



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

DÁIL ÉIREANN

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

Gnó na Dála - Business of Dáil	380
Ceisteanna ó Cheannairí - Leaders' Questions	383
An tOrd Gnó - Order of Business	394
Orders of Reference of Special Joint Committee on Climate Action: Motion	403
Special Meeting of Joint Committees: Motion	405
Ceisteanna - Questions	405
Ceisteanna ar Sonraíodh Uain Dóibh - Priority Questions	405
School Staff	405
School Admissions	408
Apprenticeship Programmes	409
Special Educational Needs Service Provision	411
Schools Building Projects	414
Ceisteanna Eile - Other Questions	416
Schools Building Projects	416
Special Educational Needs Service Provision	419
Special Educational Needs Staff	421
Special Educational Needs Service Provision	423
Schools Inspections	425
Youth Services	427
Gnó na Dála - Business of Dáil	430
Ábhair Shaincheisteanna Tráthúla - Topical Issue Matters	430
Saincheisteanna Tráthúla - Topical Issue Debate	431
Gangland Crime	431
Mother and Baby Homes Inquiries	433
Scoileanna Lán-Ghaeilge	436
Residential Tenancies (Amendment) (No. 2) Bill 2018: Order for Report Stage	439
Residential Tenancies (Amendment) (No. 2) Bill 2018: Report and Final Stages	439
Road Traffic (All Terrain Vehicle and Scrambler Motor-cycle) (Amendment) Bill 2019: Second Stage [Private Members]	465

DÁIL ÉIREANN

Dé Céadaoin, 8 Bealtaine 2019

Wednesday, 8 May 2019

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

Paidir.

Prayer.

Gnó na Dála - Business of Dáil

Deputy Micheál Martin: I wish to raise a matter under Standing Orders before we commence Leaders' Questions. I did not get a chance to discuss it with the Ceann Comhairle in advance. I seek the agreement of the House to an adjournment of at least an hour to allow Members an opportunity to consider documentation pertaining to a topical issue of the gravest concern which was announced yesterday by the Government. I refer to the national broadband plan. The Government indicated that Members would be provided with the documentation by 8 o'clock this morning, but it was basically dumped on us at 1.55 p.m. RTÉ must have received the information in advance as it conducted an interview on the matter with the Minister for Finance, Deputy Donohoe. The documentation is of the most grave and serious kind and relates to correspondence from the Department of Public Expenditure and Reform regarding the national broadband plan and the unprecedented risks to the State, in the words of the Secretary General of that Department. That letter and another substantive document were provided to us at 1.55 p.m. It is clear that the leaders of each of the parties and groups in the House wished to ask questions on the broadband issue. It seems to me that the Dáil is being treated very shabbily. Members were promised some time ago that we would be given the advice of the Department of Public Expenditure and Reform. No one expected this type of approach, involving a big announcement yesterday by the Government with access to the airwaves and so on and the media being given various links, etc. We understood that we would be provided the documentation at 8 a.m. today to allow us time to consider it and be in a position to ask the most up-to-date and informed questions of the Minister for Communications, Climate Action and the Environment, Deputy Bruton, regarding the national broadband plan. Under Standing Orders, I am seeking the adjournment of the House to enable us to get to grips with this documentation and be able to ask fully informed questions.

An Ceann Comhairle: It is obviously a matter for the House to decide. Fianna Fáil and another party sought a debate on this very important matter and, by agreement, in excess of two hours was set aside for it tomorrow.

Deputy Brendan Howlin: We made a promise in the House that we would do things differently after the debacle of the national children's hospital. A Government decision to award the biggest public sector contract in history was approved by the Cabinet. It was promised that the grounding documentation would be published at 8 a.m. today, which is bad enough given that it was after the opinion editorial from the Taoiseach and all the spin had been done. Then it was promised to be published at 9 a.m. and then at midday. It was finally published online at 1.55 p.m., with Leaders' Questions to take place in the House at 2 p.m. That is not a good enough way of dealing with these matters, particularly when some of the documentation questions the economic sense of this. We must be able to read that documentation before having Leaders' Questions or any other type of questions in the House, so there is strong merit in affording us the chance to read the 24 documents that were published five minutes before the House sat.

Deputy Mary Lou McDonald: This is a cynical way for the Government to do its business. I do not know what, if any, explanation there is for publication of these documents five minutes before Leaders' Questions. I am also not sure where the Taoiseach is. As the Head of the Government, the Taoiseach is the person to whom questions should be put and who should give the answers on behalf of the Government. I support the proposal that we adjourn. We must read this documentation so we can put questions in an informed manner.

Deputy Mattie McGrath: On behalf of the Rural Independent Group, I agree with the sentiments expressed by the other party leaders. This is nothing short of an election gimmick, a rush because of the Taoiseach putting his two feet into other issues. The Government wants to get this out so it can sell its candidates throughout the country. The public is aware of what is happening and will not be fooled anymore. Rural people deserve proper broadband but they are not getting it and they will not get it with this plan. The Government has been putting it off hour by hour to hide the deceit. There must be a special debate on it in the House and the Taoiseach, as well as the Minister, must be present to answer the questions.

Deputy Catherine Murphy: I agree with the points made. Often we end up with an announcement of something that has already happened and we take a retrospective look at it. We have an obligation to inform ourselves in advance on this occasion. I too believe it is a cynical move to dump this information at this point in the day when it is known that Leaders' Questions are due to take place. The timing of the announcement has also been quite cynical.

Deputy Eamon Ryan: We received a briefing in the Sycamore Room for an hour and a half or so from noon today. One of the key things we learned is that contracts for this will not be signed for months. That calls the timing into question. It is all last minute and election orientated. That is not appropriate in a Dáil which has seen cost overruns become a big issue. That type of process is not good enough.

Minister for Communications, Climate Action and Environment (Deputy Richard Bruton): I am completely at the disposal of the House. The position is that we took a decision yesterday. We have sought to provide all the documentation, which is substantial and required significant redaction to ensure it was fit for publication. Leaders' Questions is an event that takes place every day in the House. The Taoiseach is not here today to take those questions because of international commitments. I have indicated to the Oireachtas committee that I am willing to attend and I have indicated to the House that I am open to a debate and-or questions. I am available to answer questions in the House at any stage. The Taoiseach will always be here to answer questions, as he is every week throughout the year.

There is nothing underhand about this. After considerable consideration and after the House rightly asking when this decision will be made, we have made a decision to appoint a preferred bidder.

Deputy Brendan Howlin: Preferred over whom?

Deputy Richard Bruton: We are now moving to a stage of entering into firm contracts and that will take some time. However, I have always indicated that I would be as open as possible when we had made this decision and that we would make the information available. I am happy to take questions at any stage the House indicates but as I understood it, this slot was Leaders' Questions. I was asked and am happy to take Leaders' Questions in the same way as I am happy to take questions at any stage that the Ceann Comhairle assigns through the-----

An Ceann Comhairle: Are Members proposing that we set aside Leaders' Questions at this stage?

Deputy Micheál Martin: The Government must have known that we would be asking questions about the national broadband plan during Leaders' Questions. That is a fairly reasonable expectation. Heretofore, we had been advised that we would get all the advices from the Department of Public Expenditure and Reform. It was made clear some time ago that a full and transparent approach would be adopted with Dáil Éireann regarding this plan. At 1.55 p.m., five minutes before we were about to take Leaders' Questions, very serious documentation was published. This is not any ordinary documentation. It is correspondence from the Secretary General of the Department of Public Expenditure and Reform that talks about an unprecedented risk to the State. It raises very serious questions about the level of risk that the preferred bidder is to take up and significant language is used in the letter from that Secretary General in that regard. I understand the operator has projected a rate of return that seems very high, given the risk profile and so on. A further document was published at 1.55 p.m. containing a substantial number of pages. It is essentially a memorandum from one Department to the other. There is a long section on risk that I have not had a chance to read.

Deputy Brendan Howlin: Most of us have not had a chance to read it.

Deputy Micheál Martin: I presume that nobody has had a chance to read it. All I am suggesting is a suspension for an hour and a half in order that people can read it because we are entitled to-----

An Ceann Comhairle: So, Deputy Martin, the proposal therefore is for Members to consider whether they wish to suspend the House until 2.30 p.m.-----

(Interruptions).

An Ceann Comhairle: Sorry, 3.30 p.m., whereupon we would resume with Leaders' Questions. The remaining business would have to be abbreviated arising out of this because I presume that Members do not want to be here until the early hours of the morning. I do not know whether it is in order but we will hear from the Minister for Housing, Planning and Local Government.

Minister for Housing, Planning and Local Government (Deputy Eoghan Murphy): Of course, it is important that we discuss this issue but we also have Report Stage of the Residential Tenancies (Amendment) (No. 2) Bill 2018 later this evening. The time was extended to 9

8 May 2019

p.m. to facilitate the passing of that Bill. If we are to suspend, we must extend the sitting of the House as well to take Report Stage of the Bill.

Deputy Mattie McGrath: Of course.

Deputy Eoghan Murphy: The Ceann Comhairle has just said that business will be truncated. That Bill is too important to truncate the time given to it.

An Ceann Comhairle: If we are to deal with this officially, we must have a formal motion put to the House that stipulates the period of the suspension. Then it is a matter for the House to decide whether or not to suspend. Is Deputy Micheál Martin making a proposal?

Deputy Micheál Martin: I am formally proposing that the House suspend for 90 minutes and resume with Leaders' Questions.

Deputy Thomas P. Broughan: Would it be possible to take the Residential Tenancies (Amendment) (No. 2) Bill 2018 first and have the Order of Business later?

An Ceann Comhairle: That is a very helpful suggestion.

Deputy Micheál Martin: When we say later, we-----

An Ceann Comhairle: At the end of an hour and a half, we will come back to Leaders' Questions. If we turn around the process, are we in a position to do that? Are Members agreeable? Agreed. I thank them for their co-operation. It is quite unusual.

Sitting suspended at 2.14 p.m. and resumed at 2.20 p.m.

An Ceann Comhairle: I understand that there is a further Government proposal in respect of the taking of business given the request to accommodate the legislation on housing and the broadband debate.

Minister of State at the Department of the Taoiseach (Deputy Seán Kyne): I propose that we suspend the House until 3.45 p.m., when we will recommence with Leaders' Questions.

An Ceann Comhairle: Is that agreed? Agreed.

Sitting suspended at 2.20 p.m. and resumed at 3.45 p.m.

Ceisteanna ó Cheannairí - Leaders' Questions

An Leas-Cheann Comhairle: We will now deal with Leaders' Questions, as agreed. I remind leaders and the Minister that we are running somewhat late and will be going to midnight. I ask all Members to observe the three-minute and one-minute rule. I call Deputy Martin.

Deputy Micheál Martin: I have in my hands the massive bundle of documentation sent to us at 1.55 p.m. today about the national broadband plan. That illustrates the sharp practice of Government in its management and handling of this project from the start and its attempts to spin its way out of any serious questions or accountability about the project itself. None of this was produced yesterday. Very little of the detail in this documentation was released yesterday.

The Government was definitely endeavouring to get out of Leaders' Questions without the detail of this documentation being in the public domain. The wider issue is that if one looks at the correspondence from the Secretary General of the Department of Public Expenditure and Reform to the Government and the Minister, he states:

In terms of the long-term sustainability of the project, I believe that there are unprecedented risks to the Exchequer posed by this proposed project. The Government is being asked to commit up to €3 billion of Exchequer funding - up to €2.275 billion of which will be required by 2026 - in an area where technology is rapidly changing and where we face a number of significant risks to the successful completion of the project.

The correspondence continues:

As against this €3 billion Exchequer investment that is at risk, the private sector operator is only risking [REDACTED] of their own funds.

Deputy Brendan Howlin: How much?

Deputy Micheál Martin: The correspondence continues:

I note that by 2028, the private operator is projected to have received [REDACTED] in dividends and interest, together with a repayment of [REDACTED] of the initial share capital, while the State will have spent up to €2.44 billion by that stage. In effect, the private operator will have all of their monies paid back while the Exchequer could have paid out almost [€2.5 billion]. And this is before significant connections have been made by service providers.

What is the upfront contribution of the remaining bidder to this project? Why will the Minister not be fully transparent and give us that figure now? Why is the State taking all of the risk? It is a very basic question because the Secretary General and his officials raised questions about the viability of the plan and the capacity of the bidder to deliver it. Having had many missed targets in the past seven years, we could be facing more missed targets. There is a complete lack of confidence in the documentation about the capacity of the remaining bidder to deliver.

Questions were raised about the lack of competition given that there was only one remaining bidder. Given that the Minister made an announcement yesterday about the preferred tenderer, will this contract ever be signed, considering the huge and enormous questions that have been raised by the Department of Public Expenditure and Reform and which have been poorly responded to in the correspondence from the line Department. Why is the Government so dismissive of the concerns of the Department of Public Expenditure and Reform? Why the absence of any robust counter-response from the Minister for Public Expenditure and Reform who I listened to on RTÉ Radio 1 earlier? There is an absence of a robust response to the concerns of his Secretary General and the officials in his Department who clearly believe that the Government has handled the management of this tendering process very badly.

Minister for Communications, Climate Action and Environment (Deputy Richard Bruton): At every stage in this I signalled that I would be open to providing documentation and answering questions, and that will be true today, tomorrow or whenever the House provides.

Deputy James Lawless: The Minister did not say that this morning.

Deputy Richard Bruton: This is a major decision to ensure that rural Ireland, which in-

8 May 2019

cludes 1.1 million people, has equal access to a technology that is going to transform our lives. It is already transforming our lives and it will make a huge impact on rural communities. We as a Government are not willing to see rural Ireland left behind and become second-class citizens-----

Deputy Anne Rabbitte: That is a first.

Deputy Richard Bruton: -----in respect of a technology that is crucial to its future.

Let me say clearly to Deputy Martin that we did not dismiss the evidence or information presented by the Department of Public Expenditure and Reform. We evaluated every one of those concerns very carefully and spent hours of evaluation on each one. I will take them in turn. In respect of costs, we have looked in detail at the cost of alternatives. Several alternatives were evaluated and none of them offered the opportunity of delivering these objectives at a lower cost; indeed, on the contrary, they would have taken more time and greater cost.

We considered the benefits available. This clearly provides more benefits than cost, and not only that, as the conservative basis on which cost-benefit analysis has to be done excluded most of the benefits of broadband, for example, opportunities in the future to access health services and education online, using cloud-based services and so on. These are the aspects that make it beneficial. We have carefully considered the risks and have managed them in a way that protects the State and we are using this model to ensure that at the end of this we are not left with an asset that could not be of value to the State. We are doing this, building off the existing network, using that model, renting rather than investing in creating a separate company and ensuring the company will be viable at the end, and this will continue to provide service not just for the 25 years during which we will deliver support but for another ten years beyond that.

In respect of the equity and dividends, of course an equity is being provided here.

Deputy Micheál Martin: What is it?

Deputy Richard Bruton: That is confidential within the contracts and that will be a matter we will have to nail down at the contract stage to show the documentation for the equity that is being put in. The equity is commensurate with the sort of revenue that this project will generate. This equity is entirely at risk. Many on the benches opposite and in the media have asked what would happen if the take-up was not as high as might be projected. The truth is that any failure in respect of the take-up will fall on that equity investor. It will be at its risk if that fails to transpire. This will be an important investment in rural Ireland. We have considered all the alternatives. This is the best technology delivered at the cheapest cost with the minimum risk to the State and it is an investment that we believe rural Ireland deserves.

Deputy Thomas Byrne: That is not what the Minister's officials said.

Deputy Micheál Martin: Rural Ireland has been waiting for a long time for high-speed connectivity. Fine Gael promised it in 2012. Every single promise it made was delayed and not honoured.

There was an alternative in the document. The Minister is wrong to say he considered every alternative. The Department of Public Expenditure and Reform said very clearly that plan B would be:

- (ii) Establishing a State entity (whether new or within an existing body) charged with

responsibility for managing any alternative State intervention/s - which would ultimately take over the management of the short-term intervention/s and establish more long-term solution/s to address all premises.

That is a paragraph in the Department of Public Expenditure and Reform memorandum. The Department knows all about EU state aid rules so the Minister should not pull the spin on us that his Department got some advice somewhere-----

Deputy Timmy Dooley: From the Attorney General.

Deputy Micheál Martin: The Department of Public Expenditure and Reform knows all about state aid rules and it is saying that there is an established mechanism by which the State could have done this differently and more effectively for the people in rural Ireland and for the taxpayer.

How much equity is the remaining consortium putting up? There is no other bidder.

Deputy Timmy Dooley: It is not commercially sensitive.

Deputy Micheál Martin: It is not commercially sensitive material. Why is the Secretary General going out of his way to say the State is taking all the risk and that the remaining bidder is only putting up so much? How much is that?

Deputy Mattie McGrath: A pig in a poke.

Deputy Micheál Martin: Is there a problem with the financial standing of the company? Has the company the wherewithal to take sufficient risk upfront in the early stages of this project? Why is the State taking almost 90% of it?

Deputy Richard Bruton: The capacity of the company has been carefully vetted at every stage and will continue to be vetted as we finalise the contracts and it will have to show the delivery of the equity to which it has committed.

Deputy Brendan Howlin: Is the Minister that sure?

Deputy Richard Bruton: It has always been clear that we could set up an independent State body and roll out an alternative but if Deputy Martin reads the detail of what the Department of Public Expenditure and Reform was proposing, it was to provide 1,800 premises with wireless broadband.

Deputy Micheál Martin: The Minister said all along he could not do that.

Deputy Richard Bruton: This is going back to the approach of not delivering fibre to the premises but instead delivering it to a limited number of locations. That is not the commitment that the Deputy or I want.

Deputy Micheál Martin: The Minister said he could not make another contract under State aid rules.

Deputy Richard Bruton: While the Department of Public Expenditure and Reform has a huge duty to challenge and that is its job, the Deputy and I know, as former Ministers for Education, that the Department of Finance challenged and opposed the idea of free second level education but few now would say that was a bad decision.

8 May 2019

Deputy Brendan Howlin: We owned it. We did not give it away.

Deputy Richard Bruton: The Deputy's party rightly takes pride in the fact that it was a proper decision and it was taken for courageous reasons because we wanted to ensure that everyone got an equal opportunity.

Deputy Timmy Dooley: We did not give it away.

Deputy Barry Cowen: To automatically have a bidding process with one bidder.

Deputy Thomas Byrne: We did not outsource it to the private sector.

Deputy Barry Cowen: Or to Boston.

Deputy Richard Bruton: In the same way this is a decision being taken by the Government to ensure that the people of rural Ireland-----

Deputy Michael Ring: Are the Deputies opposite against rural Ireland? Do they want it or not?

Deputy Richard Bruton: -----get the same equal opportunity to use modern technologies as their urban colleagues.

Deputy Michael Ring: They are against rural Ireland. We want broadband in rural Ireland.

An Leas-Cheann Comhairle: The Minister has a right to be heard.

(Interruptions).

Deputy Michael Ring: I am all for broadband in rural Ireland.

Deputy Thomas Byrne: So are we but the Government cannot deliver it.

(Interruptions).

An Leas-Cheann Comhairle: Whether a Member is a Deputy or a Minister, he or she will be treated-----

Deputy Thomas Byrne: It will take another ten years. Then Deputy Ring will be the longest serving Member if it ever goes to Mayo.

An Leas-Cheann Comhairle: Whether a Member is a Deputy or a Minister, he or she will be treated the same way by me and that includes the Minister for Community and Rural Affairs, Deputy Ring.

Deputy Mary Lou McDonald: After decades of neglect of rural Ireland, having asset-stripped rural Ireland and having delivered one broken promise after another, now on the eve of an election, the Government pulls what I can only describe as a cynical political stunt - a confidence trick. The documentation, which is voluminous and which it will take some to read in its totality, reflects that there is a fundamental question mark around the ability of the preferred bidder to deliver the rural broadband that we all seek.

It sets out the best case scenario, which is that the Minister's very expensive plan goes ahead, expenditure will be re-profiled and local authority social housing, the Tralee wastewater

network, Kilkenny regional water supply scheme, the Sligo western distributor road, the Killybegs bypass, the Dunkettle interchange, 18 primary schools, new ambulance bases, and so on and so forth will be taken off the table.

Even in the best case scenario, should this proceed, the Government will give with one hand to rural Ireland and take away with the other. There is a worst case scenario wherein billions of euro in taxpayers' money gets poured down a black hole, we are left with what amounts to a very expensive white elephant and rural Ireland is still left without the broadband it needs. I said many times to the Taoiseach - and it is unfortunate that he is not here - that the State was in a very weak position because of the shambles that the Government has overseen and that it was Granahan McCourt that held all of the cards. It seems now, through this documentation, that my position has been vindicated.

I invite the Minister to please tell us the figures. We know that the taxpayer is to have skin in the game to the tune of €3 billion. What is the figure for Granahan McCourt? What is the liability for that private equity firm? How is it that the documentation, although redacted, insinuates that the sum involved is a fraction of the €3 billion that the taxpayer will have to cough up? I do not accept that the Minister cannot name the figure. I would be more alarmed, were that possible, if he was proposing, notwithstanding the very clear advice given by the Department, to advance while not knowing or maybe not even caring, what stake the private equity investor proposes to provide. The Minister should name the figure and tell us. It is €3 billion of taxpayer's money but how much private money is going into this venture?

Deputy Richard Bruton: Let me be very clear that this company has proven experience and passed all of the pre-qualification tests. This company has built 16 greenfield telecommunication operations and-----

Deputy Timmy Dooley: This company has changed so many times-----

Deputy Richard Bruton: -----has rolled out 24 national telecommunication infrastructure projects. It has experienced executives who held senior positions in both Irish and international telecommunications companies. It will use the very same subcontractors that each of the other providers rolling out broadband services use.

Deputy Aengus Ó Snodaigh: It will not use the ESB.

Deputy Richard Bruton: This is a robust bid.

Deputy Brendan Howlin: What is it bringing to the table?

Deputy Richard Bruton: In terms of the white elephant allegation, we have built in very careful contract terms. There will be very close governance of this company. There will be clawbacks should it be more profitable than expected. Some people fear it will be more profitable than is projected and if that occurs, there will be clawbacks to protect the taxpayer. If the take-up is less than anticipated, the company will carry the risk. That is why its equity is at stake in this.

Deputy Mary Lou McDonald: How much?

Deputy Richard Bruton: In terms of the sum of the equity involved, I am not going to prejudice the final signing off on a contract for a project for which we have waited a very considerable time by revealing a figure that, as Deputies can see from the redacted documents, is

confidential.

Deputy Micheál Martin: Why?

Deputy Richard Bruton: This is a project for which people in rural Ireland have waited a long time. We have evaluated it extremely carefully, with 800 hours spent by officials in my Department with the various bidders to ensure that we are getting best value in this project. The goal of this project is to provide access for 1.1 million people, comprising 68% of the farms in this country, 100,000 small businesses and 600 schools. We want to ensure that this valuable part of our community, amounting to almost 25%, gets access to the same high-speed broadband that is being provided now by private investment in our urban and suburban areas. The truth is that when we privatised Telecom Éireann-----

Deputy David Cullinane: “We” did not privatise it-----

Deputy Richard Bruton: -----we left broadband provision up to the commercial world but it is not happening for a quarter of our people. That is why the State must intervene and provide substantial State support for it to happen. The idea of comparing our level of support for a service that is not economic to provide by commercial operators with the equity being put in is a false comparison. We have to put in this support so that this community will be included. That is why there is a substantial sum involved, albeit spread over 25 years, to secure this valuable infrastructure and to deliver to people around rural Ireland.

Deputy Mary Lou McDonald: The Minister is very coy but he does not display the same reticence in naming the figure for the taxpayer, with €3 billion rolling off his tongue. He does not have to convince anyone in this Chamber or beyond of the need for rural broadband; far from it. I remind him that officials in the Department of Public Expenditure and Reform - and I understand their concerns were also held by other officials - said that there is a question mark around the deliverability of the project. Let us just say that out loud. The Minister is speaking as though this is a certainty but the history of this debacle is that there is anything but certainty around the delivery of rural broadband, bar the certainty that, as he said, 25% of our people do not have access to it.

I do not doubt for a second that the preferred bidder has considerable expertise. I am not questioning that. I am not questioning the fact that it has been involved in very big projects; no doubt it has been but this is the first occasion on which it will acquire €3 billion of taxpayers' money. On that basis, if this is to have any credibility at all, particularly given that its credibility has been deemed highly questionable by very informed persons, the Minister needs to state on the public record the quantum of money involved. How much? What fraction of €3 billion is going to be advanced by way of private money?

Deputy Richard Bruton: Let me be very clear - this company will not get €3 billion. That is a completely distorted way of presenting this. We are employing this company to design, build and operate-----

Deputy Brendan Howlin: And own-----

Deputy Pearse Doherty: The company will own it.

Deputy Brian Stanley: It will own the infrastructure.

Deputy Richard Bruton: -----the roll-out of fibre which will be placed on rented poles, by

and large. It will be built on the existing network. That is designed to minimise the cost to the Exchequer. That will provide a resource, which the company will sell on, as a wholesaler, to retailers to provide service to those who connect to it. This is the State deciding that it needs an infrastructure to include rural Ireland. We are providing the money but it will only be provided as the company builds it out. The company will not get paid until it shows that the 146,000 km is rolled out. We have ensured that we are capping our risk. We believe that we will not have to pay all of the €3 billion because we have various elements where we can get clawbacks or not have to incur a cost, and they are built into the programme. Of course, for transparency reasons, we have shown the full cost of the potential exposure. We believe that this is crucial if we want to ensure that there is equal opportunity.

