and Northern Ireland affairs within the Department, including Brexit issues. The division assists me in my international role, including as a member of the European Council, and in my other EU and international engagements. The division also provides advice to me regarding Northern Ireland affairs, British Irish relations and, of course, on Brexit issues. This includes work to advance peace, prosperity and reconciliation on the island of Ireland, including assisting me in my engagement with the British Government, in institutions established under the Good Friday Agreement and on restoration of the institutions including the devolved Assembly and power-sharing Executive.

The division provides advice and briefing relating to my varied international engagements, including meetings of the European Council and other EU summits, bilateral engagements with Heads of Government of EU member states and other countries and international affairs more generally. The division also works closely with other relevant departments, notably the Department of Foreign Affairs and Trade.

Augmenting the ongoing work of my Department's international, EU and Northern Ireland division on Brexit, is the Brexit preparedness and contingency planning unit, which assists the secretaries general group, overseeing ongoing work on national Brexit preparedness and contingency planning. The unit works closely with other divisions in my Department, including the economic division, and with colleagues in the Department of Foreign Affairs and Trade, which has overall responsibility for Brexit.

**Deputy Mary Lou McDonald:** Did the Minister, Deputy McHugh, give the Taoiseach any feedback from the very large conference held in the Waterfront in Belfast at the weekend? I hope he gave the Taoiseach a sense of the frustration among a very large and broad gathering of people, and also the sense of ambition that was expressed in terms of Ireland after Brexit. It is really important for the Taoiseach to hear those voices and for him to have his finger on the pulse of popular opinion. He is right to say that opinion is not reflected by the DUP. He will be aware, of course, that business organisations in the North are despairing at the fact that the backstop has been trashed at Westminster with the connivance of the DUP. He is also aware of the very serious perils that confront agriculture at these times.

I also raise the issue of European foreign policy. It relates in some measure to the issue Deputy Haughey raised about the future of Europe, the future of Ireland within Europe and the direction of Europe. We have a long-standing policy of military neutrality and of independent foreign policy. I heard the Taoiseach say in Davos - I hope I am quoting him right - "I think that Europe needs to really be able to have a common foreign policy." I think he is entirely on the wrong track there. Our neutrality and independence in foreign policy matters-----

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

**Deputy Mary Lou McDonald:** -----in accordance with and chiming with our historical experience-----

**An Ceann Comhairle:** We have to skip to the final-----

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**Deputy Mary Lou McDonald:** -----is extremely important.

**An Ceann Comhairle:** We will have to-----

**Deputy Mary Lou McDonald:** We need to know the Taoiseach's view on sovereignty and fiscal sovereignty.

**An Ceann Comhairle:** If we do not give the Taoiseach time, we will not know his views on these matters.

**Deputy Mary Lou McDonald:** On a previous occasion when the Taoiseach was away, I asked for the Government to set out its vision for the future of Europe. He was not there on that occasion, but I repeat that call again today. We need to know where the Government stands on these issues.

**An Ceann Comhairle:** If people are going to consume all the time, there will be no time left for a reply.

**Deputy Joan Burton:** What is the Government's position on the recently agreed Franco-German treaty which has many implications for Europe? Does the Taoiseach foresee that treaty impacting on the future of the European Union, including Ireland's role in the European Union?

How many people in the Department of the Taoiseach are working on the bid for our membership of the UN Security Council?

Given the weekend that is coming up, does the Taoiseach intend to travel to Japan for the Rugby World Cup later in the year? There is no doubt, with the negative developments that have happened in the UK, that Ireland will have to make a much stronger push regarding its global presence, particularly if the staunchly pro-Brexit voices in the UK prevail and Britain crashes out of the EU.

The Taoiseach mentioned that there are many parties in the North of Ireland but the DUP is the largest unionist party.

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

**Deputy Joan Burton:** John Hume would never have made any progress if he had not reached out and talked to people with whom he had very serious difficulties. Ultimately, he and others were able to resolve, through the Belfast Agreement, an all-Ireland framework for progress to be made. It is not that we are in agreement with the DUP's position but it has a position, which is not a majority one. The majority of people in the North voted to remain.

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

**Deputy Joan Burton:** We need to know the Taoiseach's approach to the DUP.

**Deputy Seán Haughey:** The Taoiseach ran out of time and was not able to answer the question I posed in the last round. I will not ramble this time, if I was rambling, and will give the Taoiseach an opportunity to praise the Minister of State at the Department of Foreign Affairs and Trade, Deputy McEntee, who conducted the citizen's dialogue on the future of Europe. The report she produced concludes, "In advance of this summit we will publish a statement on our strategic priorities for the European Union, capturing your ideas to set out Ireland's vision for the coming years." When will that statement be produced and will the Dáil be fully involved

in the debate on the future of Europe?

**Deputy Micheál Martin:** At some point in the future relations will be rebuilt between this island and London. So far, few details have been available on any discussions there may have been on this point. It has been said in the past month that the Taoiseach wants to have some form of annual joint cabinet meeting along the lines of the Franco-German meeting. Other than this, we have heard absolutely nothing and we certainly have not been consulted on anything. This is another example of meetings being called at which we do not get any substantive detail and the media, inevitably, being briefed in advance.

I have put forward proposals on this issue publicly and would like the Taoiseach to tell us what level of discussion there has been about new bilateral structures. Once Britain leaves the EU, there will be an enormous gap. The European Union was the context for the significant development of relationships between successive Irish and British Ministers and officials that, in itself, was a catalyst for the Good Friday Agreement in terms of familiarity between people who had worked with each other as members of the EU.

Irrespective of the nature of the future relationship between the UK and the EU, there will always be substantive bilateral issues including, for example, the common travel area and other matters. We need substantive and ongoing contact and structures at political and official level and this cannot be allowed to become focused on annual photo opportunities. It will involve hard, unglamorous work. If there is a no-deal Brexit in 58 days, what arrangements for bilateral discussions and negotiations are ready?

**The Taoiseach:** The Minister for Education and Skills, Deputy McHugh, briefed me on the meeting in Belfast last weekend. I know that it was very well attended and it seems to have been a very successful event. I hope if there is a follow-up event at some point in the future that I will be able to attend in person and continue to engage with that important body of Northern Ireland society.

Regarding European foreign policy, the EU has a Common Foreign and Security Policy, CFSP, and a common defence policy in the form of PESCO, of which Ireland is a member. PESCO is quite new and we will have to see how it develops on a case-by-case basis. We will get involved in various security projects but that will not involve Ireland taking part in a putative European army or getting involved in any military alliances. The CFSP needs to be a lot stronger and it could work a lot better. Europe can be a force for good when it comes to foreign policy. We have an increasingly multi-polar world, with a very strong America but one that is abdicating the kind of global leadership role that it had in the past, alongside an emerging and increasingly influential China. Many other countries are coming to the fore on the world stage while Europe's population and wealth continues to decline proportionately. If we want to promote European values and ideals in the world, we need to have a stronger European common foreign policy. That means leading on issues like international development, Africa, climate change, combatting terrorism and security threats and the crises in places such as Syria and Ukraine. In the case of the latter, Europe acting together as one could have done better and could have helped to bring peace and security to those places.

I note that in the past couple of days a number of European countries have indicated that they may take action against Venezuela. Unfortunately, we do not all agree but the majority of people in this House agree that what has happened in Venezuela is terrible. If one goes back 20 or 30 years, Ireland was ranked 20th in the world in terms of human development by the

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United Nations. We are now in fourth place. Venezuela was in 40th place, not too far behind us but now it is in 70th or 80th place, which shows the effect that socialist and anti-democratic policies-----

**Deputy Mary Lou McDonald:** And sanctions-----

**The Taoiseach:** -----have on a country. Venezuela is experiencing increases in maternal mortality and neonatal deaths, a refugee crisis, abject poverty and the removal of people's democratic freedoms. A number of European countries are taking a stronger stand on this and are calling for the restoration of democracy in Venezuela and for free and fair elections. We want people in that country to have security, democracy, human rights and hope again. That announcement was made by four countries but it would have been more effective if it had been made by an EU of 27 countries. These are the kinds of areas where the Union can be a force for good in standing up to the terrible badness and evil that is happening in Venezuela at the moment.

The UN Security Council bid is being led by the Department of Foreign Affairs and Trade. There is nobody in my Department whose specific job is to work on that bid but my Department plays a supporting role and many of us are involved in many different ways.

I do not have any plans to travel to Japan. I am not sure if I have even received an invitation-----

**Deputy Micheál Martin:** There is a sporting encyclopaedia in the form of Deputy Shane Ross and I am sure-----

**The Taoiseach:** Perhaps he should travel.

**Deputy Joan Burton:** The Taoiseach and the Minister could travel together.

**The Taoiseach:** I have no plans at present but a lot could happen between now and September.

**An Ceann Comhairle:** We are out of time now.

**The Taoiseach:** Obviously, with regard to the DUP, we listen to and respect its views but generally we have an exchange of views with that party. We do not see eye to eye on these matters.

On the future of Europe, I would very much welcome a Dáil debate. I do not know the current position with regard to the statement and will have to check with the Minister of State, Deputy McEntee. She did a good job on the public consultations and is doing a stellar job as a Minister of State at the moment.

On bilateral structures between the UK and Ireland, I envisage the British-Irish Intergovernmental Conference, BIIGC, which was created under the Good Friday Agreement, being upgraded and used as an opportunity for British and Irish Ministers to meet. Currently we run into our British counterparts at least four times a year at European Council meetings but that will be gone in a few months. Upgrading the BIIGC might be the bilateral mechanism we could use to make sure that we are continually and regularly engaging with our UK counterparts.

*Written answers are published on the Oireachtas website.*

### **Message from Select Committee**

**An Ceann Comhairle:** The Select Committee on Justice and Equality has completed its consideration of the Disability (Miscellaneous Provisions) Bill 2016 and has made amendments thereto.

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

#### **Fishing Industry**

**Deputy Pat The Cope Gallagher:** I am pleased the Minister, Deputy Creed, is in the Chamber because many of the issues I will be raising are technical and only he will fully understand them. There is serious concern in the fisheries sector among processors, producers, exporters and those involved in ancillary services regarding the Department's plans post 29 March 2019. It will be said that this is hypothetical, but we are only two months from that date. I am sure plans are in place, particularly in light of the votes in Westminster last night. We do not want this situation and I know the Minister does not want it. We would have preferred if the deal on offer had been accepted but we must live in the real world. I would like to know what is involved in regard to the proposed amendment of EU Regulation 508/2014, which provides for the European Maritime and Fisheries Fund. I am opposed, and I hope the Minister is too, to the transfer of capital from this fund to provide for emergency funding. There is not sufficient funds there to do that. Any funds for emergencies should be additional funding.

I welcome the proposal for a regulation amending EU Regulation 2017/2403 of the European Parliament and of the Council, which makes provision for vessels fishing in UK waters. Has the Minister had discussions with his EU counterparts or his UK counterpart on these proposals? While the proposal is welcome, the arrangement has to be reciprocal. In addition, the producers are uncertain about what will happen after 29 March. I understand emergency measures will be put in place to allow for continuity until the end of this year. Can the Minister confirm that this was agreed at the December Agriculture and Fisheries Council on TACs and quotas? There is so much fear around Brexit. The Minister will shortly be allocating 100% of the mackerel quota to the vessels. I do not know if that is a good sign or not because the allocation is normally 80% or 85%. My fear is that unless there is clarity, this will be front-loaded and that is not good management. It is better if the catching sector can land over a longer period and thus ensure greater prices. Front-loading is worrying. There has to be clarity and I hope the Minister can provide it today and also set out what other plans are in place in the event of a crash on 29 March?

On the Brexit contingency action plan, which was launched on 19 December, as far as I can see there is no reference in it to fisheries. This sends out the wrong signal. It is no wonder the sector is edgy about the preparations and state of readiness on the part of the Government. I await the Minister's response in this regard and would welcome his views on the provision of emergency funding other than through extraction from the EMFF because that funding is

required for other measures. To do that would be only a cosmetic exercise by the European Commission.

**Minister for Agriculture, Food and the Marine (Deputy Michael Creed):** I thank Deputy Gallagher for raising this issue. The Government remains firmly of the view that the only way to ensure an orderly withdrawal is to ratify the withdrawal agreement as endorsed by the European Council and agreed with the British Government. The European Council has made clear that it stands by the withdrawal agreement and that it is not for renegotiation.

In light of ongoing uncertainty in the UK, however, we are continuing work to prepare for all possible outcomes, including the worst-case scenario of a disorderly Brexit. We have already introduced a range of measures to deal with the short-term impacts of Brexit through a €150 million low-cost loan scheme and increased funding under the rural development and seafood development programmes in 2017, along with a new €300 million Brexit loan scheme in 2018 for Irish businesses that are either currently impacted by Brexit or will be in the future, at least 40% of which will be available to the seafood and agrifood sectors.

Budget 2019 contains a €78 million Brexit package for farmers, fishermen and food SMEs. Our enterprise agencies are continuing to work with seafood companies to help them to deal with Brexit through making them more competitive, diversifying market exposure and upskilling teams. Specifically on fisheries, my priority has been, and remains, to maintain existing levels of access to waters and resources to provide continuity and certainty to our catching and processing sectors. However, in a worst-case scenario of a disorderly departure in March 2019 those reciprocal arrangements could be endangered. I continue to have positive, regular meetings with my European colleagues, especially those from the group of eight member states whose fisheries sectors are potentially most impacted by the United Kingdom's withdrawal from the European Union. I am also working closely with key stakeholders in the Irish fishing industry and I am pleased at the level of unity on these key issues.

In recent days, the Commission has adopted two legislative proposals to help prepare for the potential significant impacts that a no-deal Brexit would have on Irish fisheries. The first proposal is to allow fishermen and operators from European Union member states to receive financial aid under the European Maritime and Fisheries Fund, EMFF, for the temporary cessation of fishing activities. The aim of this is to help off-set some of the impact of a sudden closure of UK waters to EU fishing vessels in a no-deal scenario. The second proposal aims to ensure that the European Union is in a position to grant UK vessels access to European Union waters until the end of 2019, on the condition that European Union vessels are also granted reciprocal access to UK waters based on the agreement in the December Council on the fishing opportunities for 2019. The only clarity from the UK is that European Union vessels will no longer have automatic access to their zone. Whether this means a complete shut out of EU vessels or not remains uncertain at this stage. While I welcome these measures as useful first steps, additional measures, including further financing, over and above the EMFF, at EU level will be required. In this regard, I am continuing to work with the Commission and other concerned member states to continue to develop European Union-wide measures to address the very serious potential problems that may arise. It cannot be left to individual member states to address these problems in isolation. Ireland is particularly exposed with regard to the potential impacts for our fisheries sector. If there has to be a temporary cessation its use must be proportionate across all fleets. It cannot be the case that similar fleets are tied up in one member state and not in another. There must be a level playing field for all those impacted by loss of access to UK waters.

It is not possible to eliminate all risk in a no-deal situation. Any Brexit will be negative, but a no-deal Brexit is the worst possible outcome and would not be in the interests of the UK, Ireland or the European Union. That is why our focus remains on securing the deal that has been reached. Brexit will have negative consequences in all scenarios, but our key protection from whatever Brexit brings will be our status as a member of the European Union, with all the stability and solidarity that brings.

**Deputy Pat The Cope Gallagher:** I thank the Minister. My worst fears have been realised. There is no certainty. The European Union, through the Council and the Parliament, have agreed to give UK vessels rights but there is no guarantee that we will have reciprocal rights. It is vital the Minister works with the eight like-minded countries to ensure that an emergency fund is put in place. The EMFF proposal is of no significance. It is only a paper exercise and a budget line. If the European Union is serious about this, the eight countries that are working with the Minister will require the support of the 27 countries to ensure that this funding is provided. To give an indication of the seriousness of this, 60% of our mackerel and 40% of our nephrons are caught in UK waters. As a whole, 30% of our fish are caught in UK waters so this is vitally important.

When responding, perhaps the Minister could advise why there was no reference to fish in the Brexit contingency action plan of 19 December? Perhaps there is a reason for this but if there is not one, I would be concerned. While the Minister is taking a hands-on approach, does he have the support of the entire Cabinet given that it was not included in that plan?

I urge the Minister to continue working with the European Commission and other member states on this a matter. The Minister said he is working with the sector but we require a forum to bring together all the interested parties over the next number of weeks and to give them an opportunity to outline to the Minister the seriousness of the problems and for him to let them know what exactly he is doing. I have not heard anyone talk about the link between fish and markets. We were told they would be inextricably linked. There have to be advantages for the UK there. Are we exploiting those?

**Deputy Michael Creed:** I thank Deputy Gallagher for the supplementary questions. I assure him that we work extremely closely - hand in glove - with the industry in all its manifestations, from the catching sector to the processing sector. We are acutely conscious of the range of impacts arising from Brexit, not least the displacement from UK waters. The Deputy listed the primary stocks that will be impacted which, in value terms, is worth €85 million. The consequences of that are apparent in many areas, not least in the processing sector, but most critically in displacement and in terms of where those boats will consequently endeavour to catch fish. That is a real issue for us in the context of our capacity to deal with that in terms of our Naval Service, the Sea-Fisheries Protection Authority, overfishing and access via the landbridge to markets in mainland Europe. We are acutely conscious of this and we have always endeavoured, and I think we succeeded in terms of the negotiations on the withdrawal agreement, to link any future trading relationship in the context of the political declaration to continued access to UK waters. That is where the kernel of this is.

Unfortunately what the Deputy is looking for, which I cannot offer, is clarity at this stage as to all the consequences in a disorderly Brexit. We are engaged across the European Commission. Even as late as last Monday I had bilaterals with Commissioner Hogan and will be shortly meeting with Commissioner Vella directly on these matters. We have had ongoing engagement via the group of eight with Michel Barnier and all the asks of the group of eight member states,

reflected also in the industry alliance, were delivered in the context of the withdrawal agreement.

That is the preferred route in terms of the UK's departure but the wisdom of Solomon would not suffice to tell us at this stage what the UK's ultimate course of action is going to be. We remain entirely focused on what is possible in the context of our engagement with our EU partners in terms of all the consequences but we have to be brutally honest about it. In the case of a hard Brexit and the UK crashing out, we avoid the desirability of a transition period and a negotiated future trading relationship wherein it was our ambition to link trade with access to UK waters. What the course of action the UK will adopt if it crashes out is unclear. It has not issued any guarantees of future access to its waters and, in that context, it is imperative that we prepare for all scenarios, including adequate financial resources and compensation from the European Commission.

### **Hospital Services**

**Deputy Seán Haughey:** The programme for Government contains a commitment to “commence the design of a new ED in Beaumont later this year with a view to funding for the construction being provided as part of the 2017 Capital Plan Review.” It committed also that:

The new Government will immediately proceed to the design and planning stage for a dedicated Cystic Fibrosis Unit at Beaumont Hospital Dublin for inclusion in the 2017 Capital Plan review. The HSE Cystic Fibrosis Clinical Programme will make further recommendations in the next few months, following a survey of centres and will complete a CF model of care policy.

I am glad the Minister of State, Deputy Finian McGrath, is here because I know he is probably responsible for including that in the programme for Government and has a big interest in these issues.

Beaumont Hospital is one of the busiest in the country and it opened in 1987. It treats in excess of 45,000 patients a year and yet there has been no major investment over the last 30 years. It is operating at maximum capacity while wards are forced to close to facilitate essential temporary refurbishment. Staff are being forced to work under difficult and stressful conditions with limited space and resources to effectively treat patients. The facilities in the emergency department at Beaumont Hospital are in urgent need of investment and improvement. In short, it is not fit for purpose and the people in the area know that.

As it stands, it seems little progress has been made to meet the commitment outlined in the programme for Government to construct a new modern emergency department that is fit to deal with the needs of the large growing population of north Dublin and beyond. This area of north Dublin has a large elderly population and these are the people who primarily rely on the services provided in the emergency department. However, they are fearful to attend the department given the current pressure it is under. The need for a new emergency department in Beaumont Hospital is a major concern for north Dublin. It seems we are nowhere near turning the sod on this project, let alone opening its doors.

What concerns me are the cost overruns in the national children's hospital. The figure for that project is now €1.73 billion and in that regard, €100 million will be needed this year alone.

The Taoiseach spoke in the Dáil recently of “re-profiling” projects. I have not heard that word before and it is a very creative word. The overrun of the national children’s hospital must have implications for all the other capital projects in the pipeline. I heard the Minister of State on the news one evening saying the situation in Beaumont Hospital was a bottom line for him and in respect of his commitment to the Government generally.

On the cystic fibrosis unit, this is estimated to cost €11 million. I saw reports recently that a planning application is about to be submitted and I would welcome an update on that. The Minister of State will appreciate this is life and death matter. It is of very serious concern to cystic fibrosis patients. Cystic Fibrosis Ireland said that rooms currently used by people with cystic fibrosis were sometimes required by those waiting for a transplant or end-of-life care. These beds need to be provided at Beaumont Hospital and we need to push this project as it is a huge issue.

In terms of the progression of the CF unit capital project, I was informed by the Minister for Health in July of last year that it has been included in the national planning framework under Project Ireland 2040 as well as being recommended for inclusion in the capital plan by the HSE national capital steering committee.

We need these projects. I know the Minister of State is personally committed to them but he has to accept that there have been delays. I would welcome an update on these issues.

**Minister of State at the Department of Health (Deputy Finian McGrath):** I thank Deputy Haughey for raising this important issue and for giving me the opportunity to provide an update to the House on the provision of the new accident and emergency department and the new cystic fibrosis unit at Beaumont Hospital. I appreciate the fact he has raised this issue and is very supportive of it. I would agree with many of the comments he made.

As the Deputy is aware, A Programme for a Partnership Government contains commitments to the development of a new accident and emergency department and a new dedicated cystic fibrosis unit at Beaumont Hospital. I am the person, as the Deputy correctly identified, who included both of these projects in the programme for Government.

On the new emergency department, funding of €100,000 was allocated in 2018 to progress this project to design phase. Councillor Damien O’Farrell, one of my advisers, is driving these two projects with the Department and Government. The HSE gave written approval for the funding which allowed Beaumont Hospital to go ahead with an EU procurement process for the selection and appointment of a design team for the project. The timeframe for the completion of the emergency department project will be informed by the work of the project team and this work will be undertaken in conjunction with the hospital and the HSE.

With regard to the cystic fibrosis unit, the project will be underpinned by the model of care for people with cystic fibrosis in Ireland which has been developed by the national clinical programme for cystic fibrosis. This will set out standards and requirements for the physical and human resources to be provided for treatment of cystic fibrosis patients from a national perspective. This model of care has been written and is undergoing the final stages of approval. The model of care states that adult cystic fibrosis units must have dedicated single inpatient isolation rooms with en suite facilities. The number of rooms will depend on the number of patients and there should be five inpatient rooms for every 50 adults with cystic fibrosis attending a unit.

Beaumont Hospital submitted a planning application to Dublin City Council on 6 December

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2018 for the development of the new cystic fibrosis unit. As I speak, the planning application is up on the wall at the entrance to Beaumont Hospital. The hospital has informed the Department that “the programme of works, if commenced and delivered aggressively and without foreseeable delay, is estimated at 24 months subject to planning permission”.

The national development plan, NDP, provides €10.9 billion for health capital developments across the country, including national programmes and individual projects across acute, primary and social care. Health capital projects and programmes currently under way will continue.

Following the publication of the its national service plan for 2019, the HSE is currently developing its capital plan for 2019. The HSE capital plan will determine the projects that can progress in 2019, having regard to the available capital funding, the number of large national capital projects currently under way and the relevant priority of each project. I reassure the Deputy that, despite the debate on the overruns for the children’s hospital, about which we are all very upset, these two projects at the emergency department and the cystic fibrosis unit will not be affected, and I have received that commitment from the Government. The requirements of the new cystic fibrosis unit and the emergency department at Beaumont Hospital and other health capital projects, currently at various stages of development, are being considered as part of the capital plan process. When the HSE has finalised its capital plan for 2019, it will be submitted to the Minister for Health for consideration.

I agree with the Deputy that the bottom line is that the emergency department project needs to be done. The people of the area and throughout Dublin Bay North need a new emergency department and we also need the new unit for children and families affected by cystic fibrosis. The planning permission for the unit is up on the wall and we need to drive it on. I will continue to ensure we drive it on within government.

**Deputy Seán Haughey:** I do not doubt the Minister of State’s commitment to these projects but, as I said, the timescale has slipped and there are delays. Beaumont Hospital was opened in 1987 and there has been no major capital investment since then. The services provided there always seem to be on a knife-edge, and while they are first-class services, it needs major capital investment, in particular in the emergency department. People report sitting on plastic chairs for hours at a time and not being admitted, and so forth. The physical infrastructure of the building needs to be modernised, changed and reconstructed.

I accept that procedures have to be followed and that there has to be a stage 1, 2 and 3. I recall being in the Department of Education and Skills and dealing with a school building project that seemed to go through endless stages before a sod was turned or a building opened, and it would seem this is the case with regard to these HSE projects. While the procedures have to be followed, I hope the procedures and stages are not just put in place to delay because the money is not available.

I welcome the Minister of State’s commitment and statement that despite the overrun in the cost of the children’s hospital, which will now cost €1.73 billion, these two projects will not be reprofiled, deferred or delayed. That is a very important commitment.

In regard to the cystic fibrosis unit, we are coming up to purple rose day, which is organised by Cystic Fibrosis Ireland, yet it is reported that patients and sufferers of cystic fibrosis and their families are deeply upset that this project is not up and running. As the Minister of State said,

these projects need to be drive on and brought to fruition.

**Deputy Finian McGrath:** I again thank the Deputy for raising the issue. The Government and I are particularly committed to supporting hospitals to develop their services. Of course, I take the point regarding the need to support Beaumont Hospital. With regard to capital investment there, in 2016 we had the opening of the new, world-class kidney unit at a cost of €6.5 million. The wards and rooms in it are fantastic and I commend the staff and the team directly involved in that. Nonetheless, we need more.

Under the NDP, capital funding for the health service will be 165% higher for the next ten years than it was for the past ten years, which will make up for all the bad years. There has been a sea change in commitment to capital investment in the health services, with €10.9 billion available over the next ten years. The development of the new emergency department and the dedicated cystic fibrosis unit at Beaumont Hospital is progressing. We agree the hospital has the reputation for high quality and safe care of patients. The development will support the delivery of key services to all the patients in the hospital. When we talk about big plans such as the NDP, people are right to question them, but the bottom line is the emergency department and the cystic fibrosis unit at Beaumont Hospital have been included in the plan. It is my job as Minister of State, particularly as the local Minister of State, to drive these projects on and I will absolutely do that. As I said, the planning permission for the cystic fibrosis unit is up on the wall but we need to drive these projects on.

### **Pensions Legislation**

**Deputy Peter Fitzpatrick:** The Government intends to pass legislation later this quarter to implement the institutions for occupational retirement provision, IORP II, directive. The Minister's counterpart in 2004, Séamus Brennan, provided for a derogation for a one-member scheme to apply when IORP I was being implemented that year. This was a practical solution in that the IORP I directive allowed one-member schemes, including self-administered pensions, to thrive and contribute significantly to Irish society from 2004 to the present.

The self-administered pensions sector is an indigenous Irish sector employing more than 320 people, and hundreds if not thousands more are employed indirectly through investments in Ireland. Self-administered pension holders, who are typically owners or employees of SMEs, invest a large proportion of their pensions, which are valued at approximately €4 billion in total assets, in Ireland. For example, they invest in Irish properties, SMEs, renewable energy and social housing.

As in 2004, the IORP II directive provides for the retention of a common sense and hugely beneficial derogation which would protect Irish jobs and investment in property, SMEs, renewable energy, social housing and much more. However, the Minister is choosing not to retain this derogation when the directive is transposed into law this year. She is choosing to put SMEs out of business, to terminate Irish jobs, to cut investment and financing of SMEs, to cut investment in renewable energy and, shamefully, to cut immediate investment in Irish social housing, when there is an unprecedented crisis in homelessness and social housing provision in this country. Why is the Minister choosing to do this at this time? It is beyond comprehension.

The UK specifically assessed this issue only recently. The UK Department for Work and Pensions produced an impact assessment on 25 September 2018, which determined that

schemes with less than 15 members are to be excluded from the directive completely. This is common sense. That is in accordance with the derogation that one of the Minister's predecessors, Seamus Brennan, sensibly implemented in 2004. What analysis did the Minister carry out to determine that this common-sense measure that is appropriate for UK citizens is not appropriate for Irish citizens?

In my constituency of Louth, Bespoke Trustees Limited and its sister company employ 32 people in Dundalk and is responsible for approximately 1,250 self-administered pension structures. Each of the 1,250 people concerned is affected by the directive. The self-administered pension clients are typically owners and employers of SMEs - the backbone of the economy. Many owners and employers want their hard-earned pension contributions to be reinvested in the economy. In conjunction with the local council and the approved housing bodies, respectively, Bespoke Trustees Limited has been responsible for numerous investment projects which have provided much-needed funding for both social housing units and housing units for the homeless in Louth and Dublin in the past three years. Since August, one project alone has been responsible for taking 30 families off the housing list and into newly acquired social housing properties. The project intends to house more than 100 families this year.

**Minister for Employment Affairs and Social Protection (Deputy Regina Doherty):** The overarching objective of the IORP II directive is to facilitate the development of occupational retirement savings in every EU country. Many of the provisions contained in the directive will support positive reform of the Irish occupational pension sector. The implementation of the directive will greatly enhance scheme governance and consumer protection for pensioners, members and future members.

The value of investments held in many small schemes fell substantially during the financial crisis. That highlighted the need for stricter supervision and regulation of schemes, especially for schemes investing in unregulated markets. The Government has agreed that the provisions of the IORP II directive should apply to all funded occupational pension schemes so that members of small schemes, including small self-administered pension schemes, get the same protections and oversight as members of large schemes, to safeguard their investments for the purposes of providing adequate income in retirement years. In that context, it is worth noting that the application of derogations in other EU countries is not common. It is unusual for the Deputy to compare us to the example set by the United Kingdom.

Article 19 of the IORP II directive sets out the investment rules for occupational pension schemes. The underlying principle in respect of capital investment is for schemes to invest in accordance with the "prudent person" rule and the other specific rules set out in the article. It is recognised that there should be an appropriate level of investment freedom for schemes within prudent limits and that is reflected in the rules. Assets must be predominantly invested on regulated markets, which means, at least 50%. That allows adequate scope for investment in instruments with a long-term economic profile and non-listed undertakings such as property and infrastructure.

There are approximately 100,000 single-member schemes in Ireland. The Pensions Authority advises that approximately 98% of those are already compliant with the new investment rules under the IORP II directive. According to the 2017 report of the Association of Pension Trustees of Ireland, APTI, there are 22,312 self-directed pension arrangements in Ireland. Only 7,756 of these are self-directed pension schemes. It is that small cohort that will now have to meet the standards that apply to all other occupational schemes in the country. Information

from the Pensions Authority indicates that the vast majority of schemes are already compliant with the provisions of the new directive. It is important to note that the small percentage of existing schemes which are not compliant with the new rules will not be obliged to change their existing investments or borrowings.

Small self-administered pension schemes may continue to invest in the economy, including property and SMEs, but their investments must be properly diversified to avoid excessive reliance on any particular asset or group in order to minimise risk in the portfolio as a whole. Such diversification has been proven to reduce investment risk. The new directive does not ban self-directed investment. Rather, it does not facilitate further borrowing for investment and it limits future investment in unregulated sectors.

This is probably the most important part of what I will say. The application of the directive is prospective, not retrospective, which means that the changes will not affect existing investments and borrowings by schemes. The information given to the Deputy that a company will be affected and jobs will be affected is not accurate. The new directive will only impact prospectively. Single member schemes, including small self-administered pension schemes, will no longer be allowed to enter into new borrowing agreements, except for short term and liquidity purposes, and all future investments will have to be in accordance with the rules of the directive. Accordingly, no current investment plans will be impacted upon or jeopardised.

Officials in my Department, supported by the Pensions Authority, are managing the transposition process of the IORP II directive. The drafting of regulations is at an advanced stage to facilitate transposition into Irish law later this quarter.

**Deputy Peter Fitzpatrick:** If the directive is transposing the law as outlined, the much-needed projects to which I refer and many others will have to be terminated. I have seen the fantastic work they have done in Drogheda and Dundalk. That will take money away from providing immediate positive contributions to the housing crisis. I do not agree that what the Government is doing is in people's interests. If the directive is transposed as outlined, the approximately 30 jobs to which I refer will all be lost. I do not say that in order to scaremonger. The situation will probably be replicated throughout the country.

It is great to see companies investing in projects and in the wider economy. The Government must help people. This local business in Dundalk is responsible for 1,250 small self-administered schemes. The company has worked very hard. One of the Minister's predecessors, Seamus Brennan, identified the problem in 2004 and resolved it. It is unfair to state that we should not look at what happens in the UK. We replicate much of what happens in the UK. Much of the money that is being invested goes back into the economy. We have a serious shortage of housing and we have other serious problems. Currently, pension schemes invest the money in the economy. The last thing we want to see is multinational companies coming in, taking all this money and investing it outside of the country or the vulture funds coming in and not distributing money fairly. I urge the Minister to examine the position. She could make the required decision with the stroke of a pen. This is her directive. I would very much appreciate if the Minister addressed the issue.

**Deputy Regina Doherty:** With the height of respect, I do not believe the Deputy's information is not accurate. The application of the directive is prospective, so all of the 1,250 small self-administered pension schemes in Dundalk to which he refers are entirely safe. There is no risk of the loss of the 30 jobs to which the Deputy alluded because none of the current practices

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are changing. The directive only relates to future investments. When a new self-managed pension scheme is established the new directive will apply to it. The directive does not affect existing investments, governance aspects, property projects, etc. The directive will only affect newly established small self-administered schemes from the day the directive is applied, which will be later this quarter.

We already have schemes that are managed by multinational investment companies and I do not see why a small self-administered fund should be governed any differently to a multinational one. We have pension rules and they should be as easily applicable to the smallest of schemes as to the largest. There should be equality of governance. That is all the IORP II directive seems to do, namely, to set out a single regulatory authority across the European Union for all managed pension funds. There should not be a difference. There will not be a derogation in Ireland.

### **Departmental Funding**

**Deputy Donnchadh Ó Laoghaire:** I take it that the Minister of State, Deputy O'Donovan, is here to reply to this matter. With the greatest respect, he will not necessarily be aware of the situation but this is the third occasion on which I have raised this as a Topical Issue matter and on which it has selected been for debate. Whatever about not being available on one occasion, on each occasion the Minister, Deputy Madigan, has not been available to come before the House. That is not good enough. To be honest, it smacks of disrespect and a lack of interest in this project. I know the Minister for Foreign Affairs and Trade, Deputy Coveney, is doing his best and we will get to the issues at play, but Deputy Madigan is the senior Minister in this Department and on three occasions she has failed to come before the House to discuss this very important issue, a crucial issue for Cork and the region. That is not good enough. Whatever about once, to be missing on three occasions is just not good enough.

I will read the Minister of State some of a very lengthy piece about this ongoing saga that was in the *Irish Examiner* on Monday. The people of Cork are sick and tired of hearing about it. Unfortunately it has been dragging on for years and years, and progress is slow. The following is from the piece by Mr. Eoin English:

It was a few weeks before Christmas when the chief executive of Cork Chamber, addressing their Dublin dinner event, imagined the Cork of 2040 and spoke of his hope of seeing thousands of concert goers flooding into a gig at the venue earmarked for South Main Street. The ripple of laughter through the room at the mention of the stalled project spoke volumes.