Deputy Mary Lou McDonald: How much private money is involved?

Deputy Richard Bruton: There is no cheaper way and no better technology than this to provide the sort of service that the Deputy wants to see.

(Interruptions).

An Leas-Cheann Comhairle: Deputies, please.

Deputy Richard Bruton: Let me say one last thing. The Deputy appears to favour the concession model, whereby this would revert to the State at the end of the period. In terms of the assessment of the deliverability of this project, that was assessed as being a far greater risk than the model we are now delivering.

Deputy Mary Lou McDonald: How much private money? Is it €500 million? Is it €100 million?

An Leas-Cheann Comhairle: We will now move on to the Independents 4 Change and Deputy Joan Collins, who has three minutes.

Deputy Joan Collins: There are many serious and important issues to be raised here today and I want to raise again the issue of workers' rights. This is the first opportunity to do so since May Day or International Workers' Day last Wednesday. I contacted the Minister for Employment Affairs and Social Protection in advance to make her aware that I would ask this question and seek clarity. On 7 March last, when I raised the issue of the theft of workers' tips by management in the Ivy restaurant down the road from this House in Dawson Street, the Tánaiste told the Dáil that this practice is "illegal". He said clearly:

Any employer that calculates salary and includes tips in that figure is acting illegally. This cannot be done ... Tips are separate to salary and if there are issues that the Government needs to act on there, then we will look at that closely.

We now know that it is not illegal. The Minister has clarified that, as has Unite the Union. I ask that the Dáil record be corrected in this regard, although I accept that the Tánaiste gave his view in good faith, based on his and my dismay that such a practice could happen and was happening.

When will the Government enact emergency legislation to close the loophole and to make this disgraceful practice unlawful, as the Tánaiste believed it was and as it certainly should be? On the weekend of 6 April, The Ivy restaurant, possibly on legal advice, changed its policy of applying a service charge to tables or five or more to include all tables. It also removed the op-

tion to pay a tip via credit card from the payment machine. Customers believe that this service charge goes to waiting staff and back-room staff but it does not. Service charges are discretionary. If customers are happy with their server, they should always pay him or her in cash. This area has to be legislated for immediately.

In recent days another large employer, Peter Mark, imposed a new training fee on its trainees. It did this explicitly to recoup from trainees the benefits lost due to the abolition of training rates to low-paid workers following the Government's much trumpeted and very welcome enactment of the Employment (Miscellaneous Provisions) Act 2018. This matter has been highlighted by Unite the Union, which has written to the Minister for Employment Affairs and Social Protection. Will the Minister, Deputy Bruton, make a statement on this matter? Can we be told what steps will be taken to ensure that legislation will be passed to the benefit of these low-paid workers?

I have asked three questions. When does the Government and the Minister intend to bring in emergency legislation to close the loophole with regard to low-paid workers not receiving service charges and tips from customers? Has Revenue or the Workplace Relations Commission, WRC, investigated The Ivy restaurant or other restaurants whose actions have recently been highlighted in the media, such as the Hard Rock Cafe? On the matter of trainee hairdressers in Peter Mark, what legislative steps will be taken to prohibit employers from such behaviour?

Deputy Richard Bruton: I may not be able to answer all of the questions the Deputy has asked. It is my understanding that the Low Pay Commission, which is an independent body, has been asked to look at this issue. It produced a report on the matter of tips and gratuities. It met representatives of the adjudication and inspection divisions of the Workplace Relations Commission last year. The WRC has stated that, in its view, a better approach than the proposed legislation would be to introduce a code of practice on tipping. Such a code could set out the principles underpinning such legislation and enshrine the proposal that an establishment display to its customers how tips are distributed. The Low Pay Commission considered all of that evidence and it is its belief that there are not sufficient reliable data to prove that the issue of employers withholding employee tips is a significant problem. The commission does not believe that legislation or regulation should be introduced in this area as the administrative and compliance costs involved would not be justified. The commission is also concerned that there could be unintended negative consequences. It considers that legislation in this area may not be enforceable.

An evaluation has been done. The Minister will have to explore the issue further if the Deputy submits further evidence, but she remains of the view that the Low Pay Commission's report and its findings should inform the debate on this issue and provide guidance as to possible solutions. The Minister is present but she is not in a position to answer additional questions at this point. She will listen to the Deputy's comments and, should additional responses be required, we will make them available to the Deputy.

Deputy Joan Collins: A survey on this issue has been carried out on restaurants in Galway and it has been proven that this practice goes on quite regularly. Senator Gavan produced that survey. Information is also available in respect of The Ivy restaurant; the Minister will have seen the payslips. There have also been reports in the media in respect of the Hard Rock Cafe and other restaurants and retailers who engage in this practice. This is a very low practice involving employers being very greedy and taking money from the hands of their workers who are trying to make a living. They are low-paid workers who get up early every single morning,

who work late every single night, and who stand on their feet all day. This House and the Government should be protecting these workers as best we can.

The Minister spoke about a code of practice. Is he looking at bringing in a statutory instrument with regard to tips? Businesses could also be banned from adding a service charge or forced to make it clear that the charge is discretionary. The Minister should look at those angles. He did not answer the question regarding Peter Mark.

Deputy Richard Bruton: To take up the Deputy's point, there is no doubt that if the Minister can secure a sectoral agreement it will have the force of law. Under law, if such an agreement can be put together it will be enforceable. That would be the ideal outcome. The Minister is working to secure such an agreement. She has also indicated that she is writing to companies, including that which the Deputy mentioned, in which practices which are not in accord with a proper approach to this issue may be in place. It is to be hoped that by alerting companies to their obligations and securing an agreement which can become a sectoral norm which would be enforceable, we can deal with this issue. That would be the ideal outcome, rather than specifying in primary legislation individual practices which evolve and change. An instrument that has the involvement of all sides in industry and which is capable of being kept up to date as circumstances change is required. That is the goal the Minister seeks to achieve.

Deputy Michael Harty: I wish to raise the issue of community employment schemes. These schemes may not be as controversial as the introduction of broadband to rural Ireland, but they are equally important to the communities they serve. As we approach full employment, I ask the Government and the Minister for Employment Affairs and Social Protection to change the eligibility criteria for entry to community employment schemes. I ask that the rules be relaxed in respect of the duration for which people can remain on these schemes, with particular regard to people aged over 55, participants with social and other limitations and participants who lack transport and other supports. I ask the Government to introduce some flexibility regarding the maximum amount of time for which participants can remain on these schemes. This would enable schemes to maintain their staffing levels, as many are now having difficulty doing so. It would allow them to continue with the excellent work they do for their local communities and to play an important part in social inclusion, particularly in rural Ireland.

The Minister has set up an interdepartmental group to look at this issue, which was to report at the end of March. Did this group produce such a report and what were its recommendations, particularly with respect to altering the criteria for entry and length of stay on these schemes?

Is the Department of Employment Affairs and Social Protection the best Department to be involved in the social inclusion arm of this scheme? As we approach full employment, the emphasis should be on community enhancement and social protection. The schemes were introduced at a time when there were high levels of unemployment but that is no longer the case, which creates great difficulties for these schemes in recruiting and maintaining people on the schemes. This is detrimental to the communities they serve. The Minister is aware of the social inclusion value of these schemes. The rules were set out at a different time and in a different era and they need to be changed.

The schemes are critically important for communities because they have taken on the work county councils formerly carried out in maintaining the infrastructure of villages and towns, providing many services formerly provided by the county council, looking after community projects and sheltered housing schemes, and looking after the landscape and streetscape of

these towns and villages through their participation in Tidy Towns and other community projects.

Even with almost full employment, there will always be a small cohort of people who find the norms of conventional jobs challenging. A placement on a community employment scheme gives these people a great sense of purpose, allows them to contribute to their communities, gives them sheltered and protected work and allows them to achieve their full potential.

Deputy Richard Bruton: I thank the Deputy for raising this issue. If I am not mistaken, these schemes were introduced by Ruairí Quinn during the early part of my time in this House. Their value and importance has been immense. There is no doubt that they have been primarily seen as labour market interventions to activate and keep people close to the labour market at times of high unemployment. The Minister is right to have established an interdepartmental group to look at the future role of the schemes. Clearly, it changes as the labour market changes. They have played an invaluable role. I am very aware of the pressures the Deputy describes in rural communities because there is equal pressure on maintaining community employment schemes in urban areas. The interdepartmental group was only established by the Minister in March. It has had its first meetings but has not reported at this point. It will examine the full range of issues as to the role of this. There will no doubt continue to be an important role in labour market activation. People can get displaced and do need a period of employment experience of the sort that can be provided by community employment schemes but there is an acknowledgement that there are also longer term elements. The purpose of this evaluation is to find the correct balance between them. I would tender a view that the Department of Employment Affairs and Social Protection is the correct Department to do this work but of course it has to work very closely with the Department of the Minister, Deputy Ring, where there are community, rural and urban affairs to be developed. I hope the interdepartmental group can develop something that is truly valuable to the communities and to the individuals who take these placements up. It has a very strong record of performance and has delivered some immensely valuable work within our communities. The Government wants to ensure it can continue to contribute to and support communities in the way the Deputy rightly identifies as being of priority.

Deputy Michael Harty: There needs to be a distinction between employment reactivation and social inclusion. The problem that arises in rural Ireland is that there are many groups who for various reasons cannot engage in full-time employment. They may not be able to participate in the training schemes that are sponsored by the employment schemes. The issue really is how we develop the self-esteem of people who are on schemes and then have to leave the schemes, although we know in our heart and soul they are not going to be able to get full-time employment. That may be for many reasons, either age or some limitation in their social skills or mental health. Being involved in a scheme allows these people to become part of the community, to contribute to it and to be a valuable member of it. Rather than be passive within the community, it allows them to be active. Once the schemes begin to lose their employment numbers, they gradually dwindle. That is the issue that is really facing rural employment schemes because they cannot recruit people. They have people on the schemes who can participate and want to continue but because of the rigidity of the criteria they have to leave the schemes. That is the issue.

Deputy Richard Bruton: I assure the Deputy that this is not a problem confined to rural areas. The same problems are affecting valuable community schemes across all of our constituencies which are running into difficulties. There are other employment opportunities for

people. It is hard to get supervisors to support these schemes.

Deputy Mattie McGrath: The Government is killing them.

An Leas-Cheann Comhairle: Deputy Mattie McGrath should have confidence in his group leader.

Deputy Richard Bruton: It is harder to get participants and they need these valuable programmes to be continued. The Government has recognised the need to adapt this scheme for the circumstances we now face. That is the purpose of the interdepartmental committee that the Minister has established. I have every confidence that we can work out something that will deliver a better balance for communities and for those who are participating and to ensure that people can contribute even if they are not in a position to hold down a full-time job in the private sector.

An tOrd Gnó - Order of Business

Deputy Michael Moynihan: The business of the week shall be as set out in the fifth revised report of the Business Committee dated 8 May 2019. Today's business shall be No. 10, motion re amendment of orders of reference of Special Joint Committee on Climate Action; No. 11, motion re special meeting of joint committees for engagement on challenges for the European Union on the occasion of Europe Day; No. 30, Residential Tenancies (Amendment) (No. 2) Bill 2018 - Order for Report, Report and Final Stages; and No. 31, Health and Social Care Professionals (Amendment) Bill 2018 [Seanad] - Order for Report Stage, Report and Final Stages. Private Members' business shall be No. 57, Road Traffic (All Terrain Vehicle and Scrambler Motor-cycle) (Amendment) Bill 2019 - Second Stage, selected by Fianna Fáil.

Thursday's business shall be No. 32, Statements on CervicalCheck; No. 30, Residential Tenancies (Amendment) (No. 2) Bill 2018 - Report and Final Stages (resumed); and No. 32a, statements on the national broadband plan. No. 25, motion re report entitled Climate Change: A Cross-Party Consensus on Climate Action – Joint Committee on Climate Action, shall be debated in the evening slot.

In respect of today's business, it is proposed that:

(1) There shall be no suspension of the sitting under Standing Order No. 25(1). Private Members' business shall take place not later than 9 p.m. If a division is in process at 9 p.m., it shall take place immediately following the division for two hours. The Dáil shall sit later than 10 p.m. If the Residential Tenancies (Amendment) (No. 2) Bill 2018 concludes before 9 p.m., the Dáil shall adjourn on the conclusion of Private Members' business. If the Bill does not conclude before 9 p.m., the Dáil shall adjourn not later than 12 midnight, or on the conclusion of the Bill, whichever is the earlier.

(2) No. 10, motion re amendment of orders of reference of Special Joint Committee on Climate Action, and No. 11, motion re special meeting of joint committees for engagement on challenges for the European Union on the occasion of Europe Day, shall be taken without debate and any division demanded on No. 11 shall be taken immediately.

8 May 2019

(3) Second Stage of No. 57, Road Traffic (All Terrain Vehicle and Scrambler Motorcycle) (Amendment) Bill 2019, shall conclude within two hours.

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

(1) The Dáil shall sit at 9.30 a.m. to take No. 32, statements on CervicalCheck, and shall adjourn on the conclusion of proceedings on No. 25.

(2) No. 32, statements on CervicalCheck, shall commence at 9.30 a.m. and shall conclude within 57 minutes. The statement of a Minister shall not exceed ten minutes. Following the Minister's statement, each party or group in opposition shall have six minutes each for questions and answers, with five minutes for the Minister in conclusion. The statement, questions and answers and the concluding reply shall not exceed 57 minutes in total. If the statements conclude before 10.30 a.m., the Dáil shall suspend until 10.30 a.m.

(3) No. 32a, statements on the national broadband plan, shall commence not later than 3 p.m. Statements shall be confined to a single round for a Minister or Minister of State and the main spokespersons for parties and groups, or a Member nominated in their stead, of ten minutes each. Each party or group in opposition shall have six minutes each for questions and answers with five minutes for the Minister in conclusion, and all Members may share time. Topical Issues shall take place on the conclusion of the statements.

(4) Notwithstanding Standing Order 140, No. 25, motion on the report entitled Climate Change: A Cross-Party Consensus on Climate Action shall conclude within three hours, if not previously concluded. The motion shall be moved by the Chairman of the joint committee and, notwithstanding Standing Order 91, the following time limits and sequence shall apply: speeches of a Minister or Minister of State, Chairman and the main spokespersons for parties and groups, or a Member nominated in their stead shall not exceed ten minutes each; five minutes for all other Members; a five minute response from a Minister or Minister of State, who may speak twice; and all Members may share time.

An Leas-Cheann Comhairle: There are two proposals to be put to the House. Is the proposal for dealing with Wednesday's business agreed to? Agreed. Is the proposal for dealing with Thursday's business agreed to? Agreed. We have 26 minutes left.

Deputy Micheál Martin: Under the public spending code, the benchmark figure is the basis for determining value for money for any major project. Reading through the memo from the Department of Public Expenditure and Reform to the Department of Communications, Climate Action and Environment, it is very clear that they raise serious questions about the public spending code being breached by the Department in respect of the national broadband plan and contract. This illustrates the degree to which the Government was spinning and not telling the full truth on this all along. The memo confirms the original estimate was €500 million. In September 2017 the benchmark figure was €800 million. The memo is asking how the €800 million became €3 billion in a year and a bit. The Government was saying to us that it was a different project. It was not a different project. It went from €800 million in September 2017 to €3 billion. Very clear questions are raised in the memo, which notes that the public spending code requires that approval of the sanctioning authority for a raised financial limit be sought before contracts are placed. It states further that the revised projections appear to be derived from the views of the bidders' technical solutions and the outcome of the dialogue process with the bidders, as opposed to having been independently calculated. The Department of Public

Expenditure and Reform is raising a red flag in terms of the breach of the public spending code on this project. Is the Government going to review the basis on which the public spending code operates, given what is clearly an extraordinary breach of or diversion from it and the ignoring of the procedures that should be followed under it?

Minister for Communications, Climate Action and Environment (Deputy Richard Bruton): There was no breach of the public expenditure code. The public expenditure code requires that before a procurement process occurs, an estimate is provided. In this case, as the Deputy knows, the procurement process was to identify the best technology and approach in an area in which we did not have a proven knowledge. This procurement process identified what the approach was by having an open competition, a competitive dialogue.

Deputy Timmy Dooley: The Taoiseach was untruthful last week when he answered the same question.

An Leas-Cheann Comhairle: Deputy, please.

Deputy Richard Bruton: The two bids that came forward were comparable in scale. Those bids of course were substantially greater than the estimate that was put in. That estimate was not on a foundation of a clear projection.

Deputy Micheál Martin: It is not an estimate; it is a benchmark figure as per the public spending code.

An Leas-Cheann Comhairle: Let the Minister answer.

Deputy Richard Bruton: When that higher projected cost occurred, there was, as the public spending code provides, a complete revaluation to see if there were alternatives that could deliver this.

Deputy Micheál Martin: No, that is not what it says.

Deputy Richard Bruton: In accordance with the public expenditure code, those alternatives were evaluated.

Deputy Micheál Martin: Has the Minister read it?

An Leas-Cheann Comhairle: I call Deputy McDonald.

Deputy Micheál Martin: That is not what is stated in the memo at all. It is completely opposite.

An Leas-Cheann Comhairle: It is not a debate - question and answer.

Deputy Micheál Martin: It was a benchmark figure.

Deputy Mary Lou McDonald: The programme for Government promises to reform the HSE into a more efficient, transparent health service. Over the weekend the Taoiseach was forced to apologise to four pathologists in University Hospital Waterford whose very serious assertions regarding unacceptable conditions at the mortuary he had dismissed out of hand. The pathologists outlined that due to inadequate body storage and refrigeration facilities at the mortuary, most bodies lie on trolleys in corridors, leaking bodily fluids on the floor.

8 May 2019

They also stated that some relatives had to wake their loved ones in closed coffins due to advanced decomposition caused by the conditions at the mortuary and they were never told why, which is astounding. We now know that the State Pathologist has directed An Garda Síochána to avoid using the mortuary due to concerns about evidence contamination. Therefore the Taoiseach was clearly right to apologise and the pathologists have been vindicated. However, on this occasion sorry is not enough and we now need to see action.

I welcome today's commitment, secured by An Teachta Cullinane, from the Minister for Health that representatives of the Department of Health, the HSE and the hospital group will appear before the Joint Committee on Health. Will the Government now take the next step and commit to a fully independent investigation of these issues to ensure the full facts are heard? Will it publish terms of reference for such an investigation? Crucially, when will a new mortuary be built at the hospital?

Deputy Richard Bruton: The Government has a very clear commitment to build a new mortuary there. That is contained in our capital programme. I will have to ask the Minister to provide the Deputy with a timescale in respect of that. In terms of taking immediate action, I understand that new refrigeration facilities are being provided and will be in place this week. The Minister has signalled that there will be a review of what happened in this case.

An Leas-Cheann Comhairle: I call Deputy Burton on behalf of her party.

Deputy Joan Burton: Rehab has threatened to serve a 12-month notice of termination in respect of some of its services. Thankfully that has now been postponed pending negotiations. The first that many parents and family members who rely on Rehab services heard of this was when the story broke yesterday. It has caused immense distress for the 3,000 people who access these services, some of whom are outside the gates of Leinster House today protesting for more care services, for example for wheelchair users.

Rehab is seeking an additional €2 million, not €2 billion as for the children's hospital or €3 billion as for broadband. It is a very modest €2 million. There are a number of reasons for this deficit, including people having higher care costs as they get older and the requirements of meeting Health Information and Quality Authority standards. When will the individuals who rely on these services and their families get certainty that they will get what by the standards of this Government is a trifling amount - a mere €2 million?

An Leas-Cheann Comhairle: The Minister to respond.

Deputy Joan Burton: What similar financial deficit issues are arising in other providers of disabilities services?

An Leas-Cheann Comhairle: The Minister, Deputy Bruton, to respond.

Deputy Joan Burton: Service users deserve to be told.

Deputy Richard Bruton: I fully acknowledge that the announcement that these services could be withdrawn within 12 months was a major shock for anyone who depends on those services. As the Deputy knows, the Minister, Deputy Harris, and the Minister of State, Deputy Finian McGrath, met representatives of Rehab yesterday, I believe. As a result of that meeting, Rehab will not issue that notice on suspending services. Intensive work is under way to see if a new arrangement can be worked out.

Deputy Ruth Coppinger: The programme for Government promises to provide a broadband service to the people who do not have one. Has the Thatcherite capitalist ideology seeped so far into the bones of Fine Gael that it can never countenance a situation where the State should intervene and provide basic infrastructure? It seems that it cannot think outside the private sector. Civil servants and even dyed-in-the-wool Fine Gael voters I have met on the campaign trail cannot believe that the State would not provide this infrastructure. We now find out that the cost could be the equivalent of 2,000 social houses, 18 primary schools, ten health centres, a whole load of flood relief and vital projects throughout the country.

Along with the national children's hospital, this is an indictment of the so-called fiscal rectitude Fine Gael is supposed to represent. Why did the Taoiseach say it would be "a bit much" to ask the ESB to do this? Why would it be a bit much? How much would that option have cost?

An Leas-Cheann Comhairle: I call the Minister.

Deputy Ruth Coppinger: The Minister said the Government went through every single option. Ninety percent of the cost of this would be borne by the State. This is not a rural versus urban issue, as some Deputies are trying to suggest in the local election campaign.

An Leas-Cheann Comhairle: Go raibh maith agat.

Deputy Ruth Coppinger: It is not in the interest of anybody in an urban area that other people do not have broadband. Rural projects will suffer and be wiped out because of this.

An Leas-Cheann Comhairle: The Minister to respond to the question.

Deputy Ruth Coppinger: The Minister and his colleagues should not start that in the campaign trail. He should answer the question as to why the State cannot do this. The champagne corks are popping in French companies-----

An Leas-Cheann Comhairle: Please, Deputy Coppinger-----

Deputy Ruth Coppinger: -----and companies all over the world in light of this deal.

An Leas-Cheann Comhairle: I call on the Minister to respond. Others want to respond but in respect of leaders or leaders' representatives, it is not customary.

Deputy Richard Bruton: I will not comment on the decision to sell Telecom Éireann, but when it was sold obviously we were depending on the private sector to deliver. It has been very successful in delivering for 75% of the population. People in urban and suburban areas will get access to fibre broadband.

Deputy Ruth Coppinger: It is the other 25% we are concerned about.

Deputy Richard Bruton: This would not happen in the areas where the other 23% of the population live.

We set up a procurement model. One of the companies that entered that procurement process was the ESB in partnership with SIRO. For its own reasons, it decided not to proceed with that. We were strongly advised that the best and most cost-effective way to build this network was to build it off the core network that was already there, being able to rent poles and rent ducts, rather than having to build them from scratch. That is the model we proceeded with. If we were to terminate this contract and not proceed with the bidder which is here and start

8 May 2019

again, in order for the ESB to be considered as eligible to participate we would need to have an entirely new procurement process which could again take two, two and a half or three years to complete. ESB did enter it and for whatever reason it did not proceed.

An Leas-Cheann Comhairle: I call Deputy Connolly on behalf of her group.

Deputy Catherine Connolly: Fad is a táimid ag caint faoi sheirbhísí do cheantair tuaithe agus go bhfuil sé ar intinn ag an Rialtas na ceantair tuaithe a shábháil le córas leathanbhanda ar an lámh amháin, ar an lámh eile, tá scríos á dhéanamh ag an Rialtas le seirbhísí agus tá mé ag caint faoi cheantair tuaithe i nGaillimh agus go háirithe i ndeisceart na Gaillimhe. Tá deireadh curtha le seirbhísí fisiteiripe ar an talamh. Tá deireadh curtha leis a lán seirbhísí eile ar nós oibríthe sóisialta. Is é mo cheist inniu ná, má tá an Rialtas dáiríre faoi sheirbhísí do cheantair tuaithe, cén chaoi gur féidir leis an Rialtas seasamh le cinneadh atá déanta ag Feidhmeannacht na Seirbhísí Sláinte deireadh a chur le seirbhísí fisiteiripe i nGaillimh, seirbhísí atá thar a bheith práinneach agus daoine a tharraingt isteach go dtí cathair na Gaillimhe, áit a bhfuil plódaithe agus a bhfuil tranglam tráchta ann? Cén chaoi gur féidir leis an Rialtas seasamh leis an gcinneadh sin chun deireadh a chur le seirbhísí atá thar a bheith tábhachtach?

An Leas-Cheann Comhairle: This relates to services in rural areas.

Deputy Richard Bruton: Unfortunately, I am not briefed on physiotherapy services in Galway. I will have to ask the Minister for Health to get back to Deputy Connolly.

Deputy Catherine Connolly: There are not any. That is the problem.

Deputy Mattie McGrath: Some months ago after much begging and pleading, the Taoiseach announced a task force for Tipperary town, its environs and west Tipperary. Following on from that the Minister of State, Deputy English, appointed Ms Alison Harvey as an independent chairperson. The people in Tipperary were delighted about that. However, the process has come to a stop. No progress has been made. Many concerns have been expressed about whether Ms Harvey has been allocated a budget or if she is undertaking the role, and the people of Tipperary are bewildered. We need this task force up and running. We need collaboration from all the groups which are ready, willing and able to collaborate and interested in doing so. We need this to be funded by the Minister. I note the Minister, Deputy Ring, has his ear cocked listening. He needs to ensure it is funded. There is no point in making promises. We need a proper task force to examine this area and the whole N24 project, as we had in Westport some years ago, of which the Minister will be well aware. We need Ms Harvey to be in place, engaging with and listening to the people, and moving forward with the task force so that we can help redress the serious deficit in Tipperary town and district.

Minister for Housing, Planning and Local Government (Deputy Eoghan Murphy): I thank the Deputy for his question. Much urgency has been taken on addressing this issue. The Deputy will be aware of that and the Taoiseach has taken a personal interest in it as well. The Minister of State, Deputy English, is very much involved. Ms Harvey, who has been appointed, is an expert in this area. There is no lack of funding available; €20 million has been made available to Tipperary in the past year between the Minister, Deputy Ring's, Department and my own. A number of additional schemes can be utilised by this task force when it knows what the schemes to be used are and how to use them best. Considerable work is happening. We need to allow the process to be completed before we know what the outcomes will be.

An Leas-Cheann Comhairle: Before the House suspended, the Ceann Comhairle took a

number of names and the first on the list is Deputy Stanley.

Deputy Brian Stanley: I wish to ask the Minister, Deputy Bruton, a question concerning a commitment in the programme for Government regarding the national broadband scheme. During a briefing with senior officials in the Department this morning on the scheme and the announcement yesterday, a number of questions came up and some answers were given. One answer related to the cost per household of the roll-out of the scheme. A question was raised in the context of where it exceeds a certain amount that the householder will have to pay. Along with the taxpayer paying a subsidy, householders in remote rural areas will also have to pay perhaps up to several thousand euros. Will the Minister confirm that?

Will he confirm also with respect to all the subsidy that will be going to other companies for renting the infrastructure in terms of poles etc. that almost €1 billion will go to Eir? Another area of concern relates to the board. The Minister, or his successor, will have the right to appoint one member to the board of an entity called National Broadband Ireland, NBI. Does that mean the other eight members will be appointed by Granahan McCourt? He might confirm that. These are key issues for the House and for the taxpayers who are investing almost €3 billion in this project.

Given what has emerged in the documentation regarding the fact that there is only one bidder-----

An Leas-Cheann Comhairle: The time is limited.

Deputy Brian Stanley: -----is the Minister concerned that both hands of the State are being tied behind its back with this project?

An Leas-Cheann Comhairle: Deputy Doherty has a related question.

Deputy Pearse Doherty: The documents that have been released today are staggering in terms of their critique and the mess that has been created. There is a reference over and over again in separate documents to the risk of the contractor abandoning the project. The risk of it abandoning and not honouring the contract during its duration is referenced in one document and another one states that the result could be that we would be stranded with an obsolete asset and that, despite paying €2.275 billion, it is an asset we would not own. Another document references a risk that the operator could abandon the project. This has been identified as a risk because of the lack of skin in the game on the part of the operator. If the operator abandons the project and, therefore, no broadband is rolled out to rural Ireland, what is plan B? The Department outlined the various capital projects that could be abandoned to accommodate the €1 billion additional capital investment that will be required. Will the Minister confirm that no projects will be delayed or abandoned? Will he confirm also that when the Taoiseach mentioned a €4 billion to €5 billion figure for metro north in the press conference yesterday, it was a slip of the tongue and that we will not see another project go from €3 billion to €5 billion overnight?

An Leas-Cheann Comhairle: A number of Members are listed and we are a little behind in the time. I ask the Minister to give a brief answer.

Deputy Richard Bruton: It is not anticipated that people will have to pay more. There is flexibility in the contract that up to 2% can be provided not by fibre to the home but by wireless. There is within the contract a provision, the same as would apply in a telecommunications standard line, that if the connection is more than a certain figure, a cost could fall on the individual

8 May 2019

premises, but it is not anticipated that will come into operation because it is believed that the flexibility of providing a wireless solution will avoid that happening.

The question of the charge that has to be paid for renting poles or ducts, which could be rented from Eir, the ESB or any other provider, is regulated and that price is set by ComReg. It is subject to whatever ComReg determines it is. The vast majority of poles will be rented, so there will be a charge, as Deputy Doherty said, of €1 billion.

There will be a ministerial representative but by far the more intrusive governance into this company will be through the contract we have negotiated. That will provide very detailed reporting of the progress of this contract roll-out to our Department where we will have financial, legal and technical experts overseeing the detailed roll-out because of the fact there is a contingency amount which could only come to be paid in the event that the Department is satisfied there is audited grounds for making those payments. There is very detailed supervision.

Deputy Pearse Doherty: The Minister has not-----

An Leas-Cheann Comhairle: The Deputy cannot come back in. The Minister responded.

Deputy Richard Bruton: If that number of questions were permitted, I have to take the time to answer them or I am not doing my job.

An Leas-Cheann Comhairle: I ask the Minister to be mindful of other colleagues.

Deputy Richard Bruton: They have been permitted to be asked so I am trying to answer them. If the company cannot complete this - the asset - we will only have paid for whatever has been rolled out at that point. Those lines that have been rolled out at that point will revert to the State. We will have possession of the lines that have been rolled out. I can assure Deputy Doherty that no capital project will be displaced by this. The Minister has indicated that very clearly and that was clear in the statement issued yesterday.

Deputy Mary Butler: Public confidence in University Hospital Waterford has been seriously damaged in the past two weeks. Confidence in the HSE and the South/South West hospital group has also been eroded since the letter from four consultant pathologists was made public concerning working conditions in the mortuary. It is not fit for purpose. In 2012, HSE Estates reported in stark terms the conditions and the unsuitability risks. Planning permission was granted in December 2015 but nothing happened.

In light of further developments last night with the removal of State cases from University Hospital Waterford mortuary, it underlines the need for a full investigation into how this situation was allowed to happen. Gardaí and the State pathologist no longer have confidence in the service provided at the mortuary citing a risk of evidence contamination with working conditions not fit for purpose.

This case is an illustration of how the Government's inaction on even the most basic essential services is failing. It is failing families; it is failing the dead. Only a full investigation will get to the truth of this.

An Leas-Cheann Comhairle: Deputy Aylward has a similar question, as has Deputy Cullinane.

Deputy Bobby Aylward: I want to add my voice on this issue concerning the south east,

which affects my constituency of Carlow-Kilkenny. I was horrified by the conditions in the morgue in University Hospital Waterford. This has been well known for many years. It was condemned in 2004 and the HSE was well aware of the conditions there. In 2013, money was to be made available for the renewal of the building but that did not happen. I know of families in Kilkenny whose family members died and had to have closed coffins. The Taoiseach told us he did not believe this. However, I have proof from individual families who have since come to me and told me they were never told by the undertaker why the coffin was closed and why they had to bury their loved one with a closed coffin. We now know the reason. It is a disgrace on the HSE and on this Government which allowed it to happen. The sooner they rectify it, the better. I want to add my voice to the disgust in this regard.

Deputy David Cullinane: I am sure the Minister for Health, Deputy Harris, will appreciate the anger people in Waterford and the south east feel. I imagine he also appreciates the lack of confidence people now have in mortuary services, notwithstanding whatever mitigating solutions can be put in place. In the absence of the Minister, Deputy Harris, the Minister, Deputy Bruton, said Deputy Harris was supportive of a review of the claims that were made. What will be the nature of that review? Will the Minister consult Oireachtas Members from Waterford and the south east who have met bereaved families and who have real concerns? There are issues around process and around open disclosure, given not one single family was informed of the poor state of mortuary services in Waterford, which beggars belief. People want answers to questions, and the only way we can get answers to questions is a full, independent examination of the claims. Will the Minister for Health spell out his intentions? Will he consult Oireachtas Members in Waterford and health spokespeople from the different parties and groups?

Minister for Health (Deputy Simon Harris): I thank the consultants in Waterford, as I did during the week, for bringing forward their concerns and for doing so in the appropriate manner and engaging with hospital management. There is no doubt there is a need for a new mortuary in Waterford. That need is well accepted and has been well accepted for a long number of years, and it is about time we moved on it.

I want to say three things in regard to this matter, and I thank colleagues from the south east for raising it. First, on Friday, the temporary additional refrigeration facilities for the mortuary will arrive at the hospital in Waterford. My understanding, from memory, is that this will increase the refrigeration facilities from six to 13 and, I believe, will end the situation of bodies on trolleys in corridors. It is important we have dignity in regard to death.

Second, I spoke again to hospital management today and I have given the absolute go-ahead for the tender to issue in regard to the permanent build for the mortuary. I understand that will take a number of weeks in terms of processes, European rules and the like, but the go-ahead is in place and that new mortuary will be funded in the capital plan which I will publish shortly.

Third, Deputy Cullinane is correct in that I believe there is a need for a review. There is a need for questions to be answered in regard to how the mortuary operates and how we make sure best practice is in place. I want to take a couple of days to get this right. I want to take a couple of days in regard to the terms of reference and who should carry out that review. I am happy to hear from colleagues in the south east and anyone who wants can send me submissions on the matter.

Deputy Fiona O'Loughlin: My question is in regard to Naas General Hospital. Page 58 of the programme for Government refers to our hospitals, in particular accident and emergency

8 May 2019

services, and to reducing the time people have to wait. There is a crisis in the accident and emergency department in Naas General Hospital at present. While the staff are excellent, and I want to put that on record, in the past week more than 60 people have been on trolleys. One of the assessment clinics that was open 9 to 5 has been closed, apparently due to the lack of a doctor, which has added to the problems.

I will give one example. An 88 year old lady presented in accident and emergency and she was on a trolley for three nights. Over the following three nights, she was moved from ward to ward and she has now developed bed sores and is in huge pain. She is waiting for surgery and was told by the members of the orthopaedic unit in Tallaght who came to assess her that it should have happened last week. She has now been told she will have to wait another few weeks in hospital. It is a crisis. I invite the Minister to come and see what is happening.

Deputy Simon Harris: I thank the Deputy for the question. Obviously, while any patient on a trolley is a patient too many, figures from the INMO and the HSE have shown a very significant reduction in the number of patients on hospital trolleys so far this year. I take seriously what Deputy O'Loughlin says in regard to Naas General Hospital. I will make inquiries in regard to the specific issue she has raised and I will revert to her directly. I have visited Naas General Hospital and I hope to visit again soon.

Deputy Margaret Murphy O'Mahony: The programme for Government committed to enhancing businesses. Has the Government any intention of revisiting the rates situation? While out canvassing in recent weeks, I have called to many businesses in west Cork, many of which are very busy in the summer and not as busy in the winter. Like all businesses nationally, they are being hit by people buying online. I ask that something be done to help businesses across west Cork and nationally with regard to rates.

Minister for Housing, Planning and Local Government (Deputy Eoghan Murphy): I thank the Deputy for the question, which is an important one. We are all getting questions like this as we are canvassing with local and European election candidates. The Minister of State, Deputy Phelan, is responsible not just for the Valuation Office but also for rates and how businesses are rateable in this country. Work is happening on commercial rates to see what further changes might need to be made based on the changes we are seeing and how businesses are doing their business, not just in Ireland but internationally.

An Ceann Comhairle: That concludes Questions on Promised Legislation. The questions of several Members were not reached and they will have priority tomorrow.

Orders of Reference of Special Joint Committee on Climate Action: Motion

Minister of State at the Department of the Taoiseach (Deputy Seán Kyne): I move:

That, in relation to the orders of the Dáil of 3rd July, 2018 and 29th January, 28th February and 13th March, 2019, establishing and amending the orders of reference of the Special Committee on Climate Action, the orders of reference are hereby amended—

(a) by the substitution of the following subparagraphs for subparagraphs (i) to (v) inclusive of paragraph (a):

‘(i) in view of the recommendations of the Joint Committee on Climate Action contained in its report entitled “Climate Change: A Cross-Party Consensus on Climate Action”, laid before both Houses of the Oireachtas on 29th March, 2019:

(I) having heard more from experts, and having been informed by the public consultation and the review of fuel poverty recommended in Chapter 6 of the Committee’s report, report on:

(A) the optimal and most transparent way of using the increased proceeds from the carbon tax; and

(B) the range of other measures that need to be introduced by the Government to enable those most impacted by the increase in tax either to be directly compensated (through, for example, the fuel allowance), and/or to be able to benefit from State-funded climate action measures (such as retrofitting); and

(II) follow up on progress made implementing the recommendations contained in the report, including the amendment of existing climate action legislation, and/or the development of new climate action legislation;

(ii) contribute to the development of Ireland’s draft National Energy and Climate Plan 2021-2030, in the context of the Regulation on the Governance of the Energy Union (COM 2016/759);

(iii) review the proposals in the All of Government Plan on Climate Disruption, due in May 2019;

(iv) continue to consider the recommendations contained in the document entitled “Third Report and Recommendations of the Citizens’ Assembly: How the State can make Ireland a Leader in tackling Climate Change”, and engage with Government departments on their climate actions;

(v) generally assess the state of play in relation to the sectoral adaptation plans (as required under the Climate Action and Low Carbon Development Act 2015 and as set out under the national adaptation framework) of relevant Government departments, and, in this context, engage with the Secretaries General of those departments in relation to the proposed adaptation measures to be included in such plans, taking into account the National Development Plan;

(vi) examine such reports as are published by the Intergovernmental Panel on Climate Change, including its Special Report on Climate Change and Land, due for publication in August 2019;

(vii) examine the 2019 Annual Review of the Climate Change Advisory Council and engage with relevant stakeholders thereon; and

(viii) consider such other related matters, and engage with such other relevant stakeholders, as the Committee sees fit;’ and

(b) by the substitution of the following paragraph for paragraph (g):

‘(g) the Joint Committee shall report its conclusions and recommendations on the

8 May 2019

matters contained in subparagraphs (A) and (B) of subparagraph (i)(I) prior to 30th September, 2019.’.”

Question put and agreed to.

Special Meeting of Joint Committees: Motion

Minister of State at the Department of the Taoiseach (Deputy Seán Kyne): I move:

That, notwithstanding anything in Standing Orders, three or more Joint Committees, in accordance with their orders of reference, may hold a joint meeting or meetings in the Seanad Chamber for the purpose of engagement on policy challenges for the European Union on the occasion of Europe Day 2019 on Thursday, 9th May, 2019: Provided that the quorum for the joint meeting shall be 10, and provided further that the Chairperson of the relevant Joint Committee may act as Chairperson for the purposes of the meeting, or the portion thereof relevant to his or her Committee’s remit.

Question put and agreed to.

Ceisteanna - Questions

Ceisteanna ar Sonraíodh Uain Dóibh - Priority Questions

School Staff

1. **Deputy Thomas Byrne** asked the Minister for Education and Skills the timeline for talks to commence with school secretaries; if a date will be set for the commencement of negotiations with representatives of same; and if he will make a statement on the matter. [20075/19]

Deputy Thomas Byrne: Tá an cheist seo dírithe ar stad na rúnaithe agus na feighlithe sna scoileanna ar fud na tíre seo a bhfuil dhá chóras pá acu, cuid acu ar chonarthaí buan le pinsin agus cuid eile acu ar chonarthaí náid uaireanta.

This question concerns the two-tier structure for school secretaries and school caretakers, in particular the fact a very small number of them have permanent, pensionable jobs, as they should have, while the vast majority are effectively on zero-hour contracts, as the Department would have it. The question asks when negotiations will start, as mandated and agreed by the Department in the Workplace Relations Commission process.

Minister for Education and Skills (Deputy Joe McHugh): Gabhaim buíochas don Teach-

ta fá choinne na ceiste. Ceist thábhachtach atá ann agus tá sé soiléir go bhfuil ról lárnach ag na rúnaithe sa tír seo. Nuair a bhíonn tuismitheoirí, Teachtaí Dála nó aon duine den phobal ag dul go dtí an scoil, an chéad duine a chasfar leis ná an rúnaí ag an doras. Tá na rúnaithe ag déanamh fíor-iarracht agus tá dualgas mór orthu fadúda scoileanna a bhogadh ar aghaidh.

I recognise the very important work done by school secretaries and other support staff in the running of our schools and I am grateful to them for the contribution they make to our education system. I have spoken to a number of school secretaries about their employment conditions and understand the issues they have raised.

Schemes were initiated in 1978 and 1979 for the employment of clerical officers and caretakers in schools. The schemes were withdrawn completely in 2008 and these schemes have been superseded by the more extensive capitation grant schemes. The current grant scheme was agreed in the context of the Programme for Economic and Social Progress, published in 1991.

I have recently relaxed the moratorium for those community and comprehensive, C&C, and ETB schools with enrolments of 700 and more, which will allow them to employ an additional school secretary up to a maximum of two per school. There are 91 schools in the C&C and ETB sector which meet this criteria, based on the information available to the Department.

This is an initial step and has taken immediate effect.

The majority of primary and voluntary secondary schools now receive assistance to provide for secretarial, caretaking and cleaning services under these grant schemes. It is a matter for each individual school to decide how best to apply the grant funding to suit its particular needs. Where a school uses the grant funding for caretaking or secretarial purposes, any staff taken on to support those functions are employees of the individual school. Specific responsibility for pay and conditions rests with the school.

On foot of a chairman's note to the Lansdowne Road Agreement my Department engaged with the unions representing school secretaries and caretakers, including through an independent arbitration process in 2015. The arbitrator recommended a cumulative pay increase for staff of 10% between 2016 and 2019 and for a minimum hourly pay rate of €13 to be phased in over that period.

The Deputy asked a specific question about timing. The Department has agreed to arrange a meeting with the Fórsa trade union and is currently making arrangements for this meeting to take place in late May or early June.

Additional information not given on the floor of the House

The arbitration agreement I referred to covers the period up to 31 December 2019.

The arbitration agreement was designed to be of greatest benefit to lower-paid secretaries and caretakers. For example, a secretary or caretaker who was paid the then minimum wage of €8.65 per hour in 2015, prior to the arbitration, has been paid €13 per hour from 1 January 2019, a 50% increase in that individual's hourly pay.

Officials from my Department attended a meeting of the Joint Committee on Education and Skills on 9 April to discuss the status of non-teaching staff.

8 May 2019

Fórsa has requested a meeting with the Department to discuss pay arrangements for grant-funded secretaries and caretakers from 2020 onwards. The Department has agreed to arrange a meeting with the union and is currently making arrangements for this meeting to take place in late May or early June.

Deputy Thomas Byrne: It goes without saying that school secretaries and caretakers do great work. With all the circulars that the Minister's Department continues to fire at schools on a regular basis, secretaries actually have to take up a huge amount of schools' administrative burden. It is welcome that the Minister's Department will start talks. I would like to know the specifics. Are these talks in accordance with the Workplace Relations Commission, WRC, recommendation of four years ago or are they just talks about talks? When will this inequality end? Things are unequal. The current crazy scenario is that education and training board, ETB, schools all have pensionable permanent secretaries and schools with other patron bodies do not. Many times in the last few years, plebiscites have been held among parents to decide which patron will take over a school. If an ETB takes over the patronage of a school the secretary will be permanent and pensionable. However, if patronage is taken over by Educate Together, the Catholic Primary Schools Management Association, CPMSA, or one of the bodies involved in the management of gael scoileanna, the secretaries will not have permanent pensionable jobs. That is very unfair and wrong and it needs to end. I hope that these talks, for which we have been asking for some time, will be the start of it.

Deputy Joe McHugh: I will not predetermine how the talks will develop. The important thing is that the sides are meeting. I am on public record as saying this is an issue and there is an anomaly affecting many of these secretaries. I agree with the Deputy. A lot of these issues have been raised by politicians through the years and nothing has been done. I want to end that. I want to acknowledge the campaign the secretaries are undertaking through Fórsa. A meeting has been arranged with Fórsa in regard to this and several other issues specific to secondary schools. Once again, I want to put on record that we are due to meet late in May or early in June. I want to see a pathway to ensuring some sort of certainty for these very hard-working people. I include caretakers in that as well.

Deputy Thomas Byrne: We have been asking for this and the WRC has mandated it. It has taken a union campaign to implement the terms mandated by the WRC. I have met the Fórsa caretakers and secretaries myself. This needs to end very soon. If a scale like those applied to teachers and special needs assistants, SNAs, is not set out, any increase like the one given before will become a ceiling rather than a floor. That is a real problem. It is not fair that the secretary, who probably knows all of the children, parents and staff of a school, is often the one person without certainty about her - sometimes his - employment. I note that it is an overwhelmingly female profession. Secretaries do not have certainty. That is wrong and it needs to end. We need to bring back something similar to what pertained before and still pertains to this day in the ETB sector.

Deputy Joe McHugh: I am happy to work with the Deputy on this. I would like to acknowledge the presence of the Chair of the Joint Committee on Education and Skills. I will keep the committee and the House informed on how things develop in the next several weeks. To reiterate, we need to develop a comprehensive mechanism that will provide a pathway to a resolution. The initial conversations at the points of contact must happen. I reiterate that when my officials meet with Fórsa we intend to have a comprehensive overview and look at ways to find a solution, rather than just meeting for the sake of meeting.

Dáil Éireann
School Admissions

2. **Deputy Kathleen Funchion** asked the Minister for Education and Skills if he will introduce guidelines to ensure secondary schools have a policy in place to accept students from local feeder primary schools in order to ensure no child is left without a secondary school place; and if he will make a statement on the matter. [19782/19]

An Ceann Comhairle: Question No. 2 will be taken by Deputy Maurice Quinlivan.

Deputy Maurice Quinlivan: I ask this question on behalf of my colleague Deputy Funchion, who cannot make it today. I have raised this issue with the Minister before. I seek an update on whether he intends to introduce guidelines to ensure that secondary schools have a policy of accepting students from local feeder primary schools to make sure that no child is left without a secondary school place, as happens too often in my home city.

Deputy Joe McHugh: I thank Deputy Funchion for asking this question and I acknowledge Deputy Quinlivan for raising it in the House.

To be clear at the outset, I have no plans to introduce such guidelines for feeder schools.

Regarding enrolment generally, it is my Department's responsibility to ensure that between them, schools can cater for all pupils seeking school places in an area. Parents can choose which school to apply to and where the school has places available the pupil should be admitted. In schools where there are more applicants than places available a selection process may be necessary. This selection process and the enrolment policy on which it is based must be non-discriminatory and must be applied fairly in respect of all applicants. However, it may result in some pupils not obtaining a place in their school of first choice.

In this regard, a board of management may find it necessary to prioritise enrolment of children from particular areas or particular age groups or on the basis of some other criterion. For example, some schools give priority to applicants who have attended a particular primary school, known as a feeder school. The criteria to be applied by schools in such circumstances are a matter for the schools themselves.

The Education (Admission to Schools) Act 2018 was signed into law by the President on 18 July 2018. The overall objective of the Act is to provide a new framework for school enrolment, designed to ensure that every child is treated fairly and that the way in which schools decide on applications for admission is structured, fair and transparent.

New schools established since 2011 to cater for demographic demand are required to prioritise enrolment of children in the school planning areas for which the Department has identified the need for a school.

Deputy Maurice Quinlivan: I thank the Minister for his response. I am quite disappointed that he has no plans to do that. I have raised this issue with him before. It is an incredibly important and topical issue in my home city of Limerick. The current Limerick area post-primary schools common application system works quite well, as I said to the Minister when we last spoke about this. Some 17 secondary schools and 140 primary schools work together to get the right number of students into each institution. However, it is very distressing for a certain number of pupils who fall through the cracks in the system.

8 May 2019

As the Minister is aware, several young students in the city were recently left without a secondary school place despite applying to nine different schools. That left them and their parents in a panicked and worried state. Some kind of safety net must be put in place to ensure that no child receives only rejection letters. It is simply not good enough for parents to be forced to contact their TD or local newspapers in a desperate attempt to get a school place for their child. Although the current system works well for many, I ask the Minister to look into this problem and ensure that no child is left without a place. That is why I specifically mention the issue of feeder schools.

Deputy Joe McHugh: I am aware that the Deputy has raised this issue on several occasions. I am very interested in seeing how this system works. On one hand, it is a very good system whereby up to 98% of students get a place. However, in some instances students do not secure a place, even after going through all their preferences as expressed on the common application system. This is very hard on the student and his or her family and parents. There is probably no foolproof system but the Education (Admissions to Schools) Act 2018 very clearly requires equitable and fair treatment. Ultimately, however, the design, structure and construction of any policy is a matter for the schools themselves. While we can call for fairness and equity in the application of these guidelines at the political level, it is ultimately a matter for the schools themselves.

Deputy Maurice Quinlivan: The Minister used the words “equity”, “fairness” and “non-discriminatory” in his response. One of the barriers in the schools admission process is the rule many schools have in place giving preference to a student if his or her parent was a former student. The problem is that people whose parents did not go to the school and live in the area have no chance of going to the school. The rule has a harmful impact and prevents many children from attending their local school because their father or mother did not attend the school. It is clear in many instances in Limerick that it causes class division across the city and leaves many children behind. It results in the exclusion of some families altogether from their local school, despite living next door to it in some cases of which I am aware. I urge the Minister to again consider reforming the system when he examines the schools admission process in the future.

Deputy Joe McHugh: I know it is an important issue that the Deputy has highlighted in Limerick. The model in Limerick is a comprehensive one that not every area has. As he indicated, there are 140 primary schools and 17 secondary schools. A level of organisation is required by principals and boards of management to ensure the system works. The Deputy and his colleagues in Limerick highlighted a difficulty, which Senator Maria Byrne has raised with me on a number of occasions, namely, that there will always be a small percentage of parents and students who feel aggrieved because they are left out. I am happy to work with those involved in the system but the Department cannot be prescriptive in terms of designing the policy for individual schools. We have protective measures enshrined in legislation that promote fairness and equal treatment, but ultimately it is a prerogative of schools to design their own policy.