Hard to blame the audience for sniggering really given the amount of announcements, assurances and timelines that have come and go since the outline of a new funding deal was agreed in principal almost one year ago, since the sod turning almost three years ago, and since the tender for the initial €20m in state-funding was awarded to developers BAM just over four years ago.

I was at that dinner, and the reaction is described accurately. I do not believe it was malicious or anything like that. It was a resigned sort of laughter, as if to ask "Will we ever see progress on this?", which is the mood that exists. This is a project that has been mooted in one form or another since the late 1990s. It began to take real shape towards the end of the 2000s,

and four years ago we were dealing with a concrete proposition which involved public investment. At that stage the cost was expected to be €53 million. It is now expected to be approximately €80 million.

It is now almost three years since the sod-turning. It is now a matter of fact that it was an election stunt, given where we are now. It became clear that there was a need for additional funding for this project. Cork City Council made an application in September 2017 to the Department of Culture, Heritage and the Gaeltacht for an additional €10 million in State funding. That application of September 2017 took a long time to be approved. Strictly speaking it still has not been approved. There was a lot of discussion in the background, or so we were told, trying to iron out difficulties around state aid and so on and seeking the advice of the Attorney General. My understanding from speaking to the city council is that this was an application for state aid, that is, for a grant. There was no indication at any stage beforehand that this was to be a loan. I welcomed the Minister's statement that the Attorney General's advice, given just before Christmas, was that the additional €10 million could be given. Now it appears that €9 million of this will be given as a repayable loan to the developer. Was that the request that came in from the city council? I sincerely doubt it. At what stage did it become clear to the city council that it would be a repayable loan? The city council, which is already under financial pressure, is asking questions about the viability of the project. Everyone in Cork wants this to happen. I do not want it to be suggested that we do not want this to happen, but we need clarity.

**Minister of State at the Department of Finance (Deputy Patrick O'Donovan):** I thank Deputy Ó Laoghaire for raising this matter. I apologise on behalf of my colleague, the Minister for Culture, Heritage and the Gaeltacht, Deputy Madigan, who is abroad on official business today. I presume the House will accept her bona fides on that. I am sure there are other avenues the Deputy will use to raise this issue in the House, including by way of parliamentary question. However, I accept his frustrations with the Minister's itinerary. I am sure he accepts that it could not be avoided.

The Cork event centre project consists of the design, construction and operation of a new multifunctional facility in Cork city centre. It will have a capacity of approximately 6,000 persons. This is a project led by Cork City Council with the development company BAM, which was selected by Cork City Council as the preferred tenderer. BAM in turn has engaged international events company Live Nation as the preferred operator. The project is ultimately being developed and managed by the city council. This means that Cork City Council has responsibility for its delivery. In 2013 the Government announced that an Exchequer grant of €10 million would be made available to Cork City Council to assist with the project. In 2015 the grant was increased to €12 million. To date, €1 million has been paid to Cork City Council.

The latest financial projections provided by Cork City Council to the Department of Culture, Heritage and the Gaeltacht indicate a significant increase in the original cost of the project compared to when the project tender was issued in December 2014. The estimated cost at that point was €50 million. The cost is now estimated at around €80 million. A significant part of this increase is accounted for by the redesign of the facility since the original tender to allow for a large increase in the capacity of the venue. In light of this cost increase, Cork City Council wrote to the Department of Culture, Heritage and the Gaeltacht seeking €10 million in additional funding for the project from the Exchequer. This would bring the Exchequer contribution to €22 million and total public funding to €30 million.

Following detailed consideration and in light of the additional works which are now re-

quired for the Cork event centre, the Department of Culture, Heritage and the Gaeltacht considers that in accordance with public procurement rules the total public funding for the project may be increased by €10 million to €30 million. This will be made up of grant aid of €21 million and a repayable loan of €9 million. The Department of Culture, Heritage and the Gaeltacht has confirmed that it wrote to Cork City Council on 21 December 2018 about the provision of additional public funding for the development of the Cork event centre. Furthermore, the Minister has been informed that officials of the Department of Culture, Heritage and the Gaeltacht met with Cork City Council officials earlier this month to discuss all aspects around the public funding elements of the project. There are complex legal, state aid and match-funding issues involved in this project and it is important that sufficient time is allowed for these important matters to be resolved satisfactorily. The Government is confident that this is happening. Cork City Council is now reviewing the potential additional funding by the Department of Culture, Heritage and the Gaeltacht and has stated that it will formally respond to the Department on this matter shortly.

The Cork event centre is a Government commitment and it underlines the Government's commitment to culture. The new centre will provide a substantial addition to the cultural offering in Cork city and county when it is complete. The development of a major new event centre in Cork city centre is very much in line with what the Government is seeking to achieve in terms of balanced regional development and sustainable urban development under Project Ireland 2040. The important thing is to ensure that the project is delivered in accordance with the relevant legal and value-for-money requirements. The Minister understands that officials in her Department are in regular contact with the relevant stakeholders, including Cork City Council and the Department of Public Expenditure and Reform, with a view to progressing the project as a matter of urgency.

**Deputy Donnchadh Ó Laoghaire:** I accept the Minister of State's explanation but I find it difficult to accept it for the other two occasions. At some stage or other the Minister should be willing to address this issue in the House. As an aside I note that along with the national children's hospital this shows that there is a serious problem with tendering, or so it appears to me. It seems to be practically impossible to hold people to the tender application that is initially made.

I asked a specific question. Was it the case that the application which came in from Cork City Council in September 2017 was a request for a grant? That is not my understanding of it. What the Minister of State read out refers to public funding for the project being increased. As part of that, it refers to a repayable loan of €9 million. At what stage was it first broached with Cork City Council that this would be a loan that the city would have to repay as opposed to a grant? As I said, the city is currently in the process of a very complex and potentially expensive transition and expansion. It was discussed at the last meeting of the city council. The head of planning said that the city council is now looking at the implications of the Department's letter and its impact on the viability of the project. I repeat that I want this to succeed on this site and I think it will be of great value to Cork. When the announcement was made I welcomed the fact that the Attorney General had cleared additional funding. However, there is a lack of clarity here and it is once again undermining confidence in this process.

Additionally, I note that freedom of information requests made by journalists are not being acceded to. I ask for those freedom of information requests to be granted. If there are commercially sensitive details, let them be redacted. There should be transparency here. I have a number of questions. Was it an application for a loan? If not, at what stage was the idea of

a loan broached with the city council? Did it agree to it? The Lord Mayor, Councillor Mick Finn, has asked for round-table talks with all stakeholders. Will the Department participate in those talks?

**Deputy Patrick O'Donovan:** The Minister's statement which I have circulated to the Dáil answers all of Deputy Ó Laoghaire's questions.

**Deputy Donnchadh Ó Laoghaire:** No, it does not.

**Deputy Patrick O'Donovan:** The reason the price and the tendering costs have increased is because there is a redesign and I presume that redesign is as a result of the city council's own engagement in it. I assume no one would suggest now that it should be redesigned backwards and that somehow money should be taken out of the project.

On the specifics of the tender, I am in the Department of Public Expenditure and Reform. Nobody-----

**Deputy Donnchadh Ó Laoghaire:** None of those is an answer to my questions.

**Deputy Patrick O'Donovan:** -----is suggesting that a coach and four should be driven through tendering requirements. The Minister also outlined in the response to the House that discussions have taken place between her Department and the city council.

**Deputy Donnchadh Ó Laoghaire:** I asked four questions.

**Deputy Patrick O'Donovan:** All representatives of the Cork city and county area, including my colleagues in government, the Minister of State, Deputy Stanton, who is present, the Tánaiste, the Minister, Deputy Creed, and others, are very anxious that this will go ahead. It is not only a project for Cork; it is a project for Munster. As a Limerick person, I am anxious that it happens as well. The Minister, through her engagement with Cork City Council, has proven her commitment to the project. If the Deputy has other specific questions, as I said at the outset-----

**Deputy Donnchadh Ó Laoghaire:** Can I remind the Minister of State of the question I asked? It has not been answered.

**Deputy Patrick O'Donovan:** As I said at the outset, and I am sure the Deputy appreciates that I am deputising for the Minister, who is out of the country, if he has other questions they could be raised by way of written or oral parliamentary question.

### **Juvenile Crime: Motion [Private Members]**

**Deputy Jim O'Callaghan:** I move:

That Dáil Éireann:

notes that:

- a review of the Garda Youth Diversion Office (GYDO) recently carried out by An Garda Síochána has identified serious failings within the Garda Youth Diversion Programme (GYDP);

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- the review examined 158,521 youth referrals, relating to 57,386 individual children, which were created on the Police Using Leading Systems Effectively (PULSE) system during the period 25th July, 2010 to 28th July, 2017;

- it was found that 7,894 of these referrals had not been appropriately progressed to a conclusion by An Garda Síochána;

- the review shows that the bulk of crimes not progressed were in the areas of public order, theft, traffic and criminal damage;

- 55 serious offences were identified as being not progressed, including rape, sexual assault and child neglect;

- many of the young offenders who were not progressed through the GYDP subsequently became involved in serious crime;

- the Garda Commissioner has described the failure to prosecute these youth offenders as a 'humiliating professional failure' for the force;

- this is the latest in a series of issues regarding Garda statistics that has damaged public confidence in An Garda Síochána;

- the Policing Authority said 'So when there are no consequences for children who are unsuitable for the programme, it is inherently unfair on those who accepted their responsibilities. More seriously than that, however, is that without follow up, opportunities to help those children are missed. Children are failed and victims of crime are failed.'; and;

- these findings are shocking, serious lessons have to be learnt and immediate actions need to be taken by the Minister for Justice and Equality, An Garda Síochána, the Department of Justice and Equality and the Department of Children and Youth Affairs to prevent any further lack of follow-up on juvenile cases;

acknowledges that:

- successive reports have recommended that much more cooperation is needed between An Garda Síochána and Tusla;

- youth diversion programmes are proven to be very successful in reducing reoffending;

- the State has a responsibility to try to divert children from a path of crime should they commit offences at a young age;

- increased illegal drug use is causing greater challenges;

- 8,000 reported crimes by children should not occur without a targeted and strategic response from the State;

- 57 of the child offenders referred to have since died, indicating that many of those participating in this programme experienced chaotic lives; and

- most offences identified as not being acted upon are now time-barred on grounds

of delay, and many others would be difficult to progress as they have been contaminated by the poor process to date; and

calls for:

- a review into the cause of cases which were not properly progressed, to examine if disciplinary procedures should take place;

- victims of the serious crimes, which were not appropriately progressed to a conclusion, to be informed;

- an anonymised report into the cause of cases and in particular repeated cases which were not properly progressed in order to identify specific failures within the GYPD;

- a stay to be placed on the decision of the Department of Justice and Equality to centralise the Juvenile Diversion Programme pending the findings of these reports;

- the Minister for Justice and Equality, in conjunction with the Minister for Children and Youth Affairs, to publish an action plan for the reorganisation of youth justice sections within both departments to ensure accountability lies with only one line Minister;

- a quarterly update for the Houses of the Oireachtas on the progress of all issues before the GYDO for a period of no less than three years;

- a significant strengthening of section 28 of the Children Act 2001, to prescribe a minimum standard of supervision for all children under the supervision of a Juvenile Liaison Officer;

- increased and sustained investment in the Juvenile Diversion Programme;

- the Government to promote an effective GYDP to ensure the provision of training for Youth Justice Workers on specific issues such as health and mental health; and

- greater levels of prevention and protection for the public and the children caught up in criminal activity.

I welcome the opportunity to move this motion and open the debate on juvenile crime. I will share time with my colleagues, Deputies Cassells, Chambers and Cahill.

It is important to begin the debate by recognising and emphasising that we are in the unfortunate position in this country that a lot of crime is committed by people who are referred to as juveniles. They are people between the ages of 12 and 17 or 18. It is also the case that a significant volume of anti-social behaviour is committed by juveniles. That poses a particular problem for the State as to how we respond to it because it is clear is that if we do not get a child away from the path of criminality between the ages of 12 and 17, there is a likelihood that he or she will continue to commit crime as an adult. We then have a much bigger problem than we have when the younger person is committing crimes between the ages of 12 and 17.

The range of crimes committed by juveniles is not simply at the lower end of the spectrum. It is not simply the case that we are dealing with anti-social behaviour, breaches of public order or other summary offences. Unfortunately, it is also the case that many serious crimes are being committed by juveniles. I saw in *The Irish Times* today, and I am sure it happens frequently, that there are cases of young men, in particular, who have been convicted of serious sexual as-

saults or of rape. We need to recognise that the group of young people who are growing up now are exposed to aspects to which none of us was every exposed when we were growing up. I refer in particular to the prevalence of pornography on the Internet, the degradation of women and the submissive nature of women as presented on the Internet. That must have a significant impact on the developing sexuality, particularly of young men.

This country has an increasing drugs problem. I know it particularly in Dublin but it is not just in Dublin. It is throughout the country, and not just in what would be referred to as disadvantaged areas. There is a growing drugs problem throughout this city and the country. At this stage we do not know the extent to which use of drugs, which are getting stronger as time goes on, will impact on the mental health of young people. We need to be clear with young people to advise them of the dangers of taking drugs, particularly drugs which are perceived as being benign such as cannabis. Cannabis is so strong that it can have a very negative impact upon the mental health of young children. That is not just me stating it; it is something that has been recognised in reports produced.

Public order offences and, regrettably, serious offences are being committed by children. From the State's point of view, it needs to have a response and a plan as to how it intends to deal with it because everyone will agree that when a person as a child gets involved in crime for the first time it is appropriate and imperative that the response is not the same as it would be if an adult committing a crime. The objective should be to try to ensure that we can get that child off the path of criminality as quickly as possible.

In 2001, the Children Bill was enacted. It sought to set out a path for children who got involved in crime to direct them off that path and ensure they could be given a different opportunity to get away from it. Under the Act, a juvenile diversion programme was established. It proposed community-based initiatives that would be availed of by the child instead of him or her being put through the court process and the full criminal justice process. An essential prerequisite of that programme was that the child had to admit and accept responsibility for the criminal activity in which he or she was involved. If that was done, the child would be referred by An Garda Síochána, which is the investigator of the crime, to a juvenile liaison officer and the juvenile diversion programme would kick in. It has been a successful programme. We have seen that not just in Dublin but in other areas. It is a programme we should seek to preserve and protect. It needs somebody in government to take hold of it and make it his or her responsibility to ensure that it is working effectively.

The catalyst for this debate was the disclosure approximately two weeks ago by An Garda Síochána that there were significant failings in its operation of the youth diversion programme. A report on a review by An Garda Síochána gave an indication of the extent of juvenile crime. Between July 2010 and July 2017, there were approximately 158,521 youth referrals to the Garda youth diversion programme, which involved approximately 57,000 children. We know from analyses conducted previously, particularly in 2014, that approximately 10% of all criminal activity is committed by children, so it is a significant proportion of the crime perpetrated in the State.

What was most disturbing about the report prepared by An Garda Síochána is that, ultimately, it revealed that in terms of the number of referrals, between 2010 and 2017, approximately 7,900 referrals were not progressed to a conclusion. That related to approximately 3,500 children. In respect of those 7,900 crimes, there was no conclusion to them. Although the child was referred, nothing happened in respect of him or her. There was no conclusion and in many

respects that was doing a disservice to three groups of people. First, it was doing a disservice to the victims of crime. The people who are the victims of crime, whether it is committed by a child or an adult, are entitled to believe that when they make a complaint to An Garda Síochána, the crime will be adequately investigated and, if the individual is apprehended, that the individual will be put through the criminal justice process whether it is an adult through the courts or a child, hopefully, through the youth diversion programme. Those people were first and foremost let down. Second, the people who were also let down were those significant numbers of children who did go through the youth diversion programme and who were told that if they did not go through it, there would be more serious consequences for them and that they would be brought through the courts. They went through the youth diversion programme and they availed of the community-based initiatives yet they now recognise that there was a cohort of other children who did not do the same and there were no consequences for them.

*4 o'clock*

The 3,500 children who committed the crimes and who were not progressed to a conclusion were also let down because every child must be given the opportunity to get away from a path of criminality. Most children are lucky in that they do not get involved in criminality. It is unfair on children to find themselves involved in criminality at a young age. They must take personal responsibility for it but there are also environmental and community responsibilities as well. They were let down.

It is important that we get a response from the Government on what it is proposing to do about the failings in the juvenile diversion programme.

**Deputy Shane Cassells:** I thank the Minister of State. I am pleased to have the opportunity to contribute to the debate. I pay particular tribute to our justice spokesperson, Deputy O'Callaghan, on bringing this important motion forward. The Leas-Cheann Comhairle would know about his work in engaging with communities throughout Ireland over the past 18 months. He has toured Ireland, he has met communities in local parish halls to speak about this issue and his diligent work in attending these large public gatherings where a lot of what has been articulated on juvenile crime and on rural crime and so forth, was taken away by him and it informs much of the his contribution to the debate and the motion.

The Deputy referred to the youth diversion programme and the 158,521 youth referrals that the review examined relating to 57,386 individual children. Those figures should shock many people. When it comes to the issue of juvenile crime and the pursuing those who perpetrate it through the criminal justice system, we have had experiences in County Meath which have left us aghast. One shocking incident hit the front pages of all the national and local newspapers, and dominated local radio shows on LFM as well as "Liveline".

Deputy O'Callaghan referred to serious crimes. There was an horrendous attack on the son of our mayor in Navan, Councillor Tommy Reilly. He was savagely beaten in his own shop, not by a group of armed men, but by a group of six thugs who were juveniles. They kicked him repeatedly in his body and while he lay on the ground, they took a glass vase and beat him around the head with it. Why did they do so? Were they robbing his shop? No, it was just pure thuggish behaviour. It took his father, Mayor Tommy Reilly, to jump in and pull them off his son who at this stage lay battered and bruised on the ground. The Garda was called to the scene but before Mr. Reilly's broken body had even been placed on a bed in the emergency department in Our Lady's Hospital Navan, the Garda had released the one suspect they had pulled

over on the side of the road for a chat. While the brain scans were ongoing, the thugs who beat his son savagely were walking the streets. It took a massive public outcry after pictures of these heinous scenes were splashed across national newspapers in the following days and discussed on radio for days on end to spark action to be taken. In the eyes of the State, this was a crime carried out by children. That term frustrates the life out of people.

The statistics Deputy O'Callaghan set out show that many of the young offenders who were not progressed through the Garda Youth Diversion Office subsequently became involved in serious crime. As he said, it is working correctly in some instances but not in all. It is simply not acceptable that 8,000 children did not progress to the youth diversion programme and if that had been done properly, there would be an admission of guilt, work would be done with a liaison officer and the system would be more efficient. We would not have a system whereby those involved in what I would call heinous crimes to begin with, progress on to even more heinous crimes such as attacks on persons, drug crime or other crime.

All Deputies will agree, no matter what party they are in, that if one goes into any housing estate in any of our respective towns, it is not just the crime sprees that these young juvenile thugs are involved in that are the problem; it is the intimidation that these people inflict on entire areas that is just as serious. That intimidation can be just as destructive to the lives of law-abiding citizens and it is frustratingly difficult for the Garda to deal with. Indeed, at the height of last summer when temperatures were soaring, many green areas on housing estates were turned into "no go" areas because gangs of juveniles took to claiming them for themselves to turn into outdoor drinking venues. On one particular estate in Navan, the fallout from a drink-fuelled evening saw them turn on each other as temperatures soared in their heads and they decided to go at each other with hatchets. The Garda armed response unit had to be called to restore order and it resulted in the road into the estate being sealed off. If these lads want to hack each other to pieces with axes, there are many who I met that evening who would have let them at it but the lives of innocent people were put at risk as well as the lives of the gardaí who were dispatched to deal with the incident. I am sick of these young thugs being let away scot free. There is a need for consequences for their actions, as stated by the Policing Authority. The call this evening for an increased and sustained investment in the juvenile diversion programme is needed and we need to stand with our communities, who in so many cases have had their lives ruined by juvenile thugs.

**Deputy Jackie Cahill:** This is a very important motion which Deputy O'Callaghan has brought forward. It is something that the public are extremely concerned about. The failings identified in the Garda youth diversion programme and the figures presented make for concerning reading. The review examined 158,521 youth referrals relating to 57,386 individual children which were created on the Garda PULSE system during a period from 25 July 2010 to 28 July 2017. It was found that 7,894 of these referrals had not been appropriately progressed to a conclusion by the Garda. The review shows that the bulk of crimes not progressed were in the areas of public order, theft, traffic and criminal damage. Some 55 serious offences were identified as not being progressed, including rape, sexual assault and child neglect cases. Many of these young offenders who were not progressed through the youth diversion programme subsequently became involved in serious crime.

Unfortunately, this is the latest in a series of issues regarding Garda statistics that has damaged public confidence in the force. There must be consequences for those who commit crime, no matter what age they are. That is what protects our society. We are also failing our children if they are not held to account for their actions. By not doing so, we are allowing young people

to follow a track to adult crime and subsequently into the prison system, at which point their chances of rehabilitation and of having normal lives are reduced. By doing so, we are failing society because if we cannot address the issue at child and teenage level, what hope do we have to do so in later life?

In County Tipperary, I have been advocating funding for a Jigsaw project. Unfortunately, we were promised it two and a half years ago and it still has not happened. The objective of a Jigsaw project is to ensure that no young person feels alone, isolated and disconnected from others around them. It is intended to provide vital supports to young people in respect of their mental health by working closely with communities around the country. In recent months, I have come across adolescents who have come to the attention of the Garda for various offences. When one sits down with their parents, one learns that quite a few of them have struggled with their mental health and unfortunately they have not been able to access proper mental health care.

At St. Mary's Health Centre in my home town of Thurles, a mental health service is available in theory. In fact, it merely ticks a box. In reality, it is a shoestring, part-time service that serves no effective purpose. I know one young girl with a mental disorder who could benefit from a course in meditation with experts. This course is available in Cork and Limerick but she cannot access it because she does not live in these counties. This service is not available to those who have a Tipperary address. As far as the Garda is concerned, she is known to the force and is considered to be a risk to commit crime, when in reality she is ill and in need of care that is not available to her. In a percentage of cases our mental health system is letting young people down and allowing them to drift into a life of crime. Also, there must be more co-operation between An Garda Síochána and Tulsa. Youth diversion programmes are proven to be very successful in reducing reoffending. The State has a responsibility to try to divert children from a path of crime should they commit offences at a young age. Increased illegal drug use is also a major factor in youth crime. Unfortunately, the usage of drugs is ever on the increase in both urban and rural settings.

Eight thousand reported crimes by children should not occur without a targeted and strategic response from the State. Shockingly, 57 of the child offenders referred to have since died, indicating that many of those participating in this programme experienced chaotic lives. There are many causes of youth crime. Therefore, the solutions must be multifaceted. To date, what has been happening is not working.

There must be a significant investigation into the role that mental health issues and the lack of services are playing in this problem. If we do not do that, we are sentencing young people to a life of exclusion and society will face increased crime levels.

**Minister of State at the Department of Finance (Deputy Patrick O'Donovan):** I move amendment No. 1:

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

"notes that the Interim Report from the Garda Commissioner to the Policing Authority on the handling of youth crime cases during the period 25th July, 2010 to 28th July, 2017 has identified serious failings within An Garda Síochána, including failure to process the prosecution of almost 8,000 youth crimes and that:

- many of the young offenders who were not progressed continued to commit crime, and

some went on to commit serious crimes;

- these included 55 serious offences including rape, sexual assault and child neglect;
- 57 of the child offenders since died, and that many of them lived chaotic lives
- most offences identified as not being acted upon are now time-barred on grounds of delay, and others may be contaminated by the poor process to date;
- the Garda Commissioner has described the failure to prosecute these youth offenders as a ‘humiliating professional failure’ for the force;
- the Policing Authority said that ‘when there are no consequences for children who are unsuitable for the programme opportunities to help those children are missed. Children are failed and victims of crime are failed.’;
- there are implications for the quality of Garda case management and data systems and that there are other concerns regarding Garda statistics; and
- this, and previous reports referring systemic and cultural issues within An Garda Síochána have serious implications for public confidence in the force;

acknowledges that:

- successive reports have recommended better interagency working, including between An Garda Síochána and Tusla, to address the complex socio-economic issues (including increased illegal drug use) that often underlie the involvement of children in crime;
- youth diversion programmes are proven to be very successful in reducing reoffending;
- the State has a responsibility to try to divert children from a path of crime and the existing legislative framework for these actions is provided in Part IV of the Children Act 2001 (as amended);
- lessons must be learned and strong strategic measures put in place to prevent further lack of follow-up on juvenile cases and to improve the response of An Garda Síochána and all relevant Departments and agencies to youth crime, and the factors which give rise to it; and
- the report of the Commission on the Future of Policing in Ireland (CoFPI) provides a clear vision for a modern, highly professional, human-rights-based police service, focusing on a Garda organisation which works closely and collaboratively with communities and other agencies to keep communities safe and to prevent harm to vulnerable people; and supports:
  - the Government’s commitment to the four-year implementation plan, ‘A Policing Service for the Future’, to give effect to the report of the CoFPI, which will address many of the issues highlighted in relation to youth crime, including improvements to systems, training, supervision, accountability and interagency working;
  - the strong endorsement by the Chair of the Policing Authority and the Garda Commissioner of the work of the Juvenile Diversion Programme;

- the continuing work of the Garda authorities to clarify all aspects of the issues relating to youth crime and take necessary actions to prevent recurrence;
- the sincere apology issued by the Garda Commissioner and the steps being taken by An Garda Síochána to inform victims as well as the young offenders whose behaviour went unchallenged;
- the clear statement by the Garda Commissioner that all potential failings by individual Gardaí will be investigated and assessed with respect to any relevant disciplinary action;
- the rigorous examination of these matters by the Policing Authority and their ongoing work, in accordance with their statutory remit, to achieve a full explanation of what happened, assurance that comprehensive remedial actions are taken and bring all appropriate information into the public domain;
- the Government's commitment to funding and enhancing, as far as possible, the operation of Garda Youth Diversion Projects, including training and best practice support for Youth Justice Workers, in consultation with the community and expert stakeholders, to provide services which address the needs and circumstances of children in all parts of the country; and
- the Government's initiative to develop a new Youth Justice Strategy, assisted by an expert Steering Group, to provide a framework for policy development including consideration of legislation, arrangements to promote interagency working and oversight of policy implementation, and the implications for the most effective alignment of Ministerial and State agency responsibilities."

I am making this opening statement on behalf of the Minister of State, Deputy Stanton, who will make his remarks in his reply to the debate. The Minister of State, Deputy Stanton, is glad to have the opportunity to engage with Deputies, as he shares many of the concerns outlined in the motion. However, there are concerns about some elements of the motion and the Government is proposing an amendment. The revised text highlights strategic actions that are already in train which address many of the concerns raised in the motion. There are also some aspects of the motion where the proposed actions would be most unwise or where the wording of it needs tightening up. That being said, all of us in this House can agree that we are seriously concerned about the issues outlined by the Garda Commissioner regarding the handling of youth crime cases which were deemed unsuitable for inclusion in the juvenile diversion system. The Commissioner provided an interim report to the Policing Authority of a review of youth crime cases from 2010 to 2017. There is more work to be done to complete this review, so we do not have the final picture at this stage. However, it seems there were in the region of 160,000 youth crime cases in that period. Roughly one third of them were deemed unsuitable for the Garda diversion programme. Of those incidents deemed unsuitable, there appears to have been a failure to carry out a prosecution of almost 8,000 youth crime cases. It is completely unacceptable that failures in Garda systems, or by individual gardaí, would lead to a situation where crimes are not properly pursued. On that I have no doubt we are all in agreement.

The Government also agrees that action must be taken to address this situation thoroughly. This must be done not just in the interest of victims and the proper administration of justice, but also for the future welfare of the children and young people who become involved in crime.

However, the motion does not take account of the fact that most of the issues which it high-

lights are already being addressed in a focused and strategic manner through the implementation of the recommendations of the Commission for the Future of Policing in Ireland, which the Government has endorsed. We should bear in mind that the issues under discussion cover a seven-year period starting in 2010 and that enhancements to PULSE, commencing during 2015, have led to significant improvements in case management in the last few years. This was clearly set out in the Garda Commissioner's presentation to the Policing Authority.

Fundamental issues identified in the Commissioner's interim report include inadequate ICT, poor supervision, lack of training and possible individual failings. All Deputies will recall that similar concerns were highlighted in other Garda related reports and that the recommendations of the Commission on Future of Policing are aimed at addressing systematically the failings that have been identified. Having published a four-year implementation plan in December, we as a Government are now setting about putting those recommendations into effect. This is a key strategy to achieve lasting structural, administrative and cultural reform within An Garda Síochána. The Minister of State, Deputy Stanton, will discuss this in more detail in his reply to the debate.

The amendment underlines the importance of the Commission's report and it also amends some of the details contained in the motion which was proposed. These include a call for a review to determine whether disciplinary action should be taken. The Minister of State, Deputy Stanton, agrees that it is very worrying that so many individual gardaí appear to have been at fault over the seven-year period. However, all Deputies will be aware that disciplinary issues within An Garda Síochána are a matter for the Commissioner and he has very clearly outlined the process that is being put in train to address this. Chief superintendents have been mandated by the Commissioner to assess if disciplinary action should be taken in each case. The Commissioner has also undertaken to update the Policing Authority on the outcome of this process. Understandably, the Commissioner has been reluctant to give any more details in relation to disciplinary measures so as not to do anything that might be seen to prejudice such actions. Clearly, such procedures must be allowed to take their course.

The motion contains a call for reporting to the Oireachtas on Garda oversight of youth crime. This would have the effect of subverting the statutory remit of the Policing Authority which operates according to legislation enacted by the Houses of the Oireachtas. It would also involve the Houses of the Oireachtas in direct monitoring of functions of An Garda Síochána. This would be entirely inappropriate and Deputies will be aware that the Commissioner is already subject to examination by Oireachtas committees.

The motion incorrectly attributes the serious failures to prosecute crimes as failures of the Garda diversion programme. The Garda failures in youth crime cases were related to cases deemed unsuitable for diversion and which were dealt with outside of the diversion programme. The Minister of State, Deputy Stanton, feels that the motion's confusion of the diversion programme and Garda failures to prosecute could be construed as criticism of the very valuable work An Garda Síochána's juvenile liaison officers do and the community based Garda youth diversion projects. This would be most unfortunate. Over many years the diversion programme has helped thousands of young offenders turn away from crime and anti-social behaviour, and the Government greatly values this work, as I am sure all Members of the House do. Both the chair of the Policing Authority and the Commissioner were very careful to acknowledge the value of the diversion programme and it is essential that the Dáil Éireann does so as well. Our amendment is framed accordingly.

The sustained focus which the Policing Authority is giving to this matter is very important to help us all understand what happened, why it happened and what is being done to fix it. The authority conducted a very rigorous public examination of the issue on 17 January and has made it clear that it will continue to probe the detail of what has happened, what is being done to rectify it and the implications for Garda crime management generally.

The Minister of State, Deputy Stanton, believes that continuing engagement and monitoring by the Policing Authority is the best way for us all to verify that the errors made in the past will not be repeated. However, it will take some time before the full examination and verification of these matters is fully completed.

The Minister of State, Deputy Stanton, shares the concerns expressed in the motion in relation to the 3,500 victims of the crimes in these cases. These included 2,500 individuals and 1,000 businesses or organisations. We have to accept that justice was not done in any of these cases. Clearly, people have been let down and have not received the support that should have been given to them by agents of the State. It was right and fitting that the Commissioner made a very full and sincere apology to the victims of these crimes when he addressed the Policing Authority. An Garda Síochána has taken a number of steps to help the victims of these crimes. The first of these is a helpline which has been set up as a contact point for victims should they need support. Details of the helpline are available on the Garda website. An Garda Síochána has also issued letters to each of the victims. In some cases these letters have been hand delivered by members of the force, depending on the circumstances of the case. In addition to this, each of the victims can request a visit from a local Garda team from the Garda Victim Services Office to provide further information on their individual cases.

Another disturbing issue is the fact that most of the cases which went unprocessed will be statute barred due to the time delay. However, senior Garda managers are looking at the more recent individual cases to determine whether any further action can be taken. The Commissioner has also indicated that relevant discussions with the Director of Public Prosecutions will take place as may be necessary and appropriate.

Despite some differences in the approach and some issues with the detail of the motion which has been proposed, there is substantial common ground among all Deputies in the House regarding to this matter. We all want a full explanation of why these very serious issues have arisen. We all want to see effective and reliable systems in place within An Garda Síochána. We all want the victims of crime to see justice done. We all want those children and young people who become involved in crime to have their behaviour challenged. I am sure we are also in agreement that those young people are also worthy of our best efforts to support them in finding a more positive path in their lives.

We look forward to having a positive debate in the House and very much value the input all Deputies make to the ongoing development of our youth justice policies. We are opposing the motion and have moved a Government amendment. Deputies will note we are proposing to keep as much of the spirit and language of the original motion as possible and I hope the House will be able to unite around the revised text that we are proposing.

**An Leas-Cheann Comhairle:** We will move to the Sinn Féin timeslot. The speakers have a total of 15 minutes commencing with Deputy Ó Laoghaire.

**Deputy Donnchadh Ó Laoghaire:** Beidh mé ag roinnt ama leis an Teachta Ellis agus an

Teachta Martin Kenny, má thagann sé.

**An Leas-Cheann Comhairle:** That is agreed.

**Deputy Donnchadh Ó Laoghaire:** I thank the Fianna Fáil Deputies for tabling the motion. The issue of youth justice is complex. Nuance and balance are required when dealing with it. To be fair to Deputy O’Callaghan, I think that has largely been achieved in the motion. The Minister of State, Deputy O’Donovan, has identified that one or two of the phrases used could be worded better because it indicates more responsibility for the programme than is necessarily the case, but I think the spirit of it is generally correct. There was clearly an issue relating to youth justice and how these cases were progressed. An element of restraint has been shown in the wording of this motion. I hope Deputies, when contributing, will show a similar level of restraint and understanding of the balance and complexity of this issue, none of which is to say that any of this is by any means a light matter.

The statement made by Bob Collins of the Policing Authority was significant. He said that in the three years of the existence of the Policing Authority, this is the most serious issue that has arisen. When one considers some of the issues that have been discussed by the Policing Authority over those years, that is quite a statement. It is unacceptable that 7,894 reported crimes committed by more than 3,500 children and young people were not dealt with. As previous speakers noted, the children in question were failed in this instance as were, more significantly, those against whom the crimes were committed. Some 75% of these cases fall into four crime categories, namely: public order; theft; traffic; and criminal damage. These were significant crimes but the 55 or so that involved extremely serious offences were even more significant. They included rape, sexual assault, child neglect and a number of serious assaults.

On Question Time earlier, I stated that my understanding of the system is that to be referred to a youth diversion project, a person has to accept responsibility for his or her actions. If that person does not do so, he or she goes straight to the standard youth justice and prosecution system. This does not necessarily mean jail time but responsibility has to be accepted. If one accepts responsibility, it is then a matter for the Garda juvenile liaison officer and the arresting officer to discuss whether the young person is suitable to go into the youth diversion project. That might be refused for a number of reasons, including the views of the victim, the frequency with which the person involved had offended previously or the seriousness of the offence. Other factors are also taken into account but those to which I refer are the principal ones.

There were people who accepted responsibility for very serious crimes and were not properly prosecuted. I do not know if that element has been properly reflected upon. The young people we are discussing in the context of the motion accepted responsibility for their actions and that they were culpable. That is extraordinary. It must be deeply upsetting for the victims of assault, sexual assault or rape that the perpetrators had accepted responsibility but, because the cases did not end up in the system with the youth diversion projects, they were somehow not progressed and the files were left on shelves to gather dust. It is right that all the victims have been apologised to in writing. However, what happened is scandalous.

It has been suggested that some of the difficulty arose due to the fact that at one point there was a centralised system in which all names of the relevant young offenders or the juveniles were kept. This was replaced, for potentially good reasons, by a system where there had to be a dialogue between the juvenile liaison officer and the arresting officer who was potentially dealing with any amount of other cases, both juvenile and adult. This requirement for constant

feedback meant that a significant number of cases fell through the gaps. I have seen that reported. If it is the Minister of State's view that this is one of the contributing factors, I would be interested in hearing how we can deal with it. There are systemic issues relating to case management and, potentially, resources which need to be resolved. There seems to have been an equivalence between areas that were under resource pressures and those which had high numbers of cases that were not progressed. The latter indicates the existence of resource issues but it is clear that there were also systemic issues because there appear to have been difficulties across the country.

That does not in any way excuse individual gardaí for their failings. Their job is to prevent crime, to seek to prosecute those responsible for the commission of crime and to deal with other matters. This job lies at the heart of their responsibility and if they are aware of and neglecting cases which they know involve serious criminal conduct and which are not being progressed, that is seriously unprofessional and a form of misconduct which I hope will be treated seriously. The extent of disciplinary action on professional failure could vary. There could be a relatively minimal move on the more modest end of the scale but there could also be serious disciplinary issues. I want the Minister of State to assure the House that those responsible for the most serious breaches will be properly disciplined. There is value in carrying out a review in order to identify the reason for the systemic failures.

I have addressed the point about the serious implications for the victims of crime but the motion also recognises that these children were failed. They were ignored by the system and it is noted in the motion that 57 of the child offenders involved in the crimes committed between 2010 and 2017 have since died. The eldest of those people who have fallen through the gaps would surely only be in his or her late 20s or early 30s. These are not elderly people by any means and 57 of them have died. This shows that they were failed because they were not retained in the system and their lives continued along a chaotic and, ultimately, very sad path. That is not to minimise any of the crimes that they might have been responsible for but these people deserved to be kept within the system and to be monitored.

Youth diversion projects may not be perfect but they work. We need more of these projects and we need more investment in them. I have seen them first hand. Individuals with whom I grew up benefited from these project and have now gone back to education to pursue third-level degrees, work in trades and work full-time. They are living perfectly good lives. Garda youth diversion projects have ensured that they did not go down the route they could have gone down, of a chaotic life of crime. That has to be reflected upon. They may not be perfect but, by and large, the research shows that they work and that we need more investment in them.

**Deputy Dessie Ellis:** Tá mé an-bhuíoch d'Fhianna Fáil as ucht an deis labhairt ar an ábhar tábhachtach seo. I have regularly spoken about some of the activities in question, such as joy-riding and the use of quads and scramblers in built-up areas and public parks. My constituency, Dublin North-West is affected by a high level of juvenile crime and anti-social activities. I have also spoken about the rise in the use of young people as drug mules. Juvenile crime and anti-social activity can be a source of great annoyance, stress, disruption and harm to our communities. It impacts mainly on families and the elderly and holds our communities virtually to ransom. My experience in Dublin North-West is that the Garda youth diversion projects have been quite successful and are a good way to tackle youth crime and anti-social activity. This is why I find it very disappointing to learn that there has been a systems failure across the constituency as well as the country in that thousands of young people involved in crime and anti-social activity have managed to fall through the cracks of the judicial system and that these young people are

seemingly almost untouchable. This has clearly had an impact on local communities and has added to the frustration they feel as they see some young people basically doing what they want and getting away with it. This perception of being untouchable can also encourage other young people to get involved in crime and anti-social activity without fear of any sanction. Immediate action needs to be taken by the Garda Commissioner and the Minister for Justice and Equality to correct both the systems failure that has been identified and the human failures that have been exposed in this latest scandal.

**Deputy Martin Kenny:** There are a number of issues raised by this motion that spring straight to mind. I was contacted by email in late 2016 by a constituent about her daughter's situation. The latter travelled by bus with her friends to an underage disco, with some of them drinking on the bus. When she arrived, she was dragged down an alleyway by a number of boys and sexually assaulted. One of the boys in the midst of the assault said, "No. Stop this." He wanted to stop it and pulled away. All of this was caught on CCTV cameras, there were witnesses, the Garda was called, the girl was taken to hospital and all the evidence was there, yet, to the dismay of her mother and herself, it was to the juvenile programme that these three lads were sent and they received only a caution. It states at the end of this email that this destroyed the girl's life, she suffered from post-traumatic stress and she failed her leaving certificate. When she looked on Facebook with her friends, however, she saw the lads who did this enjoying themselves in the community and saw that everything was fine in their lives, yet her life had been destroyed. This mother has done an awful lot of work over the past two years. Her point is that those who commit sexual assault, regardless of age, should not be part of this programme and that something needs to be done to recognise this. We often say someone is in the horrors. This family has been in the horrors since this happened a number of years ago. The girl's younger siblings, who are now teenagers, have grown up to know about this and their mother is worried that if they meet these lads out in a bar or a disco or something, there will be a row and more bad things will happen as a consequence. At the core of all this is that the assault was not dealt with appropriately from the point of the view of the victim, her family or indeed the perpetrators' families.

When I heard a week or two ago of this case coming up before the Policing Authority and what had happened, it brought it all back to me. I said to myself, "Jesus, I raised this with Deputy Frances Fitzgerald two years ago", when I was told the diversion programme was a great programme and everything was fine. At some point or other responsibility must be taken here as to how this has happened. The one thing that needs to come out of this is that sexual assault cases cannot go down this path, and I say this to the Minister of State directly. I would like the Minister or the Minister of State, Deputy Stanton, or both of them, to meet this woman and talk to her about her experience. If they do so, perhaps they will start to do the right thing about this. I am not blaming the Minister of State or the Minister in particular, but this situation has gone on for many years. I have talked to a number of other constituents of mine who have had similar experiences, although not at all as severe or as problematic as the case to which I have referred. Young people have carried out serious crimes in the community and these constituents feel they were not dealt with appropriately. I understand gardaí are under stress and at times under-resourced and that all these issues are ongoing, but when we see systematic failure, which is what we see here, it needs to be acknowledged and someone needs to stand up and say it needs to end. That is the one thing I am asking to come out of this. This was a serious sexual assault. I understand there are a number of other such cases. They can no longer be dealt with through the juvenile diversion programme.

**Deputy Sean Sherlock:** I rise to support the motion. On a positive note, I acknowledge some of the changes under way in light of recent reports on the handling of specific cases. We must acknowledge in a positive light the good work the Garda youth diversion office does. We believe strongly that one of the greatest interventions that could be made regarding youth diversion is at the community level. I tabled a question to the Minister about the number of community gardaí in the State in May of this year. I recognise that these figures might have been revised upwards in the intervening period, but my tally of the tabular figures I received is that there are 715 in the State in total and that there are large swathes of the country, such as Laois-Offaly, where there are no community gardaí. In Kildare there are four and in Meath there are eight. There is a large concentration in Dublin but, given Dublin's population, it is probably still underserved as well. In the short time I have I ask that the Minister of State, when replying, gives us some assurances about the resources that are deployed to ensure there are more community gardaí on the ground forming relationships and ensuring that the diversion programmes are working. There is obviously a need to ensure we try to stave off the potential for crime to be committed. This is all based on a strong relationship between an individual community and the garda who serves it.

I also want to speak to whether the figures are being understated. I do not wish to revise for the House the issues regarding the historical problems with PULSE. I have tabled questions about knife crime, and I think it is fair by any rational consideration to assume that most knife crime would traverse the areas covered by youth diversion. I acknowledge that there is some work ongoing on the part of the Central Statistics Office and that someone has been appointed by the Garda Commissioner at assistant commissioner level to interact with the CSO to ensure the figures put out in the public domain are accurate. I speak to the specific issue of knife crime because it has gained a lot of traction within society in the recent past and is becoming a phenomenon to which we have become almost desensitised. If the Minister of State responds, he might tell us about the status of the process in respect of an individual garda recording a knife crime on the PULSE system, how that gets translated regarding the interpretation of the relevant legislation and how it gets recorded in the statistics. I fear the statistics are under-representing the true extent of these crimes. I also perceive there could be, or possibly should be, greater urgency on the part of An Garda Síochána to work with the CSO. For too long we have had figures put out into the public domain, or not, with a reservation attached to them on the basis of - these are my words - perhaps a lack of trust in the mechanism to record these crimes on the PULSE system.

I acknowledge that the State has increased the number of Garda personnel, but if more can be done to increase the numbers at community garda level, it would have a beneficial effect on the relationships on the ground between communities and the gardaí, do a lot to reduce these figures further and stave off this phenomenon and do a lot for youth diversion.

**Deputy Gino Kenny:** I want to start with a comment the Garda Commissioner, Drew Harris, made about the report to the Policing Authority. It is reflective of the debate we are going to have. Commissioner Harris said that we should have done better by young people who were "in the main, vulnerable children". That says everything about the report.

The motion touches on some serious incidents that happened between 2010 and 2012. It is obvious to anybody who has read it, or who has read about the failings of the Garda youth diversion project, that there were governance failings of a serious nature, which one could only call systematic and institutionalised failures on behalf of the programme and the police themselves. Some of the offences that were committed and never prosecuted through the criminal justice

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system were heinous crimes. It was a catalogue of failures from the beginning to the end for both the victims and the children involved.

Other Deputies have touched on this, and this is not to demean or trivialise the people who were the victims of these crimes, but I was shocked to read, in the motion, that 57 of the children accused of offences have died since 2010. Those children are gone. They must have lived chaotic lives if that was the outcome. Everybody will agree that is shocking.

There are 105 youth diversion projects in Ireland. I will refer to two with which I am familiar in the area of Neilstown where I am from and where I grew up. There was not a lot to do there for young people. There were no community facilities and some people got in trouble with the police and so forth. The GRAFT and VALLEY projects are in operation in the north Clondalkin area and their rate of reoffending is extremely low. Those programmes engage with many people who are referred by juvenile liaison officers. These projects have been good at diverting people away from the criminal justice system.

There are also late night football leagues in Dublin and other counties, another initiative of the youth diversion project. Late night football leagues exist in 16 counties and they are positive. They provide indoor and outdoor football facilities for children and young people particularly on Fridays, Saturdays and Sundays between 8 p.m. and midnight. They have been successful in getting young people away from vulnerable situations.

We need to go further than the motion. We must look at the grave inequalities in society and issues which disproportionately affect working-class communities. A mistake that people in society make is to demonise young people. It is wrong to associate anti-social behaviour with young people because young people then grow through their early adult years thinking that everything they do is anti-social. What the banks did to this country is much more anti-social than the behaviour of young people. We need to challenge the inequalities in society and that is something that will not be done by a motion or an inquiry. That has to be done politically. It is good that we are having the debate and, hopefully, the failures of the police will never happen again.

**Acting Chairman (Deputy Bernard J. Durkan):** Deputies Catherine Connolly, Mick Wallace and Clare Daly are sharing nine minutes. Who will go first?

**Deputy Clare Daly:** We are all shy.

**Acting Chairman (Deputy Bernard J. Durkan):** Are the Deputies going to have three minutes each?

**Deputy Mick Wallace:** I was going to leave two minutes for Deputy Connolly.

**Deputy Clare Daly:** We will have three minutes each. I hope the Garda Commissioner will come before the Joint Committee on Justice and Equality in order that we can discuss the latest debacle in the juvenile crime statistics. In common with, say, the breath test shambles, and all the others, I will start by thanking God for good gardaí. This report and this issue would not have come to light were it not for the actions of one good garda, in this case a garda working in community engagement, who asked the professional standards unit of the force to examine the youth diversion programme in 2014. The Minister of State, in his closing contribution, might address why it took five years from the time of that request for us to get to where we are now. The headline figure is from an interim report and I guess the reason for the delay is a combina-

tion of the fact that record keeping and storage within the Garda is chaotic and, when it comes to scandals, the Garda likes to stagger them. We had the homicide scandal last year so it would not have done to add this scandal at that time.

This scandal has not generated the headlines it should. I assumed young people not being prosecuted for serious crimes was catnip for most of the media but it seems it is not. The media might be fed up with all the scandals. We have let down not just the victims of crime but also the young people who were to be diverted from a path of crime by the youth diversion programme. That was its whole purpose. The lack of early intervention muddies that water.

We do not have a clue about crime statistics in Ireland because of the poor statistic keeping of the Garda. We do not know the information about how we compare nationally, how likely it is that a victim of crime will get justice or whether some crimes are more easily prosecuted than others. We do not know. The crime figures still come with a warning, five years on, which is reprehensible.

The root cause and one of the key planks of that is the appalling IT resources at the disposal of the Garda and the poor quality of PULSE, which Deputy Wallace has highlighted on numerous occasions, as well as Accenture's contracts with An Garda Síochána. It is past time that we had clarity on these issues because the IT system is clearly not fit for purpose. Millions of euro are being spent every year in return for a system that cannot even retain basic records. I hope the Garda Commissioner comes before the committee because we need answers. We are failing all levels of society with our failure to keep proper records.

**Deputy Mick Wallace:** I support any programme that is an alternative to prison and the youth diversion programme is an excellent example of this but, unfortunately, like many progressive programmes, it is underfunded. Some €14 million was allocated in 2018 but more is obviously needed.

The programme allows young people suspected of a crime, who then accept responsibility for it, to get off with a police caution instead of prosecution. One must, therefore, admit the crime one is accused of to be allowed entry to the programme, while reoffenders are unlikely to be allowed partake in the programme. It is worrying that, of the 55,506 referrals deemed unsuitable for the youth diversion programme, 7,894 were not progressed due to basic Garda incompetence. The State should have fully investigated and, if need be, prosecuted these offences, for the sake of the victims, but also for the sake of the accused children, although one will not read that in any of the newspapers. We sometimes appear to forget that one is innocent until proven guilty. It is possible that if the Garda had progressed these 7,894 suspected crimes through the criminal justice system, some of the accused would have been found not guilty. Commissioner Drew Harris rightly called them "suspected crimes" at the Policing Authority and we should not forget that.

Of the 7,894 suspected offences that were not progressed, 1,635 were public order offences, while 385 were for trespassing in yards or curtilage. It begs the question of whether we need to consider re-examining some of the legislation governing offences.

Section 5(1) of the Criminal Justice (Public Order) Act 1994 makes it an offence for anyone in a public place to engage in offensive conduct between the hours of 12 midnight and 7 a.m., or at any time after having been requested by a member of An Garda Síochána to desist. Should young people be arrested and charged for making noise? I understand anti-social behaviour is

annoying to some but wasting money prosecuting offences like these does not seem logical to me. Why not create a community service-type regime instead? As the Minister of State knows, I have done some community service. It is a powerful system and it makes a lot of sense. The Government can say it has it but until it actually funds it and structures it properly, we do not really have it. Other countries structure it and fund it. It is possible but we are not doing it. Of the 7,894 crimes that were not followed up on, 55 were serious crimes, including one rape. How many gardaí were involved in the decision not to progress this alleged offence through the criminal justice system? Surely it was more than one liaison officer. Commissioner Harris told the Policing Authority that 3,400 gardaí were involved in the offences that were not followed up on. Will he be able to discipline every one? Probably not. I do not envy him his job but from what I have seen to date his handling of it has been positive. There is a lot of work in this area. It is not an area we have put enough thought or resources into. It is something that deserves a bit of work on our end.

**Deputy Catherine Connolly:** I thank Fianna Fáil and particularly Deputy O’Callaghan for tabling this motion. I welcome the opportunity to make a brief contribution on it. We are not talking about the youth diversion programme, which is a brilliant programme. It is not what we are talking about. We are talking about the young people who did not fit into that programme, who committed crimes ranging from public order offences to very serious crimes such as rape and who were not followed up on. In total, there were 7,894 crimes committed by 3,489 children. That is what we are talking about here. We are talking about how it happened, how it was discovered, how long it took and what we are going to do about it. It has already been mentioned that a very brave and public-minded garda raised this issue in the first place and asked for the professional standards unit to come in, which it did. Those inquiries took from October 2015 to June 2017. I do not know how it could have taken that long. It is a question. There was a nationwide probe which took from July 2017 until January 2019 to report. We should have that report before us but we do not.

Our sympathy goes to the victims who suffered and to those victims who did not come forward and give a statement, which is the greater number in terms of the crimes that were not prosecuted. Of the children who were ignored and not followed up on, 57 have died. The Policing Authority has rightly expressed sympathy for both the victims and for the children who committed the crimes that were not followed up. It is an indictment of our society. It is only a small subsection of the numbers that have been given out today. We are doing something seriously wrong. How many of the crimes that were not followed up were reported as solved? I understand a substantial number were recorded by the Garda as detected or solved. Am I wrong about that? That is what was reported in the press. It is very worrying in the context of the Charleton tribunal, which we have just completed, and which talked about honesty, visibility, pride and obligations. He listed out the seven obligations on gardaí. There have been various problems with statistics, including on penalty points and breathalysing and domestic violence. In a recent sample on domestic violence statistics, we found the figures were most unreliable. The Central Statistics Office suspended entirely the publication of crime data back in 2017. It has resumed it again but only with caution. It has serious concerns about it. These are the issues that jump out for me with regard to this matter.

**Deputy Michael Healy-Rae:** When it comes to statistics, I have told the Minister of State and other Ministers before that I do not rely on statistics because it is of great concern that an awful lot of crime is unreported. That is a fact. I did my own check one time and I was frightened by the result I got. Probably more than half of crime is not reported because people do not

see the value in reporting it. I would like to send out the message loud and clear, as I know the Minister of State would, that every crime, no matter how minor, should be reported because the gardaí can only work with accurate statistics and they are not accurate if crimes are not being reported. The way we are dealing with this issue and why it is coming before the House is of tremendous importance. When we are dealing with juvenile crime, as with any crime, we are trying to stop it. We are trying to ensure people will be safe and happy in their homes. We see it in the courts every day. Small juvenile crime grows and escalates and young people come into a life of crime. The perpetrators of juvenile crime go on to become adults engaging in worse and more heinous crimes. We have to be accurate about what we are doing. We have to deal with the statistics properly and try to put the resources in to stop further crime being committed and to try to ensure people will be safe. We should have zero tolerance. I always refer to an instance where our late mother was mugged in Spain. It happened on a Sunday and on Wednesday she was taken into a court where a man got 12 months in jail for stealing her handbag. The message from the judge was he would not tolerate that type of nonsense especially against an elderly person. That was the message over there. Why should we not have it here?

**Deputy Michael Collins:** I am aware juvenile crime continues to be a major problem in Ireland. Roughly one in ten offences is committed by children. I say with my hand on my heart that in my constituency of west Cork youth crime is not the issue it is in other parts of the country. I do not shy away from the fact that in some towns and villages and various areas of west Cork, we have a certain level of youth crime. Overall we have a very honest community of proactive youths in west Cork. In saying that, I commend the work of the gardaí. One initiative in west Cork is the Garda youth awards, which encourage and give recognition to the positive actions of our youth in local communities. I had the pleasure of attending the 23rd annual west Cork Garda youth awards last November in the Beara Coast Hotel in Castletownbere. It was a truly enjoyable evening and I saw 19 awards being presented to young people from various backgrounds who all contributed to their local communities in various ways. It was not my first time attending the Garda youth awards and each year I am amazed by how much these young people are doing in their local communities. I strongly believe initiatives like the Garda youth awards help to keep young people on the straight and narrow. It helps them to get a sense of reward from contributing to their local community. Further to this, the Garda youth awards help our local gardaí to form a positive relationship with the youth in the area and to keep young people out of trouble. The role of the gardaí in rural Ireland is very important in crime prevention. Gardaí work hand in hand with the local community and community groups. I can see first-hand the tremendous work carried out by our rural gardaí. I and many others value the work they do in rural Ireland and throughout west Cork. This is one of the main reasons I have fought so relentlessly to keep our rural Garda stations open. The prolonged closure of rural Garda stations around the country is without a doubt a big factor in the increase in anti-social behaviour among our youths. In west Cork, I have seen a number of Garda stations close, including Castletownshend, Ballygurteen, Goleen, Adrigole and Ballinspittle. During the talks to form a Government, I, along with the other rural Independent Deputies, highlighted the mistake that was made by the last Fine Gael-Labour Party Government in closing the rural Garda stations. During those talks, it was agreed by the present Government to reopen a number of Garda stations. By agreeing to reopen a number of Garda stations, mainly in rural Ireland, the Government acknowledged the wrong that was done. Unfortunately, the Government has continued to make the decisions that make life very difficult for young people in rural Ireland. We are still urgently awaiting the opening of Ballinspittle Garda station. We have been told it will happen in one month and then another month but I want an exact date. I would like to get an exact date from the Minister of State tonight. It is vital that all our rural Garda stations

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reopen in order to allow us to nip crime in the bud and work with young people. Young people in the community are great but they are being treated terribly by the Minister, Deputy Ross, and his carry-on with his legislation that will throw them off the road. There is no resolution with regard to driver tests. There are many issues that are anti-youth and which need to be tackled by the Government rather than coming down on the people of Ireland.

*5 o'clock*

**Deputy Danny Healy-Rae:** I am glad to have the opportunity to contribute to the debate. We, as a society, cannot tolerate or condone crime by juveniles or others, especially serious crimes involving robbing or beating up elderly people. There is a case here of one rape; that is not to be tolerated. We cannot accept those kinds of things. People may criticise the Garda for not prosecuting these crimes, but gardaí are doing their level best. We must go forward; we cannot keep going backwards all the time.

Social farming is a great initiative being offered in Kerry for people with disabilities. It is being operated by South Kerry Development Partnership, involving especially Joseph McCrohan, Noel Spillane, George Kelly and Eamon Horgan in Kilgarvan. Many youngsters are brought up in an environment with no connection to nature and animals, and are not aware of how little there is between something being alive or dead. My uncle used to say there is only the breadth of one nail between being dead and alive. This is a great initiative where people with disabilities are taken out to farms and get to see nature. They see sheep having lambs, cows having calves, and horses and donkeys having foals.

While I am not saying assaults are minor, where minor crimes are being committed, perhaps these youngsters should be taken out to see nature and understand what it takes to survive or stay alive and then maybe we would not see many of the serious assaults we are seeing today, some of which even involve people ending up dead. It is a great new initiative that has not yet been delivered in other parts of the country. The Government should explore it to see what could be done to get youngsters out of a routine of violence and hatred. It could play a vital role in changing their attitudes.

**Deputy Róisín Shortall:** I thank Fianna Fáil for tabling this important motion. We have not discussed juvenile crime in the House for some time. Many of us were waiting for the audit to be completed and the report released. To a large extent we are still talking in a vacuum because we have not got our hands on the final report yet. While it was completed some time ago, all kinds of excuses were used for delaying the release of the report - double-checking it, going to various people to see beforehand and then going to the Policing Authority. The authority has had its hearings and I do not know why the report still has not been published. Why do we not have all the details involved in this?

For a long time I have been conscious of this issue in my constituency and as a public representative. The same applies to most constituencies but particularly urban ones, where there is a sense at community level that nobody is taking the issue of juvenile crime seriously. This has been the case for a long time. I was digging out stuff on the matter and found newspaper articles I had written 25 years ago. Little has changed in that time. We have the hangover from our historical failures relating to children.

There remains little understanding of the principle of prevention, even in more recent times. That applies particularly to the Department of Justice and Equality. That Department deals with

very high profile matters - the Garda, the courts, the Prison Service, etc. However, if we were clever and fair about things, the emphasis would be on prevention at the earliest possible stage. It is almost a cliché to say that teachers can identify in junior infants the kids who are likely to end up before the courts. The kinds of issues that result in a young person going off the rails and getting involved in petty crime, such as anti-social behaviour, far too often lead on to involvement in much more serious crime. Those circumstances can be identified at a very early stage.

It took us a long time to come to the conclusion that we needed a Department and a Minister dedicated to children. When that was finally established, there are still major problems with the whole preventive area. For example, the CAMHS waiting lists for young people are shocking. Many of these young people have mental health problems and experience family dysfunction. There is a lack of family support services. This is not rocket science. To tackle the problems of crime, we need to start at the earliest possible stage. That means putting in family support in cases where there is dysfunction, mental health problems and severe problems of poverty which lead to all kinds of social issues. There is a major failing in the provision of family support services.

There is also failure when it comes to health services and mental health services, in particular. The other safety net that used to exist was having a reasonably well-functioning school-attendance service. Failure to attend school is one of the earliest indicators of a problem in a young person's life. The service is pretty well non-existent in certain areas at this stage. I recently tried to check out how it allocates its limited staff. There seems to be no rationale to how the staff are allocated through the school attendance service. Staff are allocated to areas where it is clear there is little need while limited staff numbers are allocated to areas with obvious need. Those early safety nets that should be in place do not exist or are seriously lacking in many areas.

When it comes to the justice area, many of us are aware of a sense within communities of growing lawlessness among young people and shoulder-shrugging by the authorities because they simply do not know how to deal with it. That has been the case with the Garda increasingly in recent years. Previously the local inspector or superintendent would deal with a young person who was causing trouble. They would call down to speak to the young person; they would call their parents or call the parents in. If necessary, they would then take action.

That system changed a few years ago and we now have the national office. With the development of the national office came an appreciable deterioration in services locally. I regularly attend four different safety forums in my constituency with gardaí, local authority officials and community representatives. The constant refrain at those meetings relates to what to do about the young people who are out of control. They are driving motorbikes, scramblers and quad bikes. They are involved in horses, stealing cars, threatening behaviour and damage to public property - all kinds of serious enough anti-social activity. That is having an impact on their community and there is a sense of helplessness on the part of the authorities. One would hear of cases being referred, that there is a new system and that it not the same as it used to be. There are always excuses. Of course the failure to respond to those early stages of young people getting involved in trouble does them a serious disservice with their issues not being picked up. The approach of prevention is not in practice there. Those young people have been allowed to go on to get involved in much more serious crime. The message that sends to their peers is absolutely appalling. There are many communities in which decent young people from decent families who want to do well in life look around them and say to themselves that they are stupid. They think they are stupid for not getting involved in crime because they see their neighbours

or lads they went to school with getting involved in crime and having plenty of money to spend. Increasingly in recent years, there has been an awareness of the fact that gardaí were not tackling these problems and, as a result, there has been a very substantial increase in the use of minors as both drug runners and dealers. The more senior drug dealers knew from experience that young people were untouchable and above the law. That was the strong sense that pervaded.

The failure of the Department of Justice and Equality to deal with the problem of juvenile crime has created many different victims. There are many people paying a price for this. This is not just an academic issue or a question of figures, it is real-world stuff. The victims of the 8,000 crimes that were not dealt with properly are paying the price, as are the young people who should have been met with the proper response and prevented from getting involved in more serious crime. Their future victims will also pay a price for the failure of the Department. Communities are also paying a very serious price because a sense of lawlessness has now taken firm grip in many of our communities which must be dealt with as a matter of urgency.

Obviously, key to all of this is the need to make reparation for the failures of the Department and An Garda Síochána. There is an urgent need for An Garda Síochána to address this problem and to respond directly to the victims. Compensation issues also arise. There is a real need to restore a reasonable level of coverage and staffing at community garda level. Figures I obtained recently show that the community garda service has been decimated in recent years. Unless we put our money where our mouth is and commit to supporting community gardaí and getting this service right, nipping these problems in the bud and restoring a sense of law and order in communities across the country, we might as well throw our hands up in the air and walk away. This represents a huge failure. We need details on particular areas and the extent to which there was a failure to do their job on the part of gardaí in particular districts.

**Deputy John Curran:** I thank my colleague, Deputy O’Callaghan, for tabling this motion, although it gives me no pleasure to speak on it. This is a very serious issue that does not reflect well on the professionalism of An Garda Síochána. However, the fact that the Garda Commissioner stated that this is a “humiliating professional failure” is at least an acknowledgement of the seriousness of the issue. I hope that acknowledgement is used to develop a proper understanding of what has happened here. We have been given some figures, to which I will allude presently, but as previous speakers indicated, the full report has not been made available. We need to understand how these mistakes happened, what caused them and how we can ensure that this type of thing does not happen again.

The scale of this is significant. The data provided from the review of the youth diversion programme covers the period from 2010 to 2017. A total of 158,000 youth referrals relating to 57,000 individual children were examined and the review found that 8,000 referrals had not been appropriately progressed. These figures are staggering. We are not talking here about an individual making a mistake. As other Deputies stated, this was systemic. It is really important that the report underpinning these figures be published in full. I have no doubt that this matter will be on the agenda of the Dáil again and we will be seeking further clarity and assurances that the lessons learned from this report are implemented to ensure that this type of thing cannot happen again.

This is not about statistics. These mistakes or failings have had a significant impact on many people. It is worth noting that 57 of the young offenders involved have died. We do not know the circumstances of their deaths but I suspect that some of them were probably drug-related. I also have a feeling that had they been identified and dealt with properly through the

youth diversion programme, many could be alive today. Thousands of other young offenders were not processed properly and went on to reoffend in more serious ways. Again, their lives could have been significantly different had the system not failed them. We also have all the victims of their crimes. Had the young people involved in these 8,000 offences been detected and referred appropriately in the beginning, then thousands of people would not have been the victims of crime. The consequences of the failings are very significant.

The figures in this report relate specifically to information that was on the PULSE system. Others have stated - and I concur - that there is a serious concern that all crimes reported do not end up on the PULSE system for one reason or another. These figures, because they are based on PULSE data, are probably reflective of the minimum number of incidents. I suspect there are other offences that have occurred but which were not reported or recorded. When one attends joint policing committee, JPC, meetings, one hears details of reported crime statistics and so forth which often bear no resemblance to the experience on the ground.

In the context of drug dealing, juvenile crime has changed significantly. A decade or more ago, street dealing was done discreetly but is now done openly. Many of those involved in dealing drugs on our streets and in our parks are juveniles. I do not know if they feel that nothing is going to happen to them or that they will get away with it but they are causing untold damage to their own communities. I also understand that, as juveniles, they are victims themselves. The whole emphasis of drug dealing has shifted in terms of how it is happening in our communities and in the context of the response of An Garda Síochána. There was a time when we had community policing and local drugs units but the numbers in those units have reduced drastically. This may be due to the fact that many Garda resources have been diverted to the national units. Make no mistake about it, communities are being devastated by on-street drug dealing which results in fear, intimidation, harassment and anti-social behaviour and we must look at how the resources of An Garda Síochána are deployed to tackle it.

**Deputy Anne Rabbitte:** I thank Deputy O’Callaghan for giving me the opportunity to speak on this issue. When I read of this report and heard the comments of the Garda Commissioner, Drew Harris, I was quite shocked. As Deputy Curran stated, we do not want to be talking about the fact that almost 8,000 crimes were not properly actioned or that more than 3,800 of the children involved had committed more than one offence. The youth diversion programme is a great system that must be strengthened further. While this debate is not about that programme, we must think about the resources devoted to it.

In terms of the statistics, I wish to focus on assaults on minors, which represented 3% of the reported incidents. Assaults on minors by minors can include, for example, a young lad getting a slap at a disco. What effect does that have on the young victim? He knows something should have been done and that this was a wrong done to him but because there was no follow up action, when he next wants to go to the youth disco, he will be nervous that the young lads who perpetrated the previous act on him will be there waiting for him even though he might just have been a random victim of a couple of lads. If a Garda liaison officer, GLO, is assigned to deal with an issue on the day it happens the situation might not escalate. When a GLO makes an intervention, the perpetrator becomes aware that he or she has committed a wrongdoing, admits it and apologises, the victim knows that the person who committed the crime has acknowledged the wrongdoing, and a pathway is created. This provides comfort for the mothers of both families. It provides comfort to the mother of the child who is the victim to know that the law works and protects and also for the other mother who does not want her child to go down the wrong road to know that somebody is watching out for her child and there is a pathway to prevent

situations getting worse.

Approximately one year ago I brought forward a Bill to introduce Fagin's law. I sought to introduce Fagin's law for many of the reasons discussed here this evening, including to protect young people who get involved in drug activity and become runners. These young people are not just statistics. We need to protect them. Without early intervention, problems escalate out of control. An Garda Síochána, unfortunately, has come out of this in a poor light. On the up side, the commentary and acknowledgement of the issue by the Garda Commissioner, Mr. Drew Harris, has been positive. While it is welcome, what is important now is how this matter is progressed, how An Garda Síochána can be strengthened and how we can get community policing into our schools. We need the Garda to go into our schools to explain how the law works in the case of 16 year olds and 17 year olds. Pupils need to know that every action has a reaction and they need to know how to be protected. We are not doing that. There are not enough Garda visits to our schools. When a minor incident occurs in a school there is no designated person to whom a pupil can go who can tell him or her that it should not have happened. That is a big piece of this jigsaw and, probably, the simplest piece of it. There is buy-in from the Garda, the parents and the schools. Earlier, I mentioned the two mothers. Those two mothers need to know that there is somebody supporting them. This is what Fianna Fáil is looking for.

I commend Deputy O'Callaghan on bringing forward this motion. This is a vast and varied area but there are solutions that do not require huge investment. We need to start providing wrap-around services and more GLOs because a lot of good work could be done in terms of prevention.

**Minister of State at the Department of Justice and Equality (Deputy David Stanton):** Deputy Rabbitte made a huge amount of sense in her remarks. I thank Fianna Fáil for bringing forward this important motion and I acknowledge the contributions made by Deputies on this serious issue. As stated earlier by my colleague, the Minister of State, Deputy O'Donovan, we are treating this matter seriously. I acknowledge the motion. The Government's countermotion provides a more secure path to ensuring that these concerns are fully addressed. There is not much difference between the motion and countermotion. We wanted to retain the spirit of the motion brought forward. Perhaps Deputies opposite will agree the counter motion such that we can be united on this matter.

In the time available to me there are number of issues I would like to discuss. The motion refers to the implications for the Garda crime data of the failure to progress youth crime cases. The information provided in the Commissioner's interim report indicates that these cases would have been recorded as "Detected" on PULSE, even though no action was being taken. The implications of this for Garda crime data will have to be examined and the Commissioner indicated that this will be pursued with the CSO, which produces the official recorded crime statistics. The Policing Authority has already indicated that it intends to examine the broader issue of the quality of crime case management, prosecution and in data recorded. It has made clear that it will continue to monitor this matter as it evolves, and I welcome its vigilance in this regard. It is very important.

I want to re-emphasise the considered strategic approach which the Government is taking to the reform and modernisation of An Garda Síochána. The four-year high-level plan, A Policing Service for the Future, sets out the approach to implementation of the recommendations of the Commission on the Future of Policing in Ireland. The plan provides a carefully considered strategic approach to addressing the serious issues that have emerged in regard to youth crime

case management. It will also provide the framework to address other concerns, including any further issues arising from the continuing Garda review process on youth crime and the broader range of issues which are under ongoing examination by the Policing Authority. I compliment the Policing Authority's examination of the matter. The authority is best placed to do this work and it is doing a good job in my view. I also compliment the Garda Commissioner and his team on the manner in which they dealt with it once it was discovered.