Apprenticeship Programmes

3. **Deputy Thomas Byrne** asked the Minister for Education and Skills the actions he will take in 2019 to address the low take-up of apprenticeships by women; and if he will make a statement on the matter. [20076/19]

Deputy Thomas Byrne: Cad iad na gníomhaíochtaí atá á ndéanamh ag an Aire chun níos

mó ban a mhealladh chun a bheith ina bprintísigh?

The question is about the actions the Minister will take to encourage more women to take up apprenticeships. We have an incredibly low rate of approximately 5% of female participation in apprenticeships. The reason is that traditional craft apprenticeships were male dominated but that is not a valid excuse because Britain does not have the same problem due to the wider range of apprenticeships, which we do not have in this country. That is the reason so few females are taking up this particular educational route.

Minister of State at the Department of Education and Skills (Deputy John Halligan): I am aware that the Deputy has an interest in apprenticeships as he has asked a number of questions on it. Currently, there are 367 female apprentices registered, more than double the 2017 figure of 151 and a substantial increase on the 2016 figure of 60. I accept that is not enough but I have made a big effort since I came to this position to at least double the number of apprentices that we have today. The number of women employed in craft apprenticeships is low, reflecting the traditional low levels of overall female employment in the craft sectors. To address that, SOLAS offers a bursary to employers in those trades to encourage them to employ female apprentices.

In recent years, there has been a welcome increase in the number of women participating in apprenticeships overall, mainly because of the expansion of apprenticeship into new areas. Many of the new programmes are in occupations that have greater gender balance in the workplace, such as financial services and auctioneering. While the increase in the number of female apprentices is welcome, it is also important to address issues influencing the low level of recruitment of women in the craft sectors. SOLAS has completed a review on the pathways to participation in apprenticeship for underrepresented groups, including women. Areas highlighted for action include setting targets for female participation and considering extending the bursary to other apprenticeships. The bursary offers approximately €2,660 to an eligible employer to encourage him or her to employ female apprentices. We are considering extending the bursary.

Women feature prominently in all aspects of the Generation Apprenticeship campaign, which was launched in 2017 by SOLAS on Twitter, LinkedIn, Facebook, Instagram, radio and television to encourage women to take up apprenticeship. However, it would be untruthful to state that everything is fine with female apprentices. Much more needs to be done.

Deputy Thomas Byrne: This is the biggest gender imbalance in the entire State, other than the Catholic priesthood. It is incredible that only 5% of apprentices are women.

A range of issues arise regarding the low take-up of apprenticeships. One is snobbery. We are all encouraging people to take up apprenticeships. Professor Kathleen Lynch spoke well at the ASTI conference. She said she would not encourage people to do apprenticeships until all of the professional middle classes have their own children do apprenticeships. That is the message we need to get out; namely, that they are of equivalent value to degrees. When people understand that, they will do them.

The issue up to now is that we have only catered for half of the population. The range and depth of apprenticeships on offer have traditionally been male dominated. There are no barriers to prevent women taking up apprenticeships, but the career choices are gender specific and they need to be broadened. Much more action is required in that regard to make sure that women

8 May 2019

take up apprenticeships, take pressure off the university system and show that it is a valid and equivalent way of educating oneself to any level one wants.

Deputy John Halligan: The Deputy's comments are important. Women are strongly represented in apprenticeships in the financial sector where they number approximately 46% of participants and 60% of accounting technicians are women. Progress has been made since 2016. We will announce another 16 to 19 new apprenticeships between this year and 2020. That will make it easier for women to participate in apprenticeships.

We have undertaken a comprehensive campaign. We are working with SOLAS and other agencies to attract women into apprenticeships. We offer a reasonable bursary to employers, which works out at approximately €96 a week for 26 weeks, who take on apprentices. We are running an extensive campaign on social media, in the press, and on radio and on television to encourage women to take up apprenticeships. In recent years, the rate of female participation in apprenticeships is almost 100%. I am confident that with the help of SOLAS, the bursary and working with employers we will dramatically increase women's participation in apprenticeships in the coming years.

Deputy Thomas Byrne: There are areas where the Department has taken action regarding the participation of women in apprenticeships. In fairness to the Minister of State, Deputy Mitchell O'Connor, there has been some action, although the effect of it remains to be seen in the higher education sector. Within the higher education sector we have the international programme and awards under the Athena SWAN initiative. The universities and institutes of higher education are doing fantastic work to promote gender equality and opportunity but it does not appear that the same is being done for apprenticeships. I do not know if there is an international standard in apprenticeships as there is in higher education, but perhaps that is the reason the pressure is on there. We need to put the pressure on ourselves and the Minister of State must put pressure on himself to ensure that we change the situation because it is not sustainable for civic society to have 95% of participants who are male and no realistic prospect of any substantial increase in the level of participation by women in the coming years. The rate will probably change slightly but we need much more dramatic action.

Deputy John Halligan: I have spoken to the Apprenticeship Council on a number of occasions about diversity in apprenticeships and in the take-up of apprenticeships as well as the expansion of the apprenticeship system into a range of new sectors of the economy. Previously, we had 60 females in apprenticeships and there has been almost a 200% increase in the meantime. I agree with the Deputy that the current level is not sufficient but between the bursary, the advertising campaign and talking to companies that take on apprentices, I am confident that the situation will have improved in two years. I would like to set a target of 600, which would be a fantastic increase on 60, and I believe it is possible to achieve it.

Special Educational Needs Service Provision

4. **Deputy Joan Burton** asked the Minister for Education and Skills his plans regarding the provision of autism-specific education in Dublin 15 for children at primary and secondary level; when work will commence on the proposed autism-specific school in Dublin 15; when the school will officially open; if he anticipates the possibility of opening the autism-specific school in temporary premises ahead of the 2019-20 academic year; and if he will make a statement on the matter. [19825/19]

Deputy Joan Burton: I wish to ask the Minister about the indications he gave and promises he made regarding education for children living in Dublin 15 or Dublin 7 who are affected by autism. We have agreed that the evidence is that a special school is needed for children who are severely affected by autism spectrum disorder, ASD. Many of them also have serious behavioural disorders, with the result that children as young as six years of age are being excluded from primary school, which the Minister will agree is nonsensical. Does the Minister have a definite agreement with the Government to proceed to launch the special school? Will it open on a temporary basis for the upcoming academic year?

Deputy Joe McHugh: I assure the Deputy that concerns regarding a shortage of appropriate school places for next September are being taken very seriously. The Taoiseach, Deputy Varadkar, has been engaging with local groups on this issue directly. The National Council for Special Education, NCSE, has formally advised me that there is insufficient special school and special class capacity in Dublin 15. I wrote to the local parents' committee on 26 April. My Department, the NCSE and the office of An Taoiseach were represented at a meeting with parents on 29 April to discuss the issue.

My Department, the NCSE and school patrons are actively engaging to address the issue. As a result of these efforts, three special classes catering for 18 students are on track to open in September 2019. In addition, the NCSE met stakeholders, including education providers, in the Dublin 15 area on 30 April and further engagement with the objective of opening further special classes is ongoing.

If existing schools, including special schools, cannot provide the necessary number of places, other arrangements will be made following any necessary consultation with parents and schools. Options are being examined and scoped out in regard to establishing additional special school places to cater for the needs of children in Dublin 15. Officials of my Department are engaging with patron bodies, including Dublin and Dún Laoghaire Education and Training Board, with regard to suitable space which may be made available immediately for the purpose of providing the required placements. The NCSE will keep in regular contact with the parents of the children concerned to advise them of progress and identify placements as they become available.

I have discussed this matter in detail with An Taoiseach and my Department is actively engaged with the NCSE in taking steps to increase the number of suitable places to cater for the needs of children in Dublin 15.

Deputy Joan Burton: I recently attended a very large public meeting in Tyrrelstown, Dublin 15, at which we heard in detail the concerns of parents whose children are affected by ASD. A spokesperson for the Taoiseach addressed the meeting. Deputies Coppinger and Jack Chambers were also in attendance. Parents very much need to know what is happening. We are making progress, but it is very slow.

The Minister referred to three classes of 18. Does that mean there will be space for 54 children or that there will be three classes of six?

Although the Minister may have been communicating with the Taoiseach on this issue, the Deputies representing Dublin West, who have raised this issue time and again, also need to be kept informed because we are the people on the ground dealing on a day-to-day basis with the parents affected by this situation.

8 May 2019

Deputy Joe McHugh: To clarify, there will be three classes of six, giving a total of 18 spaces. A scoping exercise is being carried out to see whether there is additional capacity in any other schools. I acknowledge that far more than 18 students are affected by this issue, as has been publicly articulated at the meetings and elsewhere, as well as privately. For that reason, we are considering the possibility that an alternative property may provide a solution and there is active engagement with the ETB in that regard. I am reaching out publicly today to schools which believe they can provide additional capacity. That is one route which can be pursued, but it is not an overall solution for all of the students concerned, which is why we are seeking a solution in conjunction with the ETB.

I mentioned the Taoiseach because all Members of this House are elected as Deputies for their constituency. The Taoiseach is a Teachta Dála for the area in question and in that capacity he has been quite insistent and forceful regarding a solution being found on this issue. That is not to undermine the voices of Deputy Burton and other Deputies representing the constituency, who I acknowledge have raised this issue on several occasions and are working closely with the parents on it. I will keep the Deputies informed as soon as any information comes through.

Deputy Joan Burton: Deputy Jack Chambers, Deputy Coppinger - who has also tabled a question on the issue - and I have been working on this issue constantly at committee, sub-committee and big public meeting levels, as well as with the various agencies. Can the Minister confirm what we were previously told, namely, that there will be an ASD-specific special school for Dublin 15 and Dublin 7? I appreciate that the Minister indicated that some additional capacity will be made available but I am unclear whether he is referring to the special school. The Dublin and Dún Laoghaire Education and Training Board has agreed to host the school, which is very good progress and we all hope that that will come about. Will the special school be established, whether in temporary or more permanent accommodation, possibly hosted by the ETB, for the academic year 2019-20?

An Ceann Comhairle: Deputy Coppinger has a brief supplementary question on the same issue.

Deputy Ruth Coppinger: I want absolute clarity because this is a significant issue in Dublin 15 and elsewhere in the country. It will rear its head in every constituency, particularly those which are growing and have young populations. As Deputy Burton stated, there was a public meeting last week attended by almost 200 people. All of the local election candidates were in attendance. The ASD 15 campaign has very much progressed the matter and pushed it along. Is the Minister talking about an autism-specific school in Dublin 15, rather than asking schools to take in some students here and other students there? One could take that impression from his comments. A temporary building would be acceptable, but it would have to be specially designed for autism in the long run and have trained teachers who know what they are doing. It is wrong that schools must be asked whether they will take students in. The children should have access to suitable education as of right.

Deputy Joe McHugh: Let us be clear. The issue has been articulated in the public domain by the Deputies, their offices, the Taoiseach and others. There is a gap and a need. We are looking at extra capacity within existing schools and we are engaging with the ETB on a potential temporary solution for next September. Obviously, the building will need special adaptation if it is decided to utilise it. However, I do not wish to predetermine any decision. The matter is at an advanced stage of discussion and a significant amount of work has gone into it. As soon as the deliberations and discussions are complete, I will be in a better position to make a public

announcement on the matter. I will not do so today because the continuing discussions are at an advanced stage.

Deputy Joan Burton: I am very anxious to help the Minister achieve the special school for the parents and children who need it. Will he agree to meet the Deputies for the area, including the Taoiseach if he wishes to attend, because we are the people meeting the parents every day on the ground? It has been a long-standing practice in this House for Ministers to meet Deputies on overwhelmingly important issues such as this which affect their constituency. Perhaps Fine Gael would revert to that practice while it is in government. The Minister told us he met the Taoiseach in his capacity as a Deputy. That is the same capacity we have. We will be happy to meet the Minister this week or next week - we can accommodate him and I am sure Deputy Jack Chambers will agree as well - because the Minister must go through this in detail. He still has not answered the question of whether the ASD special school will be open, perhaps in temporary, borrowed or rented accommodation, for the beginning of the 2019-2020 academic year.

Deputy Joe McHugh: The Deputy is seeking two obvious answers. First, she is seeking an answer on something that has not been decided yet. She is also asking me to give the answer that she wants me to give. I will not do that out of justice to the parents and the community. I understand the effort she is putting into this and I am aware of the issue. That is why I formally arranged for NCSE officials and officials from my Department to meet the parents because, ultimately, it is the parents who need a solution for September. That is at an advanced stage, and as soon as I am in a position to give more information, I will be happy to do that and meet the Deputy.

Deputy Ruth Coppinger: Is the Minister meeting the parents?

Schools Building Projects

5. **Deputy Thomas Byrne** asked the Minister for Education and Skills the status of the completion of remedial works in schools identified as requiring remedial works or precautionary measures for schools constructed by a company (details supplied). [20077/19]

An Ceann Comhairle: I call Minister, or should I say Deputy Thomas Byrne.

Deputy Thomas Byrne: Hopefully next February, a Cheann Comhairle. There are many ifs and buts before then.

Deputy Maurice Quinlivan: Is February the date?

Deputy Thomas Byrne: The leader of my party said that last November. He said he would go for another budget.

Deputy Ruth Coppinger: A February election.

Deputy Thomas Byrne: Thank you for your confidence, a Cheann Comhairle. We will work hard to achieve it in the meantime. I had better stay in my leader's favour as well. However, this is a serious issue regarding the completion of the remedial works in the Western Building Systems schools. My question is about their status. The media cycle has moved on from this issue and the media are not covering it. People feel there is a lack of information, so it is important that the Minister provides as much clarity as possible. A number of schools are af-

8 May 2019

ected by this, including Ashbourne Educate Together national school, Gaelscoil na Mí, and St. Paul's national school, Ratoath, in my constituency. The Minister knows them only too well. Will he give a general update on this? I am keen to keep the matter in the public eye because many of the parents are very frustrated about it and they deserve information.

Deputy Joe McHugh: I thank the Deputy for raising this issue. I agree with him that it is important to make the information available because a great deal of work is taking place behind the scenes. A special unit has been set up in Tullamore and it is working on this each day, so I am happy to update the House on this important matter.

The Deputy will be aware that, last October and November, my Department carried out initial investigations into 42 schools that were built by the company to which he refers. He will also be aware that, of those schools, 22 required precautionary measures to enable continued safe occupation. The safety of pupils and staff has been and remains our first priority.

Following the initial investigations, which were based on sample opening up works, my Department initiated on 18 January last a second phase of detailed investigations for the schools. This next phase of the programme is focusing initially on the 22 schools that have precautionary measures in place and Ardgillan community college, Balbriggan, part of which remains closed. The purpose of these investigations is to determine the type and extent of structural issues in each school and, from the technical information gathered by the appointed structural engineers, to design permanent remediation solutions where these are needed. In line with the update published in January, detailed structural investigations have been completed in 19 of the 22 schools with precautionary measures in place and in Ardgillan community college. The investigations into the remaining three schools with precautionary measures in place will be completed by the middle of May.

In the meantime, significant work has been undertaken by my Department, supported by the National Development Finance Agency and an appointed multidisciplinary team, to design and plan permanent engineered remediation solutions for each of the 22 schools. An individual work plan for each school will flow from this body of work. These plans will feed into an overall timetabled programme of remediation works for the schools which will commence during the summer months. All efforts remain on track to achieve this objective. When the works programme is available, the details will be first shared at meetings with the patrons and the schools involved. An overall update will also be published.

Additional information not given on the floor of the House

In parallel with this work during the summer months, detailed structural investigations in 17 schools built by the same contractor without precautionary measures in place will also proceed. A schedule for those detailed investigations issued to the 17 schools involved and their patrons last week. The intention is that any remediation works that may be necessary in these schools will be carried out in 2020.

I again acknowledge and thank the principals, staff, parents and pupils for their patience and co-operation as my Department works its way through this complex process.

Deputy Thomas Byrne: It does not sound as if a large number of schools will have remedial works completed by September. I do not fault the Department for this as it made every effort to do what it could when this first came to light, but it is still at the stage of plans. That is worrying because there is no indication when these plans will be executed. Unfortunately,

that is a recurring theme with this Government. First, does the Minister have the funding to implement these plans? If he does, will that affect the funding of any other project? How many schools, if any, will be ready for September? I would be grateful for that information. What is the envisaged timeline for the entire project?

Deputy Joe McHugh: I will break it into two parts. There are the schools with the precautionary measures. The schools in the Deputy's constituency that have fencing outside or scaffolding at the entrances have precautionary measures. Three more such schools have to be investigated before the end of May. That will complete the 22 schools with precautionary measures. That will mean each of the schools will have intervention construction completed and ready for September next. In tandem with that, there are 17 schools that do not have precautionary measures. These schools do not have fencing, scaffolding or any intervention. Their investigations will take place throughout the summer and they will be ready for work in the new year. We have a job to do. The officials have been working very diligently with engineers, construction engineers and quantity surveyors in a live school environment. All this work is happening during the Easter holidays, at weekends and after the school day during the school term.

Deputy Thomas Byrne: I have a question about the financial situation. Legal actions have been instigated. There were a number a couple of years ago and some were more recent, before Christmas. I do not know if there have been any since. Has any insurer come on record for the defendants? Is the Department in discussions with anybody about this, particularly anybody who has money to fund it, or is the Department alone funding it? Is the Department waiting for the outcome of court cases to finalise its plan of action so it can pay for it? What is the situation with those court actions?

Deputy Joe McHugh: To give an update on the court actions, cases in respect of two schools, Ardgillan community college and Tyrrelstown Educate Together national school, are in the Commercial Court as we speak and we are seeking a hearing in the autumn. That is fast-tracking at a good pace. I am happy with how it is progressing, but I am also conscious that this is before the court and I do not wish to put words on the record today as to how that will develop over time. As far as I and my officials are concerned, we are seeking to recoup this money to ensure that the intervention work that is required will be completed. I will be able shortly to give the House an update on exactly how much this will cost. I assure the Deputy that whatever moneys are involved, it will not impact on our planned programme in the year ahead.

Ceisteanna Eile - Other Questions

Schools Building Projects

6. **Deputy Ruth Coppinger** asked the Minister for Education and Skills if he will report on the delivery of a non-denominational co-educational second level school in the Ashtown and Dublin 7 areas; and if he will make a statement on the matter. [19843/19]

Deputy Ruth Coppinger: My question is about the ongoing lack of a secondary school in Dublin 7 and Ashtown whereby people can choose to send their children to a school that is not

8 May 2019

segregated by gender or religion. We have a changing society but the establishment does not appear to be willing to change at the same pace. Thus there is no inclusive education at secondary level available to people in the area.

Deputy Joe McHugh: In April 2018, the Government announced plans for the establishment of 42 new schools over the next four years, 2019 to 2022. This announcement follows nationwide demographic exercises carried out by my Department into the future need for primary and post-primary schools throughout the country, and the four-year horizon will enable increased lead-in times for planning and delivery of the necessary infrastructure.

While the announcement did not include a new post-primary school for the Cabra-Phibsborough-Dublin 7 school planning area, it was announced that a new 1,000 pupil post-primary school was to open in 2022 in the adjacent Drumcondra-Marino-Dublin 1 school planning area. The requirement for new schools will be kept under ongoing review and in particular will have regard for the increased roll out of housing provision as outlined in Project Ireland 2040.

The Cabra-Phibsborough-Dublin 7 school planning area is currently served by eight post-primary schools, including Cabra community college, which is under the patronage of City of Dublin Education and Training Board, CDETB. Cabra community college is multid denominational in nature, provides for the local community and could potentially bring additional capacity of this nature to the area. As I indicated to the Deputy recently, I understand that CDETB and Educate Together have started discussions with regard to possible partnership with a view to Educate Together involvement in existing school provision at second level in the Dublin 7 area. I am supportive of this initiative, which has the potential to add to and enhance the availability of additional choice in the area, and my Department is engaging with the bodies concerned as required.

Deputy Ruth Coppinger: Regarding how this issue could be resolved in the immediate term, I agree that Cabra community college is an extremely viable option. I visited the school last week. I met the principal and was shown around, together with Rita Harrold, who is our representative in that area. I was really pleased with the principal's openness. One could see the potential for the people of Cabra to really benefit from a school that would be enhanced and be able to deliver more subjects and more options for their children so it is a really good option. However, if this is to be the site, and CDETB and Educate Together are having discussions, which is really good, we need a definite commitment from the Government that it will fund a new school building that would be required in addition to the existing building that is there. Obviously, we would need other resources as well. Could the Minister tell people, particularly those in the Dublin 7 and Ashtown Secondary Options campaign, which has done great work in progressing this issue, whether the State is willing to fund this immediately if CDETB and Educate Together's discussion is successful?

Deputy Joan Burton: I, together with Deputies Coppinger and Jack Chambers, attended another packed public meeting regarding getting a second-level multid denominational and, very importantly, co-educational school for this part of the Dublin 15 and Dublin 7 area. I should explain to the Minister that this is my home area. I am very pleased by his comments about St. Dominic's College, Cabra. He could have added Stanhope Street girls secondary school and other schools, which are fantastic schools. However, all of those schools such as St. Declan's College, which is just between those two convent schools, are single denomination schools and there is a very strong demand for a multid denominational and co-educational offering at second level.

The offer relating to Cabra west and Kilkieran Road is an excellent possibility. Obviously, the parties must come to an agreement on that. As a public representative for the area, I can say that there is a need and I will give it all my support, as I have done since the campaign started some time ago. I hope the Minister can recognise and acknowledge it and confirm that we will get this as soon as possible.

Deputy Joe McHugh: I thank both Deputies for their intervention. I assure Deputy Coppinger that we are not redesigning the wheel. We have form here and a history involving Clonturk community college in 2016, which was a partnership between Educate Together and CDETБ and has 200 students for the 2018-19 school year. Most schools, particularly those in the Deputy's area with all its population pressures, will continue to grow. Regardless of whether it is Clonturk community college or the ongoing discussions regarding St. Kevin's College in Crumlin, which is another potential CDETБ-Educate Together solution, investment does follow as the numbers grow. If there is a need for any investment at an early stage, that is something our Department is willing to look at. However, I do not want to pre-empt any decisions in that regard at this stage because we must find a solution to get to an agreement in the first instance.

Deputy Ruth Coppinger: We know Educate Together and CDETБ have done it before so they are well disposed to doing it again. The difference is that there is an existing building here but one that needs significant enhancement. Interestingly, the school is as sturdy and solid as the day it was built in the 1940s, unlike many buildings we see going up. It would need far more capacity and state-of-art laboratories and so on. I do not think CDETБ or Educate Together would be upset if the Minister came out today and said that he is willing to put funds into something they are discussing. It should not be up to patrons to come together and do this. The State should be identifying a need and saying that it will provide it. We have a mad situation - a time lag in this country - because of the interconnection between church and State. It is scandalous that people cannot send their children to a non-segregated gender school in that area that is not run by a religious patron when there is clearly such a demand. This is happening all over Dublin and the country. I would encourage the Minister to give this commitment now. I would tell people to use the local and European Parliament elections to get these sorts of commitments from Members and the Government. Solidarity will certainly be holding meetings to expand on this issue.

Deputy Joe McHugh: I am happy to work with the Deputy on this. The last thing I want is to be accused of making a big announcement on the eve of local elections.

Deputy Ruth Coppinger: But you never did that before.

Deputy Joe McHugh: It is not my form. I do not do it. I do not think it is right to give details regarding what I will do in the future when I do not have any basis to make that decision. We are looking at a school that the Deputy mentioned was built in the 1940s and which is still standing the test of time. In respect of one of the policies that has been changed, although not in my time in the Department, rather than always going for the greenfield site, some schools have been standing for a few hundred years. The school mentioned by the Deputy has been standing since the 1940s. If we can adapt that traditional structure, extend it for new modern laboratories and do up the existing school in an environmentally sustainable way, that is something with which I am in agreement. Certainly I would be happy to work with all the hard-working Deputies in that area.

8 May 2019

Special Educational Needs Service Provision

7. **Deputy Thomas Byrne** asked the Minister for Education and Skills if he is satisfied with the level of access to education for children with special needs; and if he will make a statement on the matter. [19837/19]

Deputy Thomas Byrne: Baineann an cheist seo le páistí le riachtanais speisialta oideachais agus leis an easpa oideachais do a lán dóibh. Bhí agóid taobh amuigh den Dáil an tseachtain seo caite. Tá a lán scéalta sna meáin maidir leis an ábhar seo.

There are many children out there. There was a protest last week involving children with special educational needs who are simply not being given their constitutional right to free primary education or indeed secondary education. They protested outside the Dáil last week. We also saw the AsIAM survey. I was on Newstalk last summer where I had to make an intervention on behalf of two seven year olds who had no school place. I do not see how the Minister can be satisfied or how he can answer this question in the affirmative.

Deputy Joe McHugh: Gabhaim buíochas leis an Teachta as an cheist. Aontaím leis faoin éileamh atá ann maidir le feitheamh agus faoin éileamh atá ann i measc tuismitheoirí i ndáil leis an cheist seo. Tá sé iontach tábhachtach go mbeidh réiteach ar an cheist seo san am atá amach romhainn.

My Department's policy aims to ensure that all children with special needs can have access to an education appropriate to their needs, preferably in mainstream school settings. In 2018, in the region of €1.75 billion was invested in special education, nearly one fifth of the overall education budget, and up 43% since 2011.

This funding includes provision for over 13,400 special education teachers in mainstream schools. It also provides for 15,000 special needs assistants, SNAs, to support the care needs of pupils with disabilities in an educational context, up 42% since 2011.

Provision is also made for special school and special class placements for pupils who require more specialist interventions. There are now 1,459 special classes with over 140 new special classes opened for the 2018-19 school year. This compares to 548 special classes in 2011. I am satisfied that the level of provision we have made in recent years has ensured that all children with special educational needs can participate in education and that most children with special needs have been able to be enrolled in the school or placement of their choice. I am also conscious that there are gaps and that there are parents and children for whom we need to continue to be vigilant and for whom we need to find places as well. There are circumstances where it can be difficult for parents to obtain the school or special class placement of their choice where increases in population or other issues have led to pressure on school places.

The National Council for Special Education is actively engaging with schools, patron bodies, parents and other staff to try to ensure each child has a school placement appropriate to his or her needs for the 2019-20 school year. Ensuring every child has access to a suitable school placement is a priority for me and my Department and we will continue to ensure that this can be provided for.

Deputy Thomas Byrne: I often wonder whether there should be a unit in the Department of Education and Skills whose sole purpose is to implement the constitutional guarantee of free primary education, because in many cases it is not being implemented and people are not get-

ting their rights.

Last week at the protest I was shocked, especially by the number of parents from deprived parts of Dublin who are simply outside of the system, as are their children. It is totally wrong. My colleague, Deputy Lahart, raised the issue of the lack of autism spectrum disorder classes in Dublin 6, Dublin 6W and the surrounding areas. We have the outrageous situation in some cases of pupils being sent home too early. Parents have been telephoned and told to collect their children or children are only going in for a couple of hours each day. In a written response on the matter the Minister gave a clear answer to the effect that this is not permitted. My advice is to leave the children in school because they are entitled to it, but of course it must be in an appropriate setting. The AsIAM survey found that one third of parents have been waiting between one and two years for a school placement while one in ten have been waiting between two and three years. Moreover, 7% of parents are waiting for more than three years for a suitable school place for their child. This cannot go on. These children are seriously losing out and yet they are the children who really need early intervention and support along with an education to which they are entitled.

Deputy Joe McHugh: It would be wrong of me to stand up and say that we do not have a problem. We have a problem and an issue. The demand exists and there is extraordinary frustration for parents. Some parents have the uncertainty of not knowing that their children will have a place in September.

I am working with the National Council for Special Education. I have asked those responsible to look at whether there are better ways of communicating messages rather than having parents going around to up to nine different schools where the units may already be full. I think we can be better at communicating. We can do that at one level but I wish to make a public plea again to schools. Ultimately the school will make the decision, but if a school has a need for a special class, we will provide capital funding to that school. I would encourage schools to look at the schools that already have these special classes. It is an enriching experience to be in those schools and to see all the different benefits of having special classes. I was in the Coláiste Gleann Lí in Tralee last week. They have a sensory room and a new special class. It is a wonderful place to be to see that inclusiveness.

I know this issue will remain an issue and will continue to be an issue. It is something that I want to work on together. I believe there are short-term ways of making it more effective from a communications point of view but there is the issue of infrastructure as well.

Deputy Thomas Byrne: I do not think it is acceptable to say that this will remain an issue. That sounds like the old religious adage: “The poor you will always have with you”. That is not the position. The State is obliged under the laws of this land and the Constitution to provide an education to every child but it is not doing that.

The Minister said he put out a plea to schools to take special classes. That is behind the curve. Legislation was passed here last year at the insistence of Fianna Fáil to provide the Minister with the power to force schools to take special classes. It is about time that power started to be implemented because it has been in law since last December. We objected to the passage of the Education (Admissions to Schools) Bill unless these measures were in it. They are now in it and thankfully the former Minister, Deputy Bruton, accepted that. It is about time the Minister and the NCSE started using these powers to force schools to take special classes and to look at the establishment of special autism schools or other special schools. What is

8 May 2019

happening now with some special schools is that they are taking children who are at the lower end of special needs. This means children who have the most severe and profound autism are being left on the scrap heap. It is tragic and sad. I encountered parents crying outside the Dáil last week. They came to plead with us as legislators to do something about it. I told them we had done something about it. We have changed the law, but the Minister needs to implement the law and finally do something about the problem.

Deputy Joe McHugh: Deputy Byrne is correct to say there is provision now in the Act to allow the Minister to compel schools in this regard. I am always a believer in working with people, whether it is working with schools or boards of management. I am asking for schools to look at the schools that have made the decision to have special classes. It is the right thing to do in terms of inclusive education. If there are outstanding demands and gaps, then I am fully prepared to continue my engagement with the NCSE. I am also determined to ensure we help the parents who are going through this incredible frustration. It should be a positive experience when young people are going to primary or secondary school. I am concerned about taking away that positive experience. Whether we have to use the legislation through compelling or whether we try to encourage the schools to extend or provide the special classes is a matter for consideration. The special classes and the people who work within them are not simply add-ons to schools. That is one of the things I noticed in Coláiste Gleann Lí in Tralee. The special classes are central to the physical structure of the school. It is a normal road to go.

Special Educational Needs Staff

8. **Deputy Kathleen Funchion** asked the Minister for Education and Skills to outline the level of consultation with the SNA sector regarding the new recommendations made by the National Council for Special Education in respect of changes to the role of SNAs in the classroom that were agreed between the NCSE and his Department following a review in 2018; and if he will make a statement on the matter. [19798/19]

An Ceann Comhairle: Deputy Quinlivan is to introduce Question No. 8.

Deputy Maurice Quinlivan: Will the Minister outline the level of consultation undertaken by the Department and the National Council for Special Education with the special needs assistant sector when developing the newly-proposed 13 recommendations affecting and altering the role of SNAs in the classroom? Will the Minister also outline the level of consultation held with the unions regarding the SNA sector in advance of the rolling-out of the new pilot scheme, which is set to commence in September 2019?

Deputy Joe McHugh: I thank Deputy Kathleen Funchion and the Deputy for raising the question orally in the House.

In 2016, the National Council for Special Education was requested by the then Minister, Deputy Bruton, to review the special needs assistant scheme and to advise him on what support options are needed to provide better outcomes for students with additional care needs. Following extensive research and consultation with schools, parents, SNAs and other stakeholders a report was submitted last year. The review found that the SNA scheme was working really well, particularly for younger children and for certain type of care needs, for example, mobility and toileting. It also found that a new and more widely-based model of support involving education and health supports was needed to meet the range of student needs currently presenting in our

schools. The review made a number of recommendations, including the way SNA support is allocated to schools and the need to build school capacity through training. Overall, the council recommended a new service model, the school inclusion model, that would involve the provision of speech and language and occupational and behavioural therapies in schools, as well as the development of a national nursing scheme to cater for children with the most complex medical needs. The overall aim of the model is to improve outcomes for children by ensuring each child receives the right support at the right time. The Government approved a pilot of the new model in 75 schools for the 2019-20 school year. The model will be independently evaluated. A budget of €4.75 million has been allocated to support implementation of the review findings.

Consultation will be a central feature of the development and implementation work. More than 50 people, including SNAs and their representatives, attended an information and consultation meeting last week. Separately, there have been meetings with the union representing SNAs and other meetings are planned.

I wish to take this opportunity to acknowledge the team and staff at Drimnagh Castle, where I met the teachers, behavioural therapists, HSE representatives, occupational therapists and speech and language specialists who are working on the social inclusion model. I hope that following a proper comprehensive evaluation of this model, we will be looking to extend it after the upcoming year.

Deputy Maurice Quinlivan: Does the Minister agree that SNAs themselves are best placed to advise the NCSE and the Department on what needs to change to maximise the potential of an SNA working in a classroom?

Leaving SNAs out of the conversation will backfire. It is short-sighted and contravenes what the Minister is trying to achieve. Without their valuable input, the Minister is, in effect, imposing new terms and conditions without proper consultation on an already stressed sector in our education system. Under these new guidelines, there are significant issues with job fragmentation and contractual inequalities that need to be addressed.

6 o'clock

I understand that there will be some agreement to meet with the unions by this September when the new pilot scheme is set to be rolled out. Are there any plans for discussion in advance of that? There is no point in meeting to discuss the new terms and conditions once the pilot has started. This must happen in advance in order to have the sector's input into what will work best and to address many of the problems that the sector can have.

Does the Minister acknowledge that, without this co-operation, he will most likely face a new crisis in the SNA sector? Their numbers will drop and there will be fewer SNAs than before, exacerbating the existing staffing challenges. Ultimately, children with additional needs will suffer. Once again, students will take the brunt of bad decision-making. Children and families who already have to fight every step to get a place in a class might be denied an SNA due to a shortage which could be prevented by proper consultation. Will the Minister agree to meet representatives of the sector as a matter of urgency in advance of the pilot being rolled out?

Deputy Joe McHugh: I will meet the representative of the trade union, Fórsa, and will be happy to discuss this. This pilot is important. The difference to the previous pilot is that behavioural therapy is included within this model. I agree with the Deputy that the central feature of any school that I walk into, whether a primary or secondary school, is the role of the SNAs. Students do not make any differentiation between an SNA and a teacher. They see them as being on an equal footing. However, we also have to give them that certainty and that is why this

pilot is important. It looks at changing the profile of the model and at removing diagnostic as a lead to ensure that the profile of the school is there in the first place. We are trying to give more certainty to SNAs about their terms of employment. We are also looking at upskilling and training. There is a major gap in SNAs being afforded the opportunity for continuing professional development. One of the elements of the social inclusion model is to ensure that we have a higher authority for the training of SNAs, to give them the right and proper status that they deserve.

Special Educational Needs Service Provision

9. **Deputy Niamh Smyth** asked the Minister for Education and Skills if his attention has been drawn to the fact that children are being taught in schools without the necessary supports needed due to delays in assessments for children attending school that have developmental issues and may require specialised support; the efforts being taken to clear this backlog; and if he will make a statement on the matter. [19823/19]

Deputy Niamh Smyth: My question is about students in primary and secondary school and the lack of necessary supports for those with special needs. We saw the protest outside Leinster House last week with parents who were completely frustrated. I am no different from any other Deputy in this Chamber. Such people come to our clinics regularly. They are the parents of children attending both primary and secondary school. Will the Minister outline his plans to get rid of the backlog which restricts children from accessing those important resources?

Deputy Joe McHugh: In 2017, my Department introduced a new model to support pupils with special educational needs. This means schools are now front-loaded with additional teachers to enable them to respond to pupil needs, rather than requiring an assessment to allow them to apply for such additional resources. To back up my previous contribution, that is the type of model that we are trying to bring in under the social inclusion pilot that we just launched. This reduces the administrative burden on schools as schools will no longer have to complete an application process annually and apply for newly enrolled pupils who require additional teaching support. Children who need support can have that support provided immediately rather than having to wait for a diagnosis.

Additionally some pupils with developmental issues may require an assessment of need which is provided by the HSE services. My Department's National Educational Psychological Service delivers a tiered, consultative model of service. Each school takes responsibility for initial assessment, educational planning and intervention for pupils with difficulties including those with developmental delay. Teachers consult with their NEPS psychologist for assistance should they need to at this stage in the process. Only in the event of a failure to make reasonable progress, in spite of the school's best efforts, in consultation with NEPS, will the psychologist become directly involved with an individual child for intensive intervention or assessment.

This system allows psychologists to give early attention to urgent cases and also to help many more children indirectly than could be seen individually. It also ensures that children are not referred unnecessarily for psychological support. I advise that parents of children in schools for whom concerns exist relating to developmental delay should, in the first instance, raise the matter with the principal of the relevant school with a view to involving the assigned NEPS psychologist in the issue where appropriate.

Deputy Niamh Smyth: I applaud the Minister's heartfelt intentions. However, the reality appears to be different in the sense that I have parents coming to me who are completely frustrated with the fact that the HSE has a duty with regard to the assessment of need and children have been waiting for 18 months or two years and still have not been assessed. That has a domino effect regarding the lack of supports provided in schools. It holds the entire system back. The Minister talked about a model that perhaps bypasses it. That is not filtering into schools and that is the reality for the parents on the ground. Not only are the parents frustrated, but so are school principals who are tasked with trying to coax and cajole students into class every day because there are developmental, mental health and learning difficulty issues. They do not have the supports in schools to deal with that. How good is the communication between the Minister's Department and the HSE when it comes to assessment of need? Some 18 months to two years is just not good enough.

Deputy Joan Burton: Is the Minister aware that many parents and grandparents are being forced to go privately because the waiting list for assessments is so long? In the case of a child who may have autism spectrum disorder, ASD, issues, there is no provision to get an assessment at any time before the child is three and a half. By then, the child may have clear verbal issues and other behavioural issues. I realise the Minister has only come to this recently but I have heard of people spending €1,200 on assessments, with parents, grandparents and the rest of the family banding together to try to get this vital assessment. Unless a child has the assessment, nothing can be done for him or her. Schools are also trying to help. It is a very difficult area. The assessments are meant to cost €200 to €400 but, in practice, many assessments cost much more than that.

Deputy Joe McHugh: The most important time in any child's development is the first 1,000 days. We are talking about early years, the transition to junior primary school, and the process and ongoing progression into senior classes in primary school. I was speaking to a principal in a school this morning and she was talking about a delay when an assessment was given in early years, then there was a delay going into senior infants and then first class. There is an issue with the co-ordination between different stakeholders, including the HSE and officials in different Departments. That is why I am trying to work this pilot in a comprehensive way that does not just look at primary school but at that process from early years onward. Schools will have that information rather than just meeting the student at the front gate. That pilot will start in September. We have allocated €4.75 million to it but I want to see that model developing. It will be evaluated. It will not address the immediate issues of frustration for parents, as the Deputy pointed out, or for teachers, but we have to get the co-ordination and the progress from early years to junior right.

Deputy Niamh Smyth: To go back to the initial point I was making, what is the Minister's target for clearing the backlogs that exist with regard to providing supports for students and bypassing the lengthy procedure that they currently go through? I will give another example. There is a second year secondary school student whose mum is exasperated. She cannot get her child to school. There is a developmental issue and a requirement for learning support. He has now run into a serious number of days of absenteeism which brings a whole raft of other difficulties for his parents. It does not help relations between school management, authorities and parents who are doing their best. The school is doing its best but there is no communication and no link. That child is falling through the net.

Deputy Joe McHugh: There was a big change in 2017. The revised allocation process replaced the need for diagnosis and the school got the profile funding and the first port of call

8 May 2019

for a student into a primary school for example is not dependent on a diagnosis. In this social inclusion pilot model we are trying to have the same profiling that schools do not follow the diagnosis but an allocation and it is up to them to allocate those resources. It is important to point out that we need collaboration such that in an early year setting if a three year old is diagnosed as needing speech and language support the primary school principal knows that and has that information when they come into junior infants to ensure that support continues rather than having to wait a year or two. It is a big challenge but it is the right thing to do and we need to look at new ways of doing it.

In terms of the money that has come in since 2011, €1.75 billion a year, we are looking at a 44% increase in special needs assistants, SNAs, to 15,000. A lot of work has been done and whether it is special educational needs officers, SENOS, or people who work in the National Council for Special Education, NCSE, they are working very hard. But things are changing and there are different complex issues in homes that we need to be careful of. Ultimately, it is about ensuring that each child irrespective of his or her challenges gets equal treatment.

Schools Inspections

10. **Deputy Thomas Byrne** asked the Minister for Education and Skills the factors driving a decline in the number of full-time equivalent primary district inspectors in 2018; the actions he is taking to address vacancies; and if he will make a statement on the matter. [19840/19]

Deputy Thomas Byrne: Baineann an cheist seo leis an laghdú atá ag teacht ar líon na gcigirí scoile sa chóras bunscolaíochta. Tá mé ag iarraidh a fháil amach ón Aire céard iad na gníomhaíochtaí atá á dhéanamh aige chun an rud seo a stopadh. Iarraim air a rá linn céard é an plean atá aige i gcomhair na gcigirí sna bunscoileanna.

Deputy Joe McHugh: Tá droch-chuimhne agam ar mo thaithí i dtaobh cigirí. Bhí inní orm agus ar mo chomhghleacaithe sa rang nuair a bhí muid ag fanacht ar na cigirí sna 1970í. Tá sé difriúil anois, buíochas le Dia. Tá na cigirí uilig ag obair leis na scoileanna. Tá caidreamh agus comhluadar iontach dearfach idir na scoileanna agus na cigirí. Ba mhaith liom aitheantas a ghabháil leis na cigirí uilig fá choinne an tiomantas a léiríonn siad i dtaobh a gcuid dualgais agus iad ag obair leis na scoileanna. Tá na cigirí agus na scoileanna ag obair le chéile ar mhaithe leis an chéad ghlúin eile.

At primary district inspector level, the figure between 2008 and 2017 has remained between 31 and 35. Any fluctuation in numbers can be attributed to departures from the grade through retirements, resignations or promotions.

The figure of 27.8 at 31 December 2018 arises because all panels created from the competition for primary district inspectors that was run in 2016 by the Public Appointments Service were cleared in October 2018. As a result, there was no capacity to fill vacancies.

The human resources unit of my Department has been in discussion with the Public Appointments Service and a competition is expected to be advertised this month, May 2019, with a view to recruitment of primary district inspectors in time for the 2019-20 academic year.

The Deputy's question and intervention are timely and I will ensure that he is kept up to speed on this.

Deputy Thomas Byrne: I am glad to hear that because several people in recent months were expressing concerns about the inspectorate generally to me and numbers have declined overall, particularly in primary schools. That creates a huge difficulty, first as a career path for teachers which is important but also because inspectors play a key role in inspecting schools. They can also be an extra support to schools especially in the area of special needs where I have been told they can be quite helpful. It was in the context of special needs that the concern was expressed to me about the reduction in the number of inspectors.

They play a vital role in ensuring the quality of our schools. As their numbers decline they have to achieve more with less or simply not do it at all. The number of schools has increased significantly. Standards have increased. Does the Minister have any view on the impact this decline has had over recent years, and in particular the number of inspections?

Deputy Joe McHugh: I have made observations in the six months I have been in this job, when I attend at different projects such as the launch of the social inclusion model or, for example, the school I was in this morning, St. Patrick's National Junior and Senior School in Corduff. The inspector was there in the school. It was very obvious that the inspector knows what is happening in the school and is working with it in a very proactive way. There is an inbuilt flexibility there that inspectors are willing to work with change, with what needs to be changed and with the schools on their needs. It was great to sit down with both principals, junior and senior, with the inspector and to hear their different perspectives and to highlight the fact that it is not an us and them situation, that the inspectors do not have a vigilant role alone, but are also part of the solutions. Any time there is a depletion in resources it has an impact on the role. I look forward to this new recruitment to support the existing service because the inspectors are doing a good job.

Deputy Thomas Byrne: I will keep an eye on that and table further questions. I welcome the announcement the Minister made about the recruitment of further inspectors. An interesting point of useless information: the word "cigire" is an invented word, made up approximately 100 years ago. There is no derivation for it. It was a mistake which is ironic for the type of job it represents. It is called a ghost word. There are various examples of them and that is one.

Inspectors play a very important role. There are many more kids in primary school and more primary schools. I welcome what the Minister has said. We will be keeping an eye on it and I think teachers and parents will too.

I remember the inspector in our primary school. I still know him because his grandkids play football with my kids. He was a very familiar figure in the school. I imagine he was a considerable help to a small school that was starting off then. I have made calls to members of the current inspectorate about problem issues where there is a bit of soft information and I ask either what is the story or do they want to know something. I find it very useful to be able to do that and let them do their job if there was something to do rather than my getting involved in a particular issue. I welcome what the Minister has said and we look forward to its implementation.

Youth Services

11. **Deputy Maureen O'Sullivan** asked the Minister for Education and Skills the purpose and function of the City of Dublin Youth Services Board; the number of staff employed by job title and grade; the number of staff on secondment or career break by title and grade; and the

number of staff bilocated. [19722/19]

Deputy Maureen O’Sullivan: My question relates to the City of Dublin Youth Services Board, CDYSB, its purpose and function and the number of staff employed there by job title and grade, the number on secondment or career break and the number bilocated.

(Deputy Joe McHugh): The City of Dublin Youth Services Board, CDYSB, is a committee of the City of Dublin Education and Training Board, CDET, and was established in 1942. In accordance with the Education and Training Board’s Act 2013, the role of CDYSB is to support the provision, co-ordination, administration and assessment of youth services in their functional area and provide such information as may be required by the Minister for Children and Youth Affairs in relation to this support. Responsibility for the management and oversight of youth project funding lies with the Minister for Children and Youth Affairs with the education and training boards acting as grant administering bodies for the disbursement of funding under the various youth funding schemes.

CDYSB is also responsible to the Department of Health and to my Department for the administration of grant aid.

The stated mission of CDYSB is to promote youth work and volunteerism and to enable young people to realise their potential within their communities and a changing society.

Staff in CDYSB are employees of CDET. CDET has advised my Department that there are currently 31 staff working with the youth services board. Of those staff 13 are funded through my Department while the remainder are funded through other projects. Of the 31 staff employed I understand that these are across 13 different job grades. I further understand that there are three staff working with the Department of Children and Youth Affairs, one staff member on secondment and no staff members currently on career break. I will circulate with this answer the staffing numbers and the associated grades of the CDYSB for the information of the Deputy.

Staffing in CDYSB

Information provided by CDET May 2019

<i>Breakdown of CDYSB Staff:</i>			
<i>Job Title:</i>	<i>Headcount:</i>	<i>WTE:</i>	<i>Job Grade:</i>
<i>Director</i>	<i>1</i>	<i>1</i>	<i>Director</i>
<i>Head of Operations</i>	<i>1</i>	<i>1</i>	<i>Head of Operations</i>
<i>Development Officers</i>	<i>4</i>	<i>4</i>	<i>Development Officers</i>
<i>Liaison Officers</i>	<i>8</i>	<i>7.92</i>	<i>Liaison Officers</i>
<i>Senior Youth Worker</i>	<i>7</i>	<i>6.76</i>	<i>Senior Youthworker</i>
<i>Finance & Governance</i>	<i>2</i>	<i>2</i>	<i>Senior Youthworker</i>
<i>Head of Finance</i>	<i>1</i>	<i>1</i>	<i>Assistant Principal Officer</i>
<i>Administrative Officer</i>	<i>1</i>	<i>1</i>	<i>Administrative Officer</i>
<i>Staff Officer</i>	<i>2</i>	<i>2</i>	<i>Staff Officer</i>
<i>Assistant Staff Officer</i>	<i>1</i>	<i>0.58</i>	<i>Assistant Staff Officer</i>

<i>Breakdown of CDYSB Staff:</i>			
<i>Job Title:</i>	<i>Headcount:</i>	<i>WTE:</i>	<i>Job Grade:</i>
<i>Clerical Officer</i>	<i>1</i>	<i>0.8</i>	<i>Clerical Officer</i>
<i>Assistant Porter</i>	<i>1</i>	<i>1</i>	<i>Assistant Porter</i>
<i>General Operative</i>	<i>1</i>	<i>0.57</i>	<i>General Operative</i>
<i>Total:</i>	<i>31</i>	<i>29.63</i>	
<i>Staff working in DCYA:</i>			
<i>Development Officer</i>	<i>1</i>	<i>1</i>	<i>Development Officer</i>
<i>Liaison Officers</i>	<i>2</i>	<i>2</i>	<i>Liaison Officers</i>
<i>Seconded Staff:</i>			
<i>Liaison Officer</i>	<i>1</i>	<i>0.60</i>	<i>Liaison Officer</i>

Deputy Maureen O’Sullivan: This question was originally addressed to the Department of Children and Youth Affairs and I was quite surprised when it was sent over to the Department of Education and Skills. When an organisation falls between a number of Departments, it is not a great scenario in terms of assessing the work of that organisation.

I wish to talk about the value of youth services and youth work in the context of the constituency that I represent. I am aware of the work that the organisation does in an area where young people are facing blatant drug dealing and intimidation. It is an area with many early school leavers and high-needs groups, including homeless people and young people from new communities, some of whom are undocumented or are unaccompanied minors. There is a lot of specific work going on and the CDYSB is supposed to be the body overseeing all of that.

As the Minister said, the board was set up in 1942 but the environment has changed a lot since then. I am not sure that the youth services board is keeping up with the changes in the environment. Are there any plans to conduct a review or an assessment of the work, in view of the changing needs? Such a review would enable us to ensure that the CDYSB is addressing the needs of young people at the most appropriate time.

Deputy Joe McHugh: It would be remiss of me not to say that a conversation is always needed when it comes to the more informal aspects of education. As someone who previously worked in the formal secondary school sector before moving into community youth work, I saw the benefits of both working closely together while remaining separate because informal youth work is a very different concept. Given the changes in society in both rural and urban settings and the obvious challenges in the latter, I am happy to explore potential solutions in order to remain up to speed with the needs of present day society.

A lot of this is within the remit of the Department of Children and Youth Affairs and in that context, I would be happy to facilitate a meeting between officials from that Department, Deputy Maureen O’Sullivan and myself to see where we are at in the context of needs. There are great organisations involved in youth work and the provision of youth services but there is always a need for more resources.

Deputy Maureen O’Sullivan: While I appreciate what the Minister has just said, the challenges facing young people today are far greater than when certain organisations were set up in

8 May 2019

the 1940s. For that reason, there is a need to constantly evaluate how those challenges are being addressed by the people who are being paid to do that work. I am interested in the job titles of some of the 31 staff because I am hearing from some of those involved in youth projects that there is not much hands-on or direct engagement with young people. They said that much time is taken up with administration, finance and governance issues, which is not what the board was set up to do. There are questions around that issue. As I said, I addressed a number of questions to the Minister for Children and Youth Affairs, Deputy Zappone, but this one was transferred to the Department of Education and Skills. I agree that it would be important to have a meeting and I thank the Minister for his offer.