On 18 December 2018, the Government endorsed the commission's report and agreed to accept all the 157 key recommendations, including those related to the Garda Reserve. The four-year high-level implementation plan was published on the same day. The plan sets the right vision for Ireland to maintain and enhance public trust in policing and to address current challenges. It will also enable An Garda Síochána to meet future challenges. As recommended in the commission's report the implementation group on policing reform has been established under an independent chair, Ms Helen Ryan, and is supported by a high-level steering committee and programme office within the Department of the Taoiseach. The high-level implementation plan, which has been prepared with the input of the implementation group on policing reform, sets out an ambitious but realistic four-year plan for the implementation of the recommendations. The actions identified will transform how policing services are delivered. Most important, local front-line policing will be placed at the core of our police service, ensuring that gardaí are more visible in communities. I understand the Garda Commissioner has said that every garda should be a community garda. The importance of community policing was emphasised by colleagues in this debate. The plan will also deliver a professional, modern and effective police service that is well managed, efficient and cost-effective, properly equipped and trained, with a strong ethical core and accountable to the people.

My Department has a particular focus on advancing the legislation required to underpin a number of the recommendations. The policing and community safety Bill will be a particular priority. This will redefine policing to include prevention of harm to vulnerable people and recognise that other agencies have a role to play in community safety. The Bill, once enacted, will provide for a new coherent governance and oversight framework for policing. It will ensure the complementary objectives of strong internal governance of An Garda Síochána and robust, transparent external oversight are achieved. Ultimately, it will ensure more effective accountability and more effective policing. Clearly these reforms will systematically address many of the concerns outlined in the motion in regard to youth crime.

I want to turn now to the situation of the young people who committed crimes. I accept, and Government accepts without reservation, the comments of the chair of the Policing Authority, which are quoted in the motion, to the effect that not only were victims failed, but these children were failed also. Clearly, opportunities to intervene in a positive way for these children are missed when their behaviour goes unchallenged. In addition to apologising to victims, the Garda Commissioner also apologised to the almost 3,500 young offenders involved. These young people or their parents or guardians will receive letters signed by the district officer informing them that their case was not progressed appropriately. They will also be given access to the Garda helpline if they wish to access more information and support.

The vast majority of the young people dealt with in the Commissioner's interim report have a history of reoffending. The Garda report highlights the chaotic nature of the lives that many of these young people live, with the tragic finding that 57 of the 3,500 children whose cases were examined subsequently died. These deaths occurred over a number of years, most of them into adulthood, and there is no suggestion that a failure by the Garda to deal fully with a particular

offence contributed to the subsequent deaths of young offenders. However, it serves to remind us that many young offenders are themselves some of the most vulnerable young people in our society. This should make us think more deeply about our response to youth crime, and especially the factors that give rise to it.

This is already a priority for me as Minister of State with responsibility for youth justice issues and, late last year, I initiated a process to develop a new youth justice strategy. I will chair an expert steering group with representatives of key agencies who deal with young offenders as well as academic and community sector experts. I want to start with a blank sheet because we need to be open to suggestions from all sides on how we can move forward. The group will have its first meeting on 6 February and it will look at all aspects of the youth justice system. This process will also be informed by wide consultation with statutory and community stakeholders and, importantly, by the voices of young people. My intention is to harness the collective experience, expertise and insight of all involved to develop a progressive and more comprehensive approach to youth offending and the complex socioeconomic issues connected to it. This was also referred to in the debate. I intend that the new youth justice strategy will sit within the National Policy Framework for Children & Young People, Better Outcomes, Brighter Futures, which is overseen by the Department of Children and Youth Affairs.

Work to develop the new strategy will address the issues raised in the motion about youth justice structures and departmental responsibilities. Needless to say, I will take careful note of the views expressed by Deputies this evening in my deliberations on the new youth justice strategy and I welcome any further input which Deputies may wish to make in this regard. I have also embarked on a substantial reform and development programme with the Garda youth diversion projects in partnership with the University of Limerick. This includes a strong focus on family support and preventative work by the Garda youth diversion projects and practical work to identify best practice in work with young people and to ensure that all the projects can avail of the best advice in that regard. My Department is working to inculcate a restorative practice ethos in the work of the projects and working towards ensuring that this valuable service is available to all young people who need it.

I once again thank Deputies for their valuable contributions to this debate. I hope we share a common purpose to ensure that the serious failings in Garda systems and procedures are fully dealt with. I also hope that the House will agree that the Government's carefully considered approach to achieving lasting reform, which is being pursued through the implementation of the recommendations of the Commission on the Future of Policing in Ireland, is the right course to follow. I look forward to continuing engagement with Deputies on youth justice matters. These are really important issues for our society, for community safety and especially for our children and young people. They deserve the best of our efforts on their behalf.

As I said, we oppose the motion. I hope the Government's countermotion will be agreed as it keeps as much of the spirit and language of the original motion as possible. We, on this side of the House, hope we will be able to unite around the revised text we propose.

I refer to a few points which came up. Deputy Sherlock mentioned knife crime and I certainly will respond to him on that. Deputy Michael Healy-Rae spoke about unreported crime, which he has spoken about on the record. I emphasise that it is very important that all crimes are reported. If they are not reported, we do not have the facts so that must be done. Deputy Danny Healy-Rae spoke about a life of crime and children moving on to adult crime. He is right

about that in that once one is on the slippery slope, it is hard to get off it. That is why the Garda youth diversion programme is so important.

Deputy Rabbitte spoke about the importance of schools and I could not agree more in that schools can indicate when things are beginning to go wrong. Deputy Shortall said we should speak more often about youth crime, with which I agree in that this debate is overdue. She spoke also about the importance of schools in this regard. Deputy Curran mentioned the 8,000 cases. Those 8,000 cases came to the attention of An Garda Síochána subsequently, and many of them repeatedly. Even though they were missed and were not progressed as they should have been, which is the focus of this debate, they came back again and again because of the nature of them and most of them were progressed through the criminal justice system.

Deputy O'Callaghan emphasised the growth and availability of pornography and of drugs and he is correct in that regard. This changes how crimes are committed and that is something on which we need to focus as well as it is of great importance. Deputy Clare Daly along with others spoke about the time taken to conduct a review. The Garda professional standards work between 2015 and 2017 included only a sample of the cases. Based on what was found, a full review was started in 2017. Following on initial assessment, 22,000 cases had to be examined individually, covering all 28 Garda divisions. The Deputies will appreciate that it was complex and detailed and that it had to get it right. The Commissioner was quite involved in that and was anxious that it was correct.

All cases of juveniles are referred to the central office. Those that are not deemed suitable are referred back and a number of these fell through the cracks, which is what we are concerned about. That should not have happened. We are interested in why it happened and this investigation is still ongoing. Two thirds of offences are public order, theft and criminal damage. Deputy Ó Laoghaire talked about having balance in the debate and he is right about that.

I welcome the debate and I thank Fianna Fáil for bringing this motion forward and Deputies for being so constructive. There is a lot more we could and should say, and probably will say in the future. I know this is not the end of the discussion on juvenile justice.

**Deputy James Browne:** I commend Deputy O'Callaghan on bringing forward this motion, which calls for a review to examine the causes of failings within the Garda youth diversion programme. This motion sets forward the key findings of the Garda audit; the background to the juvenile diversion programmes; the need for ministerial accountability; and increased inter-departmental co-operation, specifically concerning mental health training and supports.

A recent Garda audit found that almost 5% of reported young offender crimes were not appropriately progressed to conclusion by An Garda Síochána between 2010 and 2017. Almost 3,000 young offenders were not prosecuted. These reported incidents missed a prime opportunity to turn a young person away from criminality. Some 57 of the child offenders referred to have since died, suggesting that many of those participating in the programme lived chaotic lives. In turn, they were failed by the State and so too were a huge number of innocent victims.

It is also very distressing that the victims of crime were denied justice. It is right and proper that the victims of the 55 serious crimes, including rape, sexual assault and child neglect, highlighted in this review were informed without delay.

Only a few years ago a groundbreaking British study found that 4% of young people are responsible for nearly half of all youth crime and that by the age of 16 they had committed an

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average of 86 crimes each. The Peterborough Adolescent and Young Adult Development Study was carried out by Cambridge's Institute of Criminology. There is little reason to believe that a similar research programme carried out here would provide statistics of any real difference. This research has profound consequences because it supports the contention that to prevent young people entering criminality, it is essential to get in early, instill positive attitudes and teach them how to solve their everyday problems in a better way and that policymakers should put an emphasis on teaching young people right from wrong. That does not mean lecturing from on high, but rather positive engagement so that they, their families and communities understand the consequences of young persons' actions and that there are alternative positive pathways and that, crucially, these alternative pathways are provided for them, they are supported to take these alternative pathways and that their families and communities are supported, especially where poverty is involved.

To deliver justice, systems need to address key facts about youth crime. Early intervention and identification is critical but it must be done in an intelligent manner. The key purpose of early intervention and identification is to understand the causes of youth crime, prevent criminality and divert young people away from a path of crime. However, one must be very careful. Early identification of at-risk children if done wrongly runs the risk of labelling and stigmatising. Every child deserves an opportunity to be diverted away from a life of criminality and it is also in the interests of society. To do this, we need a cross-departmental approach.

On 19 January 2018 a working group was set up to examine the psychological and mental health services for children and young people. The group includes the Department of Health, the Department of Children and Youth Affairs and Tusla. I was surprised that the Department of Justice and Equality was not included and hoped that might be a mistake. When I asked the Minister of State with responsibility for mental health why the Department of Justice and Equality was not involved, I was told that the Minister of State, Deputy Jim Daly, requested that his officials discuss this suggestion with their counterparts in the Department of Children and Youth Affairs, and I thank the Minister of State for doing that. They in turn, however, had been advised by the Department of Justice and Equality that they do not see a need for representation on this group, as it was not considered of immediate or direct relevance to their area. I believe this was an extraordinary statement by the Department of Justice and Equality. The connection between young people, their mental health and the vulnerability to pathways into criminality are well established and I would ask the Minister of State how can he stand over his Department's statement in this area.

Young people today are exposed to a barrage of pornography and violence and immoral content online, including on social media. I do not have time to go into the Government's utter failure to protect our children from the negativity and damaging aspects of social media - for example, this Government's continued failure to appoint a digital safety commissioner. What is clear, however, is that young people's mental health is being damaged by social media. The link between poor mental health of young people and the vulnerability of those young people to being dragged into criminality is well understood. Mental health supports serve a key role in preventing crime and protecting the public from juvenile crime. The Government needs to promote an effective cross-departmental programme to ensure the provision of appropriate pathways for young people at risk, which needs to include the Department of Justice and Equality.

This motion recognises that just as young offenders were failed by the State, so too were their victims. The Policing Authority stated that "the children are failed and the existing and future victims are failed". I hope this motion will lead to a review into this Garda failure, en-

couraging greater co-operation between the Minister for Justice and Equality and the Minister for Children and Youth Affairs.

**Deputy Jim O’Callaghan:** I thank all the Deputies who contributed to this debate, which has been a very good one. Unfortunately, I have not had the chance to read the countermotion put forward by the Government. I will read it carefully and if it can be agreed, it will be. However, I will need to defer that decision until tomorrow because I have not read it.

Although this debate started because of the recent controversy around what the Garda announced two weeks ago, the debate here went beyond the issues of the Garda’s operation of the juvenile diversion programme. We had a much broader debate on the whole issue of juvenile crime. It is apparent from listening to the considered contributions of Deputies that there is a recognition that this is a very complex and complicated issue. I am very pleased the Minister of State, Deputy Stanton, will be involved in developing a youth justice strategy. He has the innovative attitude needed to really try to make a strong contribution in this area. It is an area in which State intervention is crucial, particularly in respect of those who are at an early age.

The contributions from Deputies Cassells and Gino Kenny reveal that this can be a very emotive and difficult matter. Both gave accounts of how people had been viciously assaulted or sexually abused as a result of crimes committed by children. Anyone who is the victim of a crime of this nature would be very concerned to ensure that justice was done and would want to see some retribution for the suffering they endured. That is at one end of the spectrum in terms of looking at crimes of that magnitude and gravity committed by children of, say, 16 or 17 years of age. Of course, at the other end of the spectrum there are children getting involved in crime very young, at 12 or 13 years of age, whether it is running for drug dealers or theft.

One of the priorities - probably the absolute priority - must be to try to access and get involved with these children at an early stage in order that we can divert them from the path of crime upon which they have started. Statistics show that if a person at 18 years of age has been previously involved in crime on a recurrent basis, he or she will remain involved in crime as an adult. The study of crime and punishment is complicated but it shows not only that it mostly involves men, but also that when they get to the age of 40, in general, they stop or at least the figures decline considerably. Therefore, it is something that men do in their 20s and 30s in particular. The State has to intervene at as early a stage as possible in order to ensure that we get them off this path. That is why I believe State intervention works and should be advanced by the Government in order to try to deter this type of criminal activity.

It is a complex issue. What are the factors that prevent a child from getting involved in crime? None of them can be categorised simply but, for example, home, community, school and sport are all factors that play a role in preventing children from becoming involved in criminal activity. Children are very malleable. They can be moulded to avoid crime just as they can be moulded to get involved in crime, which, unfortunately, we now see being done by serious gangland criminals.

To return to the statistics, there is general recognition in the House that the youth diversion programme should be cherished, preserved and, if possible, improved. I accept fully the points that have been made that the failings disclosed by An Garda Síochána are, to a certain extent, reflective of historical failings up to July 2017. Nonetheless, it is important that this House debates and reflects on those failings to see how they occurred in order to ensure they do not happen again. It is important that we take into account the issue of whether the juve-

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nile diversion programme will be centralised. My view is that we should try to keep this as a community-based initiative. When it is run by locals within a community, they play a strong role in influencing children.

What this really amounts to is a fight between the powers that are good and those that are bad in order to try to mould children. If children are lost to crime in their teens, it has a devastating impact on them and on society. As has been stated, the statistics indicate that 57 children have died. What that really reflects is the tragic, chaotic lives of those children. As a society, we have to ensure that we do not let children down again in the future while at the same time ensuring that we protect the victims of crime.

I am afraid I will have to put this to a vote in order to test the amendment. However, I will reflect further on the matter tonight and tomorrow morning.

Amendment put.

**An Leas-Cheann Comhairle:** In accordance with Standing Order 70(2), the division is postponed until the weekly division time on Thursday, 31 January 2019.

### **National Surplus (Reserve Fund for Exceptional Contingencies) Bill 2018: Second Stage (Resumed)**

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

**An Leas-Cheann Comhairle:** Deputy Boyd Barrett was in possession. As he is not present, I call Deputy Broughan.

**Deputy Thomas P. Broughan:** I am grateful for the opportunity to comment on the Bill and on the rainy day fund. At the Committee on Budgetary Oversight last year, I strongly opposed the establishment of this fund at this very precarious and dangerous time for our economy and country. I felt then and still believe that all available current and capital resources should be allocated to addressing the serious needs of our people in health, housing, education, public transport and disability services and in the restoration of public sector salaries to pre-crash levels. Like many Deputies, I was out on the picket lines this morning with our nurses. Resources should also be allocated to the ending of all discrimination against younger public servants, particularly in health and education.

We celebrated the 100th anniversary of Dáil Éireann last week. One of the great scandals of our history was the decimation of the National Pensions Reserve Fund established by a former Minister for Finance, Charlie McCreevy, in 2001 following his crass decision to privatise Eircom and the national telecoms network. The growth of that fund from 2001 created a national wealth fund for the Irish people but the appalling decision on the part of Fianna Fáil and the Greens - subsequently and unfortunately reinforced by Fine Gael and the Labour Party - to splurge much of the money in the fund on the blanket bank guarantee, which I strongly opposed and voted against, robbed our people of their national wealth. That decision remains one of the most disgraceful in the history of Dáil Éireann.

We know from recently published statistics that the National Treasury Management Agency, NTMA, has cash or near-cash reserves on hand of €14 billion or €15 billion. The Minister of State might provide an update on that figure. The former pensions fund has morphed into two

funds, one of which is the Ireland Strategic Investment Fund, with assets of €8.5 million, committed investments of more than €3 billion and €5 billion invested in global equities and other assets for our people. The other fund managed by NTMA holds the State's shareholdings in the major pillar banks and it was recently estimated that its value was about €10.5 billion. The fund holding the State's pillar bank investments was originally earmarked to pay down our huge national debt, which, as the Minister, Deputy Donohoe, reminded us last week at the Committee on Budgetary Oversight, still stands at what he called the "highly elevated" figure of 105% of GNI\* versus a comparable 87% level of debt across the euro area.

There are several other possible windfall assets for the national Exchequer, including the Apple escrow corporation tax account, which contains an estimated €13 billion. The Minister of State might also provide an update on that account and any current legal actions at EU level. Given that the national funds administered by the NTMA total €19 billion or €20 billion and that the agency has cash holdings of €15 billion, the question must be strongly put to the Minister of State as to why we need to salt away a vital €500 million a year from current revenues and raid the Ireland Strategic Investment Fund to the tune of €2 billion, which could be better used for much-needed productive capital investment in the economy. Of course, it is also planned that €500 million will be transferred to the fund from the Exchequer in each year to 2022.

When Deputy Varadkar was elected Taoiseach, he told *The Sunday Business Post* of his intention to scrap the rainy day fund. The newspaper reported at that time - 18 months ago - that the Taoiseach stated that he "believes it does not make sense to salt away €2.5 billion in a rainy day fund when the money is urgently required for new infrastructure such as public transport projects, schools, hospitals and roads". That sentence sums up my view and the view of many in the Opposition - the Taoiseach did not think that was an appropriate time to have a rainy day fund. It is still not the appropriate time. In fact, it is even less appropriate in these critical days with Brexit approaching.

The current rainy day fund proposal, of course, originated with the former Minister for Finance, Deputy Noonan, in the 2016 summer economic statement, when he indicated an intention to put away €1 billion a year from 2019 onwards. Of course, in the previous year, 2015, Deputy Michael McGrath of Fianna Fáil had also put forward the idea of a new fund similar to the National Pensions Reserve Fund to hold windfall gains and other unexpected revenues. It is striking that the two parties which have determined Ireland's economic fate since 2008, as they trooped into the Government lobbies on all the major economic decisions, which blew away the pensions reserve fund and lumbered us with a massive debt are now as always *ad idem* on this current regressive fiscal proposal.

I would generally favour a sovereign wealth fund if the needs of people in housing, health and education were being addressed in a proactive and timely manner and the national debt was reduced to the 55% debt-to-GDP target. What happened to that target? The Minister for Finance appears to have forgotten that it was one of his targets for the national debt. A sovereign wealth fund could be utilised as a fiscal buffer and fulfil countercyclical and contingency functions. As I mentioned, however, the funds administered by the National Treasury Management Agency, NTMA, fulfil some of those functions already. We are also familiar with the eurozone's €500 billion bailout fund, the stabilisation reserve fund, and the efforts to create a European monetary fund.

In the context of global wealth funds, we are all aware of Norway's famous sovereign wealth fund which was established in 1990 and passed the \$1 trillion value mark in 2017 from the sur-

plus revenues of the Norwegian petroleum sector. China's sovereign wealth funds are also vast, as are those of the oil-producing states such as the United Arab Emirates, UAE, Kuwait and Saudi Arabia. A number of countries also have funds earmarked for future pension, social and infrastructure needs such as New Zealand, South Korea, Australia, Iran, Russian, Turkey and Kazakhstan. A total of 48 of the American states also maintain rainy day funds but all 50 states have major restrictions against running a deficit. There is also usually some level of restriction on those states to access their rainy day fund, whose chief purpose is to act as a budget stabilisation fund. A number of countries maintain contingency funds as part of their annual budgetary process. The UK, for example, maintains a "contingencies fund" of 2% of expenditure to meet temporary cash needs of Departments. Spain and France have similar precautionary reserves.

It is unclear to me in the short Bill before us whether the key purpose of the rainy day fund is to be a contingency fund for unforeseen natural or other events in the State or whether its primary function is to act as a countercyclical economic tool, especially to impress our colleagues in the European institutions. The amendment to the NTMA Act of 2014 in section 7 includes funding for occurrences "in the State of exceptional circumstances", the prevention of the "potential damage to the financial system in the State" and to support "major structural reforms which have direct long-term positive budgetary effects". The rainy day fund seems to be intended to cover both the objectives of acting as a contingency and also as a countercyclical tool. Section 3 caps the fund at €8 billion and the Minister is given total control over the management and accounts of the fund in sections 4 and 5. The investment criteria for the fund, which will be held in cash or near-cash instruments, are set out in section 8. Unlike rainy day funds in some other jurisdictions, drawdowns from the fund in section 9 can be made following a simple majority resolution in the Dáil. In some parliaments there must be a two thirds majority so it must be the bulk of the parliament. As he outlined when introducing the Bill, the Minister has emergency powers for drawdowns under section 9 in cases of extreme urgency.

In its working paper No. 6 of May 2018, *Designing a Rainy Day Fund to Work within the EU Fiscal Rules*, Eddie Casey of the Irish Fiscal Advisory Council, IFAC, and his colleagues warned that "financing potential fiscal stimulus in future downturns by setting aside savings in good times may not be adequately facilitated in the EU Fiscal Rules Framework". I ask the Minister to address the point. The paper goes on to propose an enhanced policy toolkit available to member states when seeking to strengthen appropriately countercyclical fiscal policy. What steps is the Minister therefore taking to ensure further support for the operation of the rainy day fund at EU level? The same paper argues that contribution and withdrawal conditions should be clearly specified. Does the legislation before us address that criterion in sufficient detail in respect of future drawdowns from the fund?

Briefing paper No. 3 of 2017 was produced by the Parliamentary Budget Office, PBO. We had a brief meeting with the PBO today. I welcome the fact that the office has recently been established on a statutory basis. The paper, *Rainy Day Fund*, clearly envisaged a rainy day fund being used to address only specific events or shocks rather than as a countercyclical policy tool, although it does consider the fund being used for countercyclical purposes in the event of a severe economic downturn. The PBO is critical of the consultation paper on a rainy day fund produced by the Department of Finance because that paper uses inconsistent terminology including the use of "rainy day fund" and "contingency fund" as interchangeable terms when that is not the case. The PBO also asks that the criteria for drawing down the fund "should be outlined in terms of the events it is to address and that these should be clearly set out in legislation". The criteria for withdrawals outlined in section 9 hardly address that requirement, as laid

down by the PBO.

The PBO also warns that if the fund is to be deployed as a countercyclical stabilisation policy tool, it must remain compliant with the Stability and Growth Pact. That is the same point that was made by IFAC. The PBO also advises that any budgetary contingency reserve be made part of Government expenditure ceilings and a Vote in the Estimates process and that expenditure from the contingency reserve would be made by way of Supplementary Estimate. The Minister was not very clear on that point when introducing the Bill.

The PBO makes the important point that with the rainy day fund, the State is forgoing a significant amount of money in the medium term and that there may be a big opportunity cost to the State by saving rather than investing the funds and developing the infrastructure we need in public transport, for example, and in health, by just salting the money away and trying to preserve its value. It is not opportune for us to do it at this time.

The PBO concludes that fiscal policies to pay down debt and mitigate risks to the population from natural disasters may have a better cost-benefit outcome than simply establishing a rainy day fund. In the current uncertain circumstances I believe the PBO's critique of the rainy day fund is very well founded.

I note that the consultation paper on a rainy day fund produced by the Department of Finance in October 2017, to which I referred several times, concludes that a rainy day fund is in line with what it calls "best international practice" and that the creation of a contingency reserve-rainy day fund "should be market-positive for Ireland". However, the paper also warns that "remitting funds to any rainy day fund will result in gross public indebtedness being higher than would otherwise be the case" and that the interaction between the rainy day fund and NTMA cash balances must be considered. I wish to focus on the role of the NTMA in the fund. I was pleased to hear the Minister say the NTMA will manage the fund. I welcome that news based on the track record of the NTMA in recent decades. One can at least hope those funds will be in reasonably safe hands and also accountable to us. I am pleased that point was clarified given that it was not clear in the Bill.

I support the creation of a national wealth fund when the current profound needs of our people in health, housing and other critical sectors have been addressed by the Government and when expenditure on the national debt is further reduced. When talking to nurses this morning it came home to us that we should not have a situation where nursing staff, the 40,000 brilliant workers in hospitals and health centres, had to take the action they did today. The matter should be resolved. I tried to establish the facts about the funding necessary to meet the needs of nurses but it is very difficult to get the information from either the Department of Finance or the Department of Health. There are crucial needs in the health service. Approximately 75 extra hospital beds that were promised in the budget should have been opened by now but they are still not open with all the ancillary staff provided. We must address that and other issues first and foremost. Given the existence of the funds administered and maintained by the NTMA, which is upwards of €30 billion, I believe that the time for this initiative has not come. It is not opportune to establish such a fund. The time has not come and it is not appropriate to do it now. Establishing a rainy day fund in the current circumstances is inappropriate and inopportune. It is a grave disservice to the millions of our citizens for whom the rainy days are here. It is raining right now in all the hotels and hubs where homeless people are waiting tonight, and for all the people who are on waiting lists. The all-party Oireachtas disability group spoke earlier about the significant waiting lists for early assessment for children on the autism spectrum. We

have so much to do with the revenue we have. We have enough stashed away. It is the wrong time to set up a rainy day fund.

*6 o'clock*

**Deputy Michael Collins:** The Government has told us at length about the importance of the rainy day fund. It is more important to know exactly who will benefit from this fund when the time comes. The official statement on the Bill stated that a drawdown from the fund can be made if the Minister is satisfied on reasonable grounds, with evidence and expert analysis, that it is necessary in the event of a severe economic shock. This leaves the fund open to being drawn on wrongly. What can trigger a drawdown needs to be made very clear. My concern is what happens if a Minister turns a blind eye to a crisis and waits for it to escalate before the fund is touched? For many people in Dublin the memory of the fodder crisis last year may be long forgotten, but people in west Cork from Castletownbere to Goleen, Kilbrittain and Ballinalee were severely affected. No one did anything until it was too late for most of them. Time and again I raised this crisis with the Minister for Agriculture, Food and the Marine and asked him to take immediate action to put in place an emergency fund, but that fell on deaf ears. I strongly suggested a fodder transport subsidy to assist in transporting fodder to farmers affected by the crisis. I advocated making livestock meal vouchers available with immediate effect and putting an aid package in place for farmers to help them purchase fodder. I also asked the Minister of State's Department to co-ordinate with the HSE so that a support system could be put in place for farmers who might be under psychological stress because of the financial strain on them at that time. He did not take my suggestions on board until it was too late for many. Will an exigency like this be deemed a crisis or will these people be simply ignored? Unfortunately my experience of this Government so far suggests that the latter will happen.

Fishermen have also had a raw deal from the Government and the Department of Agriculture, Food and the Marine. Our fishermen suffered greatly as a result of Storm Ophelia. Fishermen in my constituency along the coast at Crookhaven, Schull, Union Hall, Glengarriff, Baltimore, Ring, Courtmacsherry, Kinsale, Castletownbere and the islands, and fishermen along the west coast had their fishing gear destroyed by the storm. Damaged equipment included shrimp, crab and lobster pots. This was a crisis for them. I raised this matter with the Taoiseach in the Dáil and sought a compensation package to allow these fishermen to sustain their livelihoods. My pleas again were ignored. I wrote to the Minister over and over asking for a compensation package to be put in place urgently. What will happen in the future if our fishermen are again affected by such a storm? I greatly doubt the rainy day fund will come into effect for them. Moreover, very importantly, if it does come into effect, will the money from the rainy day fund be used in an efficient manner to help the fishermen affected at the time? Fishermen deserve more from this Government. In light of the complexities arising from Brexit for our fishermen and for fishing in our waters, I strongly believe our fishermen deserve their own Minister for fisheries and the marine to fight for the funds if this reserve fund is put in place.

The Minister of State at the Department of Foreign Affairs and Trade, Deputy Helen McEntee, stated earlier this month:

The Government has worked hard to achieve these key economic aims, while committing to investing in the infrastructure and housing that are so important to our people. We have achieved a balanced budget and a sustainable tax base.

I am not sure where she got this impression, because my constituents still feel let down in

the midst of the housing crisis. Despite all this Government's talk about tackling the housing crisis, I do not see the positive outcomes that were promised on the ground. I still know of people who have been waiting ten years or more on the housing list. They are living in appalling conditions. Will this rainy day fund be directed towards providing these people with a home as they find themselves in exceptional circumstances?

The economic crisis started in 2008 and continues to effect many people. The common trend I see in the crises I have mentioned is that they were left too late before the Government acted and this late action has left far bigger problems. It is also notable that rural issues were deemed non-emergencies. Looking at the history of this Government I am convinced that this will be a slush fund for Ministers for the rich parts of our capital that face problems. When it comes to the Cabinet table, there will be no voice for rural Ireland in the administration of this fund, as always. A cross-party and non-party group of Members should be set up to control this fund if it ever comes into being. Deputies from rural and urban constituencies must be involved. Until this happens I am opposed to the setting up of this fund. Instead, the Minister of State should direct some funds to my constituency of Cork South-West, which has been cash starved for decades.

Where is the Bandon bypass, which was promised in 2017 to the people of west Cork? Why is money being put into a rainy day fund when the Government cannot fund the projects it has promised the people? Why has the Minister of State not delivered, and why does he seek to put the money away and not use it? Why has this Government failed to spend any proper money to open up our roads in west Cork and to provide passing bays on the N71 from Bandon to Clonakilty, Leap, Skibbereen and Ballydehob or on the R581 from Bantry to Drimoleague, Dunmanway, Ballineen and Bandon? The Government should open up west Cork for business rather than hiding this money away for pet projects. What about all the promises made regarding Bantry General Hospital? Those promises are all verbal at present. I call on the Government to spend some money to set up a cataract unit there. It should spend the money now so that hundreds are not forced to frantically travel to Belfast to save their sight. The Government has left them to go blind on its watch. Ireland is ranked last in Europe at dealing with cataract patients along with Slovakia.

If the Government puts this money aside when these issues remain a crisis, how does it expect us to believe that it will sort a crisis out later? What about the new rooms promised to St. Brogan's college in Bandon two years ago? As yet there has not been a sod turned. The Government should use this money to carry out this project instead of having parents who are living across the road from the school facing a situation where there is no room to take their child. There are several projects that need to be dealt with. Publicans in rural Ireland are going out of business. This is an emergency that needs to be dealt with straight away. If the Government is not going to deal with these issues, I will not support this Bill.

**Deputy Danny Healy-Rae:** I am sorry to tell the Minister of State that I will not support the Bill. People in this generation are paying for the latest bank bailout. The Government is now getting ready for the next bank bailout and is asking this same generation to fund that bailout at the behest of the Central Bank. I do not know how the Government is tied to the pillar banks. Of the billions of euro the Government wants to put away in this fund, €170 million or €180 million would set up community banking. That would have saved a lot of rural Ireland's post offices, which are now being closed one after another. It is very hard for people to understand what the Government is at. Is it trying to cod the people? On the one hand, the Taoiseach says to the House that he cannot pay the nurses and the young teachers. He says he has no funding

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for this or that service, for hospitals or disability services, yet he can find money to put away to ensure that the Central Bank is paid and the banks are bailed out if something happens again as it did previously.

I refer to people with disabilities and people needing respite care. We have no services in Kerry. Not enough services have been provided for respite care for people with disabilities. I know many elderly people with a son or a daughter, people whose biggest worry is where their son or daughter will go. They are 75, 77 or 78 years of age. When they die, who will take care of their children? In Kerry at the present time we have no place for them at all. Why is the Minister of State with responsibility for disability issues not seeking to use some of the funding the Government is putting away to deal with those important needs?

We are falling by the wayside in dealing with mental health issues. We have no services, no facilities and no personnel. We just do not have enough resources to deal with people who have mental health issues. Sadly, so many end up committing suicide. There is too much of it around my own doorstep. That needs to be dealt with. As many as 600 people a year die by suicide. As I said the other day, if it happened on our roads, the roads would be dug up and grass would be grown on them. We would not be allowed to use them anymore.

We have a deficit and badly need more funding for infrastructure. We have been waiting since 2004 for funding for the Killarney bypass. Killarney is choking with 18,500 vehicles passing through it each day. The little bypass we have is practically inside the town.

We do not have sewerage schemes in many of our towns and villages. Kilcummin has been waiting for a sewerage scheme since 2004. Castleisland is waiting for a sewerage scheme extension for the past 30 years. Scartaglin and Curragh do not have sewerage schemes. Is it that all those people should go to hell? Is the Government saying it will put this money into this fund and everything will be grand? Is it saying to people in rural Ireland, "Manage away"? I am not being personal in terms of the Minister of State present but it is the truth. The Government is proposing to deny the people the services.

With regard to nurses and teachers, when the economy went bust they were told that they would have to suffer a bit for a while. If the Government has this money now, and I do not know if it has, nurses and teachers should benefit from some of it. I am very doubtful the Government has the money.

To take one issue I have been raising here religiously since I was elected to this House, namely, rural cottages, under the Government's watch ten rural cottages will be built in Kerry over the period 2016 to 2021. There are an additional 50 people on that list. They will provide the site and all they are asking is that the house be built for them and as sure as night follows day, those people will buy back those houses when they get back on their feet. That would put funds back into the local authority and those people would have a roof over their heads. I cannot understand why the local authority is being denied the funding to build those houses.

There is supposed to be a review of the tenant purchase scheme but that has been going on since I was elected to this House. That would put the Government back in funds. We cannot understand why people who are on pensions and could buy out their houses are not allowed to do so. We cannot understand what is going on. The Government is talking about social housing but it allows people to be evicted instead of letting the local authority buy the houses and allow the people to stay in them. In that way they might get back on their feet and buy them

back again.

I cannot support the proposal because people today are suffering enough. They need the money. There is no sense in putting it away for another bank bailout.

**Deputy Michael Healy-Rae:** I, too, cannot support this proposal on the following grounds. How can the Minister of State tell me it is prudent to put money into a rainy day fund on the day when our hard-working nurses the length and breadth of the country were standing outside their stations in a limited way because they wanted to continue to provide their services in hospitals? They did not want to be out on the picket lines but they had to be because the Minister of State, the five Ministers with responsibility for health and our Taoiseach did not give them what they want, which is fair play. That is all our nurses want.

In Kerry, we have been waiting for a community hospital to be built in Killarney. We are waiting for the beds in Kenmare Community Hospital to be opened and for additional beds and an upgrade to be provided for Cahirciveen Community Hospital. We are looking for beds to be opened in Dingle Community Hospital. It is unreal to ask a person in Dingle to have to go outside the Dingle Peninsula for respite care or to a hospital to convalesce after a hip or knee operation or some other serious surgical procedure. It is unreal and inhumane to tell them they cannot go to their own hospital where beds are empty. In many cases, offices are put in where beds should be located. Why in the name of Holy God should we talk about a rainy day fund when we are allowing that to happen? Why is it normal or natural that Deputies Danny Healy-Rae and Michael Collins and myself have to put people onto buses on a weekly basis and send them to the North of Ireland to have operations carried out, whether it be to do with tonsils, hips, knees or cataracts? We cannot provide that basic healthcare here. We are sending them up North on buses for those services and the Minister of State is talking about a rainy day fund.

Our farmers are not getting a fair deal at present. Many are under severe and unreal financial hardship. One hears people talking about bigger farmers. Bigger farmers mean bigger trouble. Small farmers means more trouble again because they do not have an income. They are trying to balance a very small budget, educate their families, ensure they have healthcare, and pay their loans, whether for farm buildings, the house they are living in or infrastructure they put on the farm. They are just trying to pay their bills. The Government is talking to them about putting money in a rainy day fund. Tell them that makes common sense.