Deputy Joe McHugh: I am happy to facilitate that at an official level. It is also important to point out that we cannot brand all youth organisations and those working in informal or formal youth work in the same way because many of them do different things and are unique to their respective areas, cultures or communities. One thing I know for sure is that if young people are not leading youth work themselves, if they are not in charge and if we do not facilitate the empowerment of young people in their communities, not alone will they will not be part of it, they will not drive the change that is necessary. My experience tells me that when we give young people responsibility and space and freedom to express themselves, that is when change happens. I am deeply conscious of the fact that we need to adapt to change constantly. Society is changing but the one constant is that when young people are given even an inch of responsibility, they jump at the opportunity. I am happy to work with the Deputy on this issue.

Questions Nos. 12 and 13 replied to with Written Answers.

Acting Chairman (Deputy Catherine Connolly): Tá cúpla nóiméad fágtha. B'fhéidir go bhfuil am againn chun ceist dheireanach a thógáil. Bogfaimid ar aghaidh go dtí ceist Uimh. 14 in ainm Teachta Funchion. Glaoim ar an Teachta Quinlivan.

Deputy Maurice Quinlivan: It is a question on whether the Department has plans to review the process under which schools receive resources and additional staff for ASD classes in order to achieve more flexibility for schools to apply for and receive the necessary resources at multiple points during the school year, rather than at the start of the school year, as happens in the majority of cases.

Deputy Joe McHugh: Tá brón orm-----

Deputy Maurice Quinlivan: If we are running out of time, I am happy to accept a written reply.

Deputy Joe McHugh: Tá mé idir dhá chomhairle maidir leis an cheist. Tá an freagra agam. Má tá sé ceart go leor, seolfaidh mé ar aghaidh é. I will send it to the Deputy.

Written Answers are published on the Oireachtas website.

Gnó na Dála - Business of Dáil

Minister of State at the Department of the Taoiseach (Deputy Seán Kyne): It is proposed, notwithstanding anything in Standing Orders, that questions for oral answer to the Tao-

iseach under Standing Order 38 will not be taken on Wednesday, 15 May 2019 and the suspension of the sitting under Standing Order 25(1) will take place after Questions on Promised Legislation, for one hour.

Acting Chairman (Deputy Catherine Connolly): Is that agreed? Agreed.

Ábhair Shaincheisteanna Tráthúla - Topical Issue Matters

Acting Chairman (Deputy Catherine Connolly): I wish to advise the House of the following matters in respect of which notice has been given under Standing Order 29A and the name of the Member in each case: (1) Deputy Joan Burton - to discuss the recent increase in feuding and violent gang activity in the Dublin 15 area; (2) Deputy Pat Buckley - to discuss the mother and baby homes report published recently; (3) Deputies Mary Butler, Bobby Aylward and David Cullinane -to address issues relating to the mortuary at University Hospital Waterford; (4) Deputy Sean Sherlock - to address the need for completion of all ETB school projects in Cork; (5) Deputy Sean Fleming - to discuss the implications of the general data protection regulation, GDPR, regarding the taking of pictures and videos at family-centred events; (6) Deputy John Brassil -to discuss the potential funding crisis in University Hospital Kerry and the services that will be affected by same; (7) Deputies Éamon Ó Cuív and Catherine Connolly - chun a chinntiú go n-íocfar an deontas le haghaidh múineadh trí Ghaeilge; (8) Deputy Denis Naughten - to address the continuation of pre-hospital care by volunteers in the Civil Defence from 1 August 2019; (9) Deputies Eamon Scanlon and Martin Kenny - to discuss the provision of home care packages in counties Sligo and Leitrim; (10) Deputies Fergus O'Dowd and Declan Breathnach - to address the recent drug-related violence in Drogheda and the allocation of additional Garda resources in the town; (11) Deputy John Lahart - to address the need for transport police further to the recent reports of anti-social behaviour on public transport in Dublin; (12) Deputy Mattie McGrath - to discuss the delivery of the national broadband plan; (13) Deputy Joan Collins - to address evictions in Inchicore, Dublin 8; (14) Deputy Pat The Cope Gallagher - to discuss protocols currently in place between the Department of Housing, Planning and Local Government and the fire services in the local authorities, with particular reference to recent wildfires in County Donegal; and (15) Deputy Seán Crowe - to discuss the increased attacks on taxi drivers. The matters raised by Deputies Burton, Buckley, Ó Cuív and Connolly have been selected for discussion.

Saincheisteanna Tráthúla - Topical Issue Debate

Gangland Crime

Deputy Joan Burton: People in Dublin 15 have been reeling with shock following incident after incident of gang warfare, linked to the drugs trade, being played out on the streets in different parts of Dublin West. Children are afraid and their parents are afraid for them, even when they are walking to school. In one particular area parents and teachers are fearful because of

8 May 2019

two incidents where a gun was fired in front of a primary school and a week or two later, outside a secondary school. What, if anything, does the Government intend to do to address this?

I recently asked the Minister for Justice and Equality how many community gardaí are working in the area, which has a population of over 100,000. There are 13 community gardaí, of whom one is a sergeant and 12 are gardaí. All of the different policing reports, with which the Minister will be familiar, suggest that community policing should be at the heart of policing in this country. In an area that is bigger than Limerick city or Waterford city, there are only 13 community gardaí - two hands plus three more fingers. Are we asked to believe this is adequate?

Some weeks ago the Minister committed to addressing this problem. The Taoiseach himself, who represents the area, pronounced that he was extremely concerned about what was happening on our streets. Absolutely nothing has been done however. We need a special crime task force, interventions to help young people, and interventions to provide alternatives to crime for teenagers who are being drawn in by the drugs gangs. We need to help parents who are being levied with drug debts on behalf of their children. We need to see action from this Government. Fine Gael has always talked of itself as a party which, when in government, seeks to keep law and order. In certain parts of Dublin 15, it is failing dramatically. This is because it is not competent to run the Garda, the policing service, in a way that provides citizens and their children with the help they need.

What is more, we are being told that Tusla is proposing to withdraw the limited counselling services it provides in a number of DEIS schools. These services are provided in schools in which children have seen young men with guns about 100 yd from the school gate and Tusla is withdrawing them because they are not part of any Tusla-type medical service. What is going to happen? I really am perplexed as to why a Government which suggested at its outset that it might have some competence is unable to learn the lessons of what happened in the north inner city because of the ongoing drug feud in that area. It has now allowed a parallel drug feud to explode in another significant area of the city and appears to have absolutely no answer for it.

Minister for Education and Skills (Deputy Joe McHugh): I am taking this Topical Issue debate on behalf of the Minister for Justice and Equality who, unfortunately, cannot be here as he was required to be in London for the British-Irish Intergovernmental Conference. He regrets not being able to be here in person and has asked me to thank the Deputy for raising this important issue.

The Minister is very much aware of the impact that this type of criminal activity can have on a community whether in Blanchardstown, Drogheda or elsewhere. It can profoundly affect a whole community and not just those involved. It is simply unacceptable for people to feel threatened when they should feel safe and secure in their locality. As the Minister, Deputy Flanagan, has said, this type of criminal behaviour will not be tolerated. The Minister is advised that An Garda Síochána is conducting full investigations into each case. It would be inappropriate for me to comment while these investigations are ongoing.

Last Thursday, the Minister visited Blanchardstown Garda station and met with two detective inspectors. He was briefed on the ongoing operations including the outcome of a number of searches which have been conducted since the beginning of the year. The Minister has also been informed by An Garda Síochána that a crime prevention and detection initiative, including high-visibility uniformed and armed patrols to disrupt criminal activities, has been put in place

by senior Garda management in the Dublin metropolitan region west. This operation is specifically targeting criminality associated with disputes between crime groupings in the region and is being managed and co-ordinated through the incident room established to co-ordinate the related criminal investigations.

An Garda Síochána has further advised that every opportunity to target the criminal activities of those involved directly in the ongoing dispute is being availed of in order to maintain control of the situation. Local gardaí, both uniformed and plain-clothes, are working with other national units, including the Garda National Drugs and Organised Crime Bureau, the special detective unit and armed support units, as well as security and intelligence branch in Garda headquarters to ensure that all intelligence available is circulated in a timely manner.

Both the Minister and I would like to take this opportunity to thank local groups and other statutory agencies for the vital role they play at a community level. The Minister is assured that An Garda Síochána will continue to make every effort to disrupt the activities of any groups which may be involved in these incidents, to arrest and prosecute offenders and to deny access to the road networks for those involved. Finally, I take this opportunity to urge anyone that may have information regarding these incidents to contact their local or nearest Garda station or to avail of the Garda confidential line, the telephone number for which is 1800 666 111, as soon as possible. Any information, no matter how small, could be of great assistance to the ongoing Garda inquiries.

Deputy Joan Burton: I thank the Minister for his answer. I appreciate him taking the debate. I also appreciate that the Minister, Deputy Flanagan, is involved in talks regarding the North and I wish him well in that respect. I am not hearing anything about the number of extra community gardaí the Government is going to supply. With regard to the 13 I mentioned, many serving gardaí laughed at the idea that there were 13 community gardaí available because they are diverted to other duties all the time. I am sure the Minister appreciates that community gardaí are the backbone of the policing service. They get to know the people. They get to know the kids who may have got into a bit of trouble and who can be deterred away from it. They get to know the families and where the problems are.

Dublin and Ireland are in the grip of an epidemic of heroin use and, in particular, cocaine use the like of which we have not seen for 30 years. This is happening on the Government's watch. What is it going to do about it? The gangs in Dublin west seem to have control over the streets. I get phone calls regarding some streets. Gardaí come up in a van or a car for a period of time but as soon as they go stuff starts to happen again because there is no constant presence. I appreciate gardaí pleading with local people to assist them. Local people and organisations have done a tremendous job, particularly in trying to deter young people and, indeed, older people in their 20s and 30s away from cocaine and to prevent them seeing it as simply some kind of party drug.

If the Minister talks to any doorman working in any pub in Ireland he or she will tell him that there is a tide of drugs in this country which is causing severe damage. I will say again that it is happening on the Government's watch and it is not offering any competent remedies to communities. Instead what is happening is what happened in central Dublin. As the Minister himself said, that spread to Drogheda. It is now in Dublin west and pretty soon it will be all over the country.

Deputy Joe McHugh: I share the Deputy's concerns, as does the Minister, Deputy Flana-

8 May 2019

gan. I thank her for bringing her comments to the attention of the Minister. Let us be clear: this type of criminal behaviour has no place in civilised society and will not be tolerated. Gardaí in the Dublin metropolitan region west have put in place a policing operation to prevent, detect and mitigate against any further escalation of violence. We wish them every success in their work.

In the last month alone, gardaí in that division have conducted a number of successful operations in the locality. Gardaí investigating an incident of criminal damage by fire to a house in Blanchardstown on Saturday, 4 May have already arrested two males in connection with the incident. A file is now being prepared for the Director of Public Prosecutions. On Tuesday, 2 April, gardaí responded to a report of shots fired in the vicinity of the community college on Blanchardstown Road North. Gardaí carried out searches in the Corduff area and a man in his 20s was arrested and detained. On Friday, 26 April, gardaí from Blanchardstown, supported by members of the Defence Forces, carried out a search of waste ground and discovered a loaded pistol and silencer. At a separate location they discovered a small quantity of ammunition. Forensic testing was carried out and inquiries are ongoing. On Tuesday, 30 April, a residential premises and wasteland at Sheephill Park, Blanchardstown was searched. During this search a loaded semi-automatic sawn-off shotgun which had been concealed in undergrowth was recovered. The weapon has been forwarded to Garda headquarters for ballistic testing and investigations are continuing. I acknowledge the commitment of An Garda Síochána in endeavouring to make our communities safe. Like the Deputy, I also acknowledge the role of communities and leadership within them in ensuring there is a comprehensive approach to this. I assure the House that the Minister for Justice and Equality will continue to monitor developments closely.

Deputy Joan Burton: Unless the Government commits more resources to Dublin 15, the gardaí are doing an excellent job but they will not be able to get on top of this.

Acting Chairman (Deputy Catherine Connolly): There is no provision in Standing Orders for this, Deputy. I was very generous with the time.

Mother and Baby Homes Inquiries

Deputy Pat Buckley: I thank the Minister for taking this matter tonight. I am grateful for the opportunity to speak on the interim report on the mother and baby homes. It is ironic that this week is the 20th anniversary of the State's apology to the survivors of Ireland's industrial and reformatory schools. I want to discuss the major findings of the report, some aspects of which are worrying. I want to get them on the record and I want people outside this Chamber to understand what is going on. The major findings of the report centre around Bessborough and Tuam, both of which raise major issues regarding the failure to record burials properly. The estimates for the number of children believed to have died at these homes have also increased significantly. Sean Ross Abbey has more than 1,000 children and 29 mothers, Tuam has 973 children, and Bessborough has in excess of 900 children and 14 mothers. A total of 1,343 deaths occurred in respect of the institutions in the Cork County Home and Saint Finbarr's Hospital. Bethany has 220 children and one mother, Castlepollard has 220 children and eight mothers, and Pelletstown and the Dublin Union are unclear because the commission is still investigating.

Deputy Joan Burton: It is about 2,000.

Deputy Pat Buckley: That is frightening. The report also notes there are 830 missing bod-

ies and refers to misleading affidavits from nuns. There surely has to be some repercussions for it. It bewilders me. It states in the report that there is a small burial ground in the grounds of Bessborough that was opened in 1956 for members of the congregation. The report notes that it seems to have been assumed by former residents and advocacy groups that this is also where the children who died in Bessborough are buried as there are occasional meetings and commemoration ceremonies held there. I go every year, and three years ago I met an elderly gentleman who thought he was the only person ever to be adopted into Canada from Ireland. He did not get any answers and, unfortunately, he is now dead. This is what I want to get across to the Minister. We can do all these reports and people can understand. Ideas have been mooted about putting up plaques and stuff, but I spoke to many survivors or victims, whichever we might call them, and they do not want that. They have some horrific memories. What they want is to be heard and understood.

The report goes on to state that the commission finds that affidavits supplied by the nuns who ran the Sacred Heart homes in Bessborough, Sean Ross Abbey and Castlepollard regarding burials were in many respects speculative, inaccurate and misleading. It is unbelievable, and still nobody has been punished for this. On the reality of what this has done to families and their mental health, a very close friend of mine was in Bessborough. It is well documented. She was forced to breastfeed her child while facing a wall. That child was torn from her chest. It took her 43 years and the State did everything to deflect any services or help. It was through pure luck and pure determination that eventually she found her son. This is happening to hundreds and possibly thousands of people. I am afraid about the Retention of Records Bill 2019. To bury everything for 75 years is killing off four generations of these people and it is an atrocity what the State is doing to them.

Minister for Children and Youth Affairs (Deputy Katherine Zappone): I thank the Deputy for raising the matter of the fifth interim report of the Commission of Investigation into Mother and Baby Homes and Certain Related Matters, which I published on 17 April 2019. This comprehensive report focuses on the burial arrangements in the institutions being examined by the statutory commission of investigation. The report also provides detailed information on the transfer of remains for the purpose of anatomical examination. It is clear that the commission has examined and cross-referenced a huge amount of material in a way never before possible. The report reflects the sheer depth and complexity of the work the commission is undertaking in the public interest.

The report includes a number of important findings relating to the burials at Tuam and examines the practices in a number of other institutions, including St. Patrick's, Bessborough, Bethany Home, Castlepollard and Sean Ross Abbey. The commission states that many of the children who died in the Tuam home are buried in the underground chambers on this site. The commission has determined that the burial chambers were not in a recognised burial ground or purpose-built, and they did not provide for the dignified interment of human remains. In addition, the commission concludes that there is little basis for the theory that children were sold to American couples rather than having died. The report also has wider implications for forthcoming legislation. Officials in my Department are working on legislation to enable the proposed forensic standard excavation, exhumation and identification of remains at the site in Tuam.

With regard to Bessborough, the commission reports that more than 900 children who were born or admitted to Bessborough died in infancy or early childhood. There are a number of locations within the grounds where burial could have taken place. Cartographic and landscape

8 May 2019

assessment was arranged by the commission. To date they have found no physical or documentary evidence which indicates burials. The commission is of the opinion that burials may have taken place in Carr's Hill cemetery in Cork city. Despite extensive searches, however, the register of burials has not been located to date. While at this point it cannot say for certain, the commission considers that it is highly likely that burials did take place in the grounds of Bessborough. It concluded, however, that it was not feasible for it to engage in an excavation of a 60-acre site. The commission confirmed that children who died in Dublin Union premises, including the former St. Patrick's on the Navan Road, were buried in Glasnevin Cemetery where detailed records of these deaths and burials are maintained. In addition, the commission states that it has no reason to doubt that the majority of the children who died in Castlepollard are buried in the burial ground on this site. Mount Jerome Cemetery was the main burial site for the children who died in the Bethany Home. The commission reports that deaths of children were properly recorded in the Bethany baby book register maintained by the home's authorities. The commission has undertaken a geophysical study and test excavations of the burial site at Sean Ross Abbey and its report notes that the results of this work are being examined by the commission.

This report will take some time to absorb fully but it undoubtedly advances our understanding of the burial practices at these institutions. While the commission makes no specific recommendations, it calls on anyone who may have information relating to burials to come forward and speak to it. I strongly endorse this call by the commission and encourage anyone with relevant information to contact the commission immediately. This report is not necessarily the commission's final say on burials at these institutions. Any further information will be included in the commission's final report, which is due to be submitted by February 2020. The publication of the fifth interim report is a significant milestone in the work of this commission. We can be reassured that the commission has not shied away from the difficult questions. Its work will shine a light on this dark period in our history.

Deputy Pat Buckley: I thank the Minister for her reply. She mentioned that the Government is fully committed to this. The Retention of Records Bill - the Minister who introduced it, Deputy McHugh, has just left the Chamber - proposes to withhold from public inspection every document gathered or made by the Commission to Inquire into Child Abuse, the Residential Institutions Redress Board and the Residential Institutions Redress Review Committee for no less than 75 years. That is very worrying. I do not want to see it happen. We need to get to the end of this. This is where the State is responsible. As I said in my opening contribution, 20 years ago the then Taoiseach made a State apology.

I want to point out a few more things that are of concern to me. Almost no prosecutions appear to have arisen from the investigations of the Ryan commission to inquire into child abuse. The ongoing mother and baby homes commission of investigation is refusing to provide survivors or family members of the deceased with any of the personal information that it holds concerning them. Meanwhile, as reported by Conall Ó Fátharta of the *Irish Examiner* recently, the commission is refusing to inform families of the whereabouts of their relatives' graves because underpinning legislation makes it an offence for anyone, including a member of the commission, to disclose or publish any evidence. Regarding the Magdalen laundries, the Department of the Taoiseach has repeatedly refused to release any of the contents of the McAleese committee archive, claiming that it is holding the archive for safe keeping and not for the purposes of freedom of information.

Another concern in respect of the survivors or victims is that there is no statutory right for

adopted people, whether lawfully or unlawfully separated from their family, or people who were placed in informal or illegal care arrangements as children, to access their early life files. This means some of these people cannot even get a passport. The suffering is ongoing. I want a commitment that they will never shut these secrets away. We need to set up a national repository and people should be entitled to obtain their own information.

Deputy Katherine Zappone: My personal sentiments are with the Deputy. It was awful to listen to the Deputy outline the story of the woman who was in one of the homes. Most of the Deputy's commentary relates to information that has been provided, but they cannot get access to it. My personal sentiments reside with the Deputy.

The Retention of Records Bill provides for a 75-year period because of the legal advice from the Attorney General. That is required because of the commitments or agreements on information given. I still had difficulty with it, myself. I suggested that there should be a review of that period of time, and that is included in the Bill at a certain point. At a personal level I do not accept that - I am with the Deputy - although the advice is otherwise.

The Deputy said that the mother and baby homes commission of investigation, which also receives the testimony, is not providing access. I am aware of that. He referred to relatives not getting information. I also read that report by the journalist. In one case where a child was buried and they assumed from the report that it might have been a child related to them, again they could not get information. Both of those are examples of the interpretation of the commission itself, supported by the Attorney General, that the Commissions of Investigation Act inhibits that kind of provision of information. That is why it is happening.

Scoileanna Lán-Ghaeilge

Deputy Éamon Ó Cuív: Ba mhaith liom filleadh ar roinnt ceisteanna curtha agam le tamall anuas. Cén fáth go bhfuil €103 in aghaidh an chloiginn sa bhreis á íoc leis na scoileanna deonacha le hais na scoileanna a thagann faoi na ETBs, na scoileanna pobail agus na scoileanna cuimsitheacha atá ag múineadh trí Ghaeilge? Faighim an freagra céanna i gcónaí, is é sin, nach é an Roinn a leithdháileann an t-airgead ar na scoileanna a thagann faoi na ETBs. Ar ndóigh, mura bhfaigheann na ETBs an t-airgead, ní féidir leo é a roinnt. Íoctar na liúntais céanna, nach mór, leis na ETBs faoi gach uile aicme eile de liúntas seachas an liúntas múineadh trí Ghaeilge de €103 in aghaidh an dalta in aghaidh na bliana. Is léir nach bhfuil fonn ar dhuine éigin istigh sa Roinn cothrom na Féinne a thabhairt sa chás seo. Tá 71 meánscoil ag múineadh trí mheán na Gaeilge. Is scoileanna deonacha iad 20 acu siúd, agus tá cuid acu in áiteanna rachmasacha. Is scoileanna ETB iad 46 acu. Is scoileanna pobail nó cuimsitheacha iad na cúig scoil eile. Chomh maith leis sin, tá cúig cinn de na scoileanna a thagann faoi na ETBs, nó na coistí gairmoideachais mar a bhíodh, ar oileáin. Dhéanadh an €103 in aghaidh an chloiginn an-difríocht dóibh. Cén fáth a bhfuil an ceart seo á shéanadh ar dhaltaí na scoileanna lán-Ghaeilge atá faoi chúram na boird oideachais agus oiliúna nó atá ag feidhmiú mar phobalscoileanna nó scoileanna cuimsitheacha?

Deputy Catherine Connolly: Is é bun agus barr an scéil ná go bhfuil míchothromaíocht i gceist anseo. Is dócha go n-aontaíonn an tAire nach féidir leanúint ar aghaidh le míchothromaíocht. Tá scoileanna áirithe - na scoileanna deonacha - ag fáil airgid, ach níl na scoileanna cuimsitheacha, na scoileanna pobail agus na scoileanna a thagann faoi Bhord Oideachais agus Oiliúna na Gaillimhe agus Ros Comáin ag fáil airgid. Is ceist thar a bheith simplí í an cheist

seo. An féidir leanúint ar aghaidh leis an mhíchothromaíocht seo agus gan cothrom na Féinne a thabhairt do gach uile scoil, beag beann ar cé atá i gceannas ar na scoileanna sin? Tá an t-ábhar seo ardaíthe go mion minic linne mar pholaiteoirí i nDáilcheantar Gaillimh Thiar, mar shampla ón bhord oideachais agus oiliúna. Nuair a bhí cruinniú againn i mí an Mhárta, bhí an cheist seo ar an gclár oibre arís. Tá an cheist á ardú againn arís inniu agus muid ag iarraidh a fháil amach céard iad na pleananna atá ag an Rialtas chun fáil réidh leis an mhíchothromaíocht atá luaite agam. An féidir leis an Aire freagra díreach a thabhairt dúinn ar an scéal seo?

Deputy Joe McHugh: Gabhaim buíochas leis na Teachtaí as ceist mhaoiniú na scoileanna a tharraingt anuas i gcás an deontais do mhúineadh trí Ghaeilge agus an deontas do mhúineadh tríd an dá theanga. Táim buíoch as seans a fháil chun an cheist sin a shoiléiriú. Tá an deontas Gaeilge agus an deontas dátheangach ann mar chistiú do scoileanna a mhúineann trí Ghaeilge. Is léiriú iad na socruithe atá déanta ag mo Roinn leis na scoileanna agus coláistí deonacha, na scoileanna dara leibhéal, na pobalscoileanna, na scoileanna cuimsitheacha agus na scoileanna a thagann faoi na boird oideachais agus oiliúna ar na socruithe éagsúla bainistíochta agus úinéirreachta atá i réim trasna na scoileanna dara leibhéal.

Is le deontais chaipitíochta a mhaoinítear na meánscoileanna deonacha. Faigheann na scoileanna sin deontais in ionad na dtáill a bhíodh á ngearradh roimh 1967. Íoctar deontais chaipitíochta breise le meánscoileanna deonacha ina múintear cuid de na hábhair, nó na hábhair go léir, trí Ghaeilge. Ní íoctar an deontas le pobalscoileanna, scoileanna cuimsitheacha ná le scoileanna na mbord oideachais agus oiliúna. Íoctar leithdháiltí leis na pobalscoileanna, na scoileanna cuimsitheacha agus leis na scoileanna a thagann faoi na boird oideachais agus oiliúna ar bhonn buiséid bhliantúil.

I gcás na scoileanna a thagann faoi na boird oideachais agus oiliúna, áirítear ar an gcistiú airgead don cheannoifig agus do chostais eile, costais scoileanna san áireamh. Tugtar ardleibhéal féinrialachais do scoileanna na mbord oideachais agus oiliúna chun a mbuiséid féin a bhainistiú agus a chionroinnt. Tá cead ag gach bord oideachais agus oiliúna a leithdháiltí a dháileadh de réir a thosaíochtaí agus a riachtanais féin. Ní mór aon easnamh ar chistiú i scoil ar leith a thagann faoi na boird oideachais agus oiliúna a bhainistiú as buiséad an bhoird oideachais agus oiliúna lena mbaineann. Ní leithdháileann mo Roinn cistí ar scoileanna aonair in earnáil na mbord oideachais agus oiliúna. Rud casta is ea cistiú a chothromú ar fud na hearnála iar-bhu-noideachais, agus ní mór raon tosca a chur san áireamh ann, leithéidí an tslí a n-íoctar costais fhoirne agus costais neamhphá eile.

Deputy Éamon Ó Cuív: Tá an freagra glic, seachantach agus bréagach. Íocann an Rialtas airgead leis na boird oiliúna agus oideachais. Adhmhaím é sin. Tugtar cnapshuim do chuile cheann acu. Ach tá sé sin comhdhéanta d'airgead in aghaidh an chloiginn bunaithe ar líon na ngasúr atá ann agus mar sin de. Mar sin, níl fadhb ar bith againn teacht ar réiteach ar an bhfadhb seo. Is féidir leis an Aire leithdháileadh lárnach de €103 in aghaidh an chloiginn do chuile ghasúr atá á mhúineadh trí Ghaeilge ag an Education and Training Board i nGaillimh agus Ros Comáin, mar shampla, a dhéanamh agus ligean don ETB é sin a roinnt amach. Ag deireadh an lae - díreoidh muid díreach isteach ar fhírinne an scéil seo - tugann an tAire €103 níos mó do scoileanna deonacha atá ag múineadh trí Ghaeilge ná mar a thugann sé do phobalscoileanna, scoileanna cuimsitheacha agus ETBs. Más í an rud é go bhfuil dáileadh lárnach á dhéanamh, cén fáth nach n-íoctar é seo do na scoileanna cuimsitheacha agus do na pobalscoileanna? Sin rud eile a seachnaíodh sa bhfreagra. Chosnódh sé €1 milliún sa mbliain.

7 o'clock

Deputy Catherine Connolly: Tá trí leathanach go leith de fhreagra ann. Tá meas agam ar an Aire agus tá a fhios agam go bhfuil a chroí san áit cheart, ach tá trí leathanach go leith againn agus ní thuigim an freagra ach amháin an rud atá ar eolas againn cheana, is é sin nach n-íoctar an deontas le pobalscoileanna, le scoileanna cuimsitheacha ná le scoileanna na mbord oideachais agus oiliúna. Tá a fhios againn é sin. Sin an fáth go bhfuil an bheirt againn ag seasamh suas ag cur ceiste. Cén chaoi is féidir leanúint ar aghaidh leis an míchothromaíocht sin? Níl aon mhíniú tugtha dúinn sa fhreagra. Cén fáth go bhfuil an Rialtas ag leanúint ar aghaidh leis an míchothromaíocht? Tá scoileanna áirithe, na scoileanna deonacha, ag múineadh trí Ghaeilge agus ag fáil breis is €100 in aghaidh chuile dhalta. Níl na scoileanna eile, dóibh siúd faoin mbord oideachais, na scoileanna cuimsitheacha, agus na pobalscoileanna, ag fáil aon rud. Ní féidir leis an Teachta, mar Aire Oideachais agus Scileanna, glacadh leis sin. Ní dóigh liom go bhfuil sé sásta leis. Tá réiteach ag teastáil. Ní féidir idirdhealú mar sin a dhéanamh, idirdhealú atá, bun agus barr, bunaithe ar an míchothromaíocht agus ní féidir a bheith anseo ag tabhairt freagra mar sin.

Deputy Joe McHugh: Ní mhaoinítear an dá earnáil ar an shlí chéanna. Cuirtear cistiú ar fáil d'earnáil na meánscoileanna deonacha i bhfoirm deontais chaipitíochta agus d'earnáil na mbord oideachais agus oiliúna, do na pobalscoileanna agus do na scoileanna cuimsitheacha i bhfoirm buiséad bliantúil. Ní cistiú ar bhonn iontamhla é, agus tá sé ceaptha le costais éagsúla, cuid acu cosúil agus cuid acu difriúil, a ghabhann le reáchtáil an dá earnáil, a chlúdach.

Dá n-iarrfaí aon mhéadú eile ar na buiséid do mhúineadh trí Ghaeilge, ba ghá iad féachaint orthu i bhfianaise bhuiséad iomlán mo Roinne agus a tosaíochtaí ginearálta maidir le cothromú an chistithe don earnáil iar-bhunoideachais trí chéile, nithe de dhroimh an phlean gníomhaíochta reatha don oideachas agus tosaíochtaí agus cuspóirí eile a bhaineann le hábhar.

Gabhaim buíochas leis na Teachtaí arís fá choinne na ceiste. D'ardaigh cúpla duine ó Ros Comáin an cheist seo nuair a tháinig mé isteach sa phost úr. Bhí mé ag labhairt le mo chuid oifigeach sa Roinn fadúda na rudaí seo. B'fhéidir go mbeidh athrú ar na rudaí sin i gceist agus an comhrá roimh an bhuiséad atá le teacht ag dul ar aghaidh. Dá mbeadh an Rialtas fós ann roimh an bhuiséad i mbliana, beidh seans ag na Teachtaí labhairt linn. Dá mbeadh aon athrú ag teacht, beidh seans acu labhairt linn tríd an chóras sin.

Deputy Éamon Ó Cuív: Ba chóir don Aire é a chur ar an liosta siopadóireachta. Is airgead an-bheag é i gcomhthéacs an €10 mbilliún atá aige.

Residential Tenancies (Amendment) (No. 2) Bill 2018: Order for Report Stage

Minister for Housing, Planning and Local Government (Deputy Eoghan Murphy): I move: "That Report Stage be taken now."

Question put and agreed to.

Residential Tenancies (Amendment) (No. 2) Bill 2018: Report and Final Stages

Deputy Jan O'Sullivan: I move amendment No. 1:

8 May 2019

In page 7, between lines 29 and 30, to insert the following:

“Deposit not to exceed one month’s rent

6. Section 12 of the Principal Act (Obligations of landlords) is amended by inserting the following subsection:

“(6) A deposit (howsoever described, being money payable on entering into an agreement for the tenancy of a dwelling and intended to be held as security for the performance of any obligations, and the discharge of any liabilities, of the tenant under or in connection with the tenancy) shall not in any case exceed the monthly rent (or, if the rent is not payable monthly, the amount that the tenant pays in rent as calculated pro rata on a monthly basis) set under that tenancy.””.

We discussed a similar amendment at length in committee. This amendment proposes that a deposit would not exceed the monthly rent. Landlords would not be allowed to charge deposits of two months’ rent or even three months’ rent in some cases. The deposit should be confined to the monthly rent. While that is the norm there have been recent cases, and we have all heard of such cases, where potential tenants were asked for higher deposits. That excludes people who simply cannot afford to pay an additional amount for the deposit on a tenancy. For that reason, it discriminates against people who otherwise would be eligible for the particular home and able to pay for it. We discussed this issue at length and I am interested in the Minister’s response.

Deputy Dessie Ellis: I support this amendment. It has posed an awful problem for many people to get back their deposits but if the deposit was set at an even higher level, that would pose a bigger problem. A deposit of a month’s rent is a fair amount. We should not ask for more than that. Many people are struggling and it is proving nearly impossible for potential tenants to get additional money from a welfare officer or from another source.

Deputy Thomas P. Broughan: I warmly support this amendment, which is timely. It is astonishing to realise that a deposit was not precisely defined in the 2004 Act or in the 2015 Act. There is an opportunity to do that in this Bill. As my colleague said, we have often found landlords have asked for two months’ rent or more for a deposit, which creates an unacceptable situation. I strongly support the amendment.

Minister for Housing, Planning and Local Government (Deputy Eoghan Murphy): At the outset, I thank all of the Deputies for the lengthy debate and discussion we have had on this legislation and the proposals behind it up to this point, and we had a lot of discussion on Committee Stage as well. We are now on Report Stage and I hope we can conclude this quickly while also giving the due diligence we need to the amendments before us.

On this amendment, I gave a commitment to Deputy O’Sullivan on Committee Stage to look at this further. I am not against doing this. It is something we need to address in regard to a number of points around the issue of key money and the protection of deposits. Unfortunately, it is not something we have been able to progress in this legislation. It is no longer a priority area for the Residential Tenancies Board, RTB, which reports on the priority areas that come before it.

In the committee session I gave a commitment to Deputy Darragh O’Brien that I would look again at the issue of the deposit retention scheme. In the next Bill we are bringing forward,

the housing (residential tenancies) Bill, which will have pre-legislative scrutiny later this year, we will look at a series of issues around the deposit. Unfortunately, to accept this amendment on its own, as it is before us for this Bill, will not get to the issue at hand. While asking for two months' deposit is not the big issue that people might think it is, this amendment is also not addressing things like key money or other aspects around deposits or a deposit scheme. If someone wanted to charge a tenant extra money using a deposit, or something akin to a deposit, he or she could do it and this amendment would not protect the tenant in that way. While I acknowledge the merit of the amendment and its intention and while I believe we need to do something in this area, unfortunately, this amendment will not address it with the totality that is needed. That is why we will be proceeding with further legislation this year around the deposits that are charged and paid, how they are protected and what they are for.

Deputy Jan O'Sullivan: The Minister may say it is not an issue for the RTB but it is certainly an issue for people who are being asked to pay one months' deposit and who, therefore, cannot secure what they otherwise might secure as a home for themselves. I am disappointed the Minister feels he cannot progress it in this legislation. There are other issues in regard to key money. In fact, I published a Private Members' Bill following reports that people were being asked for things like key money. When Deputy Darragh O'Brien raised this on Committee Stage, he pointed out there is an enabling clause in legislation that would allow for the establishment of a deposit protection scheme. I do not see why this cannot be done. It is a very simple measure which is simply forbidding a landlord to look for more than one months' deposit. This does squeeze people out. It may not be the most common case that is brought before the RTB, but for the people concerned, it is a very serious issue and one that may well deprive them of a home.

Deputy Darragh O'Brien: I agree with the thrust of Deputy O'Sullivan's amendment. As she rightly said, we discussed this and I agreed to withdraw our amendment at the time on the basis that we wanted to look at a more comprehensive measure that would deal with a deposit protection scheme, as the Minister noted. We did not want to delay the passage of this very important legislation now while we were looking at that other piece. I withdrew our amendment on Committee Stage on the basis that we would return to it in a more comprehensive way with the next legislation. While it is up to each Member and party to decide, I thought that was a sensible approach. I would have liked to have done it within this Bill and I agree with Deputy O'Sullivan on that. However, I accepted the bona fides of, and the argument made by, the Minister at the time on foot of him giving an assurance that we would look at it for the next legislation. I did not want to delay any of the other important parts of this Bill while we kicked that piece around, particularly in regard to student rents, where time is of the essence in the context of getting this legislation out of the Dáil, into the Seanad, passed and signed in before the new academic term starts.

Deputy Eoghan Murphy: I completely agree that the deposit should only be one month and no more than one month, and I do not disagree with that as a principle. My point is that while this had a certain priority a couple of years ago, it is not the priority it once was. This legislation does a huge amount. Areas that I think are a greater priority include student accommodation, as mentioned by Deputy O'Brien, but also the extension of rent pressure zones, RPZs, the closing of some perceived loopholes in RPZs, and everything else that flows from this Bill. While this legislation does a huge amount, trying to do what Deputy O'Sullivan wants to do cannot be captured in this simple amendment alone, unfortunately. It is too easy to step around it. That does not mean we are not going to do something on this. There is a second piece of legis-

lation coming later this year where we can have a more thorough approach to the issue at hand.

Deputy Jan O’Sullivan: The Minister needs to give us a timeline for when he is going to bring forward this other legislation. I am conscious of the fact we do not want to delay this Bill because we want it to go through and we want to ensure protections are provided for people. However, I certainly would want to see some guarantee that there would be a timeline and that we would see real, strong legislation. It is quite possible we will not get too much more legislation through in the current Dáil. These issues are very important for people who are in a very precarious situation. Therefore, I am going to press the amendment.

Deputy Eoghan Murphy: To respond to the question on the extra legislation, we have that scheduled for pre-legislative scrutiny in the fourth quarter of this year. It is the housing (residential tenancies) Bill. It is for those areas that we wanted to address in this sector that we could not address in this Bill because of the other priorities we have. We are working on that at the moment and, in the fourth quarter of this year, we will be discussing the different elements of it.

Amendment put and declared lost.

Acting Chairman (Deputy Catherine Connolly): Amendments Nos. 2 to 10, inclusive, are related and may be discussed together.

Deputy Eoghan Murphy: I move amendment No. 2:

In page 8, line 2, to delete “commenced” and substitute “commenced,”.

I propose to take amendments Nos. 2 to 10, inclusive, together. Amendment No. 2 is a technical amendment to insert a comma at the end of the substitute paragraph (a) of the section 19(5) of the Act of 2004. Amendment No. 3 is also a technical amendment to put the new text of section 19(5B)(2) of the Act of 2004 in better English.

Amendments Nos. 4 and 6 are consequential technical amendments which relate to the Government’s amendment No. 5, which introduces a further alternative description of works that constitute a substantial change in the nature of accommodation provided under a tenancy for the purpose of qualifying for the exemption from the rent increase restriction in RPZs. Deputies will remember that, on Committee Stage, we went through the changes that had been proposed at that stage by the Government to the initial draft of the legislation, and there is a further change here, reflecting the discussions we had. The effect of the proposed amendment is that if the works improve the building energy rating, BER, of the dwelling by seven or more ratings, then the dwelling will qualify for the exemption. I am proposing the addition of this provision in recognition of the fact that works that very substantially improve a dwelling’s BER are desirable from the perspective of reducing emissions. The benefit for tenants in terms of cost reductions and increased levels of comfort are also desirable. To qualify under this exemption, a dwelling at the lowest energy rating of G will have to be improved to at least a C2 rating. Before this, we had the square footage of 25 sq. m or three or four conditions, but we will now also have this as an additional improvement of seven BER ratings.

Amendment No. 7 is a technical amendment relating to this group of amendments. Amendment No. 8 amends the existing BER related provision that is one of the three provisions of the four in the Bill that provide the BER improvement of two ratings as an option and one of the three works outcomes required to qualify for substantial change. Arising from the Committee Stage debate, we have considered this again. The amendment on Report Stage requires

a greater improvement in the BER where the dwelling to be improved is starting from a lower BER base. Accordingly, amendment No. 8 requires an improvement in the BER by three ratings where the original BER was D1 or lower, and an improvement of two ratings where the energy rating was C3 or higher. It is just recognising that it is much easier to get a two-level BER improvement where the BER is already very low and to take out that opportunity.

I cannot accept Fianna Fáil's amendment No. 9. We had a discussion on Committee Stage with regard to a rules-based versus a principles-based approach. Unfortunately, given the amendment that has been proposed, I have concerns that stipulating an amount per square foot would be problematic to verify.

It would also require further amendment, which would have to happen in the Seanad, after which the Bill would have to come back to the Dáil, so I cannot accept the amendment.

Opposition amendment No. 10 concerns inspection. The landlord is already required under the new section 19(5B) of the 2004 Act to serve a notice in the prescribed form, together with all the relevant supporting information, to the Residential Tenancies Board, RTB, setting out the reasons why, in the landlord's opinion, the annual rent increase restriction under section 19(4) does not apply to his or her dwelling. The new section 19(6B) of the Act provides:

A person, who in purported compliance with subsection (5B), furnishes information to the Board which is false or misleading in a material respect knowing it to be so false or misleading or being reckless as to whether it is so false or misleading shall be guilty of an offence.

The RTB now has the power to make inspections on the basis of its own decisions without the need for it to be reported. Those new measures in the Bill are sufficient to address what is intended by that amendment. As such I unfortunately cannot accept amendment No. 10.

Deputy Darragh O'Brien: I understand that amendment No. 9 is problematic. It was discussed on Committee Stage. It was put down to deal with older dwellings which may be refurbished for specific reasons, for example for the use of people with disabilities or special needs. I used the example of converting a bathroom to a wet room. This may have been another option to allow for substantial refurbishment. I understand there are difficulties with implementing that and I do not want this to allow people to use a refurbishment as an excuse to move a tenant on. That is something we all want tightened up. Amendment No. 8 makes a lot of sense. It makes the law more onerous but sets down a very strict threshold for improvements in energy and heat efficiency. A lot of the older buildings in many of our cities, such as the Georgian buildings in all parts of Dublin, require substantial refurbishment. I will withdraw amendment No. 9 when the time comes.

Deputy Thomas P. Broughan: I have listened to the Minister's response but I still do not see why it would not be sensible to take the extra step and allow for some kind of verification process. The Minister has indicated how sending misinformation to the RTB can be a criminal offence and outlined the requirement for works to be documented. However, there is still no provision for verification. Many of us met when the heads of the Bill were published and in the run-up to its passage. We have been talking about some of these issues for decades, even since the aftermath of the 2004 Act. I thank Mr. Gavin Elliot and Ms Ann-Marie O'Reilly from Threshold who met with me and my parliamentary assistant at the end of January. They provided a lengthy analysis of the heads of the Bill and of the Bill itself. Several of those concerns

8 May 2019

were taken on board but verification was not among them. This was raised in very recent contact with Threshold and other housing advocacy agencies. There seems to be no requirement for the RTB to verify substantial works that are carried out. The criminal offence is provided for, but the people working on the front line say there should be a requirement for the RTB to verify the work being undertaken. I have tried to provide that in amendment No. 10.

As the Minister knows, we were trying to amend section 19 of the 2004 Act, relating to rent reviews. We have had lots of discussions about how to address the massive loopholes and lacunae in the 2004 Act and the 2015 Act. There is a clear wish for more stringent regulations among tenants and indeed many landlords. To the extent that the Minister has brought such regulations forward I certainly welcome that. I know that section 19(5B) creates the requirement for landlords to inform the RTB when seeking an exemption from rent pressure zone restrictions. However, the lacuna here is the lack of requirement of verification for the reasons for an exemption. Again the RTB will rely solely on the landlord's evidence. In the past that has not been good enough.

In this House we have a very acute knowledge of the suffering of tenants. We have come across so many people who have been involved in outrageous evictions in which the system has been used to put people on the streets. We are trying to address that week in, week out. That is why we want a much more dynamic housing construction policy. A verification process would supplement the work of the RTB and reduce the likelihood of landlords applying for exemptions and not carrying out the work to which they commit.

Verification is important because the current crisis has shown us that there are rogue landlords out there who take advantage of the massive shortage of supply, the lack of inspections and enforcement and the loopholes in the system. We welcome this Bill in general terms because it gives us a platform to address that. The changes concerning the building energy rating, BER, standards are welcome. Again, some system to give powers of verification to the RTB is necessary. I urge the Minister to accept amendment No. 10.

Deputy Jan O'Sullivan: Deputy Broughan makes a good point. Can the Minister clarify what he said about the means of ensuring verification? It is essential. We do have a problem with landlords saying they are going to do things which in the end they do not do. We need to ensure that they do it.

I welcome the progress we have made on the BER issue through the Minister's amendments. Some of the BER standards for homes in the private rental sector are very low. This creates an issue around energy poverty, with people living in those homes spending a lot of money on heating them. It is important that significant improvements are made to properties covered under this legislation. These amendments represent an improvement on the original Bill. That is to be welcomed. Deputy Broughan's point is that we want to make absolutely sure that the work is actually done and the improvements are actually made. Perhaps the Minister can clarify how he believes that this can happen if he does not accept Deputy Broughan's amendment.

Deputy Eoghan Murphy: I thank Deputy O'Brien for withdrawing his amendment at two separate occasions on Committee Stage. There was a formal Committee Stage and an informal committee debate. We went back and forth on the issue so everyone involved is well versed on the different aspects and why we cannot go forward with the amendment at this stage, although there is merit in it.

In response to Deputy O'Sullivan, this is a good example of how we can use housing policy to tackle things like energy poverty as well as emissions and climate change. It is so important that we get a firm grasp on that in our approach to the built environment and everything that we do.

In response to Deputy Broughan I note that Threshold is doing a fantastic job. I meet with Threshold on occasion and I go through the various issues its representatives raise with me. The Government is very happy to fund Threshold. I am very happy to include many of the things it is looking for in this Bill but we cannot include everything.

Deputy Thomas P. Broughan: Why not?

Deputy Eoghan Murphy: This is not about “renovictions”. We should be clear on that. This is about using the excuse of renovation to get around rent controls. It happens in circumstances where it should not. People make bogus claims about renovation, or the supposed renovation is not renovation but a lick of paint. That has to stop and with this legislation it will stop. Verification will come through the documentation supplied by the RTB, which is expert in this area and will be able to get a good handle on what is adequate documentation and what is not. It is not easy to fake BER rating improvements or step around them. People are using that excuse, for example, or a change to the size of the floor space, or any of the other reasons or clauses for those who are making a significant investment to be able to increase the rent above 4%. That is a serious offence. The RTB is now getting new powers under this legislation to investigate landlords in a thorough way who step out of line. A new sanctioning regime has been introduced in the legislation. It has both new criminal offences and a new administrative sanctioning regime. It will be up to the RTB, whose staff are the experts in this area, to decide whether it needs to carry out an inspection based on the documentation it receives. We are giving a lot of new powers to the RTB. We are giving it new resources as well. It is important not to overburden it at this time and to allow it to build up the new resources and to start to use its new powers to explore whether it needs further powers in a given area or if its powers need to be better clarified in legislation. I have no doubt that in future Bills we might need to tighten up certain measures or to look again at other issues but for the time being, it will be the judgment call of the RTB as to whether an inspection is necessary. It would be an undue burden on the RTB to make inspections mandatory in cases where the documentation is more than clear as to what is happening.

Deputy Thomas P. Broughan: We all welcome the introduction of Part 7A of the 2004 Act, which, at long last, sets out a process of invigilation that has been badly needed. I do not see why the Minister should not meet all of the reasonable requests for improvement of landlord and tenancy legislation from the advocacy sector. We met some of the approved housing bodies again this morning, namely, Co-operative Housing Ireland, Oaklee Housing and others when they made a presentation across the road from Leinster House on the improvements they seek. They want a system whereby they would be able to launch their own affordable housing programmes, which I hope the Minister will be in a position to support.

I do not see why we should not have verification by the RTB. Many of those present have dealt with issues arising from the RTB and the appalling way many long-standing tenants have been treated, even to the extent of getting awards of compensation for the manner in which they were evicted. There have been cases of landlords simply disappearing. In the Bill we have addressed some of the outrageous cowboy practices but verification is fair enough and I hope the Minister would go the extra couple of metres and make sure we do not have to return to the

issue in the future.

Deputy Eoghan Murphy: It is important to note when one looks through every section of the Bill that it is composed of new measures to help and protect tenants. Some of the big criticisms of the Bill have come from landlords who say it is all pro-tenant and there is nothing in it for them. Big changes are coming in terms of new qualifying criteria for rent pressure zones and the Bill closes some of the perceived loopholes for those entities that have been stepping out of rent pressure zones, furthering the notice-to-quit periods, which is important in terms of housing security and all the other measures that are contained in the Bill.

There are a number of different advocates in the housing space and they do not always agree. That is why the role of the Minister is to make a judgment call. In this instance Threshold might say one thing and another group might be concerned as to whether a measure is necessary or if the burden could be managed immediately by a body or the RTB. I weigh up those issues and I make the decision. My view is that verification is here in terms of the documentation that needs to be provided and the very detailed undertakings that a landlord would have to go through in order to even apply for an exemption, and when he or she does that the RTB now has a power to undertake its own independent inspection where it feels that a landlord may be in breach, and if that is the case, there are significant penalties that did not exist previously if a landlord has breached or knowingly misled the RTB. That is a significant change in terms of what was there beforehand. The power is there for the RTB to make an inspection but to make it mandatory in every single instance where that is sought to be invoked is too much of a burden on the RTB, given the extra powers and resources we are giving to it. In cases where it is not necessary, moreover, it adds an unnecessary workload on the RTB. Its time and resources would be better spent chasing landlords it knows to be in breach not just of the law pertaining to renting out a property but in some instances in breach of human rights law in terms of overcrowding or accommodation that is not habitable in any sense but which they are trying to rent out and make money from. For those reasons I cannot accept the amendment.

Amendment agreed to.

Deputy Eoghan Murphy: I move amendment No. 3:

In page 8, line 5, to delete “different to” and substitute “different to what was”.

Amendment agreed to.

Deputy Eoghan Murphy: I move amendment No. 4:

In page 8, line 16, to delete “or”.

Amendment agreed to.

Deputy Eoghan Murphy: I move amendment No. 5:

In page 8, between lines 16 and 17, to insert the following:

“(ii) in the case of a dwelling to which the European Union (Energy Performance of Buildings) Regulations 2012 (S.I. No. 243 of 2012) apply, result in the BER (within the meaning of those Regulations) being improved by not less than 7 building energy ratings, or”.

Amendment agreed to.

Deputy Eoghan Murphy: I move amendment No. 6:

In page 8, line 17, to delete “(ii)” and substitute “(iii)”.

Amendment agreed to.

Deputy Eoghan Murphy: I move amendment No. 7:

In page 8, line 24, to delete “or”.

Amendment agreed to.