The Government should talk to our fishermen. Myself and Deputy Ferris raised an issue here about spur dogfish. All fishermen want is a small change to be made. Deputy Michael Collins has been highlighting fishery issues. All we need are small changes to be made to improve the lot of our fishermen but what is the Government doing? It is cutting tonnage for the people who go out to sea. I know one group in particular and the tonnage for their boat has decreased from 134 tonnes to 26 tonnes. That is unviable and untenable. They cannot make a living.

With regard to infrastructure, myself and my brother, Deputy Danny Healy-Rae, adore Kerry County Council. It is probably the best county council in Ireland, and probably in the western world, but it needs more money for basic infrastructure. I want to highlight schemes in other parts of County Kerry for which we are waiting. In Castlecove, Caherdaniel and other parts of south and west Kerry we need basic infrastructure. We need extensions to existing sewerage schemes and sewerage schemes to be provided where they do not exist. Our excellent county council will spend that money very wisely once the Government provides it. We

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proved that point previously when we lobbied for local improvement schemes to be reinstated in our county and our country. They had stopped from 2011 to 2016 but they have started up again. We proved we can deliver them in our county. The roads are ready. All we want to do is spend the money, but we need more of it. There are hundreds of these roads. Contrary to what a previous Minister said on one occasion when he went down to Kerry and forgot himself, namely, that the road up to a person's house is not all that important, the road up to a person's house is probably the most important road in the whole world to that person because wherever he or she goes, he or she has to go out that stretch of road every day. The more of those we can do in our county and in our country, the better for the people who are our bosses - the taxpayers, the people who pay for everything.

With regard to other road infrastructure we need in County Kerry, give us the rainy day fund and we will spend it every day of the week. It need not be raining because we have many projects and so much we need to do. As my brother outlined, we need an extension to the bypass in Killarney. We need additional car parking in places like Killarney town but to do all that we need money.

It is true that housing is a critical problem. I am very sorry to say, and I am not critical of Ministers, that when I see a wrong being done I want it to be put right. I have asked time and again for an incentive to be put in place with regard to all the vacant houses in our towns and across the countryside. A small incentive would allow people to do up those properties and bring them back onto the market. Is that being done? It is not being done in a meaningful way.

We need to build more local authority houses. We need to bring in a tenant purchase scheme that is real, not the current unreal one which debars 80% of the people who should be eligible to purchase their houses from purchasing them simply because they are not in full-time employment. At the same time, they might have enough of a retirement fund or income from some other source to allow them pay for the house in which they are living but they are being told "No". We waited seven years for a tenant purchase scheme to come in and when it did, the Government made a mess of it. It gave us something that was unworkable, untenable and unreal, which means that many people cannot buy their houses.

When it comes to other issues such as banking, I put on the record of the Dáil yesterday a report that was brought to my attention and to the attention of the Government last week. It was done by a respectable former detective Garda inspector and clearly outlines criminal activity that was perpetrated. The fall guys for that criminal activity were respectable managers of building societies, many of whom I know, who gave great service over the years. They were shafted and they were the fall guys for the bad practice that was carried out.

I am asking the Minister of State to use this rainy day fund to try to put right an awful lot of the wrongs that we have in society at present. Being financially prudent is smart and we were all taught that we should save up a few bob for a rainy day but not when there are so many issues. If one is in a house and there is a hole in the roof and the water is falling in, one would not advocate continuing to put money away for a rainy day. If the rain is coming in, one will try to plug the hole in the roof and that is what we should do. As a Government and as a society we should put right the wrongs that are there at present. We should use this money now and not save it for some aspirational problem that will come in the future and for some Minister or Government to use it at their whim, perhaps for political advantage at that time. I ask the Government to please be sensible about money and forget about the rainy day fund because it is raining on the people of Ireland enough right now and they are our bosses.

**An Leas-Cheann Comhairle:** The Deputy had an additional minute.

**Deputy Michael Healy-Rae:** I thank the Leas-Cheann Comhairle.

**Deputy Catherine Murphy:** A rainy day fund gives the impression that times are so good that we can begin saving for a rainy day. It is to pretend that the rainy day is something off out there in the future that may or may not come to pass. It is to pretend that we are easily able to afford to save significant sums of money because we are financially stable. We cannot equate a state to a household but in normal households, paying the bills is prioritised and putting matters right before investment is made for the future. Yet Ireland's house is not in order. On paper, the Government might point to cold statistics such as GDP, GNP and so on but the health of our country cannot simply be measured this way. That is very much a bookkeeper's exercise. In the past, Fine Gael governments have been accused of carrying out bookkeeping exercises rather than looking at the social component of issues.

Homelessness among adults and children is at unprecedented levels, housing lists continue to grow beyond all reality, public services are crying out for strategic investment and we are still under the unbelievable debt burden left to us mainly, although not exclusively, by the financial institutions and the bondholders in the wake of the banking collapse. Make no mistake, we are still very much experiencing a rainy day in terms of what needs to be done. I am conscious of the looming impact of Brexit and its potential fallout. How could we not be? We have to shield and prepare ourselves for what could be an unprecedented blow to our economy but there are other considerations as well.

The State will be forced to pay cold hard cash in fines to the EU very soon because we will have failed to meet our 2020 climate targets. We will have to put money into meeting the targets. Instead of committing the funds to key infrastructural improvements that would help us to reach those targets, we are putting it into a rainy day fund. By missing the 2020 targets, we set ourselves much further back from reaching the 2030 targets and we will face even more fines. I asked at the Committee of Public Accounts how much we would be looking at in terms of fines and the economist from the Department of Finance told us that from 2021, we are looking at €600 million a year. Over ten years that will be €6 billion. When we start to look at what we could invest in, that money would reduce the prospect of us paying fines. It makes sense for us to invest in that and it is financially prudent to do so if we look at it in the round.

Ireland has a significant infrastructural deficit and it is holding the country back. If we look at the Nordic countries, why is an equivalent investment being made by foreign direct investment in those countries? They do not have a low corporation tax rate so what do they have that is attractive? They have good education and training, they have fantastic services and they have excellent infrastructure. It can be done in a different way but investment must be made. Our continued lack of investment in basic services means that our people are constantly waiting. They are waiting on hospital trolleys, never-ending housing and health waiting lists and waiting at bus stops and train stations.

I am also a member of the Joint Committee on Transport, Tourism and Sport and transport is one of the components that will contribute to the bill we could end up with for failing to meet our climate targets. It takes five years of a lead-in time to order and have a train delivered. We now have overcrowded trains which makes it unattractive for people to use them at peak times when we need to get them to use them. We have to make it an attractive proposition because there are more people in cars. Instead of making that kind of investment, which not only makes

sense in terms of the cost of congestion, productivity, accident rates and all of the rest of it, but it also makes sense in terms of these fines. That kind of investment brings a return.

On a purely theoretical level, an emergency fund makes sense. It can be set aside with boom-time taxes such as we experienced last year with the large extra amount that came in from corporation taxes. It was not set aside for capital projects, it actually just went into the health budget. That is the very opposite of what the Government preaches to the rest of us about the kind of economics that it sees as not being very prudent, but that is exactly what happened. The reality is that such a theoretical view fails to take account of the value of spending now to save in the short, medium and long term.

For example, in excess of 40,000 households are being supported with the housing assistance payment, HAP. Private landlords are getting the benefit of that because the Government has not made the investment to build houses. Some of that money could have come from the European Investment Bank; it does not always have to come from national coffers. There was a lot more money in that fund that we could have leveraged, even during the tough times straight after the crash. If there had been more investment in more direct builds, that would have had an impact on the cost of rents generally because the capacity issue would have been dealt with. That feeds directly into the cost of living, which is unsustainably high. In parts of Dublin, for example, it is just not possible for people on ordinary or reasonably good wages to live in rented properties because rents are constantly increasing. That is because there is a capacity issue. While there is a role for the private sector in building houses, there is also a much greater role for public sector involvement and it has a direct bearing on the price of rents. I cannot get my head around why there has been such resistance to that. The cost of living continues to rise because of the lack of investment.

A useful topic to mention is Sláintecare if we take the example of the health service. By investing in the infrastructure that allows for primary healthcare centres, the demand on public hospitals can be reduced, which is a much more expensive way of delivering healthcare. Spending now to save in the long term is the approach that we believe is needed. In the absence of such a system in terms of healthcare, people find they have to fork out for private health insurance. I come across pensioners who are struggling to pay their private health insurance, terrified that they will get sick. If there was a primary healthcare centre in their area, they may only need to be monitored for, say, diabetes or other such illnesses. That would be a much more efficient, cheaper and satisfactory way to deal with healthcare provision for some cohorts of illnesses.

If we view matters with a colder economic eye, it is clear that the higher cost of living in Ireland is making it unattractive for investment, whether it be domestic or foreign direct investment, and it will continue to be unattractive. As I said, the Nordic countries are a very good example of the where the type of investment needed has been made to benefit sustainable growth into the future.

We have expressed serious concerns as to whether this fund could ever be used. The Minister of State has linked the fund to a catastrophic event, making it more like a very expensive insurance policy as opposed to a fund for perhaps capital investment as the need arises. It can be very useful in the event of a downturn to have a fund for capital investment and thereby keep people employed and add to growth in the economy. We accept it is prudent not to rely on corporation tax receipts or development levies, resulting from a one-off boom, for ongoing revenue but that does not mean that revenue from a boom in the form of those taxes could not

be used to fund infrastructural projects, as the need arises.

We do not believe a rainy day fund is an appropriate approach and instead the Social Democrats have proposed the creation of an infrastructure contingency fund, which at least is descriptive about what it can be used for rather than having a fund for a catastrophic event. It is not clear how this fund could be leveraged. The fund we proposed would be held in reserve for key infrastructural projects and made available for capital projects in such areas such as health, housing, energy and transport on the principle that if we invest now we will save in terms of climate change obligations, housing or programmes such as Sláintecare, which I have highlighted.

We have an opportunity to address key infrastructural deficits and, in so doing, save significant costs in the medium and long term and reduce the cost of living for people. The more the cost of living rises, the more demand there will be for wage increases. That would give rise to an never-ending round of problems if that were the case.

We had the National Pensions Reserve Fund in the past. There was €67 million in that fund or it may have been much more than that. We had a very significant amount in it because we have a pensions time bomb. That was raided predominantly to bail out the banks. We have a national debt that is realm of the stratosphere. It is more than €200 billion. Essentially, if we are going to sustain that debt and pay it off, we must have a vibrant economy. A vibrant economy depends on us having housing that people can afford, not raising our cost of living to a level that is unsustainable and not incurring debts such as those we will incur if we do not invest to ensure we do not have debt on foot of our climate obligations. It is prudent to look at a proposal in the round. We believe it has been looked at in a silo-based way. This fund will be put out of reach when it could be used in a way that we would end up with a much more sustainable country and economy.

**Deputy Martin Kenny:** This proposal in this Bill flies in the face of most people's logic. It is proposed that we would have a rainy day fund. When hearing about it initially the public will say it is a good idea to have savings and have something put by. However, when one studies it, while the money is to be put away, it cannot be spent under Stability and Growth Pact rules and all the other rules in place on what would normally be considered a rainy day situation. It can only be spent on shoring up the financial services sector.

The bailing out of the banks bankrupted the country. In the context of this Bill, we are saying that we are going make sure that does not happen again, that we will not bankrupt the country and that we will have saved up to bail out the banks the next time they go down. What will that do? It will create a situation where the financial services sector will become as reckless as it was in the past because it will know it will have that buffer in place, and that the Government will bail it out with taxpayers' money. I do not believe that is right, and neither would any logical, thinking person.

It is time we recognised that the exceptional circumstances which happened in this country should not bring us to a situation where we repeat the same patterns again and again. That seems to be what we are setting out to do. We are putting a fund in place so that those guys can go mad again and we will bail them out. What will happen then? The economy will keep going down and down.

Thousands of people the length and breadth of the country have been destroyed by the economic crash. They cannot afford the repayments on their houses or to pay their debts. The

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sheriff is writing letters and threatening to evict them. Much of that is down to the greed of the banks and the fact the country and the economy were destroyed because of what they did.

Tonight is a very cold one, although not a rainy one. It is very harsh for the many people who are homeless and who have no place to stay. Efforts need to be made and funds need to be put in place to provide homes and a secure future for those people.

We have major problems in our health service, particularly in our health infrastructure. Apart from the situation with the nurses, I would point to the physical buildings we need to put in place, including a cath lab in Sligo as well as the various services needed around the country. We are abandoning all those projects and are saying they are not important and that what is important is to save up to ensure that if the banks get into trouble in a few years' time, we have money to bail them out. That is a terrible message to send the public, namely, that we are prepared to do this at this point in time.

The money in this fund can be used to remedy exceptional circumstances. Those exceptional circumstances are to ensure the stability of the financial services system. That is simply going back to where we were before which is what we need to avoid doing. If we consider our climate change obligations, we are facing approximately €600 million a year in fines if we do not meet the 2020 agreement in regard to our carbon sequestration target. We are putting €2 billion away when we have to meet fines like that. We are not going to invest and develop the sectors that we need to develop in order to sequester the carbon to meet those requirements. We have major problems throughout the country in terms of how we are going to manage all this. The farming sector is under major pressure, with pressure on farmers from every direction.

Basically, a plan is needed and sectors need to be developed. The Government needs to invest to resolve those problems and save the country millions of euro in fines, which will turn into billions of euro very quickly if we do not carry out those actions. At the same time we are talking about putting all this money away to bail out the banks.

Regional development is another major problem. As the Minister of State will know, rents in Dublin are going through the roof and people cannot afford to buy houses. Yet in other parts of the country, there are major problems with rural depopulation and rural decline. We need a Government that invests in the rural economy, and that invests in the areas that have the most potential and that ensures we develop those places, attract employment to them, get people to live in them again and get things happening in them again. The Minister of State is nodding in agreement that this needs to happen. Yet the Government is going to put €2 billion, or €2,000 million, into a fund and the only stated cause that it can be used for is to bail out the financial services sector if and when it gets into trouble again. I am sure every public representative here has dealt with people among the public who have got into trouble with the financial services sector when their loan could not be paid or ran into arrears and it was sold to a vulture fund. The bank would not do a deal with a homeowner because it said there was a moral hazard and if they were not forced to pay the entire amount borrowed that it would set a precedent which would be bad for the future. We have already set the precedent that it is bad going into the future and a moral hazard by bailing out the same banks and financial institutions in the past. Setting up a fund to bail them out again is copper-fastening that moral hazard.

Under the EU rules, we cannot use this money for anything other than bailing out banks. That is the big problem with it. I do not think any logical person in a normal, functioning economy would say that it is a bad idea to put a fund in place to invest in the future when bad

times or a downturn comes. But it is not for that: it is just for this one purpose. The other problem is that we do not have a normal, functioning economy yet. We still have large sections of the economy that are struggling. Many people cannot afford to live, are under significant stress and find the pressures of the costs of living very difficult. They are overtaxed for the services they receive.

I spoke to a woman recently who told me how she and her husband have an income of almost €80,000 coming into their house. When taxes are taken out of it, they have just under €50,000. Yet, when their child was sick and they went to the hospital's emergency department, they had to write a cheque for €100. She asked what we are paying all this tax for if we cannot get any service when we look for it except if we pay again for it. That frustrates people. She is paying a mortgage and almost the same amount again in childcare. These are real crises and real rainy days. I am not talking about people who are on the dole but people who are working. People who are unfortunate enough to depend on social services are in an even worse situation, yet the Government thinks it is okay to put €2 billion into a rainy day fund and grow that to €8 billion over the next years in case the financial services need our help again. The priorities here are all backwards and it is time to rethink this situation.

**Deputy Pat Buckley:** We are here to talk about the National Surplus (Reserve Fund for Exceptional Contingencies) Bill 2018, a name which I will simplify for people outside of this Chamber as a rainy day fund, or as we call it, another bank bailout fund. This Bill will see up to €2 billion transferred from the Ireland Strategic Investment Fund into the reserve fund. More worryingly, €500 million will be transferred from tax revenue every year until 2023, totalling €4 billion. The Government spoke about where it can and cannot be used. It states in black and white that the money can be used to remedy exceptional circumstances, to ensure the stability of the financial system and to support major structural reforms. Unfortunately, those three points are all for the banking sector. The only explicit use of the fund in this Bill is to ensure the stability of the financial system and capitalise the banks if they fall on so-called hard times.

The Government and Fianna Fáil advertise this idea of a rainy day fund as a sensible policy to save in the good times and to spend in the bad times. The European fiscal rules do not allow for this and Sinn Féin, from a freedom of information request, showed that the fund cannot be used to increase general spending on health, education or jobs during a downturn, nor can it be used to protect the economy from any Brexit fallout or to mitigate climate change. That sets out fairly clearly that whatever kind of rainy day we will have, these will not fall into that category. This is not a rainy day fund but a contingency reserve fund with an explicit purpose of recapitalising the banks that broke this country not long ago. Following another freedom of information request from the Department of Finance, Sinn Féin received information confirming that the fund would not be used for Brexit or general spending such as on health, welfare or education. This is the second time that we have been told that this money cannot be used to invest in services in the event of a major downturn. The National Surplus (Reserve Fund for Exceptional Contingencies) Bill and the setting up of the reserve fund for exceptional circumstances is an attempt by Fine Gael to cut public investment and an attempt by Fianna Fáil to improve its image after it caused the crash, and to set up a fund to bail out the banks again. This fund is not a rainy day fund as the money stored cannot be used in hard times to support employment or stimulate the economy as a counter-cyclical policy. It is a contingency fund for another bailout for the banks and financial institutions.

The only shock this economy has witnessed in the past decade is a financial crash that was followed by a bailout of the banks. The evidence and options before us can only lead to the

conclusion that this fund is designed to recapitalise the banks if they fall on so-called hard times again. Sinn Féin rejects the fund which could see up to €8 billion in taxpayers' money given to the banks.

I have a few questions which I do not expect the Minister of State to answer tonight but I will put them on the record. If the Bill did pass, which I hope it will not, on the back of a number of parliamentary questions, will the residential care capital plan for 2016 to 2021 be affected? If we take €500 million out of the Exchequer each year, there has to be a knock-on effect. Youghal Community Hospital is supposed to have a 38-bed unit by 2021 at a cost of €2.67 million. Is that part of the €500 million that we will lose? In Midleton, County Cork, a 50-bed new community nursing home is supposed to be completed by 2021 at a cost of €10.3 million. Nobody is saying what will be hurt here. It is not rocket science. If one puts €2 billion in additional money into an economy, it stimulates the whole economy with a knock-on effect. Put €2 billion into housing or health and people would get real jobs with real wages, paying real tax, alleviating the housing situation, helping the health system, and be able to afford to take out mortgages. I cannot understand this. The Minister of State can correct me if I am wrong but I think, for the 2017 budget, that one of the submissions from IBEC stated that there were housing and health emergencies and to tell Europe that Ireland would not provide the €2 billion bailout because we needed to spend it here. It is a matter of investing in our people.

My background is in mental health services and they are falling apart. We will be here again tomorrow, discussing child and adolescent mental health services, CAMHS. We have been told lies and sold pigs in bags that we cannot see. Some €84 million in additional funding was mentioned last year. It was not €84 million but €35 million. There is the same old spin and it is still about this fabulous little thing that the Government has cooked up, called a rainy day fund. It can be prudent to save and plan for the future but this plan for the future is only for the banks and a bailout. By Jesus, are we going to stand here and let this happen again? I have kids and we will all hopefully have grandchildren. Let us do something right of which we can be proud. Taxes are for investment in our own country. The banks castigated this country, broke families and sent people to the graveyard. We are well aware of it. The Government comes up with some of these fantastic ideas and how it sells them is beyond me. I am trying to get the points across of people outside this Chamber who listen to us and say this will not be spent on health, education, disability, mental health or rural Ireland but is an extra tax to bail out the same gang that has put them in the deepest hellhole that this country has ever witnessed.

People mentioned the moral hazards. It would be a moral hazard if we backed this fund. Everybody paid their tax, then paid it again for the bailout. Every citizen in the country is paying back the bondholders and now the Government wants us to pay as much as €8 billion extra over a number of years. People will get nothing for it but an extra fund so the next generation might not be hit as hard because there is a contingency plan for the bank.

As for services we are supposed to expect, such as those the Government's property tax was supposed to provide, we are getting very few of them because the Government takes that money from us. It is stealing it from us. It just drives me mad.

The tools are already in place to ensure that in the event of banks succumbing to the old mistakes of the past, to put it politely, it is the bank and the shareholders that will have to pick up the bill, not the Irish taxpayers, and that is as it should be. The Government should regulate the banks rather than writing them a cheque, again using taxpayers' money. Instead of setting up a bank bailout fund worth over €4 billion of taxpayers' money, the Government should invest in

measures to deal with the greatest threats we face in our economy and society, future-proof our economy and invest in public services, including public housing, health, education - I could go on and on. How is the Government approaching these issues in the Bill, though? It proposes to collect billions of euro of hard-earned taxpayers' money and do nothing with it. It will put the money into a pot and let the banks mind it. It beggars belief.

At the start of my statement I mentioned that €500 million will be transferred from tax revenues every year until 2023. I reiterate that if the Government takes €500 million extra out of the economy instead of putting it in, where there is an action there will be an instant reaction. It will have devastating effects on our crumbling health system and the mental health service, which is not only crumbling but practically non-existent. It will also affect disability services, education, housing, rural transport, broadband and planning for the future energy-wise - the list is endless.

Sometimes people are not in touch with reality. The Taoiseach referred today to the nurses' and midwives' strike. He said he did not want to put an extra burden, a cost, on taxpayers, for the sake of pay equalisation. The Government still sees fit, however, to take an additional €500 million - not €500,000 - out of our crippled services from now until 2023 and stick it into a slush fund for the banks. It will not make money. As I said, the Government should put the €2 billion into the economy. If it does so and invests in the areas where it is falling down, it will have a knock-on effect. This goes back to action and reaction. We could start alleviating the housing problem and get real jobs and real pay. It would go on and the knock-on effect would be endless, but the Government is going to drain the whole system.

I will finish with a very simple point. Sinn Féin will reject the Bill, and the Minister of State should not be surprised by that, but we also want to send it back to the Department of Finance and certainly back to the drawing board. It is one of the most ill-conceived Bills I have ever spoken on in this House since I was elected.

**Deputy Maurice Quinlivan:** When will it rain? I represent Limerick city. I am sure the same issues come up in the Minister of State's constituency clinics as come up in mine. People cannot access houses. I know for a fact that in Limerick there are roughly 70 council houses that are boarded up and owned by the council. They do not have the funding to do them up. The Minister, Deputy Eoghan Murphy, tells me every time I ask him about this that funding is not an issue, but the council staff - I spoke to some of them again today - are stressed to the gills because they are under pressure from people who see the houses in their local communities boarded up and who have family members and friends in emergency accommodation. If that is not a rainy day, I do not know what is.

The hospital in my constituency, University Hospital Limerick, is home to the most overcrowded emergency department in the State. Almost 12,000 people waited on trolleys last year. Again, I would like to know how the Minister of State would define "rain", given that the Government does not put the money into dealing with this. The Government has not delivered the 96 beds that are critically needed. Funding for third level institutions is also causing people huge concern. I have met representatives of local universities who tell me they are totally underfunded. No proper funding is put into infrastructure. For instance, the Limerick to Cork motorway has not been delivered or progressed as quickly as is needed. We now have 22 Dáil sitting days before we face the calamitous Brexit, whereby the UK will probably crash out of the Union. We see the heads of the Bill the Government produced last week with the policies and solutions it is coming up with in the Department of Business, Enterprise and Innovation.

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There is nothing new in those heads, no additional measures, no new proposals. They have recycled a Bill that has been floating around since 2017. We have a loan scheme for business which most businesses say they cannot access.

When would the Government access a rainy day fund? What is it for? The idea of a rainy day fund would be very good if it were not already raining for so many people. It is hard to understand why the Government is putting away money when we have critical situations in housing and health. Deputy Buckley referred to CAMHS. I have a whole list of kids who have been waiting 18 months to get assessed by CAMHS, and I can tell the Minister of State that the issue is a lack of funding. The idea of a national reserve fund would be a good idea if we had solved many of the critical problems we have, but I do not believe we are anywhere near addressing them at present.

**An Leas-Cheann Comhairle:** I call the Minister of State, Deputy D’Arcy, to conclude.

**Minister of State at the Department of Finance (Deputy Michael D’Arcy):** There is no place more comfortable than where the three Sinn Féin Deputies are sitting. Sinn Féin is sitting on the fence. It is a national past-time for Sinn Féin. It does not take its seats in Westminster and it abdicates-----

**Deputy Pat Buckley:** That has nothing to do with people-----

**An Leas-Cheann Comhairle:** Please, Deputy Buckley.

**Deputy Michael D’Arcy:** Sinn Féin had 22 or 23 minutes, and I never interrupted Deputy Buckley once. He is not able to take the criticism back. It has been two years with no government in Northern Ireland.

**Deputy Martin Kenny:** That is not a criticism.

**Deputy Michael D’Arcy:** We are dealing with the finances of the State in a careful, prudent and coherent way.

I want to stop the lie, gentlemen, please, and I use the word “lie” because what they said about this being only about bailing out the banks is a lie. I do not think I am being unfair when I say that is more or less all Deputies Buckley and Martin Kenny said, nothing else.

**Deputy Pat Buckley:** I actually think-----

**An Leas-Cheann Comhairle:** Please, Deputy Buckley.

**Deputy Michael D’Arcy:** That is fine.

**Deputy Martin Kenny:** That is what the Bill says.

**Deputy Michael D’Arcy:** I would like to put the following on the record of the House, please, a Leas-Cheann Comhairle.

**Deputy Pat Buckley:** That is what it says in the Bill.

**Deputy Michael D’Arcy:** There has been speculation that the fund could be used only for a future bank bailout. To clarify the fund and the drawdown, the latter can only be to the Exchequer. Direct payment to any other body or organisation is neither contemplated nor permit-

ted. Drawdown is also subject to Dáil approval, and any onward payment from the Exchequer will be subject to the normal public financial procedures. I just wanted to clarify that for the Deputies in order that they accept it. For completeness, I wish to add that the use of the fund for a bank bailout is not forbidden. It, therefore, could potentially be used if there is a wild emergency at some stage in the future, but these measures could not take place without a further decision of the Dáil, so the Dáil will decide. The measures the Deputies are talking about at national and EU levels are intended to protect against such an eventuality. I refer in particular to the banking union, which is an EU bank supervision and resolution system developed in the aftermath of the previous financial crisis and the subsequent crisis in the eurozone. The banking union is intended to place the European banking sector on a more sound footing and will restore confidence in the euro area. At its core, the banking union aims to ensure that banks are robust and able to withstand any financial crisis, to prevent situations in which taxpayers' money is used to save failing banks and to protect consumers. It is this break between the sovereign State and the funding banks that has been worked on for the past decade. However, the Deputies, in particular Deputies Martin Kenny and Buckley, said this is only for the banks. It is not. Do the gentlemen accept that?

**Deputy Martin Kenny:** No.

**Deputy Michael D'Arcy:** Okay. That is fine.

**Deputy Pat Buckley:** I can give the Minister of State the quotes-----

**An Leas-Cheann Comhairle:** Deputy Buckley is normally very orderly.

**Deputy Michael D'Arcy:** They are just completely ignoring what I have just said. That is fine, and they are entitled to their opinion, but again, they are in the comfort zone of hurling sideways only on the ditch.

**Deputy Martin Kenny:** Is it not-----

**An Leas-Cheann Comhairle:** Deputy Martin Kenny is normally very orderly as well.

**Deputy Michael D'Arcy:** Sinn Féin does not participate in Westminster or in Northern Ireland and it chooses not to participate in government here.

**Deputy Maurice Quinlivan:** In fairness-----

**An Leas-Cheann Comhairle:** Deputy, please.

**Deputy Michael D'Arcy:** Hurlers on the ditch is all they are.

**Deputy Pat Buckley:** That is condescending.

**Deputy Michael D'Arcy:** The Bill legislates for what has been termed the "rainy day fund", a commitment in A Programme for a Partnership Government and an important element of the Government's strategy to put our national finances on a sound footing while building resilience to external shocks, and there can be external shocks for which none of us is prepared. That is what the Bill is for.

A number of Deputies questioned the very purpose of the Bill and claimed that international experts have recommended other courses of action.

*7 o'clock*

Let me be clear that all the international and national experts have endorsed the establishment of a rainy day fund. Given our current strong economic performance, we should make provision now to address the effects of a potential future crisis that will be outside our control. This fund will be an economic buffer available for drawdown in the event of a sharp economic downturn. This will also allow the Government of the day to mitigate the effects of that downturn. It allows capital investment and current expenditure to continue even if there is a sharp reduction in tax receipts.

A number of Deputies referred to the level of indebtedness of the nation. Ireland's level of indebtedness is somewhere between €200 billion and €210 billion. Everybody says it is the fault of the banks. The Sinn Féin Deputies also said that. For clarity, in 2007, the national debt was approximately €40 billion. The figure for the banks is €30 billion. The remainder is what we borrowed from partners such as the European institutions and other countries which directly funded us. We relied on the kindness of strangers. The remaining amount of approximately €150 billion-----

**Deputy Martin Kenny:** That was because of the banking crisis.

**Deputy Michael D'Arcy:** It was not as a result of the banking crisis. It was as a result of the collapse of the tax take.

**Deputy Martin Kenny:** That was because of the banking crisis.

**Deputy Pat Buckley:** That was because of the banking crisis.

**Deputy Michael D'Arcy:** We were, on average, short by €15 billion per year for a decade. That is why the current level of indebtedness is as high as it is. It was not because of the banking crisis.

**Deputy Martin Kenny:** Did the banking crisis not cause anything?

**Deputy Michael D'Arcy:** The crisis was a result of the collapse of the tax take and over-reliance on VAT and excise. We kept spending. The Sinn Féin Deputies are encouraging us to keep spending and that this time will be different. That is Sinn Féin's policy: tax, spend, destroy the economy, have a good time, and we will spend the next decade trying to tidy up afterwards.

**Deputy Pat Buckley:** The Government should not screw the taxpayer.

**Deputy Michael D'Arcy:** It has been a hard decade for people. We have not had the money to spend on capital projects that we wanted but we are going to spend €116 billion. None of the Sinn Féin Deputies mentioned the €116 billion for Rebuilding Ireland. They only mentioned the negatives.

Deputies have a variety of positions about this. Some want more funds transferred into the fund and many others want no contributions to the fund due to the challenges being faced now by citizens, including the shortage of housing. Some €2.4 billion will be available to be spent on housing next year. I stand to be corrected, but that is the most money the State has ever spent on housing.

Deputies also referenced health expenditure. We will spend €17 billion on health in 2019.

We have never spent more before.

**Deputy Pat Buckley:** The Government is not getting value for its spending.

**Deputy Michael D'Arcy:** We have never before spent as much on health.

Deputy Quinlivan referred to child and adolescent mental health services, CAMHS, and the issues with CAMHS are nationwide. The issue is not having the right, qualified people working in the sector. That is the main issue with CAMHS. It is not about money. I can only speak about Wexford, the area that I know best. We have money and positions that are funded and available in CAMHS but we cannot get the appropriate people and the correct staff. Those are facts.

Responsible Governments must address a multitude of challenges. Sinn Féin would not know anything about responsible government. It is out of it in Northern Ireland, does not even go to Westminster and chooses not to participate here.

A Government cannot focus all its resources on one challenge as this will only exacerbate the other challenges. The Government is addressing the shortage of housing with the creation of the Land Development Agency, the establishment of Home Building Finance Ireland and the refocused Ireland Strategic Investment Fund. These steps will help to deliver new homes on the scale now needed, and alleviate price pressures in housing. In the third quarter of 2018, we saw new house completions increase by 33% and granted planning permissions increase by 62% year-on-year.

Deputies Michael McGrath and Fleming raised concerns as to the €8 billion cap. This cap reflects the advice of experts who have offered constructive views and is particularly informed by our high debt levels. It is not feasible to continue incurring interest and carrying costs while holding a sizeable rainy day fund.

As raised by other Deputies, the Government must assess the range of competing priorities of the requirements for capital investment in housing and health, the need to make our public finances stable and sustainable and the need to manage the significant debt burden we are still carrying as a result of the previous crisis. I will leave predictions of what will trigger a future economic shock to others but it is certain that there are external risks and challenges out there, of which Brexit is only one. Some of these risks are known and are being planned for. There are other risks that we do not know about and for which we are not planning. They are the ones that come from left field and surprise everybody.

We are only too well aware of the impact of a severe economic shock on the citizens of our country. While we have made huge progress, the effects of the most recent economic and financial crisis have long lived with us and are still being felt by too many people today.

I am confident that we are in a far better position to weather the storm when a future crisis hits. Setting reserves aside now, under this Bill, is important.

I wish to touch on the issues that were raised as best I can, although I am not sure I will deal with all of them. Spending on our health service is already at record levels. In 2017, OECD data placed Ireland fifth in spend *per capita* among the EU 27. The additional expenditure in 2018 alone is around €1.2 billion and, as I said earlier, there is an expenditure of €17 billion for health in 2019. There is simply no question whatsoever that health funding will suffer as a

result of the establishment of this rainy day fund.

The Fiscal Responsibility Act imposes a duty on the Government to comply with fiscal rules. The national surplus does not amend or change this obligation. In setting out the circumstances for drawing down funds from the rainy day fund which will be formally known as the National Surplus (Exceptional Contingencies) Reserve Fund, Government has been careful to make a clear link with the existence of exceptional circumstances within the meaning of the stability and growth pact.

We cannot do it all again. Too many Deputies on the other side of the House, and not just those from Sinn Féin, think that we should spend money on this, that and the other. I did not have a method of calculating exactly how much money could or should be spent but it has already probably run into billions. This is an irresponsible type of politics. If those Deputies switched from that side of the House to this one, and were suddenly in a position whereby they had to be responsible and prudent, they would find they could not do everything they have promised. That is irresponsible. That is the politics of populism that has the body politic in trouble worldwide.

**Deputy Maurice Quinlivan:** That is not true. The Minister of State can throw that accusation at other parties.

**An Leas-Cheann Comhairle:** The Deputy has to listen.

**Deputy Maurice Quinlivan:** He knows that Sinn Féin does costings.

**An Leas-Cheann Comhairle:** The three Sinn Féin Deputies are normally very orderly.

**Deputy Michael D'Arcy:** I did not interrupt any of the three Deputies.

I will try to answer some more of the questions as best I can. The State money available from what was formerly the NTMA amounts to approximately €8.5 billion. The money in the escrow account from Apple amounts to approximately €14 billion, including interest. That is to be decided by the European Court of Justice at some stage in the future.

I live on a farm, down a lane in rural Ireland. I do not have the rural broadband connection I would like, like approximately 320,000 other people. I continually hear about rural Ireland being impacted by Government and nothing is further from the truth. I do not have a breakdown of figures per county but I have the figure for my own county. Last year, in 2018, €9.8 billion was spent by Departments, mainly the Department of Rural and Community Development, in County Wexford. That money was spent in rural Ireland, not in the large towns, but in smaller towns and villages in the countryside to support rural Ireland. Rural Ireland is not exclusively about post offices. It is not exclusively about being able to have a couple of pints, or a few drinks, and drive home, as some of the Rural Independent Group Deputies would like. That is not what rural Ireland is about. Every area in rural Ireland is not thriving but some areas are doing much better than others. Deputy Martin Kenny has heard me make this point before. I can name dozens of places that are thriving and dozens of other places in rural Ireland that are not. We are investing in rural Ireland and in communities in small towns and villages. The rural regeneration programme and the Minister, Deputy Ring's pot of money is, and will be, of huge benefit. The first €55 million was announced before Christmas and the second portion of that pot will be announced soon. They are crucial projects for rural Ireland. It is not all about the post offices. The congregation area that was the post office will change into the community

centre run by communities. That is how I see the successful communities that are thriving and doing well. There is money available if they are organised and focused on how they draw down those moneys.

The Rebuilding Ireland programme will cost €116 billion. There is a lot of talk about the potential for climate change, its negative impact and fines we may have to pay because we will not meet our 2020 targets. It is unquestionably disappointing that we will not meet them. The Taoiseach, others in Cabinet and I are committed to ensuring we meet our 2030 targets. Of the €116 billion for the Rebuilding Ireland programme, the largest pot of €23 billion is to deal with climate change and the decarbonisation of our society. It is the largest amount that will ever be spent on it and it will be spent in a multitude of ways. There will be changes and reconfiguration in the areas of agriculture and transport, which are two areas that are having an impact. The change will come pretty rapidly. It will be positive because we will all benefit from it.

I am only back from a visit to China for the Asian Financial Forum where I presented Ireland as a place to bring business. We all have to do our bit with regard to climate change. Pollution was particularly bad on that occasion. I was surprised by the level of pollution, which I had never experienced previously. Anyone who has not seen it or experienced it would have to see it to believe it. It was very serious. Ireland will do its bit. We will move faster than we have done before. We are moving away from fossil fuels. The Fossil Fuel Divestment Act was a Private Members' Bill introduced by Deputy Pringle, which the Department and I supported fully. It was a good step in the right direction. The sustainable green finance bonds are our first national sovereign bonds in that area and €3 billion was raised last October. It was oversubscribed by four to one. We are doing our bit and we are going in the right direction. We would like it to be quicker but we are doing our bit.

I will touch on a number of other issues. Deputy Catherine Murphy raised the issue of the European Investment Bank, EIB. It is making good investments in projects that will be crucial to the correct development of our country but they are loans. An EIB loan has to be paid back. The EIB is on board. The multilateral banks, from my dealings with them, are doing a lot of good work. Ireland is now part of the African Development Bank, the Asian Infrastructure Investment Bank and others. That will have a major impact on how we blend funding to deal with climate change in the future.

It is a pity Deputy Murphy is not in the Chamber. She made a statement that is wrong, which is that Ireland is unattractive to foreign direct investment. Ireland is very attractive to foreign direct investment. We have won a large share of Brexit jobs from the United Kingdom. In terms of Brexit, I have always been on the record as saying that when I was presenting Ireland as a place where business can be done, I was not presenting it on the basis that the structures that we have put in place are not to be opportunistic. The point I made to companies that had a Brexit difficulty was that if they had a difficulty, we could be part of their solution. I told them to have a look at the offering we have in Ireland. These jobs are all over the country. They are not all in Dublin. One third of the jobs in international financial services are outside of County Dublin. We keep being told by some in opposition that rural Ireland is dying. In State Street in Kilkenny there are almost 1,000 jobs; in Pramerica in Letterkenny, there are 1,400 jobs; and in BNY in Wexford, there are 500 jobs. They are important to the economy of rural Ireland. They are all over the country.

The fund is not to bailout banks.

30 January 2019

**Deputy Martin Kenny:** It is not allowed to bail them out.

**Deputy Michael D'Arcy:** As I said earlier - I did not sugarcoat it - it could be permitted in a severe economic shock. We do not know what the next economic shock will be. The book was written during the crisis. This time it is different. It is always different. There is just a different spin or view on it. Will it be the banks or will it be something else? I do not know what the economic shock could be. It could be a hard Brexit. It could be Britain leaving without a deal. There is an ideological clash happening in the House of Commons. It does not seem that common sense will prevail. I am a believer in politics and I am also an optimist. I believe common sense will eventually prevail. It could be the UK crashing out with a hard Brexit and no deal by accident. There is research showing that it could have a larger impact on the world economy than the economic recession we have just come out of. We do not know what is coming next. This is prudent and diligent and it is the right thing to do. My friends on the other side of the House - although not all of them - are saying this is wrong. This is not wrong; this is prudent.

Question put.

**An Leas-Cheann Comhairle:** In accordance with Standing Order 70(2), the division is postponed until the weekly division time on Thursday, 31 January 2019.

### **Local Government (Rates) Bill 2018: Order for Second Stage**

Bill entitled an Act to revise the law relating to the collection of rates in relation to certain properties, to provide for the establishment and maintenance of a database of those properties in the State, to provide for the amendment and repeal of certain enactments and to provide for related matters.

**Minister of State at the Department of Housing, Planning and Local Government (Deputy John Paul Phelan):** I move: "That Second Stage be taken now."

Question put and agreed to.

### **Local Government (Rates) Bill 2018: Second Stage**

**Minister of State at the Department of Housing, Planning and Local Government (Deputy John Paul Phelan):** I move: "That the Bill be now read a Second Time".

How long do I have?

**Deputy Eoin Ó Broin:** Too long. The Minister of State definitely has more time than he needs.

**An Leas-Cheann Comhairle:** The Minister of State has 20 minutes. However, he does not have to use all of his time.

**Deputy John Paul Phelan:** That should suffice.

**Deputy Eoin Ó Broin:** The Minister of State does not have to use all of it. We will not use all of ours if he does not use all of his.

**Deputy John Paul Phelan:** The purpose of the Bill is to modernise various enactments governing the powers of local authorities to levy and collect commercial rates. Commercial rates make up approximately one third of local government current income every year and are the single largest income source for local authorities, providing income of almost €1.5 billion per annum. This provides between 16% and 53% of total funding for local services at individual local authority level and makes a vital contribution to the delivery of local services.

Local government is often the main interaction with the State for many people. It is important, therefore, that all aspects of local government operate effectively, including the collection of the funds used to provide the services on which people rely. The Government is implementing the next stage of local government reform, building on the wide-ranging changes introduced in recent years. In order to help support the efficient implementation of local authority functions, the Bill seeks to modernise the collection of rates. The existing legislation that governs the levying and collection of commercial rates is spread across numerous enactments, many of which date from the 19th century. The primary legislation relating to rates is the Poor Relief (Ireland) Act 1838. With the exception of the Local Government (Financial Provisions) Act 1978, which removed domestic dwellings from rates liability, and the Supreme Court decision in 1984, which exempted agricultural land from rates, only minor changes and adjustments have been made since 1838 to the operation of the rating system.

The drafting of the Bill has been informed by extensive consultation with rating experts in the local government sector and the Valuation Office. My officials have also met a number of business representative groups to brief them on the legislative proposals. In general, business groups have welcomed the intent behind the proposals. They recognise that further improvements to rates collection levels are necessary, both to ensure that local authorities are equipped to provide services to the communities they serve and to ensure that compliant ratepayers are not subsidising those who do not pay.

A large body of case law is well established. Local authorities and ratepayers are, in the main, very familiar with, and generally accepting of, the operation and practice of the rating system. Notwithstanding that, some changes to the system are necessary, both to ensure that rates collection mechanisms keep pace with other changes to the business and commercial world, and to facilitate more effective and streamlined enforcement procedures. This is crucial to ensuring that the responsibility of paying rates is spread evenly across the commercial and business community.

One intention is that this legislation will encourage ratepayers to engage with their local authorities and will mean that the annual rates bill is not low on the priority list for payment by individual businesses. This approach to rates often forces local authorities to rely on the courts to help collect moneys owed, with the additional resources that requires, not just for local authorities but also for non-compliant ratepayers.

That leads me to the reasons this Bill is considered necessary. In 2015, the Department of Public Expenditure and Reform established the debt management project board. Both my Department and the local government sector were represented on the board. Early in the board's work, it became apparent that one of the most significant areas to be addressed was the high level of debts relating to commercial rates levied by local authorities. The board also identified that the lack of enforcement powers available to local authorities was a barrier in reaching the level of compliance being achieved by the Revenue Commissioners in tax collection. A business case for greater enforcement powers was prepared by the local government sector and

endorsed by the project board. Among the key proposals identified in the business case were recommendations that additional powers be made available in the following areas: the ability to use the Revenue sheriff to collect unpaid rates; and the introduction of a rates compliance certificate, which would become a requirement when applying for statutory licences, State grants and public contracts.

In the period to 2014 percentage collection levels of rates declined, impacting on the financial position of local authorities and their capacity to deliver services. At that time, the collection of rates amounted to 77% nationally. In response to this, the local government sector established a debt management group to address debt collection by local authorities nationally. A project was put in place to address collection performance with increased targets set for each local authority. Every authority was required to adopt policies on debt management and a training programme was developed for staff working in this area.

Local authorities are fully aware of the difficulties that many businesses faced in recent years and have worked with those businesses to agree flexible and realistic payment plans. In recent years, up to and including this year, my Department has requested local authorities to exercise restraint in setting the annual rate on valuation, ARV, in recognition of the difficult circumstances facing many businesses. Notwithstanding the pressures on their own finances, local authorities adhered to these requests. The national average ARV has not changed significantly in recent years. The national average ARV decreased slightly each year from 2010 to 2015 and has increased slightly each year from 2016 to 2018.

The focus of the legislation is, in part, to address those who will not engage with the local authorities. The Bill is not about increasing rates or punishing those who engage with their local authority and endeavour to pay their rates. I intend that enforcement proceedings will not be taken unnecessarily by local authorities and will be reserved for those who refuse to engage with the local authority on determining a payment plan. The current legislative proposals support the payment of rates by removing the requirement for businesses to pay their rates in two moieties and allows for payment plans to be agreed with local authorities to make payments in instalments.

As outlined, commercial rates are worth approximately €1.5 billion annually to the local government sector. Given the structure of Ireland's local government funding model and its reliance on commercial rates, the determination of the ARV is one of the key responsibilities of the elected members of local authorities. These authorities have a statutory obligation to levy rates on property used for commercial purposes, in accordance with the details in the valuation lists prepared by the Commissioner of Valuation. The ARV decided by local authority members annually is applied to the valuation determined by the Valuation Office to calculate the amount payable. Rates are generally payable by the occupier of a commercial or industrial property. Income from rates makes an important contribution to the cost of day-to-day services provided by local authorities such as roads, public lighting, development control, local enterprise support, parks and open spaces. These are all essential elements to help create and maintain the environment in which businesses can prosper.

The amount of rates a ratepayer is levied is determined by two factors, namely, the ARV adopted by the council at its annual budget and the rateable valuation of the commercial property the ratepayer occupies. The legislation providing for the valuation of properties which had dated back to the 1850s has been streamlined and modernised under the Valuation Acts 2001 to 2015. No complementary modernising of rating law has been enacted to date and this is very

much the focus of the Bill before us.

While rates and valuation matters are connected, they are also distinct functions and the Commissioner of Valuation is entirely independent in the exercise of his functions. Notwithstanding this, the Local Government (Rates) Bill is one aspect of a broader consideration of this general area. The Valuation Office is currently engaged in a national programme to revalue all commercial and industrial properties in Ireland. The purpose of these revaluations is to bring more equity, fairness and transparency into the local authority rating system for non-domestic property.

Completing the first revaluation since the mid-19th century and getting properties in every local authority area onto the subsequent five to ten-year rolling cycle of revaluations which is provided for in the legislation represents a sea change and fundamental modernisation of the rateable valuation system. The purpose of a revaluation is to redistribute commercial rates liabilities among ratepayers based on up-to-date market rental values. Following revaluation, there will be a much closer relationship between contemporary rental value and commercial rates liability.

My Department is also conducting a periodic critical review of the Valuation Tribunal. The tribunal was established in 1988 to consider revision appeals. Between 1998 and 2013 the average number of appeals received was 224 per year. However, the national revaluation programme has had significant consequences for the workload of the tribunal, which received 1,375 appeals in 2017. Such an upswing in the number of appeals has inevitably led to delays. Indeed, there have been quite a number of parliamentary questions from Deputies on the matter. The review includes evaluation of the organisational capacity and performance of the tribunal. This will assist in streamlining and creating efficiencies throughout the appeals process, which in turn will lead to a faster, more robust process. A review of the Schedule 3 exemptions of valuation under the Valuation Acts 2001 to 2015 is also commencing within the Department. It is the intention that the results of that review will be included, if possible, in this legislation on Committee Stage.

It is not the purpose of a revaluation to increase the total amount of commercial rates collected by local authorities. Section 8 of the Local Government (Business Improvement Districts) Act 2006 provides that a ministerial order must be made directing a rating authority to limit the overall amount of income it can raise through rates in the year following a revaluation to the total amount of rates liable to be paid to it in the previous year, plus buoyancy, that is, arising from valuations determined in the year of a revaluation of newly constructed commercial or industrial property, adjusted for inflation as measured by the CPI. Further orders will be made later this year in respect of the local authorities currently undergoing revaluations.

It is notable that there has been very little empirical evidence of an increase in the overall amount of rates paid by businesses in recent years. The total amount of rates accrued to local authorities, as reported in local authority annual financial statements, has remained stable at or just below €1.5 billion per year since 2010. Analysis on the impact of rates on business costs is limited. The analysis that is available concludes that commercial rates represent a small portion of overall business overheads compared with energy, rents, payroll and other inputs. By way of example, local authority data in 2016 indicated that 70% of businesses nationally are paying less than €5,000 per annum in commercial rates.

I will now turn to the provisions of the Bill. Rates legislation is currently spread over more

than 20 separate enactments dating back to the Poor Relief (Ireland) Act 1838. A modern enactment will simplify the legislation, will be more efficient to implement and more easily understood by ratepayers. Other measures include simplifying the process by which rates are levied and collected, strengthening the power of local authorities to collect rates and providing powers for the local authorities to introduce targeted rates alleviation schemes. The general scheme of this Bill was referred to the Joint Committee on Housing, Planning and Local Government for pre-legislative scrutiny in November 2017. Following a briefing by the Department, the committee decided to forego pre-legislative scrutiny of the Bill.

Section 1 provides for the interpretation of terms used in the Bill. Section 2 provides clarification on the local authority's role in the adoption of the annual rate on valuation. Section 3 provides that a local authority shall consider the local authority's budgetary needs in determining the applicable annual rate on valuation. Section 4 provides the power for local authorities to levy rates on the occupiers of relevant property, as identified in Schedule 3 to the Valuation Acts 2001 to 2015. It restates the longstanding provisions that the commercial rates liability is calculated by multiplying the valuation determined by the Commissioner of Valuation by the ARV adopted by the local authority at its budget meeting. Section 5 provides a power for the Minister for Housing, Planning and Local Government to limit the level of ARV that can be adopted by the local authority. Section 6 provides that local authorities may offset any rates owing to them against an amount that the local authority owes to that party. Section 7 provides that the collection of rates and interest due on unpaid rates pursuant to this Bill are under the care and management of the local authority. Section 8 provides that a local authority may provide a temporary abatement for vacant properties, subject to any maximum relief which may be specified by the Minister, to ensure that all property owners, other than those whose rates liability would be below a *de minimis* threshold, make some level of payment to the local authority.

At present, the legislation governing rates provides that a local authority may provide up to 100% relief on rates where a premises is vacant, either due to renovation and repairs or because the owner is unable to find a tenant. Outside the city councils of Dublin, Cork and Limerick, which historically had separate legal provision enabling a refund of 50% of rates on vacant properties, the practice has generally been for the elected members to agree a 100% relief. However, since the introduction of the Local Government Reform Act 2014, a number of local authorities have introduced less generous reliefs. In fact, one of the local authorities in the north east has introduced a 50% relief threshold. The lack of any charge on vacant premises may act as a disincentive for the property to be put to its best use. I am sure all Members are aware of premises in town centres or on the outskirts of towns that have been vacant for many years. The lack of a charge on such premises may act as a disincentive to finding a tenant and putting the buildings back into use. Vacancy refunds also introduce a level of uncertainty regarding the revenue the local authority can collect. The provisions contained in the Bill allow the Minister to prescribe, by order, a maximum level of refunds to be provided, with provision that this amount can be further reduced by individual local authorities. To incentivise the elected members, it is proposed that the revenue accruing from any further reduction in the vacancy refund beyond this level would be added to the general municipal allocations of the municipal districts in the local authorities.

Section 9 provides local authorities with the power to establish a database of relevant property and the power to delegate this function to the Local Government Management Agency, LGMA. Section 10 provides an obligation on the owners and occupiers of relevant properties to provide to the local authorities information that the authorities may require to discharge their

functions under the legislation. Section 11 provides local authorities with the powers to apply interest to unpaid rates. The provisions are based on the provisions in the Taxes Consolidation Act, which provide for the addition of interest to unpaid taxes to the Revenue Commissioners, and in this respect aim to see rates treated on a similar basis. The interest would accrue from 1 January of the following year and only apply where a ratepayer refuses to enter into an agreed payment plan with the local authority. As such, the provision is focused on incentivising engagement with the local authority rather than increasing revenues.

Section 12 provides for obligations on the owners of a relevant property, before the sale of that property, to pay any rates payable by the owner to the local authority, including any interest on unpaid rates. This provision only applies to rates liabilities accrued by the owner when the owner is also the occupier of the property. Section 13 provides that any unpaid rates and any interest accruing on unpaid rates shall be and remain a charge on the relevant property where the owner of the property is the person liable for the rates. Section 14 provides for local authorities to introduce rates alleviation schemes to support specific national and local authority policy objectives. This could include objectives contained in *Realising Our Rural Potential: The Action Plan for Rural Development*, local economic and community plans developed by local authorities and planning objectives set out in development plans and local area plans. This could be a mechanism for allowing municipal district members to introduce alleviation schemes to reinvigorate town and village centres across the country which in many locations have been disrupted, to say the least, by the construction of large out-of-town developments. The legislative proposals provide that it would be a function of local authorities to develop and introduce schemes appropriate to the priorities in individual local authorities and in line with any regulations made by the Minister governing the parameters and operation of such schemes. The approval of schemes would be a reserved function of the elected members.

Section 15 provides for the appointment of local authority staff as authorised officers by the chief executive for the purposes of the Act. Section 16 provides those local authority staff appointed as authorised officers by the chief executive with the power to enter relevant property in certain circumstances. Section 17 provides that the Minister may make regulations under the Bill, when enacted, where relevant. Section 18 is a standard provision relating to expenses in the administration of the legislation. Sections 19 to 22 are technical amendments to various enactments on foot of this Bill. Section 23 provides for the repeal and revocation of various provisions of rating law to be replaced by the new provisions. Section 24 is a standard provision in respect of the Title to the Bill and for the commencement of the various provisions contained in the Bill. I want to signal to the House that I will be bringing forward a number of amendments on Committee Stage. I have already mentioned the Schedule 3 review. These amendments could not be finalised for inclusion in the Bill as published but they are currently being examined. They include: recourse for local authorities to have the power to issue a certificate for collection to the court appointed sheriffs; issue by the local authority of a rates compliance certificate; to address the powers for local authorities to take legal action through the courts; and to amend the provisions of section 56 of the Valuation Acts 2001 to 2015 relating to a rates limitation order in the year following a revaluation of a local authority.

As I mentioned earlier, with the exception of the removal of domestic dwellings and agricultural land from rates liability in 1978 and 1984, respectively, only minor changes and adjustments have been made since 1838 to the operation of the rating system. This Bill is the first significant piece of rates legislation to be proposed in many years and given the importance of rates income to the funding of local government, it is sensible to modernise the fundamentals

of commercial rates.

**Acting Chairman (Deputy John Lahart):** I call Deputy Cassells, who is sharing time with Deputies Casey and Michael Moynihan.

**Deputy Shane Cassells:** I thank the Minister of State, Deputy Phelan, for outlining the provisions of the Bill. As he said, this is the first step in many years towards modernisation of the commercial rates system. Those of us who were councillors and have dealt with council budgets - I dealt with 17 during my time as a councillor - will know that the old chestnut was the pressure from managers on councillors at budget time to increase commercial rates in the county or town. Expenditure for the year ahead was totted up and then income was totted up, with the gap determining the relevant increase in rates. The Minister of State is correct that regardless of who was in government, a letter always issued from the relevant Minister in the Custom House urging restraint and caution at budget time, with little else accompanying that letter by way of help to ease pressure on councils and so the axe fell on businesspeople. In the case of Fianna Fáil, we did exercise that restraint, especially over the last decade. There has been a freeze on rates in my own county of Meath that has not been replicated nationwide. There have been rates increases in some counties and they are now on the rise again in particular counties.

Commercial rates are an essential part of the day-to-day funding of local government. The key services that communities rely on would not be possible without the contribution of our local businesses, which I always acknowledged during my time as a councillor and I do so again in this Chamber. As stated by the Minister of State, over €1.5 billion, or one third, of local government funding is spent on day-to-day services provision and capital investment. Commercial rates revenue is the lifeblood of local government yet this critical pillar of revenue is under increased strain, with over €300 million per annum in rates unpaid. There are serious issues with the efficiency of the collection system, as the Minister of State has acknowledged. With the shift to e-commerce, the foundation of the system is being whittled away. The burden of holding up local government is falling on the shoulders of bricks and mortar outlets at a time when retail in this country is changing. Prior to Christmas there was an article in the *Irish Independent* on the death of our towns, which I do not subscribe to in regard to every town. Some towns are fighting back and are using their chambers of commerce. Councils do that also such that I do not think that that was a fair analysis of every town in this country. Every town in Ireland is showing the signs of pressure that businesses are under in terms of vacancy rates, the proliferation of fast food outlets in certain areas, bookies and charity shops, all of which are testament to a fundamental shift in how people shop and how retail is changing.

After years of delay, the Government has brought forward this Bill. The timing in terms of the local elections is telling in itself. However, it is a beginning. What is required to strengthen this Bill is a more ambitious vision for the future of commercial rates. It needs to recognise the limitations of the current system and the pressing need to revitalise towns across Ireland. Fianna Fáil will be bringing forward amendments to the Bill to ensure it is fit for purpose in 21st century commerce and that it recognises the broader social policy goals of keeping rural towns alive. The introduction of equalisation and the abolition of town councils has increased pressure on the rates system. Payment changes following evaluation should be staggered over a specified timeframe to alleviate the impact on a business of dramatic increases. A formal inability to pay clause should be provided for in the Bill to enable a struggling business to agree a path for payment into the future while keeping the business alive. I acknowledge that some councils and directors of services do engage in this manner.

Fianna Fáil will also propose the establishment of a rate release scheme on a statutory footing to allow local authorities to reduce or eliminate rates for a new business in town centres and rural areas for up to two years. Businesses that convert upper floors into accommodation should also be eligible for rate relief. The conversion of above shop units into residential accommodation would help to breathe new life into our town centres and promote town living, and the rates system should encourage it. The efficiency of the collection system should be comprehensively reviewed, which the Minister of State mentioned earlier. Similar to the property tax, the Revenue Commissioners may be better equipped to administer this system. When the household charge was managed by county councils efficiency was not good. Following the introduction of the local property tax and its administration by the Revenue Commissioners, efficiency increased to over 90%. This proposal should be examined.

Ultimately, a new commission on business taxation should be established. This should confront the dramatic shift to online purchasing that is transforming the retail landscape. Interestingly, prior to Christmas, at the House of Commons select committee dealing with this aspect, Mr. Mike Ashley, one of the biggest proponents of online shopping, called for the imposition of taxes in that area, which it was good of him to suggest after he has made his billions. He also spoke about the death of towns in England being irreversible in some circumstances. As I said, it was good of him to call for the imposition of such taxes after he has made his millions. The commission's recommendations should form the basis for a new approach to taxation that is fit for purpose.

This Bill forms part of a more complex picture. I have consistently said in this House that our local government system needs a reliable, sustainable revenue source to fund critical local services. It cannot be allowed to fall solely upon the shoulders of struggling businesses to provide this funding. This point is also consistently made by IBEC. I have made this point to the Secretary General of the Department of Housing, Planning and Local Government at the Committee of Public Accounts in the context of the Comptroller and Auditor General's examination of this area. The format in which these finances are levied must be improved and enhanced. We need a more efficient and fairer system which keep businesses alive and gives them a fighting chance to adjust. These short to medium term measures should be adopted in this legislation. We need to deliver for businesses across Ireland. There are thousands of jobs at stake, which will affect the very fabric of our towns and villages. To accomplish the type of towns we want to have in the decades to come we need bold, innovative and long-term action. We will fight for these measures. I look forward to discussing those measures with the Minister of State on Committee Stage.

**Deputy Pat Casey:** I want to put on the record that I am a commercial rates payer and I have been paying rates for a significant number of years. I welcome the Bill. As pointed out by Deputy Cassells, it is a start but we have a long road to travel. I want to focus on particular aspects of the Bill, starting with the alleviation scheme. This is a positive move from a democratic point of view and the restoration of some powers to the local authorities, which is vital. No two towns in any county are the same. In my own county, Greystones has one of the highest occupancy rates while Arklow has one of the lowest. There are different challenges in west Wicklow, between Blessington and Baltinglass, and Wicklow town. There is a diverse range of issues across the country and no one solution will fit all. This is an important provision of the legislation. Equally important is that local authorities can bring policy into their local area plans, county development plans and local economic community plans. It is a pity all of these were adopted in 2014 and that we will now have to review them. From a democratic point of

view, and the restoration of power to our councils, this is positive and I support it.

The provision relating to preliminary valuations is positive from a revenue generation point of view. The local authorities will have the power to make a valuation on a property even though it can be challenged when the Valuation Office determines its valuation of it. The Bill also provides for temporary abatement. From my reading of this Bill there is talk about having a minimum abatement on properties which we could probably debate further. Much of what I am looking at here in the Bill is about the collection of the money for commercial rates. As a commercial ratepayer, I believe that everybody should pay their rates. It is not just commercial rates but when one looks at local authority collection of finances across every section of finance there is a very poor collection rate involved. That is not reflected in this document where the local authorities are not taking their responsibility for their lack of professionalism in collecting monies due to them. A lot of this involves a mindset within the local authority which says that it does not matter because they can put a burden on the property. We can let it flow into eternity. As soon as the commercial operator goes to sell the property, all of a sudden it hits them like a bang. What has come to the fore in the light of the recent recession - this is a section in the Bill which disappoints me - is that some of the financial institutions took over commercial properties because the business was gone. These institutions inherited the commercial debt that was on these properties. When they sold them on, they never paid that rates bill. Some financial institutions passed those bills on to the next owner, which put the viability of that business in jeopardy. I have some examples in my county where some person had a ten-year bill which they had to pay and it put that business in jeopardy.

This is a start but we are all aware that the elephant in the room that we have to tackle is the valuation process for properties. There is a huge mystery to it for all commercial ratepayers. There is not a great understanding of how it works and even after having been in the local authority for 12 years I still do not understand how my property is valued today.

The biggest challenge is the revaluation process which started in 2008 and still has not been completed 11 years on. The whole valuation system is so archaic. Wicklow went through its revaluation process last year. All commercial ratepayers in Wicklow are about to find out in the next month to six weeks their projected new valuations.

**Deputy John Paul Phelan:** The Deputy's phone is going to be busy.

**Deputy Pat Casey:** My phone will be busy and I am worried myself. My property has not been revalued for 30 years. What are the implications for me? I could be looking at a 30% or 40% increase in the commercial rates. Can I sustain that in one bang? No, I cannot. There is nothing in this Bill to allow that charge to be harmonised over a period of four to five years. We, including Deputy Cowen, have stated that previously. There has to be some way of allowing businesses to take that shock out of this cost and to give them time to adjust.

I will allow Deputy Michael Moynihan to come in. We are supporters of the Bill and the way it is going but there is an awful lot more to be done. We all know that the elephant in the room is the valuation process. This Bill does not go near that. I equally do not understand how this is handled in the Department of Justice and Equality.

**Deputy John Paul Phelan:** It has just been moved there.

**Deputy Pat Casey:** That is grand.

**Deputy Michael Moynihan:** I thank my colleagues, Deputies Casey and Cassells. While we welcome some of the initiatives in the Bill, the Local Government (Rates) Bill gives us an opportunity in the House to reflect on rates, ratepayers and how that has been ordered over the last period of time and is going to be ordered over the coming time. There is no doubt that we are at a major junction in relation to retail, to towns and villages and how they operate. Some towns have almost ground to a halt with businesses closing and empty spaces, shopfronts and retail units. We hear time and again about small businesses which in some instances do not have a major footfall and the owners talk about the rates bills they receive. The other argument heard is that rates are not reflective of turnover. There is a whole raft of issues concerning funding and how these rates developed over the years. Deputy Casey is, of course, correct on the issue of the revaluation and that process which is going to come down the tracks. Anywhere that has been revalued has involved the foisting of enormous costs and increases on businesses.

There is an opportunity here for us to reflect on rates and on the funding of local government and how we look at traditional market towns. Towns like Charleville, Kanturk, Millstreet or Newmarket, serviced major hinterlands over the years and they developed, grew and were allowed to flourish and reflect the countryside and the services that they provided to the people, but that has died out. Some of those retail units had been there for generations and were very successful and involved extremely hard work. The way online retail and the other challenges that have arrived to their doors is worth mentioning. We are at a junction as to how our market towns are going to survive into the future. There has to be a new vision as to what units will be in these towns and how we will encourage people to come into them. We have seen a lot of out-of-town planning. We have seen a lot of the major retail units moving out of the towns and changing the town centres, with resulting decay. We have to be very innovative as to how we are going to revalue them.

Some 20 years ago the town renewal scheme came into being and it was an initiative to try to develop towns. A lot of the towns that were granted the town renewal scheme benefitted from it. Units that had decayed and fallen into disrepair were given a tax incentive to try to develop them. It dates from 1999, almost 20 years ago. What happened was that the development that took place and the tax incentive to develop it, with the building materials and work, ended up being virtually cost neutral to the Exchequer. The benefit from it 20 years ago is reflected in towns like Kanturk and Charleville.

We need to be very innovative again to meet these challenges. We can discuss tax and rates scheme in isolation and say that we need better efficiency in terms of collection and such issues. There is also a bigger discussion which is to ensure that we are bringing all of our towns with us. We cannot allow them to die out. We have had discussions in different parts of the country where county towns have almost disappeared, with a loss of identity and business units. On the east coast there are massive housing developments with almost dormant towns, or towns that people are commuting long distances from. We must try and ensure that any initiative we have under this Bill or any other Bill does not have this effect.

As we are discussing rates, how are we going to incentivise people to move into the units that are now vacant in every town in the country? What do we need to put in place? Is it to empower local authorities to give a rates rebates scheme? Is it to empower local authorities to identify the crisis? Some people would say that we have to take stock. Every public representative here, whether they are representing urban or rural Ireland, understands the challenges in retail. We have to go very deeply into it, back to the drawing board and back to a town renewal scheme as existed 20 years ago to give a huge initiative to the rural towns that I represent.

*8 o'clock*

There is a great need for those rural towns to flourish and to be kept alive. We have seen the fantastic education facilities in these county towns. The quality of life people can get from living in these communities is second to none but we have to give a massive incentive to show that we - the State, the Government and the Dáil - want these towns to continue to flourish. If they do not, the countryside around them will decline. As we know the challenges that are coming in regard to agriculture and the future of agricultural communities, we must make sure we keep these towns alive.

The Minister of State suggested he intends to bring forward amendments to the legislation. He needs to be very innovative in making sure that whatever is done in regard to the collection of rates, we have at the heart of it some initiative to keep these communities and county towns alive.

**Deputy Eoin Ó Broin:** In common with other colleagues, I welcome the Bill. While its provisions are limited, they are broadly very sensible and Sinn Féin, like others, will be supporting the legislation. On one of the most obvious areas, the idea people could not pay their rates in instalments made no sense. Like others, when I was on a council, I was trying to negotiate for an individual ratepayer who was trying to do the right thing and keep his staff in employment, as well as being rates-compliant. The fact one could not negotiate that kind of agreement was something that needed to be rectified.

The alleviation schemes are most welcome. There are local authorities that had previously found very ingenious ways of introducing what were effectively alleviation schemes. They did so legally but they had to go through a certain amount of policy and legislative subterfuge, which was never the ideal situation, as I know from having been on one such local authority and having been involved in designing the scheme. The fact local authorities and municipal districts will have the power to try to make sensible interventions, particularly to try to boost parts of their constituencies that have less economic activity or parts of towns that are experiencing lack of regeneration, is welcome.

The difficulty, of course, is there could potentially be a loss of revenue for the local authority and, therefore, it is important to acknowledge that while it is a valuable power, it comes at a cost. This will need to be teased through by the local authorities and it may limit its applicability in certain areas. Nonetheless, it is very welcome.

The one provision I do not understand is in section 5 in regard to the ministerial limit on the annual rate on valuation, ARV. In his concluding remarks, perhaps the Minister of State could talk us through its logic. While I am not arguing for local authorities to be reckless or to have excessive increases in the annual rates, if elected members are given the democratic power to make those decisions, I am not sure I am comfortable with the idea of a Minister having the right to intervene and, for example, to set limits or seek to lower that rate. I certainly would need some persuasion before I would be willing to support it.

I listened with interest to Deputy Cassells's proposals for amendments and, on the basis of what he said, a number of them seem very sensible. Subject to viewing them, I believe they certainly could win our support. While it is not a proposed amendment but an issue Deputy Cassells raised, I would sound a warning in regard to the issue of taking power from local authorities and giving it to Revenue. It is not that Revenue is better at collecting money but that it

has much stronger powers. If we give those stronger powers to another body, clearly it would be able to get a higher collection rate. I am not at all arguing that local authorities should be soft on non-payment. However, during the height of the recession, particularly in the west, individual local authorities and rates officers in local authorities made very sensible, pragmatic calls that were about saving jobs. It was not that they were saying they would not collect the rates. However, if pushing the rates at a particular point in time would have resulted in the loss of two, three or four jobs in a small village or rural area, they did the sensible thing. One of the values of local authorities having the appropriate powers is that they are often better placed to make some of those difficult, more nuanced calls than a centralised authority. I am not arguing with the Deputy; it is just that I think there are two parts to this story of which we need to be mindful. However, I would not necessarily be against local authorities having greater powers, which would allow them the discretion to decide when best to use them.

One of the frustrating things when we were dealing with the pre-legislative scrutiny of this Bill was the separation of, as it was then, the Commissioner of Valuation, the ARV legislation and collections for the local authorities. It is not that I would want in any way for us to interfere in the independence of the commissioner but we could not even have a joined-up policy discussion on legislative reform or policy reform. The decision to move the Valuation Office into the Department is eminently sensible. Of course, it begs the question as to when we actually can have that joined-up, broader discussion around the interaction between the two areas.

Let us be very clear. Any change to the valuation system has a knock-on effect on the revenue coming in to local authorities. It would be very easy for Opposition Members to come to the House, although thankfully no one has done it, to just demand that we have some easing of the revenue base for businesses without acknowledging this would have a significant knock-on effect on the local authorities. It would not just affect their current revenue. The great thing about the rates is they are consistent and not subject to the ebbs and flows of the economic cycle, and they give a level of certainty to the local authorities. While this is one of the difficulties for small struggling businesses, it is of value. However, we need to have that joined-up discussion.

I agree with Deputy Casey that the valuation process is complex. I spent quite a lot of time with two senior officers from the Valuation Office when we were doing the pre-legislative scrutiny of this Bill just to understand it. I am not stupid and while I am not the smartest person in the world, I can get my head around concepts. However, it took me a long time to really understand it and I still do not fully understand the variances between town centre and out-of-town and so on. The thing that catches people out when the valuations happen is the interaction between the setting of the rates and the valuation. The data the Valuation Office was giving me at the time showed that when a revaluation was done, the majority of ratepayers remained roughly the same but there were two groups of people at either end - the winners and the losers - and it is almost the same percentage in every valuation after ten years or more. While the winners are very happy and do not say anything, some of the losers lose very significantly. From the information I have, it is not that there are more losers in some counties than in others and it seems to be relatively consistent. However, we need to have a significant look at how that interacts and whether there are mechanisms for reducing the number of losers, particularly losers whose business is put into some level of jeopardy. I would be open to ways of thinking about that.

Part of our problem is the long gap between the valuations, so the more frequently they could happen, the easier the system. However, that has significant revenue implications in terms of staffing and resourcing, and while the Valuation Office was working very hard to get through its schedule, it will be 2021 or 2022 before it will have the full State-wide valuation

done. We would not even have had a five-year cycle when people would be valued again, so there will still be a long delay, which is a problem.

We need to revisit the valuation criteria for town centres and out-of-town shopping districts because there is clearly an inequity. This refers to the points made by a number of Fianna Fáil Deputies about the difficulties of town centre businesses for which the rates are much more expensive. While I accept the Minister of State said the rates might be a smaller portion compared to other things, it can often be the thing that tips them over the edge or convinces a prospective small business person to locate in a particular location or not. This is an issue worth looking at.

In conclusion, we will be supporting the Bill but that one section, subject to the Minister of State's response. I would like to see a grounded and joined-up discussion in the housing committee within the next six months, which the committee would certainly facilitate, where we would bring in the Minister and the staff but also the Valuation Office to start that broader conversation. I will be honest. Many of us will complain that the system as it stands is not fit for purpose but none of us have the solution. In fairness to the Deputies who have spoken, they made sensible proposals. Nonetheless, nobody has worked out a system whereby we marry the needs of the local authority to the needs of business, particularly small, struggling businesses.

**Deputy Shane Cassells:** They have become so big.

**Deputy Eoin Ó Broin:** It is a tricky thing to do. If we sat down at committee and worked our way through it in that collegiate spirit in which we have been working on a number of issues with the Minister, we might find some good suggestions and good ways. Even if we cannot deal with some of the bigger stuff in this Bill, and I am of the view that we probably cannot, I would like to see the committee and the Minister return to those broader issues. I would hate to see us pass this Bill and for all of us to say we want significant reform but then to be here in two or three years' time with nothing else having happened. Perhaps that is something we could consider in the committee and we could invite the Minister and the relevant officials in at a later date.

**Deputy Jan O'Sullivan:** We too will be supporting the Bill. It is a welcome opportunity to have this discussion because there are many issues that are very worrying. I refer, for example, to the revaluation process in particular. Other Deputies have raised the matter and the fact that valuation was not done for such a long time. Since the process started, it has caused difficulty for those whose valuations went up and they are the ones who raised the issues. For others, the valuation did not change very much or in some cases it went down. It is a difficulty for many businesses when their rates go up significantly. I accept we are dealing with the Local Government (Rates) Bill rather than the Valuation Act 2001, but it is welcome that both are at least in the same Department as they are interconnected and affect businesses in all cities, towns and villages.

The Minister of State, Deputy Phelan, said that what analysis is available concludes that commercial rates represent a small portion of overall business overheads compared with energy, rents, payroll and other inputs. That said, I wish to argue again for the small towns and villages where businesses might not have a very big turnover and properties are generally owned, which means there is no rent to pay. Most of these businesses have a small number of employees so the payroll bill will not be significant. In such cases, rates can make a major difference in terms of the viability of certain businesses. My colleague, Deputy Penrose, has been making that point about his constituency and small towns and villages around the country where such

businesses are the lifeblood. While rates are not significant for a big business in a city, they are significant for those businesses and we must try to be as sensitive as possible.

Rates make up about 35% of the income of local government, so they are really important. We must ensure we maintain that kind of income base for local authorities. On the other hand, we must balance that against keeping businesses viable because they are the lifeblood not only of towns and villages but also of cities. We must try to get the balance right.

Deputy Casey made the case for moderation in terms of how soon the money must be paid in cases where valuations go up significantly. In that context, I welcome the removal of the two moieties in favour of staggered payments over the course of the year. That makes complete sense because it makes it much easier for businesses to meet their payments in a way that works for their turnover and the availability of funds. That change, therefore, is welcome.

While it is not in the Bill, the Minister of State noted that the Department is conducting a periodic critical review of the valuation tribunal. That relates to the valuations that are currently being carried out in various local authorities. Some of us received correspondence from owners of forecourt stations who argue that the system is not being very fair to them. They make the point that they have to take individual cases and are unable to take a class action which would be more helpful. I do not know whether the Minister of State can respond on that point as it is not strictly within the parameters of the Bill, but it is very much related to it.

I also wish to raise the provision whereby one can get a rates alleviation waiver to support specific policies. There is also the abatement of rates for vacant properties. The waiver scheme to support specific policy objectives related to development plans and local area plans, among others, should give scope for town and city centres to be prioritised. Perhaps the Minister of State could address the issue in his response. On many occasions we had debates on businesses in city and town centres having difficulty competing with out-of-town shopping centres where parking is generally free. Is there a way in which that could be addressed because generally in development plans and local area plans one has a provision to emphasise town centres? In the implementation of planning in accordance with development plans local authorities generally favour city and town centres because of the doughnut and other negative effects of out-of-town centres.

In terms of the abatement of rates for vacant properties, the Minister of State said section 8 provides that a local authority may provide a temporary abatement for vacant properties subject to any maximum relief, which may be specified by the Minister to ensure that all property owners other than those whose rates liability would be below a *de minimis* threshold would make some level of payment to the local authority. He then referred to the 100% relief versus the 50% relief in some cities. The Minister of State stated later that the lack of any charge on vacant premises might act as a disincentive for the property to be put to best use. He said that there may be a maximum level of refunds to be provided, with the proviso that the amount could be reduced by individual local authorities. I wish to tease out whether the length of time a property is vacant can determine how the abatement is done. I am thinking of large supermarket chains – I will not name any – that leave premises empty for years in the middle of a town or city for commercial purposes. There is one in my city at the moment that is the subject of public debate. These companies deliberately leave the premises vacant. I am all for the abatement of rates where a property is vacant because the person who owns it cannot run a viable business, sell it or deal with it in a way that works for him or her, but where it has a detrimental effect on the area and where there is a commercial interest involved in keeping out competition, abatement

of rates should not be available. Is there flexibility for a local authority to address the issue and not to incentivise premises being left vacant for a long period?

I also wish to raise the exemption of Government offices. Until the 1980s, rates were paid by Government offices. It can cause financial loss to local authorities when a State building, often a large one, is not subject to rates. Does the Minister of State have any intention of addressing that matter? I am not sure if it comes under the competence of the Bill but it is again one that should be addressed because it has a negative effect on the amount of money that comes in to local authorities, particularly in Dublin. Perhaps the Minister of State could address that issue as well.

Overall, the Bill is positive. The Minister of State said he would table amendments, which seem to be largely related to enforcement. The helpful document from the Library and Research Service indicates that while the explanatory memorandum states the Bill will form the basis for greater enforcement powers by local authorities in their collection of rates, it does not contain any specific enforcement provisions other than those relating to the appointment of authorised officers under section 15. From what the Minister of State said, the amendments he will bring forward will strengthen the powers, including recourse to certificates for collection by the court appointed sheriff. We look forward to debating that issue with the Minister of State.

A table in the Library and Research Service document shows the collection percentage for various local authorities. Some of them are a good bit lower than others. I am not too sure if there is any good reason for that, apart perhaps from the willingness of the local authority concerned to go after those who are not paying. It is not fair on those who do pay and struggle to do so if others get away without paying. I refer to those who face no huge difficulty but simply do not pay. That is something that needs to be addressed. I have the table here. There is a 96% collection rate in Fingal, and that figure ranges down to 68% in Donegal and Louth. There is a big variation in between. Maybe there are good reasons for that, but there may also be situations where local authorities are just not collecting although it is possible to do so. As I said, this is very unfair on the businesses which struggle to pay the rates but still pay them. We look forward to further debate and to hearing the Minister of State's response.

**Deputy Thomas Pringle:** It is topical that we are discussing the Government's Local Government (Rates) Bill 2018, which proposes to modernise and consolidate existing legislation governing commercial rates in Ireland, because in spring of last year I carried out an extensive survey measuring the health and optimism of the small business sector in County Donegal. More than 100 businesses responded, painting a stark picture of the continuing struggles small businesses have faced since this Government came to power. I felt it was time to measure the health of this sector and to listen to businesses and their concerns. I believe that measuring the health of the microbusiness sector measures the overall health of the rural economy. Local businesses are the backbone of rural economies, providing sustainable local employment if supported. My priority was to concentrate on small businesses which fall outside the remit of Enterprise Ireland as they are not primed for export. Coffee shops, hairdressers, butchers and many more types of businesses contacted me via the survey. Some respondents said it was the first time they were ever asked about their concerns.

The results suggest that while businesses are emerging from a disastrous decade of austerity, they are now facing new and existing challenges left largely ignored by the current Government. Only half of respondents said their business has improved since the recession, indicating that Donegal's rural economy continues to struggle. Most striking was that more than 80% of

respondents said they were concerned with depopulation trends and the retreat of rural services like post offices, Garda stations and even banking facilities in Donegal. Some 80% of businesses also cited a general unawareness of Government supports, with many reporting various challenges left unaddressed by the current Government.

Many businesses gave me an extensive response outlining their main challenges. Most of them mentioned commercial rates, pointing to high rates or an inability to work out a long-term sustainable agreement with the local council and persistent anomalies in the rates assigned to businesses across the county. That applies across all sectors and all types of businesses. They all had the same response. In fairness, it is difficult for the local authority as well. The rate is not set by the council. The council has to collect the amount that is set. It can and does agree on deals with ratepayers who are experiencing difficulties. The problem is that at the end of the year, the council must still levy the full amount from those businesses. This is very frustrating for business people. They do deals and get reductions of 50% or whatever it is. Then the council sends them letters twice a year demanding the full amount and threatening all sorts of penalties. A trader may have already concluded a deal a couple of weeks previously, but that does not matter. Legally, the council must go down that road. That is very difficult.

There are all sorts of anomalies in the rates system. There is a hotel in Glencolumbkille which has been closed for many years. That hotel paid the same rates as two hotels in Ballyliffin, where the Dubai Duty Free Irish Open was held last year. There is a world-class golf course in that town, and two hotels pay the equivalent of one hotel's rates in Glencolumbkille. That is nonsensical. I also know of one pub in a rural village in south Donegal which pays twice the rates of a similar pub in a village in Inishowen. This insight is derived from just a half an hour spent looking at valuation reports at Valuation Office Ireland and going through businesses I know. If I can pick out these anomalies, they can be found right across the county. There is no consistency in how rates are levied or in the amount demanded. This is visible when comparing towns and villages of similar sizes. That is a real problem right across the board. Unfortunately, this Bill does not do anything to address that, but it is something that needs to be addressed. Local authorities also need the freedom to set and collect the rates themselves, outside the control of the national office. There may be historical reasons for which the national office was founded and rates have been managed in this way, but we need to move on.

My understanding is that the current Bill seeks to reform some aspects of the management of commercial rates. While I welcome some of these aspects, the Bill is vague on how it sets out to achieve worthwhile reforms. For example, the explanatory memorandum for the Bill states that it will “form a basis for greater enforcement powers by local authorities in their collection of rates”, yet there is no mention of any specific enforcement provisions other than those relating to the appointment of authorised officers under section 15.

Section 14 provides that local authorities may introduce a scheme to provide a waiver for all or a portion of the rates due to support the following:

- (a) the implementation of the National Spatial Strategy within the meaning of the Act of 2000;
- (b) the implementation of a development plan within the meaning of the Act of 2000;
- (c) the implementation of a local area plan within the meaning of the Act of 2000;
- (d) the implementation of a local economic and community plan within the meaning of

the Act of 2001.

Again, very little is explained on this point, but I hope to see local initiatives being able to access this waiver scheme. One strong point that emerged from my business survey was the reliance of businesses on local trade and not just tourism, although that is important. They are mainly sustained by local traffic, local residents and people from the local area. It is evident from my business survey that more focus needs to be placed on driving up local trade to help small businesses survive new challenges. Any time I mention this issue to the Minister, the Government is quick to point out supports for businesses in tourism, even though my survey showed that nearly 80% of businesses rely on local trade. This is where we need to be focusing. I hope the reform of the rates system will help that in some way. If this could be made part of a local economic and community plan, we could see rates being reduced for those businesses that continue to struggle with the trend of reduced local trade caused by rural depopulation.

Section 11 provides for the levying of interest on any overdue rates. This section provides that any rates levied by a rating authority will carry interest from the first day of January in the following year in the event of failure to pay. This is a new provision which was not provided for in previous commercial rates legislation. There needs to be a mechanism whereby local authorities can legally restructure payments of rates, just like the mechanism we are calling for to operate between banks and lenders, particularly homeowners. Essentially I am describing a restructuring. Many businesses have an unofficial arrangement with local councils to delay or restructure rate payments, but businesses are then charged halfway through the year because this is what the council is legally obliged to do.

It is clear that Ireland has a rates problem. According to a public policy study carried out in 2016, only four local authorities had collection rates at or above 90% in the year 2016. Two collected less than 70%, my own county of Donegal and Louth. Furthermore, the study stated that outstanding year-end arrears for 2016 were in excess of €297 million, twice the arrears found in 2008, which amounted to €137.2 million. Overall the end-of-year arrears increased threefold between 2008 and 2012. Rates arrears are a legacy issue stemming from the recession, when rates were not collected due to very challenging times. This has been carried over, causing a backlog for individual businesses. Clearly we have a problem which this consolidated legislation will not resolve. It is safe to say that Ireland has a real problem with the issue of rates, both from the point of view of businesses and county councils themselves. This is something we very much need to address. We need to consider offering local authorities greater flexibility in collecting the amount of rates a business can afford to pay at any time while also expanding local authority powers to abate rates where appropriate. Of course this will mean funding must come from other sources, but I can think of a few, such as multinational companies, that are exempt from rates altogether. If we started there, local authorities might have leeway in helping business through challenging times.

We need to do something before Valuation Office Ireland conducts a revision of existing valuations in the north west, including Donegal, which is due to take place this year. This is likely to see rates increasing as they have been in counties which have been reviewed. Ultimately, if the Government paid more attention to small businesses, it would know they have a lot of great ideas and have a better understanding of local economies than Fine Gael has been showing to date. It is time Donegal and rural Ireland got no less than a full cross-departmental commitment to addressing the continuing challenges facing small businesses in rural economies and to diversifying funding to meet the needs of these businesses and local communities.

**Deputy Michael Collins:** I am sharing time with Deputy Michael Healy-Rae. I welcome some of the changes to the Local Government (Rates) Bill because it is vital that our local businesses are supported in a positive manner that will allow them to continue to operate. It is high time that we finally see this Government shake up its act and start taking steps to support hard-working, self-employed people running their own businesses in these difficult and uncertain economic times.

Under this Bill we will see changes that will allow local authorities to be given the power to significantly reduce commercial rates for businesses in their areas. These measures will allow councils to introduce rate alleviation schemes, which potentially will reduce costs for local businesses. A major problem we have seen recently is business owners facing three or fourfold increases in their rates following valuations of their premises in the wake of the crash in property prices and the sharp recovery of recent years. These rates increases are crippling businesses. Our businesses are already struggling to keep their heads above water. Retail businesses are struggling with the competition from online sales and the modern trend whereby people have moved away from buying regularly and locally. A retail business cannot afford any rates increase in the current climate.

There was a time when our local villages and towns were full with retail shops such as clothes, sweet, hardware shops etc. For example, in my constituency area of west Cork, Ballineen was once a thriving village with numerous shops including clothes, shoes and furniture shops. If one could name it, Ballineen had it, and people travelled far and wide to come to those shops in the village. If one drove through the village of Ballineen today one would find it hard to believe it was once such a thriving village. The village has lost business after business, including the closure of the Ballineen post office last year. There are more derelict empty commercial premises than the current number of business that are left in the village trying to make a living. That is a sad sight to see and, unfortunately, it is not unique to Ballineen. It is a sight we see throughout the towns and villages of west Cork.

Last year, I saw a haemorrhaging of businesses throughout west Cork. To name a few, we had the closure of Long's shop, in Timoleague; Lordan's butcher shop in Ballinspittle; Hickey's food store in Kilbritten; O'Driscoll's post office in Ballineen; AXA Insurance in Bantry; Desertserges post office in Enniskeane; the credit union in Drimoleague was meant to close; the Welcome Inn pub in Bandon; Drinagh's post office; Brady's Bar, Bandon; The Square Bar in Bandon; and the Creative U craft shop in Bandon. Many more businesses have closed their doors that I have not mentioned.

What has happened to rural Ireland? In the programme for Government, rural-proofing of all policies was to take place. It baffles me that rural-proofing was promised but in reality, something is seriously wrong in terms of rural Ireland when many rural businesses are haemorrhaging in such a short time. I call on the Government to protect rural Ireland and to start taking real action to protect the business owners in rural Ireland who are struggling to make ends meet. Where businesses in rural towns and villages are deteriorating, the remaining operating businesses should be given a reduction in their rates or a rates-free period during which time they could use that money to invest in their business and ensure their survival in rural Ireland.

Further, we need to look at rural pubs that were once the social hub of rural Ireland. These pubs can no longer keep their doors open. I mentioned the Welcome Inn pub, Brady's Bar and The Square Bar in Bandon - three pubs in one area that have closed their doors in the past few weeks. Surely it resonates with the Minister of State that we have a major problem in that re-

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gard. The Bill brought forward by the Minister for Transport, Tourism and Sport, Deputy Ross, has destroyed rural Ireland. Unfortunately, it was supported by most Members here without looking ahead at the consequences. Rural Ireland is on its knees and to get to this point, the Minister is coddling the people by leading them to believe that this Government is following its promise of rural proofing its policies. The opposite is happening. The Government has neglected rural Ireland and pushed rural communities to the margins.

If this Government is serious about restoring rural Ireland to its former glory, it will make sure that rural pubs will be entitled to a waiver from rates until it resolves the current driving situation that is deterring many local people from enjoying an important social outing in the rural pub that is part of our heritage. The rural pub was always a hub for music and storytelling but now it is only a hub for tumbleweed to blow up and down on its floors because the Government has scared the people of rural Ireland into thinking they cannot come out even for a couple of hours to enjoy their local pub. This Government, along with the Minister, Deputy Ross, has nailed the coffin shut on rural Ireland. I will not lie down without a fight for the people of rural Ireland. I will fight to the bitter end.

We need to examine ways of encouraging start-up businesses in rural Ireland. Not only should the Government provide a direct free service to align new business with supporting information on grants etc. but that support system should be easily accessed. Further to that, all new businesses should be exempt from rates for their first 12 months of trading to allow them get up on their feet, so to speak.

Budget 2019 was very disappointing. It was an awful decision by the Government to restore the VAT rate on the tourism industry and increase it back to the rate of 13.5% from 9%. That is having a major negative effect on hotels, restaurants, cafés, hairdressing salons and other associated businesses. It is causing nightmares for hotels in rural communities in particular, which are struggling and basically have a business from May to September. Very few people will come inside their doors for the next number of months. Now they are being met with a hike in the VAT rate to 13.5%, which will result in many job losses and might even lead to closures. That will result in a massive loss of rates, so there are no winners in that regard. As the Government is adamant it will not reduce the VAT rate, I ask it to give a rate exemption for a number of months to all these tourism businesses. Already, the majority of them are low-profit businesses that rely on high turnover volumes to ensure profit is made. However, the VAT increase is negatively affecting the volume of people using those businesses. They are struggling to make a living, and many of them are making a loss. If we see the closure of more of those businesses, it will have a knock-on effect in terms of job losses. I appeal to the Minister of State to take action now and support these businesses by giving them a rates exemption for a period.

Another massive let-down was the increasing of the VAT rate to 23% on food supplements, vitamins and minerals. We have many wonderful health shops across west Cork but this Government refused to listen to those business owners when they begged it not to increase the VAT rate. I also contacted the Minister for Finance, Deputy Donohoe, at the time and pleaded with him not to increase the VAT rate because it could lead to the closure of many of those shops. We have seen a big uptake in the number of people caring for their health and 80% of people use health food supplements including vitamins, minerals, Omega 3 and superfoods. The Government has increased the VAT rate on these products, which will force some to stop buying them as they will not be able to afford them. As 84% of the population disagree with this VAT increase, when will the Government listen to the people who elected it? As it will not reverse this VAT increase it is only fair that it allows businesses such as health shops selling these products

to get a rates exemption for a period. That is necessary for their very survival. It is the Minister of State's duty, as a member of this Government, to do all he can to encourage people to live as healthily as they can but instead the Government is putting financial obstacles in their way.

As I said, rural Ireland is haemorrhaging badly and it is very easy to see that. I have no problem bringing the Minister of State to west Cork and taking him to the towns and villages I am talking about. I think he knows west Cork very well. I would appreciate it if some consideration could be given to these businesses. I have said and will continue to say in this House that the Minister, Deputy Ross, has finished rural Ireland, and the Government should not have backed him because it will lead to a catastrophic loss of jobs in this country.

**Deputy Michael Healy-Rae:** I am grateful for the opportunity to speak on this very important issue. I must first declare an interest. I have been a ratepayer since I was 20 years of age. I believe I am perfectly equipped to talk about rates considering I have been paying them for a long time. I represent the ratepayers of the county of Kerry, who have an awful lot to say about the little they get back for the amount they pay in rates and the increases they have seen over the years. It is a simple fact that these people are creating the employment that is keeping our small villages, towns and larger towns going. We then have the bigger ratepayers, for instance, the hoteliers with the big hotels but just because they are bigger does not mean they are having an easy time; they certainly are not. In terms of the tax the Government has put on them recently, I was bitterly disappointed to see the increase in the VAT rate for the hotel and hospitality sector. It is true, as Deputy Michael Collins said, that this is having a negative effect on their businesses. Those people were already operating on a tight shoestring. We must look at their wage bills and their insurance bills which are spiralling out of control. I want to highlight again how unfair the massive increase that people who own nightclubs, dance halls, restaurants, public houses and shops have to pay for their public liability insurance. It is because of predominantly bogus claims that are allowed to continue in this State, which we have debated here before. We have seen Ministers sitting idly by and silenced. It was as though they could see no evil or hear no evil because they have said nothing about the increase from 9% to 13.5%. There was no need in the world for that increase. It was wrong and I was so bitterly disappointed that it was allowed. It will have a more adverse effect on County Kerry than perhaps any other county in the country.

These businesses are struggling already, considering they are after coming out of one of the worst recessions ever, but they kept their doors open and continued to put investment in. When I think of the hoteliers in County Kerry, whether it is small restaurants, bigger hotels or medium-sized hotels, many of them predominantly family-run - they are the rate payers. They are collecting the taxes that keep this Government ticking but they are forgotten about. They were sold down the river by this Government when it hiked up the VAT without giving them a second thought.

I also lend my support to the people who operate health food shops. The Taoiseach came out the other day with the nonsensical statement that he was going to improve his carbon footprint by stopping eating meat. For God's sake, a child in the cradle would not come out with such a statement, never mind anyone else. It was an embarrassment for the Department of Agriculture, Food and the Marine and the Tánaiste who I know would have more sense than to come out with such a silly statement. It really upset our farmers. This was an attack on rural Ireland and on every farmer who has cattle in sheds which they are trying to fatten and get ready for the factory or to sell in order to make a very small few pounds.

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On the one hand we had the Taoiseach coming out with that statement and, at the same time, if we want to talk about healthier living and healthier foods, we have people who operate great health food shops all over the country. In the county I represent, we have many health food shops. We have the great Dan Horan of Horan's Health Stores who has a number of shops throughout Kerry and even in Limerick, and we have other private individuals who operate other shops with very hard-working staff. What have they seen happen? There has been a massive tax increase from 0% to 23%. How in the name of God could anybody justify this? It is ironic that at a time when people are encouraged to eat healthier foods and to lead healthier lifestyles, the Government comes along and taxes them out of existence. That was an awful and crazy initiative. I raised it here last December with the Taoiseach and he said he knew nothing about it at the time and that it would not happen at all. Now it is going to happen. How can the Minister of State tell these small shopkeepers, who are our rate collectors and who collect tax for the Government, that the Government will increase their tax from 0% to 23%? That is outrageous.

In many of our small villages we have seen the sad and absolutely heartbreaking decline of our rural pubs. The fabric of our society is under attack from the Minister of State and his colleagues who supported him when Fianna Fáil was sitting on its hands sound asleep allowing this to happen. As was pointed out here already today, 11 of the Fianna Fáil Members voted for the draconian measures which have been such an attack on rural Ireland. We are telling these publicans that people are being stopped from going to the pubs. At the same time the Government is telling them it will take their tax from whatever they sell, if they sell anything, and it will also continue to take their rates. It is 100% true to say that there should be a ban on collecting rates from public houses that are below a certain threshold of turnover because they cannot pay it. They cannot pay it because they are making no money.

I am in public houses on a continuous basis, which I am very glad to be able to do. I meet constituents in pubs and I started it many years ago along with my late father, Jackie Healy-Rae. It was such an enjoyment to go to public houses that were full and vibrant. They were the cornerstone of our communities. Many of those public houses where we used to pull out in front of when the lights were on, the doors were open and the fire was lit in the corner are now unfortunately closed thanks to this Government and other governments. The Government succeeded in shutting them down. The sad fact is that many more of them will shut down and many more of our small shops will shut down. What is this Government doing for them? Absolutely nothing, but it is nailing them to the cross every way that it can. That is what it did here a number of weeks ago when it introduced the road traffic legislation attacking our rural pubs. The Government is doing absolutely nothing to help them. They created employment, whether it was for themselves, for a neighbour or a family member and now they are shut or as good as shut.

I see it getting worse and worse and it was pathetic to hear a Member of this House today on our local radio station, Radio Kerry, trying to defend what he had done by sitting on his hands and allowing our publicans in Kerry to be attacked in such a way. It was actually sad to hear him going on the radio because the way I would describe it was that he was trying to defend the indefensible. If one is elected to represent one's people in one's county, one is elected to represent all of the people and the first people who must be helped are those who create employment. Whether they are the small shopkeepers, the small publicans, those in the post offices or those in hotels, they are the people who are collecting tax and who we want to keep in business. Unfortunately they are getting nothing from this Government.

I ask the Minister of State to take seriously the suggestion of holding off on certain publi-

cans because of the fact that their turnover has decreased so much. I know that our local authority, Kerry County Council, is excellent and has always been very willing to listen to individual cases where businesses are struggling but, unfortunately, so many of them are struggling at present that it will find it hard to deal with the amount of them. This is so wrong at this critical time. The Government seems to have absolutely no regard whatsoever for them. The more time goes by, the more the point will have been proven.

Over Christmas time, it was shocking to see how little business was being conducted in rural pubs. Perhaps the Minister of State did not see it and maybe people in this city did not see it but I know that we certainly saw it in north Kerry, south Kerry, west Kerry and east Kerry. Every small village has been desperately affected and when the people are not going out socialising it has a knock-on effect. The taxi drivers do not have the business and the food outlets and fast food outlets do not have the business. It has a knock-on effect if people are not allowed to go out, socialise and enjoy themselves. Keeping people at home is detrimental to a local community. We can all remember when more people were out socialising at night and at the weekends in particular and it brought life and money to localities. We do not have that now thanks to this Government and its policies of higher taxes, crippling rules and regulations and continuously going after the same people. It is the easy touch.

I ask the Minister of State to explain how any young person today could seriously consider starting up a small business? Whether it would be buying, leasing or taking over a pub or buying, leasing or trying to take on a small shop, how could they do it? The first day they would put up a sign and start, the whole lot would be down on top of them. Revenue, the HSE, taxes and rates would be down on top of them and would go through them like a dose of salts until they would be left on the side of the road with nothing. There is no encouragement whatsoever. This Government has proven itself to be anti-rural beyond belief and anti-small business beyond belief but the only thing about it is that the people have a good memory and they will remember the Government for it.

**Deputy Catherine Murphy:** We will be supporting this Bill, which is generally welcome. It provides for incremental change rather than radical reform. There were some discussions in recent years about the desire to create a relationship between the turnover of a business and the commercial rates, but that is not really an aspect of this Bill. Whether that is achievable is another matter but it is certainly an issue. It means that some small businesses in villages and towns have a relatively small turnover but are quite vital to the vibrancy of the town or village and provide passive security and oversight and add to the pleasure of the village and town in terms of character. That certainly would have been welcome and there would be high value turnover in some of those locations but generally there is not.

I will come back to other aspects of the Bill shortly but we cannot examine rates in isolation. For example, if we look at the difference between the profile of income for local authorities in say 2009 and look at a chart for 2016, which is not terribly different from today, the general purposes grant would have made up one third of local government income. The two areas that have grown are, first, local property tax, but that is significantly less than the general purposes grant and the general purposes grant has been phased out. The other area that has grown fairly significantly in terms of the increased take is that of commercial rates. Many of those in the business sector were supportive of, for example, the introduction of a local property or a household tax on the basis that there was an expectation that it would be an addition to the general purposes grant and may have provided some relief in terms of commercial rates but, in fact, the general purposes grant has been phased out and we can see that this profile has meant there is

an increase in commercial rates generally.

Several Deputies referred to the uneven collection rate. The National Oversight and Audit Commission does a profile of local authorities. There is a remarkable difference between Fingal County Council with a 96% collection rate and Donegal County Council with the lowest collection rate of 74%; a few years ago that rate was even lower. It is not a question of it being patchy in every local authority, it is patchy depending on which local authority it is. There must be some understanding of why that is the case. This Bill, to some extent, will deal with that.

I heard some of earlier debate on the revaluation of premises. It is only when one experiences it that it strikes home. The change on paper is not dramatic and it is supposed to be neutral in terms of the overall take, but there are winners and losers. I question the rationale in that respect. If we were to create a zone where, for example, the nearer to the door of a premises one's outlet was the more expensive would be one's component of rates, and it would become less expensive as one went in through the premises, it strikes me that if one had a fairly small shop, that would put one at a decided disadvantage. There are issues in terms of examining the methodology used.

The length of time this process has taken from beginning to end is an issue. In some councils a revaluation will happen in advance of a first valuation happening because a ten-year timeline has been predetermined. It is right that there should be reasonably regular reviews. We will not end up with dramatic changes when that is done and there is a facility to question the valuation. There must be consistency.

It may well be that parts of a county are less viable than other parts of it. Making a provision in legislation to deal with that is fine but one will find some parts of individual towns are more viable than other parts. That is because of out-of-town shopping centres and the advantage of having free car parking in a shopping centre and the pressure resulting from, say, pay parking in a town or village. That makes it very unattractive when one compares it to the convenience of being able to park outside a centre and get everything in the one location. Aspects of that need to be considered in the valuation process.

When I reflect on Griffith's Valuation, he started it in 1847 and it was completed less than 20 years later.

**Deputy John Paul Phelan:** It was massive.

**Deputy Catherine Murphy:** He valued not only business premises but every shed, house and business throughout the country. He set out on a horse and had it done in 20 years. When I reflect on the technology that is available now and the length of time it has taken to do this with satellite imagery in terms of mapping premises, it is extraordinary that it has taken the length it has. It works to the disadvantage of ratepayers who have the worry of a dramatic increase. In some cases in some sectors we have seen quite a dramatic increase.

One of two speakers spoke about the new profile of shopping in terms of shopping online and the fact that there has been a reduction in regular shopping. That change was remarked on during the Christmas rush, or lack of it, in the capital city. How do we capture that in terms of a fair trading environment, where one component has an overhead that others do not and yet at the same time we are trying to deal with that in an international context? It is an issue that one can sell items cheaper if one does not have the burden of rates, rent and other overheads.

To return to the local government funding aspect of the Bill, one would nearly need to do a PhD to get one's head around it. If we make something very complex, people's eyes will glaze over. The sustainability of the local property tax, if it is to continue, is greatly undermined by virtue of the fact that we have these arbitrary baselines that are based around a needs and resources model that was done around 2000 and that does not count people. There are places in west Dublin such as Ongar and Tyrrelstown that were not counted and have not been counted. They still pay local property tax and still require services. The baseline in Fingal is the lowest in the country. I used it deliberately as an example because it is not my constituency and I cannot be accused of being parochial on this one.

*9 o'clock*

The way local government is funded and where transfers go is unfair. I wonder if one of the reasons the collection rate for commercial rates in Fingal County Council is the highest in the country is that it simply has to have this funding to run its services. I put that out there as a point of consideration.

There are aspects of the Bill which are very welcome, such as the provision allowing rates to be paid in instalments. Rates can be set aside in some scenarios, which vary considerably around the country. If a sporting facility does not have a bar, it is exempt from rates in some places because it is treated as a social asset for the community. Social enterprises with charitable status can get an exemption at the end of the year. The bill is raised but forgone at the end of the year. The position is not the same throughout the country, however, and there are variations in approach. A degree of consistency on that would be helpful.

I looked at the overall spend. Some parts of the country are at a disadvantage in that income from commercial rates is lower than in other areas. Commercial rates can vary considerably depending on the part of the country and the calculation used. It is not just based on floor space but also what the local authority demands in the rate that it strikes. Cities are in a different league because they often provide services to people living in a wider catchment area than the city. When one looks at the amount of money that local authorities have to spend, that shows something entirely different. One could be a sizable net contributor to local property tax, have a high rateable valuation and, at the same time, have less to spend than other areas that benefit from the equalisation fund and have a lower commercial rate. A big piece of work is needed in this area. We have been promised that work be done on the baselines for the local property tax and a new distribution model. It would be useful if the Minister of State could give us an idea of when we might see that because it is important.

Another issue is the small cohort of people who set up a business, which is an unauthorised development for which planning permission has not been granted. Such businesses are not captured in the system, are not valued and do not pay rates. This means the owners benefit from not having gone through the planning system. When such a business is eventually shut down or obtains planning permission, the local authority will have forgone rates that would have been paid otherwise. I have come across a very small number of these cases but they are irritating for those who must compete side by side with them. That issue should be considered. If a business has been valued, it has been acknowledged, and if it is not valued, it is competing unfairly with a neighbouring business which is not fair.

This Bill is welcome and there are some changes in it. It is incremental change but I hope that we get to the point where we will deal with a more fundamental reform. The valuation

system has been in place since it was commenced in 1847 and it is time that we went for something more radical.

**Deputy Alan Farrell:** I am pleased to have the opportunity to contribute on this Bill. I could not agree more with Deputy Murphy's reference to non-conforming use. There are quite a number of non-conforming properties that have residential zoning but commercial use, but since they are over the 12-year limit, councils cannot pursue them. We should pursue that issue. I drafted a Bill on this subject a number of years ago to try to capture these cases because they are inherently unfair, as Deputy Murphy correctly pointed out.

We all understand that the collection of commercial rates is integral to funding our local authorities across the State in combination with the local property tax. When addressing commercial rates, we have to be cognisant of the responsibility to ensure that we do not put an unnecessary burden on or detract from the viability of small businesses that populate our country. This Bill provides important measures to ensure rates are paid to the local authority, for example, the provision which places an obligation on the owners of commercial property to ensure any unpaid rates are paid prior to the sale of the property. For the reasons that have been outlined by some previous contributors, that presents issues.

The next point is important in the context of this Bill and any future legislative changes in this area. Local authorities should have the discretion to pursue matters where it is appropriate and fair to do so. Businesses may inadvertently rent a property, as has happened on a number of occasions. It is very unfair that a property owner or the next tenant in a property is stuck with somebody else's bill. Some local authorities deal with this differently but from a legislative standpoint, we should provide uniformity across the board. I heard in the Minister of State's speech that some local authorities in Dublin and another city permit a reduction of up to 50% in such cases, whereas some local authorities are permitted to provide a 100% waiver for vacant properties. We need to address these issues. If we want to incentivise companies from overseas to locate in Ireland, we have to give everybody a level playing field so that other local authorities can compete with Dublin and rural areas can compete with urban areas or regional cities.

It is important that local authorities have the certainty the rates system provides and which this Bill will enhance with regard to the appropriate level of maintenance of existing amenities for the benefit of all, not only the business community, but also residents. The completion of such works would be significantly hindered without the collection of commercial rates. I note that the legislation provides local authorities with the means to introduce targeted rates alleviation schemes or waivers. The purpose of these waivers is to support the implementation of national or local policy objectives. I understand that is being done with policies such as development plans and national planning policy in mind. Perhaps consideration should be given to the use of similar waivers in various policy areas.

I wish to raise a matter I raised previously with the Minister for Housing, Planning and Local Government, Deputy Eoghan Murphy, and the Minister for Finance, Deputy Donohoe, concerning childcare providers. As Chairman of the Committee on Children and Youth Affairs, I can say that most childcare providers pay commercial rates on the facilities that they use and this can have a significant knock-on effect on childcare costs for parents. It may put pressure on pay levels for staff in certain instances. Too often in this House, we talk about the need to actively tackle the cost of childcare, which can be equivalent to a second mortgage payment for many families. We discuss empowering people to return to work, yet childcare costs can constitute a significant barrier to parents and guardians getting back into the workforce. Perhaps in

addressing the cost of childcare we should examine the possibility of making changes in respect of commercial rates for childcare operators. This should be done in order to examine in particular providers in Dublin and other urban areas where commercial rates can have a detrimental impact on the affordability of both operating costs and subsequent costs for families. Where childcare providers pay commercial rates on their facilities, it is inevitable that these costs are passed on to families in the amounts they are charged for the services they receive. This fact is not really deniable. Furthermore, the fact remains that the rate of pay received by many workers in the childcare sector remains very low. Given the overheads that service providers face, they may not have sufficient profits to increase the wages of many workers as a result of measures to cover such costs and to ensure that families are not priced out of their services. I appreciate that this issue rolls into the remit of the Department of Children and Youth Affairs in terms of subsidies and support payments, but it is a small thing that can be done. There are an awful lot of small childcare providers out there that are registered with their local childcare committees and that pay rates. A little like the exemption of approved housing bodies from the registration of a property with the Residential Tenancies Board, RTB, for instance, which I suggested on Second Stage of a Bill before the House last week, in certain instances one must look at State service providers or quasi-State service providers and give them a break because it would have a knock-on effect in the cost to families.

I understand that Fingal has been referred to on a number of occasions this evening as having the highest rates collection profile in the country. I welcome this as a former councillor in Fingal and indeed one of its local Deputies. However, Deputy Catherine Murphy touched on one of the reasons for this, that is, that Fingal has one of the lowest rate levels in the country. One could counter this by saying that because it is one of the newest, fastest-growing local authorities in the State, with all that fresh developable land on which commercial parks among other things have been delivered, all these businesses are relatively young and are therefore used to paying their rates and that they are different from businesses on high streets in provincial towns and so on. I do not necessarily accept this point, but it should be borne in mind that as part of the revaluation process being updated in this Bill, which I welcome, it is still the case that two adjoining counties could be revalued nine years apart, if I am not mistaken. This is a problem and was a problem when the revaluation occurred in 2006, I think, in Fingal. The property market crashed in 2008 and, clearly, people in Fingal felt a little aggrieved that their businesses were being revalued at the top of the market and only a few short years later businesses were shutting up shop all over the place. There are issues with the revaluation process, but when it comes to two counties that adjoin each other, if one is valued in 2019 and the other in 2025 and they are so far apart in the intervening period, the county that is revalued this year might have an unfair competitive advantage over its neighbouring county. I understand and fully respect the fact that it takes time to revalue a local authority, as Deputy Catherine Murphy highlighted in her contribution when she spoke about the man on horseback who took 20 years to value the State. The point, however, is that we are a little more enlightened now and have more technological solutions available to us. It is possible for us to resource this a little more in order to get something more out of it in the long term. I would welcome the Minister of State's observations on this either in his summation this evening or whenever the Bill should come back before us for its next stages.

It would be remiss of me not to use this opportunity to highlight some of the difficulties in making a valuation in terms of the commercial rates for local authorities, particularly in the case of Fingal. I will give the Minister of State the example that occurred recently when setting the discount on the LPT in Fingal in September of last year. A few months later, Fingal

County Council presented its annual budget and found an additional €8 million, I think, which it probably did not need to pass on to the local property tax payers. I think this additional sum of money had been pre-booked for something but was not expended. The long and the short of it is that the local property tax variation rate of minus 10% could have been the full minus 15%, which would have made a big difference to local property tax payers in my county. However, the councillors made a decision, which was too early by two months in my view, and the financial position adopted by the local authority at its annual budget in December was different from that presented in October and local property tax payers across Fingal were thus caught out. In the context of this Bill and the commercial rates, the knock-on effect for the commercial rate-payers in Fingal was that Fingal County Council did not, to the best of my knowledge, adjust its commercial rate level, despite the fact that it had additional funding. I would like to see a little uniformity in this regard. I appreciate entirely that this is not applicable to this Bill, but the overall funding of local authorities is encapsulated by the Bill and the Department should therefore consider it in the long term.

Another issue I would like to touch on is shopping centres, specifically the grading at which rates are applied depending on the location of one's business in the shopping centre. I am not entirely sure that there is a waiver or a scheme for such matters in this jurisdiction. I am aware from inquiring with a colleague of mine in a local authority in Spain that this is done there, that the business at the front of the shopping centre pays a higher rate than the one at the back because the latter does not get the throughput or the footfall. I am not aware of the position here, so perhaps the Minister of State could enlighten me as to whether it is the case that this approach can be taken by Irish local authorities. If not, we need to make it available to local authorities to review commercial rates as they apply to shops at the back of shopping centres because, obviously, they do not get the same throughput.

Finally, I re-emphasise the importance of capturing non-conforming uses, if legally possible - I hit a legal roadblock myself when I was drafting this Bill a number of years ago - particularly when a residential property is operating as a commercial property. I have even seen retail operating out of properties that are houses according to planners but retail units to everyone else. They are not paying rates and they should be. We should look into that. I thank the Minister of State for presenting the Bill.

**Deputy Robert Troy:** I am sharing time with Deputy Ó Cuív.

I welcome the fact this Bill is before the Dáil. It is long overdue. I remember being at a public meeting in Granard, County Longford, in May or June 2016. A then Government Deputy who was at the meeting told the ratepayers in the room, who were just after experiencing the revaluation process with many of them seeing significant increases in their commercial rates, not to worry and promised that the new rates Bill would be enacted long before they would have to pay any of their revaluated rates.

**Deputy Alan Farrell:** Who could that have been?

**Deputy Robert Troy:** That certainly has not been the case. How long will the Minister of State take to enact this Bill now that we are on Second Stage? Will he give a commitment that he will engage in a real and meaningful manner with all Members of the House, listen to our concerns and, particularly on Committee Stage, look at the amendments that certainly our political party will submit in the hope of improving the Bill? Will he then give a commitment that the Bill will be enacted in the not-too-distant future? The Minister of State does not need

me to tell him this as he is from an area that does not have the benefit of Dublin city, Cork city or Galway city and is not experiencing the same uptake or increase in commercial sales that Dublin has experienced in recent years, but there are many commercial outlets - I am speaking in particular about the retail sector - that quite simply cannot afford to pay the commercial rates currently levied on them. This Bill alludes to the fact that if all commercial rates were to be paid annually, it would contribute approximately €1.3 billion to our local authorities, which is approximately one third of the funding for local authorities. Even still, €300 million in commercial rates remained unpaid and uncollected every year. There is a difference between unpaid and uncollected. There are a number of businesses that quite simply cannot afford to pay the exorbitant rates because they do not have the capacity or the turnover to do so. There needs to be greater help and supports for these businesses. Businesses that can afford to pay and have willingly taken the conscious decision not to pay need to be pursued proactively to ensure their rates are collected and to ensure fairness and equity across the board.

Commercial rates are ultimately a tax on business. Does the way it is now levelled make it a fair and equitable tax? One business can operate from a small premises, with high levels of turnover and profit, and pay small commercial rates. Another business that is heavy duty and chunky and needs a large footprint but does not have the same level of turnover and profit pays large commercial rates. There is an inequity there. We should try to alleviate that inequity through the process of this legislation. We need to look at the ability of businesses to pay and, as I said, there are businesses which simply choose not to pay, not because they cannot afford to but because they do not want to. Those businesses should be sought out and it should be ensured that they pay. There are other businesses which can present documentary proof that they simply cannot pay the commercial rates they are being charged, and we need to look at how to bring in an ability for them to pay costs.

One issue I found during my engagement with the retail sector in Mullingar over recent months was that the challenges those businesses used to face were from out-of-town shopping centres like those in Liffey Valley and Dundrum. The big challenge now comes from the competition they face online. Those online companies do not have the same costs base or overheads and can therefore sell their produce much more competitively at lower prices. Customers now go into shops and try on shoes and clothes, note the brand and size of the clothing, and go home and order the product online.

We have a small, family post office that goes back many generations in Mullingar. The postman told me that the number of parcels delivered this Christmas increased probably tenfold in the 12 months from the previous Christmas. We have to look at how to capture the online trade if we are serious about helping small retailers. How can we ensure that the people working on the high street, providing a premises and employment and trying to pay their commercial rates are at least competing with companies that are paying their taxes? That is not the case currently.

I support the point raised by the Minister of State's party colleague, Deputy Farrell, about childcare providers. Childcare providers are providing a service that the State should provide. They have filled a gap that was allowed develop or evolve over a number of years. I understand from my previous days as my party spokesperson for children that community childcare facilities are exempt from commercial rates whereas private childcare facilities are not. That may differ from county to county, and the fact that there is a difference in how commercial rates apply from county to county further signifies the urgent need to reform how these rates are charged. Many commercial childcare providers provide the same schemes as other childcare providers, such as the free preschool year that has been extended to 24 months, but they have

an additional overhead of commercial rates. As Deputy Farrell said, that overhead is not being absorbed by the provider but is being passed on to the parents of the children who use the service and, ultimately, it is driving up the already exorbitant cost of childcare.

I welcome the fact that at long last this Bill is before the House. It does not go far enough in addressing the deficiencies and inequities that exist within the commercial rates structure. It does not go anywhere near addressing the issue of the online trade. I hope, in his wrap-up, the Minister of State will give a clear commitment that he will embrace the amendments which will be forthcoming on Committee Stage and that he will accelerate the passage of this Bill because, as I said, we have been waiting in excess of three years for it.

**Deputy Éamon Ó Cuív:** I will share time with Deputy Aindrias Moynihan.

This is a tidying-up Bill. I am not saying that a tidying-up Bill was not needed but this is not reform. There is a need for a full reform of the rates system.

With some reservations, I welcome a much better system of collection. We are looking to move from a system that was collecting something like 77% of the money to a system where all the money will be collected. Those who are in arrears are jumping from a situation whereby they owe arrears but were not paying the full money to a situation where they have to pay the full money plus arrears. For some businesses, if that is at too sharp a curve, it becomes impossible to sort out.

My view has always been that, if a person in business has financial problems and the State says it will lend that person more money, that does not solve the problem. The problem is that the person has not been able to service their debt to date and the Government is then asking them to service another debt. Similarly, in this case, if businesses are told that not only do they have to start paying 100% of what they owe every year but they also have to pay the arrears over, say, two or three years, they are suddenly expected to pay the rates and a lot more with it, depending on how big those accumulated arrears are. That can put an impossible burden on a business that might otherwise be viable. A potentially viable businesses might be able to pay the full rate from now on, because times are a bit better, but it may not be able to pay the accumulated arrears that might have been allowed to build up, maybe partly because they were low priority and were not the creditors who did the most shouting. We will have a problem there.

It was tough medicine when the Revenue got a lot stricter in the 1980s than it had been and there was a period of adjustment. There was a lot of criticism at the time, for example, when penalties and interests were waived, but it gave people the chance to catch up. This is always a problem. The other thing is if 95% of the rate, which we will say is the LPT figure, was actually collected, there would be scope for local authorities to reduce rates for all those who had been paying up to date. I would not hold my breath. It is something we also have to look at.

One thing I noticed about rates is there are certain types of business that are always complaining about rates. It goes back to the valuation system. My understanding is that the size in square metres of a building is one of the big determining factors. It depends on what one is doing with the square metres. One could have a massive production of microchips in a very small space but if one is doing something extensive or occasional, it becomes a massive burden. This is where what I call extensive hospitality, which tends to be either accommodation or a pub that only does weekend trade for most of the year, which is very typical in rural areas, and has built a big function room that is used for the odd funeral or social----

**Deputy John Paul Phelan:** Or a political clinic.

**Deputy Éamon Ó Cuív:** The Minister of State's clinics must be a lot bigger than mine because I do not need a function room for my clinics.

**Deputy John Paul Phelan:** That is where we get shoved.

**Deputy Éamon Ó Cuív:** I would find those rooms too cold. The people where I do the clinics always give me a nice little snug place. The Minister of State is dead right. He knows what I am talking about. I asked a question in Galway one day. I asked how much of the rates relate to hospitality in the county. Only 20% of the total income from the rates was from hospitality. That would be both accommodation and pubs and restaurants. At the time utilities were a huge percentage of the rate in the county. The bigger factories in around the edge of Galway were very substantial rate payers. I have never really had very productive factories that work 52 weeks a year and in some cases do three shifts a day come to me about the rates being a big issue. Even where I live, the local businesses with that kind of activity - nobody likes any payment - would put rates at the top of the agenda but hospitality keeps coming at me. It becomes much more accentuated in rural areas for the reason I have just outlined. There are very few rural pubs, unless they have a good restaurant and a very good location, that open seven days a week, 12 hours a day. If they are open they are serving two or three customers who are drinking a pint. Their function rooms, which might be two thirds of their space, are empty 90% of the time. It always seems to me that surely something can be done to say the present system is inequitable for certain target groups. We can amend the law and ask why we do not have a rates system that does not only take into account space but also usage.

Even worse are the areas that only have a tourist season from April to November. Do we have any idea or has any study been done on what percentage rates typically are of the turnover of different types of businesses in different types of area? We should get the scientific knowledge and then rewrite the criteria on which the evaluation of rates is based. I am not talking so much about the Bill. It has a big effect because one cannot pay what one does not have. We should see what can be done to make it more equitable and affordable because the last thing we need are empty buildings.

I agree with the idea that something is paid on vacant buildings because otherwise we are just encouraging total vacancy. It cannot pay to leave somewhere idle. On the other hand, it would be a brilliant idea if commercial premises that are converted into accommodation are immediately de-rated.

**Deputy Aindrias Moynihan:** As my colleagues have outlined, Fianna Fáil is supporting the Bill but will also table amendments. We have been hearing for far too long the wonderful ideas about overhauling commercial rates. It is wonderful to see there are positive steps being taken, though they are very small. Many rate payers right across the country would prefer more dramatic or significant steps to be taken on it. It is a step in the right direction but we need to see many other improvements. One of the things rate payers often highlight to us is the effort to build up town centres again. Over the years, the shopping experience in town centres has changed from a market town experience to that of out-of-town shopping centres and, more recently, to online shopping. We saw it with An Post before Christmas and from speaking to local postmen we know the volume they are bringing through has increased dramatically. The taxation system needs to reflect more realistically what is happening on the ground and not an old system that was put in place many years ago based on a fictitious valuation which is multiplied

locally by the council.

We also need to take a realistic approach to businesses' ability or inability to pay because there are businesses that are seriously challenged from time to time. If there was some way of having a softer approach to get businesses over the hump it would make a difference. All too often we have seen the council wanting to rush into court, at the expense of the rate payer, to get the sheriff's order to hang over the rate payer as a threat. There should be some other way of having to take into account the businesses' inability to pay if they can show there is an issue and they will be over it shortly. Very often seasonal businesses and hoteliers have raised it with me as have many other smaller businesses.

Le fada an lá tá sé cloiste againn go gcaithfí athbhreithniú a dhéanamh ar an tslí atá na rátaí á n-íoc agus go gcaithfí athchóiriú ceart a dhéanamh ar an dlí. Is iontach an rud é go bhfuil deis ann anois agus go bhfuil céimeanna chun tosaigh ann, cé gur céimeanna beaga iad. Mar sin, beidh Fianna Fáil ag tacú leis an mBille seo ach i ndáiríre, beimid ag tabhairt roinnt rudaí chun cinn chun feabhsúcháin a dhéanamh air, mar shampla go háirithe leis an tslí a bhíonn an éifeacht ar lár na bailte. Tá sé feicthe againn le fada an tslí gur theip ar a lán de na bailte. Bhí siad ar fad ag braith ar mhargaí nuair a bhíodh daoine ag teacht isteach ach tá rudaí athruithe le fada agus tá na siopaí móra amuigh ar an imeall agus le déanaí tá an t-ualach mór ag druidim ar an idirlíon. Tá sé le feiceáil leis na couriers agus An Post mar shampla agus fiú an slí a bhfuil seirbhís nua acu i gcomhar an tSathairn chun an t-ualach mór a thabhairt chun cinn.

Caithfear cur san áireamh chomh maith go bhfuil roinnt gnóthaí nach féidir leo an t-ualach a íoc ó am go ham. Ba chóir go mbeadh slí éigin chun é sin a chur san áireamh. Bíonn deacrachtaí ag comhlachtaí ar nós óstáin agus go leor eile. Bíonn brú orthu ag tréimhse áirithe den bhliain agus caithfear é sin a chur san áireamh. Caithfidh sé sin a bheith sa Bille nó i gceann eile a bheidh ag teacht chun cinn.

Mar atá ráite, is céim chun tosaigh í. Tá i bhfad níos mó feabhsúcháin ag teastáil ach is céim chun tosaigh í seo agus beimid ag cur moltaí eile chun cinn chun é a fheabhsú.

**Deputy Bernard J. Durkan:** I am glad to have an opportunity to say a few words on this legislation, having spent a fair amount of time in my salad days on a local authority. I was interested to hear what Deputy Ó Cuív had to say. We should bear it in mind and it needs to be dealt with in this Bill at some stage. Where a commercial ratepayer falls behind and goes into arrears, normally the resolution, as he correctly said, is that they have to pay their arrears as well as their rates or a lump sum. This raises an immediate question. If they were not able to meet their liability in the first instance, how are they supposed to be magically able to do it in the second situation? We need to think seriously about that.

Over the years I have found that certain businesses, depending on the location, do not follow the norm in terms of profit. Particularly in recent years guest houses, hotels and even pubs have found that the tax allowance was of no benefit to them because they did not have a taxable income or a sufficiently high taxable income to be able to use it in any way against their rates. The waiver system that has been discussed is an essential element. It needs to be dealt with and refined to ensure that people do not use it or abuse it in a way that militates against other people with whom they are commercially in competition because that always brings unfairness into the scene.

In recent years some of our constituencies had a rating revaluation. It certainly did not

reduce the burden in most cases. The political reality is that in such cases, particularly in straitened times, there is always understandably a bad reaction from the ratepayers simply because they see another burden coming down the track towards them at a time when they feel vulnerable. I ask the Minister of State to bear in mind how this system works and in some way try to alleviate it. There would be no loss to anybody; it is just a matter of trying to be fair to the people paying rates and who, depending on the time of year the valuation takes place, may find themselves in a difficult situation.

I always felt that if a person fell into arrears and there was a receptive ear from the local authority, it was possible to trade their way out of the difficulty in which they found themselves, provided the burden of payment now required was not so great as to make it impossible for them to exist. One of the techniques that used to be applied and is still being applied by lending institutions in respect of people who get into arrears is that the level of payment demanded is such as to put the individual completely out of business or cause them to fail in their contract to meet the payments. That is of no benefit. As soon as they fail to meet their payments they are in breach of whatever agreement into which they entered and are no longer regarded as a viable enterprise. If the person - either a borrower or a commercial ratepayer - has got into difficulty, it should be possible for the local authority to sit down with them, examine the degree to which they have got into difficulty over a specific period and work out how to pay the rates for the current year and some of the arrears, provided that no interest penalty or other penalty is applied. If that happens, there is no benefit and the situation cannot be resolved.

I do not agree with this harsh attitude that is developing nowadays over people who find themselves in arrears in general. They are regarded as no longer being economically viable and because they are not they must, we must assume, surrender their property, surrender their house, forgo the business or whatever the case may be. That is far too harsh and it is not fair to people who have been working hard and trying to meet their commitments in every way possible. I say that in reference to the proposal to modernise the legislation governing commercial rates and improve the rate-collection powers of local authorities. I thought they had enough powers already. In using those powers, it should not be seen as an opportunity to delay indefinitely the collection of rates because that also undermines the entire system. However, there is no reason the existing powers if properly operated are not sufficient to facilitate a continued and smooth collection system provided that everybody comes on board with the plan.

Businesses face different situations at different times of the year. Sometimes something unexpected happens and it can deal a very serious blow to the viability of the business and as a consequence the ability of the ratepayer to meet their payments. Particularly in the present climate, the first item should be to examine the extent to which the business has operated over the rateable period in order to ascertain whether the business was deliberately winding down or deliberately falling short of targets to avoid having to meet payments, or whether it just happened by virtue of circumstances outside its control, it found itself unable to meet its liabilities. In that case a business should be treated with a certain amount of sympathy and latitude in order that with a certain amount of encouragement, hopefully it can recover.

It is not always the ratepayers themselves that suffer. It can be staff - possibly a considerable number of staff depending on the size of the operation. It can be as a result of a family bereavement or other reasons that need to be taken into account. Some people will claim that we are concerned about commercial activity and that this should not come into the calculation at all. However, humanity is humanity and things will happen from time to time that will create problems for individual businesses.

Local authority members have been more reasonable than they were. Once upon a time it was a great idea to pile on the commercial rates to such an extent that a significant imbalance arose. Of course, that was in order to fund things that the council itself was attempting to fund. There developed an antipathy towards local authorities among the business sector which was unnecessary. Today, at least, it appears that most local authorities and their members take a more realistic and sympathetic attitude towards the commercial sector because they do not want businesses going to the wall in their constituencies, which is good to see.

Any increase in the rate per euro should be done on the basis of the advice available to the chief executive or county manager and only on that basis. It should also have due regard for the need for businesses of varying natures to survive and must also recognise that there can be vast differences in footfall in different areas. Deputy Alan Farrell and others made reference to arrears of rates when a business collapses and the issue of incoming ratepayers being expected to pay the outstanding bill. There is an arrears system in place which most local authorities can and do apply. Indeed, there is no excuse for not applying it. Under that system, the period for which the premises has been idle should be deducted or discounted. The previous occupant should be pursued for any outstanding arrears, although how one gets the money from him or her is another question. That said, if the business went through the normal liquidation process, the rates bill should be recoverable in any event.

The local authority in my area does not require the incoming occupant of a premises to pay any outstanding rates. That used to be the system but it was changed, and rightly so. A trading business in any location in town or country is far better than the shutters. This can affect small rural areas as well as bigger urban areas. The closure of businesses and the resultant reduction in footfall and income can affect everybody. When bigger businesses close it can have a major impact on an area, whether it is urban or rural. I ask that these issues be borne in mind in the context of regulations or amendments to this Bill on Committee Stage.

The duty to inform the local authority of a change of ownership is important. Obviously it brings the database up to date. It is in the interests of the local authority to have accurate information on who is operating a business in a particular area. We must also consider the businesses that are not as legitimate as they would appear and with whom legitimate businesses find themselves in competition. I refer here to those who, for one reason or another, are not carrying on the business for which the premises is ostensibly occupied. That can do a lot of damage to adjoining businesses and can give an area a bad name. As a result, competitors suffer, particularly if one in their midst is not reliant on a visible source of income for their bread and butter. I would hope that the principals in all such situations are identified as being the ratepayer and that their rates will be determined on the basis of the information that is available and that the information is the best that can be provided.

Temporary abatement is referred to in the Bill. When I refer to temporary abatement, I mean situations where the rates are set aside or waived completely for the period during which the premises has been inactive. It is as simple as that. No income is being generated from the premises and there is no reason to believe that applying a penalty on it is going to make it any more active.

I have already covered the chief executive and the powers of the local authority. The annual rate in the euro should not be determined on the basis of everybody else's property, even in the same town or village because not all premises have the same commercial potential. If one particular premises is doing well commercially, it does not naturally follow that all of the premises

in the same area are doing as well. Some of them may not be able to generate the level of rates that are necessary in a particular situation. During the recession in particular, the biggest single issue that was brought to our attention by those in the hospitality sector, including hoteliers, publicans and guest house owners, was the burden of rates. People complained that their rates bill bore no relationship whatsoever to their ability to generate income from their premises. I would ask the Minister of State to bear that in mind and try to ensure that there is sufficient provision in the Bill or in the conditions relating to it so that people who find themselves under pressure and who may have to renegotiate their rates bill are given a reasonable hearing. If we do not give them a reasonable hearing, we are just exacerbating their problem. If their business goes off the rails, punishing them further is not going to be productive. It is far better to work with them and try to encourage them along the road to recovery. Once recovered, they will be able to meet their payments, thus generating income for themselves and for the local authority.

**Deputy Eamon Scanlon:** I think the Minister wants to respond to the debate this evening so I will be brief. I am grateful for the opportunity to raise a number of issues. Many of them have been raised already but we cannot refer to them often enough in my view. I come from rural Ireland and represent rural towns. Quite a number of small businesses in rural towns have closed in recent years because of the recession.

*10 o'clock*

Some of them that are open are struggling. The only things that are keeping some of them open are the name over the door and pride. Some of the people concerned would be better off if they closed their premises because they would not incur costs and expenses. I know of one business which two pensioners are subsidising to keep open and which is being hit with a rates bill of €4,000 per annum that they cannot afford to pay. A problem has arisen in the past few years and they have been paying what they can afford to pay by way of agreement with the council. Only last week they received a bill for over €20,000. There is no reason for what is happening when it comes to rates.

It is mentioned in the Bill that businesses will have to pay revised rates. There has been a revision of rates countrywide, including in counties Sligo and Roscommon and south Donegal, and in most cases it has been upwards. People could not afford to pay them before they were revised. Now they are being asked to pay more. This will result in business closures and job losses. We hear regular announcements of new supermarkets opening up outside towns and the 25 or 30 jobs to be created, but there is never a mention of the 30 jobs that will be lost in or close to those towns. The businesses concerned are being given a blank cheque. The Minister for Rural and Community Development, Deputy Ring, has established a scheme to regenerate activity in rural towns. It is a good idea and needs to be done, but I hope it is not too late. We have facilitated a lot of out of town shopping, which is fine when it comes to buying large bulky goods, but it is a mistake to allow a food business to be located away from the centre of a town. We are fortunate in Sligo town that Sligo County Council, through its development plan, preserves the centre for food shopping, which helps other surrounding businesses to survive. The bulky items can be purchased two or three miles away in shopping centres. This is working for Sligo. Had the county council allowed what had happened in other towns to happen in Sligo the centre would be a ghost town. It has gone through a rough patch in the past few years, but it is being revived because of the businesses that were maintained in it.

The Bill mentions the imposition of a charge on vacant properties. I know of a number of vacant properties which, if it was possible to rent them at a reasonable sum, the owners would

rent because it would generate an income for them, but there is nobody to rent them. That is the harsh reality. Some of the properties have been vacant for years. I have said previously in the House that there should be some help and support for their owners in rural towns, as the premises could be used for residential purposes. We hear a lot about the housing crisis in Dublin, Galway, Cork and Limerick, but it is beginning to affect rural towns because, unfortunately, nothing has been built for the last 18 years. The Government could provide a tax incentive to encourage the owners of premises to upgrade them. Many of them cannot afford to do so without a tax incentive, which would not cost the Government one cent. Offering a tax incentive on rent over a period of ten years would encourage people to upgrade their premises such that others could live in them. That would take pressure off other parts of a county.

On arrears, I do not know how anybody who could not afford to pay and had an arrangement with the local authority will be able to pay €8,000, €9,000 or €10,000 per annum as they just do not have it. That is the reality. I know that different councils do deals, but it is difficult to get that point across. I know of an individual who feels so responsible for the payment of this money. If he had it in the morning, he would write a cheque and pay it. It is affecting his health to the extent that he does not know what to do. I have made arrangements for him to meet an official in the council to try to sort out the problem. To be honest, he would be better off if he closed the premises, but he is proud and does not want to do so. It is a difficult situation, but we are trying to deal with it. The council is wasting its time in going after such a man. He was paying what had been agreed, which I thought at the time was sufficient to ensure he would be okay, but rates are increasing again, which is unfair. There should be a relationship between what a business or premises can earn and the rates payable. There are small businesses that are doing well and generating a lot of profit and businesses four or five times the size of that small business that are paying up to four times more in rates but not earning one tenth of what the small business can earn. There needs to be a relationship between the income of a property and what should be paid in rates. The current system is, or at least used to be, based on a percentage of annual rental income, but it has not worked either.

There was a reference in the debate to bars, pubs and lounges. There are small bars that are doing very well and large bars that have no customers, particularly in rural areas. In the past two months these businesses have been hit hard because of rules and regulations which we debated on another occasion. The Government will notice a big change in early March in the VAT returns for the first two months of the year. The reduction will be very serious. The businesses have also suffered profit-wise in those two months. I accept the need for change, but it must be realistic and achievable. We have to make it easier for people to pay rates. They must at least be able to earn an income to pay them.

**Minister of State at the Department of Housing, Planning and Local Government (Deputy John Paul Phelan):** I will try to respond to as many questions as I can. A lot of the questions raised and a lot of what Deputy Scanlon and others spoke about relate to the valuations legislation. On small vacant premises, section 8 provides that a premises, for example, a small shop, above which, or at the back of, the owners are living will not be subject to a minimum rate being paid, even if the premises is vacant. Tubbercurry in County Sligo and Callan in County Kilkenny are two of the towns mentioned by the Minister for Rural and Community Development, Deputy Ring. He is right that they are similar in the sense that they have suffered a lot and that there are vacancies. It is important that Government policy in one area does not contradict Government policy in another. It is easy to say but difficult to enforce it, particularly when it comes to the funding of local authorities because each authority is a law unto itself in

its jurisdiction. The points made about vacancies in town centres were well made and I agree with them.

One of the main new provisions included in the legislation will allow councillors at municipal district level to operate the variation scheme. In response to the points made by rural Independents, if councillors in west Cork were to decide that they wanted to target the rural pub for a reduced rate or councillors in south Sligo wanted to target the main street in Tubbercurry or Ballymote or other similar towns, in keeping with the intention of the legislation, they would be able to do so. This independent action has not been provided for previously.

Section 5, which was mentioned by Deputy Ó Broin, is merely a restatement of the provision included in the 1978 legislation. It is a mechanism to ensure that local authorities do not continually increase the rate that is struck annually and do not become too reliant on the commercial sector for their funding. It has been used in 1999, 2000, 2001 and 2002 to varying amounts. There is also the issue, which is a strange one but it is true, that unauthorised developments are not exempt from rates.

It is a matter for the Valuation Office which does the valuations. There is no automatic exemption because something does not have planning permission. A commercial development already has an unfair advantage if it does not have planning permission.

Deputy Cassells, Deputy Casey and most of the speakers supported the thrust of the Bill, which is essentially a contradiction in itself in that it is aiming to do an awful lot in an area in which we have not had substantial legislation for a long time. While I accept that some of the provisions may seem modest nature, the Bill allows for flexibility, whether it is through the waiver mechanism or the local variation and alleviation scheme, for which it provides, and this is something that we have never done before. I fully acknowledge that the centre of towns and villages throughout the country have been greatly affected, even though it varies, and even then within counties. Some towns are doing better than others for whatever reason. There is also the substantial effect of the online shopping sector. I do not believe that the rates legislation will be able to solve that particular conundrum.

I am certainly open to the request of numerous speakers to have a broader discussion on the valuation element, the actual rates, and the future policy direction of rates legislation. Several Deputies spoke about having a vision for our market towns, although this is not solely confined to market towns and includes some of the larger urban centres.

Deputy Jan O'Sullivan mentioned that for commercial reasons some premises have been kept vacant in towns throughout the country, and in some instances in some very substantial towns. The Deputy named her own town and I could name a couple of others where similar situations have happened. That is one matter that the removal of the 100% rebate would be able to target specifically throughout the country.

Deputy Aylward raised the issue of local authorities pursuing rates bills while appeals have not yet been decided by the Valuation Office. I have not been able to get an answer yet but I will endeavour to get one because that is a very fair question to raise where serious letters are arriving from local authorities while appeals still have not been concluded by the Valuation Office.

Most of the speakers expressed support. There is a balance here - Deputy O'Sullivan mentioned this in her contribution - between ensuring that local authorities can be funded while having an appropriate modern system of commercial rates. The Deputy raised the concerns of

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forecourt operators not being able to take class actions. This is effectively a competition law matter, and I received those emails as well. When it comes to businesses, competition law is very strict as to the appeals that can be heard. I can understand some of the frustrations in this regard.

It is not the case that there is a uniform approach throughout the country whereby valuation is based solely on the size of the premises. It is not. It is based upon a number of factors, although size is a crucial one.

I emphasise that the alleviation scheme mechanism has the potential to allow councillors to have a say in the example given by Deputy Ó Cuív of a pub that built a function room in the 1970s or 1980s that is empty nearly all of the time now except for funerals and political clinics. If local authority councillors wish to target such premises with alleviation measures, they are free to do so.

Several Deputies spoke of trying to ensure an equitable mechanism is provided for the repayment of rates that are due, along with the payment of rates that have just fallen to be paid. Central to this Bill, along with the abolition of the two moieties, is giving the presumption of help to the business owner who wants to engage with the local authority.

I completely disagree with Deputy Cassells's suggestion - I do not believe he was necessarily serious about it - that we should take the collection of rates from local authorities and give it to the Revenue Commissioners. The Revenue Commissioners are by definition bound by the rules and laws under which they operate. Local authorities are best placed to use some sort of discretion, and to my knowledge they have that facility. Deputy Scanlon mentioned bringing people in to discuss arrears and difficulties that businesses find themselves in, something I have done too.

Deputy Pringle made a comment that is in the realm of fake news. He spoke about multinational companies being exempt from rates altogether. That does not exist. There is no provision for multinational companies being exempt from rates altogether.

I agree with most of what Deputies Michael Collins and Michael Healy-Rae said, even though a lot of what they said was about the Minister, Deputy Ross, and not about this legislation. They should be supporting this Bill, based on the arguments they made tonight, because it allows for alleviation measures for those villages that they spoke about in south Kerry and west Cork.

Deputy Troy raised the issue of commitment and asked if I would give a commitment that this Bill will be completed as soon as possible. I absolutely do give that commitment. There is a whole amount of legislation relating to Brexit, but it is my intention that this Bill will be finalised at the earliest opportunity. The Business Committee of the House will have a say on that, but we intend to have it completed as soon as possible.

Question put and agreed to.

### **Local Government (Rates) Bill 2018: Referral to Select Committee**

**Minister of State at the Department of Housing, Planning and Local Government (Deputy John Paul Phelan):** I move:

*Dáil Éireann*

That the Bill be referred to the Select Committee on Housing, Planning and Local Government pursuant to Standing Orders 84A(3)(a) and 149(1).

Question put and agreed to.

The Dáil adjourned at 10.15 p.m. until 10.30 a.m. on Thursday, 31 January 2019.