Deputy Eoghan Murphy: I move amendment No. 8:

In page 8, to delete lines 25 to 29 and substitute the following:

“(IV) in the case of a dwelling to which the European Union (Energy Performance of Buildings) Regulations 2012 (S.I. No. 243 of 2012) apply and that has a BER of D1 or lower, the BER (within the meaning of those Regulations) being improved by not less than 3 building energy ratings; or

(V) in the case of a dwelling to which the European Union (Energy Performance of Buildings) Regulations 2012 (S.I. No. 243 of 2012) apply and that has a BER of C3 or higher, the BER (within the meaning of those Regulations) being improved by not less than 2 building energy ratings.”.

Amendment agreed to.

Amendment No. 9 not moved.

Deputy Thomas P. Broughan: I move amendment No. 10:

In page 9, between lines 30 and 31, to insert the following:

“(3) The Residential Tenancies Board shall verify that works required to effect a substantial change to the dwelling were undertaken.”.

Amendment put:

<i>The Dáil divided: Tá, 20; Níl, 50; Staon, 0.</i>		
<i>Tá</i>	<i>Níl</i>	<i>Staon</i>
<i>Boyd Barrett, Richard.</i>	<i>Aylward, Bobby.</i>	
<i>Broughan, Thomas P.</i>	<i>Bailey, Maria.</i>	
<i>Buckley, Pat.</i>	<i>Brophy, Colm.</i>	
<i>Collins, Michael.</i>	<i>Browne, James.</i>	
<i>Connolly, Catherine.</i>	<i>Bruton, Richard.</i>	
<i>Doherty, Pearse.</i>	<i>Burke, Peter.</i>	
<i>Ellis, Dessie.</i>	<i>Butler, Mary.</i>	
<i>Ferris, Martin.</i>	<i>Canney, Seán.</i>	
<i>Kenny, Martin.</i>	<i>Carey, Joe.</i>	

8 May 2019

<i>Mitchell, Denise.</i>	<i>Creed, Michael.</i>	
<i>Murphy, Paul.</i>	<i>Curran, John.</i>	
<i>O'Brien, Jonathan.</i>	<i>Daly, Jim.</i>	
<i>O'Sullivan, Jan.</i>	<i>Deering, Pat.</i>	
<i>O'Sullivan, Maureen.</i>	<i>Doherty, Regina.</i>	
<i>Ó Broin, Eoin.</i>	<i>Donnelly, Stephen.</i>	
<i>Ó Caoláin, Caoimhghín.</i>	<i>Donohoe, Paschal.</i>	
<i>Ó Snodaigh, Aengus.</i>	<i>Durkan, Bernard J.</i>	
<i>Quinlivan, Maurice.</i>	<i>English, Damien.</i>	
<i>Ryan, Brendan.</i>	<i>Farrell, Alan.</i>	
<i>Shortall, Róisín.</i>	<i>Griffin, Brendan.</i>	
	<i>Harris, Simon.</i>	
	<i>Haughey, Seán.</i>	
	<i>Heydon, Martin.</i>	
	<i>Humphreys, Heather.</i>	
	<i>Kehoe, Paul.</i>	
	<i>Kyne, Seán.</i>	
	<i>Lahart, John.</i>	
	<i>Madigan, Josepha.</i>	
	<i>McGrath, Finian.</i>	
	<i>McHugh, Joe.</i>	
	<i>McLoughlin, Tony.</i>	
	<i>Moynihan, Aindrias.</i>	
	<i>Moynihan, Michael.</i>	
	<i>Murphy O'Mahony, Margaret.</i>	
	<i>Murphy, Eoghan.</i>	
	<i>Naughton, Hildegarde.</i>	
	<i>Neville, Tom.</i>	
	<i>Noonan, Michael.</i>	
	<i>O'Brien, Darragh.</i>	
	<i>O'Connell, Kate.</i>	
	<i>O'Dowd, Fergus.</i>	
	<i>O'Keefe, Kevin.</i>	
	<i>Ó Cuív, Éamon.</i>	
	<i>Phelan, John Paul.</i>	
	<i>Ring, Michael.</i>	
	<i>Rock, Noel.</i>	
	<i>Ross, Shane.</i>	
	<i>Scanlon, Eamon.</i>	
	<i>Stanton, David.</i>	
	<i>Zappone, Katherine.</i>	

Tellers: Tá, Deputies Thomas P. Broughan and Paul Murphy; Níl, Deputies Seán Kyne and Tony McLoughlin.

Amendment declared lost.

An Ceann Comhairle: Amendments Nos. 11 and 12 are out of order.

Amendments Nos. 11 and 12 not moved.

An Ceann Comhairle: Amendments Nos. 13 to 21, inclusive, are related and may be discussed together.

Deputy Jan O’Sullivan: I move amendment No. 13:

In page 12, between lines 11 and 12, to insert the following:

“Grounds for termination by landlord

13. Section 34 (Grounds for termination by landlord) of the Act of 2004 is amended—

(a) by deleting paragraph (b), and

(b) in the Table—

(i) by deleting paragraph 3, and

(ii) in paragraph 5, by substituting “, no reasonable measures can be taken to maintain the dwelling fit for human habitation during the refurbishment or renovation” for “in a way which requires the dwelling to be vacated for that purpose”.”.

In a situation where a landlord proposes to terminate a tenancy because he or she intends to renovate the dwelling, the criterion is that it is a level of substantial refurbishment that requires the tenant to vacate the dwelling. The criterion I am proposing in the amendment is that the dwelling would not be fit for human habitation during the refurbishment and therefore the tenant would have to be removed. I acknowledge that the Minister strengthened the original grounds in amendments we debated on Committee Stage, but I believe this is a good way to determine whether the tenant genuinely needs to be moved out of the accommodation for the work to be done.

I will also speak on amendment No. 14 as it is included in this group. We are all aware that many loopholes are used by landlords who wish to get rid of tenants. One of them is that a family member is moving into the dwelling. That is fair enough if the landlord needs the home for a close relative such as a spouse, civil partner or a child, including a stepchild, foster child or adopted child, of the landlord. The definition of relative that is used is quite broad, however, and I am seeking to narrow it in the amendment to the immediate family members of the landlord.

Deputy Eoghan Murphy: I will speak on amendments Nos. 13 to 15, inclusive. If the change proposed in amendment No. 13 was implemented, it would unravel the structure of the 2004 Act, which is built around the concept of the security of tenure protection applying only for the six-year duration of the Part 4 or the further Part 4 tenancy cycles. It is the Government’s policy to move towards tenancies of indefinite duration. How that can happen has to be

worked out carefully from a legal perspective with the Attorney General. This work will have to take place in the context of the second rental Bill which I spoke about earlier. That Bill will go to pre-legislative scrutiny in the fourth quarter of this year. That is how we intend to deal with the matter. This amendment, unfortunately, will not deal with it in the way that is required.

Amendments Nos. 13 and 14 seek to remove the intention to sell the dwelling as a tenancy termination ground, to amend the vacant possession requirement for substantial refurbishment works as a termination ground, and to limit the termination ground relating to the need for occupation by a family member to spouses, civil partners and children of the landlord. The amendments to the table in section 34 of the 2004 Act, which are in this Bill, which make it more difficult to cite falsely any of the grounds in that table and include any such invalid citation as improper conduct for the purposes of the new Part 7A, which we discussed on Committee Stage and that is being inserted by this Bill, and which measures empower the RTB in this way to sanction the landlord and to undertake the new process we have, will achieve the policy objectives we want to achieve and in a way that will have a meaningful impact for tenants who might be at risk of some of those citations being made on false grounds. I therefore cannot accept the amendments before us.

Amendment No. 15 is a further change to what the Government proposed on Committee Stage. What we are proposing here is different. It requires the copying of termination notices to the RTB for the purposes of its functions with regard to its new sanctioning provisions under Part 7A in respect of improper conduct on the part of landlords. The amendment inserted on Committee Stage required the termination notice to be copied to the RTB in advance of the expiry of the notice period, but the RTB has since indicated that it would be more effective and manageable for it to be copied with notice of tenancy terminations after the notice period has expired. In this way the RTB can use such notices for the purposes of identifying improper conduct for sanctioning. We discussed the notice being sent when the notice was served by the landlord to the tenant. Now the RTB thinks it will be more effective in terms of doing the work it needs to do regarding landlords who are improperly using this ground if it were the case that, after the tenant has vacated or not vacated, depending on the circumstances, the RTB would have to be notified and then could conduct an inspection if it thought it was necessary.

Deputy Thomas P. Broughan: Amendments Nos. 16 to 20, inclusive, relate to amending the new subsection (2)(a) of section 66 of the 2004 Act. That section provides for the period of notice where sections 67 and 68 of the 2004 Act are not applicable. Section 67 provides for the period of notice for termination by landlord where the tenant is in default, and section 68 provides for a period of notice for termination by tenant where the landlord is in default. Subsection (2)(a) sets out provisions for notice periods following an adjudication or tribunal and the serving of the remedial notice. Subsection (2)(a) in the Bill before us would give just 28 days' notice in a remedial notice, meaning that tenants could go through the process of making a complaint about a notice of termination, an adjudication or tribunal, and then may be issued with a remedial notice which would give just 28 days' notice. The housing advocacy bodies have raised concerns that the shortened timeframe on a remedial notice would act as a deterrent to tenants who question the validity of notices of termination in the first place.

The Minister is familiar with section 66. Amendment No. 16 proposes to delete "28 days" and substitute "90 days". Amendment No. 17 proposes to delete "28 days" in line 7 and substitute "90 days". Amendment No. 18 also proposes to delete "28 days" and substitute "90 days". Amendment No. 19 proposes to delete "28 days" and substitute "60 days". Amendment No. 20 proposes to delete line 34 in page 15 and substitute that where it is less than six months it would

be 60 days. Subsection (2)(a) in the legislation before us sets out the circumstances for the notices, but as I said earlier, I tabled the amendments because the 28 days' notice is not sufficient in the current rental crisis. Nobody could possibly source alternative, affordable accommodation in the location they require within 28 days of being given a remedial notice of termination.

Threshold's original analysis of this Bill raised serious concerns about this section. It said:

The Bill, if enacted, would provide that a tenant who challenged a notice of termination could have only 28 days to vacate their home and find another property despite the notice having been found to be invalid, and the tenant having been vindicated by the RTB adjudicator. Clearly in the current rental market 28 days is a very short length of time to source another property, and this is especially true for tenants in receipt of HAP.

That is if they can get HAP in the first place. According to Threshold and other housing bodies, the overall effect of these provisions will be to discourage tenants from challenging these notices and may lead to an increase in people presenting as homeless, having failed to secure alternative accommodation in the period allowed.

I note that Deputy Ó Broin suggested substituting 90 days for 28 days in the table. I can understand the logic behind that suggestion. Regarding the reference to student accommodation, which is that students must be given no less than 28 days, under the amendments relating to students, some provisions of the Act do not apply to them so they will not be covered by everything, for example, Part 4. Consequently, it makes sense for some of the provisions not to apply to them given the short-term nature of these tenancies, which generally are term-time tenancies. However, people feel that 28 days is a very short period. Even 40 or 45 days would have been beneficial but in the current rental climate, as I mentioned earlier to the Minister, 28 days is simply not sufficient.

Deputy Paul Murphy: I want to speak in support of amendment No. 13 and the other progressive amendments from the Labour Party and Deputy Broughan in this grouping. Even in the media in recent weeks it is clear that we are seeing an avalanche of evictions. Some of those are threatened in The Exchange Hall in Tallaght in my constituency, an issue I have raised a number of times with the Minister. They are due before the Residential Tenancies Board, RTB, next week. A series of other evictions are also taking place. These are a reflection of the complete imbalance of power that exists between the landlords, effectively housing capital in this State, and tenants, that is, ordinary working-class people struggling to make ends meet and being asked to pay extraordinary and extortionate rents.

These amendments go some way towards addressing that imbalance of power. Unfortunately, the Government is not likely to agree to any of the substantial amendments to redress that. I will speak in a second about why we need to do that but I also make the point strongly that from previous experience, we know the Government will not listen to ordinary people and that it represents the interests of the landlords and developers. Therefore, the only way any change will be forced on this issue is by a movement from below. The elections in two and a half weeks' time present an opportunity for an expression of that but a week before then, on 18 May, a national demonstration under the banner of Raise the Roof will be held at 1 p.m. at Parnell Square in Dublin. It is vital that we bring thousands of people on the streets on that date to say no to any more evictions, to call for an increase in the rights of tenants and rent controls and to fight for the building of public homes on public land.

8 May 2019

I will deal with some of the specifics of the amendments. We know that the most common reason given in eviction notices is sale of property. According to Threshold's annual report, it is used in 38% of the eviction notices with which it dealt - almost 2,000 eviction notices. We support the amendment that would remove that as grounds for sale. Our own anti-evictions Bill, which aims to do that, passed Second Stage. I have never heard the Minister or Government come back with a substantial reason as to why they cannot do that apart from the idea that it would discourage landlords from being in the market. Big landlords are not being discouraged from being in the market, as we see from front page stories about cuckoo funds. They are being incentivised with tax incentives and the highest rental yields in the EU. We know that a series of European countries, including Germany, the Netherlands, Sweden and Denmark, have such a ban on sale as grounds for eviction, meaning that if a property is to be sold, it must be sold with the tenant *in situ*. It is key that this be removed. It is utterly unacceptable that the Government continues to refuse to agree to it.

The second point I would make concerns the amendment relating to refurbishment or what are being called "renovictions", which is when landlords say they are going to do substantial refurbishment. We saw the case of Leaside Apartments in Cork when that was used as a pretext for evictions to hike up rents afterwards. We aim effectively to ban that. This amendment comes reasonably close to that in the sense of ruling it out as grounds unless it is necessary to maintain the dwelling for human habitation. In the majority of cases, the refurbishments that landlords are talking about can be done without any need for the tenant to move out. We know that 12% of the eviction queries received by Threshold in 2017 related to refurbishment or renovation.

The final point is key and involves the idea of giving indefinite tenancies. At the moment, landlords are able to evict with no reason at the end of a four or six-year Part 4 tenancy. Long-term good tenants enter into a danger zone where they can be forced out of their home with no reason given. It is vital to remove that by giving indefinite tenancies to tenants.

Obviously, we will speak and vote for these amendments, but we know the likely result. Perhaps we will hear what Fianna Fáil will do on these important amendments.

Deputy Darragh O'Brien: That is what democracy is about.

Deputy Paul Murphy: That is great. If we just did that, we would definitely have water charges now, because as far as I can remember, Fianna Fáil was in favour of water charges until the protest movement forced-----

An Ceann Comhairle: Is the Deputy finished?

Deputy Paul Murphy: We will see whether Fianna Fáil has changed its position on any of these matters or whether it will take another protest movement to put it under pressure. I suspect it will take a protest movement and, therefore, I encourage people to come out on 18 May.

Deputy Dessie Ellis: There is ample evidence to say that 90 days' notice is sufficient. Certainly 28 days' notice after six months is not good enough. We have heard of people dragging three, four or five children across the city looking for places under HAP. People are being pushed onto HAP and there are no places to be found. It has proved impossible for people who have been served an eviction notice to find a place within 28 days. It has proved impossible to find a place within 90 days, so that is a major problem. This should be extended. We have said that up to 90 days is sufficient to do this. The housing crisis is not improving and is get-

ting worse. The figures have shown that the numbers are rising. We are saying that people can be put out after six months, even though some of them have entered into contracts for a longer period. It is not good enough. What we have proposed here is a reasonable demand.

Deputy Richard Boyd Barrett: I am also speaking in favour of the amendments from Deputies Jan O'Sullivan and Broughan. The point I would make very simply to the Minister is that while this Bill improves the position of tenants in the private rented sector somewhat, there is an incredible disconnect between the ambition of the measures in the Bill and the horror of the housing and homelessness crisis and the extreme hardship, anxiety, suffering and despair being felt by families who are being pushed into homelessness from the private rented sector because their landlords say they are selling up the property or because of efforts by landlords to claim that they need to carry out substantial refurbishment and that people must leave for that reason. There is no sense of emergency in this Bill or from the Government. There is no sense of the absolute necessity to stop pushing more families and, in particular, children into these intolerable and unacceptable situations. It is as if the Government's approach is that it will make small incremental changes that will slowly and slightly improve the balance for the tenant. What is necessary is an emergency response to an emergency situation. We have to stop the flow into homelessness. We are at a situation in most areas where there is not even enough room in the hubs. It is intolerable as it is that we have people and families in hubs, often for months and sometimes for years. It is a form of child abuse to have children in those circumstances. First, we have to get those people out of that situation. Second, we have to stop anyone else going into that situation. There is no sense of that emergency with the Bill. As a consequence, people will continue to flow into homelessness and this is simply going to continue. We will continue to facilitate a fly-by-night, profit-driven private rental sector.

I am keen to emphasise one point because I have met some people who have said that they are decent landlords but that people like me are always speaking out against the landlords. I know there are decent landlords. I know some are not putting up the rent as much as they could and I know there are people who do everything they can to avoid eviction. There are also, however, some really greedy unscrupulous people who would do anything, and this Bill does not deal with them. That is the problem. We need to stop them in their tracks from evicting people on the grounds of sale.

If people are in the business of being landlords, then they should understand that they have an obligation to tenants. That is it. People in the private rented sector should have a right to security over the long term for themselves and for their children. If landlords do not understand that or do not like it, then they should not be in the business of being landlords. It is as simple as that. It needs to be established clearly by Government that if a landlord goes into the business of renting out property in the private sector, then the landlord is in a serious business and has obligations to tenants. It must be clear that those people are human beings and their children are human beings. It must be clear that they have the right to have a secure future and the right not to have to face anxiety and fear if, all of a sudden, the landlord decides to sell and the tenant is then gone. Worse still, the tenant might only have 28 days to get alternative accommodation. This is when everyone knows there are queues out the door. As soon as people see advertisements on *daft.ie*, they race down to get the property but there are queues out the door. Bidding goes on to get in on properties that are vastly overpriced. This has to stop but there is no ambition or sense of urgency in this legislation.

At least these amendments try to close the loopholes and the situations in which landlords can evict people. They aim to give people a little more time to secure alternative accommo-

dation, although, God knows, unless we provide affordable and public housing on scale and with urgency, none of this will make any difference at all. That is why I am repeating the call of Deputy Paul Murphy for people to support the Raise the Roof protests. The protests are supported by all the major housing NGOs and trade unions in this country as well as most of the Opposition political parties. The idea is to get people out on the street and put on enough pressure to make it irresistible for the Government to bring in radical measures to address the homelessness and housing emergency. Such measures are necessary to stem the tide of people into homelessness and emergency situations and, more important, to provide a long-term solution to the housing and homelessness crisis for all affected by it.

Deputy Eoghan Murphy: We debate housing in this House every week, as we should. We have had the Second Stage debate on this Bill. We have had two Committee Stage debates and we are now on Report Stage. We do not want any further delays to this legislation because it is so important. That is why I call on Deputies to refrain from making Second Stage speeches on Report Stage.

Deputy Boyd Barrett is right to say that we have to stop the flow of people into homelessness. However, we do not do that by losing more landlords. There are 31 sections in this Bill. I challenge Deputies to find one that does not improve the lot of tenants. That is the whole purpose of the Bill. Let us look through every section to see what we are trying to do. The Bill is greatly improving the situation for tenants through the changes we are making and because of the work that we have done across the House with this legislation to get it to this point. We have almost unanimous agreement on almost every aspect of the Bill. Of course some additional amendments have come forward on this Stage, but unfortunately we cannot accept them all because we have to think about unintended consequences.

Deputy Boyd Barrett talks about evictions as a ground for sale. I have told the Deputy before that it is not constitutional. Even if it were constitutional, it would not be retrospective and so it would not stop any flow, as the Deputy thinks it would. If we could do it, the question arises on a policy basis of whether we should do it. Let us suppose a young couple were buying a home with tenants in it. They would have to get the tenants out. Why would we put people who are trying to start a family or trying to live in a new home in that situation? They would then have to go through the process of serving the notice to quit and go through everything else. What if the tenants did not then leave? What then for that young couple who bought that home? Some Deputies think these measures would achieve certain ends that they simply will not achieve. They would actually make things far worse for many more people. These are the unintended consequences that I, as Minister, have to think about.

Reference was made to extending the notice to quit period. We are doing that. The Deputies should look at the table in the Bill. Currently, for a tenancy of six months to a year the period of notice is 35 days. That will increase to 90 days. Currently the notice period for a tenancy of between one and two years is 42 days. That will increase to 120 days. We are making these big changes to give far more time to people, when notice to quit is served on legitimate grounds, to find a new place to live. Where notice is not served on legitimate grounds, we are giving new powers to the Residential Tenancies Board to impose sanction. If it is a criminal offence, the board can go down that way. We have a new administrative sanctions regime. There is also a new offence for landlords who are not acting in accordance with the laws under Part 7 of the Act. This legislation is nothing but for the protection of tenants. I appeal to Deputies to recognise that in their contributions.

Unfortunately, I cannot support amendments Nos. 16 to 20, inclusive, for the reasons I have given on Committee Stage. The same applies to amendment No. 21 relating to the notice to quit period for less than six months.

An Ceann Comhairle: Does Deputy Ellis wish to speak to his amendment? Sorry, Deputy Jan O'Sullivan is offering.

Deputy Jan O'Sullivan: Can I come back in a second time?

An Ceann Comhairle: Yes, the Deputy can come back again. I was wondering whether Deputy Ellis wanted to speak to his amendment.

Deputy Dessie Ellis: I will be moving amendment No. 21.

Deputy Jan O'Sullivan: I have acknowledged, and I do acknowledge, that there are some improvements for tenants in this Bill. Nevertheless, amendment No. 13 would make a substantial difference. It would make a difference for people who would like it to be like in other European countries where people rent for years. They believe that is an appropriate way for them to provide a home for themselves and their families. The fact of the matter is that we do not have that kind of security in Ireland if the home a person has been living in can be sold from under her and she has to depart. The same lack of security applies in respect of the issue of human habitation. As long as we do not have the security provided by contracts of indefinite duration and a tenant can be told that the place will be sold, then we will be unable to give people a sense that they can rent and believe that the dwelling is their home. People, especially those who do not qualify for social housing, will continue to believe that they have to purchase their own homes. Otherwise, what will they do if something goes wrong in the situation we have now with so few rental properties available that are affordable for most in the rental sector?

This is a particularly important amendment. Whatever about unintended consequences and the fact that it cannot be retrospective, we in Ireland have to move to a situation more like in other countries where tenants have security of tenure and control of rents. In such countries people can feel that they are not in danger of losing their homes. Many people have lost their homes and many others feel insecure in the private rental sector, especially in the context of the supply situation in Ireland. This amendment is especially important and I will be pressing it.

Amendment put:

<i>The Dáil divided: Tá, 16; Níl, 48; Staon, 0.</i>		
<i>Tá</i>	<i>Níl</i>	<i>Staon</i>
<i>Boyd Barrett, Richard.</i>	<i>Aylward, Bobby.</i>	
<i>Broughan, Thomas P.</i>	<i>Bailey, Maria.</i>	
<i>Buckley, Pat.</i>	<i>Breen, Pat.</i>	
<i>Connolly, Catherine.</i>	<i>Brophy, Colm.</i>	
<i>Doherty, Pearse.</i>	<i>Bruton, Richard.</i>	
<i>Ellis, Dessie.</i>	<i>Burke, Peter.</i>	
<i>Ferris, Martin.</i>	<i>Butler, Mary.</i>	
<i>Kenny, Martin.</i>	<i>Canney, Seán.</i>	
<i>McGrath, Mattie.</i>	<i>Carey, Joe.</i>	
<i>Mitchell, Denise.</i>	<i>Creed, Michael.</i>	

8 May 2019

<i>Murphy, Paul.</i>	<i>Curran, John.</i>	
<i>O'Sullivan, Jan.</i>	<i>Daly, Jim.</i>	
<i>Ó Caoláin, Caoimhghín.</i>	<i>Deering, Pat.</i>	
<i>Ó Snodaigh, Aengus.</i>	<i>Doherty, Regina.</i>	
<i>Quinlivan, Maurice.</i>	<i>Donnelly, Stephen.</i>	
<i>Ryan, Brendan.</i>	<i>Durkan, Bernard J.</i>	
	<i>English, Damien.</i>	
	<i>Farrell, Alan.</i>	
	<i>Gallagher, Pat The Cope.</i>	
	<i>Griffin, Brendan.</i>	
	<i>Harris, Simon.</i>	
	<i>Heydon, Martin.</i>	
	<i>Humphreys, Heather.</i>	
	<i>Kehoe, Paul.</i>	
	<i>Kyne, Seán.</i>	
	<i>Lahart, John.</i>	
	<i>Madigan, Josepha.</i>	
	<i>McGrath, Finian.</i>	
	<i>McHugh, Joe.</i>	
	<i>McLoughlin, Tony.</i>	
	<i>Moynihan, Aindrias.</i>	
	<i>Moynihan, Michael.</i>	
	<i>Murphy O'Mahony, Margaret.</i>	
	<i>Murphy, Eoghan.</i>	
	<i>Naughton, Hildegarde.</i>	
	<i>Neville, Tom.</i>	
	<i>Noonan, Michael.</i>	
	<i>O'Brien, Darragh.</i>	
	<i>O'Connell, Kate.</i>	
	<i>O'Dowd, Fergus.</i>	
	<i>O'Keeffe, Kevin.</i>	
	<i>Phelan, John Paul.</i>	
	<i>Ring, Michael.</i>	
	<i>Rock, Noel.</i>	
	<i>Ross, Shane.</i>	
	<i>Scanlon, Eamon.</i>	
	<i>Stanton, David.</i>	
	<i>Zappone, Katherine.</i>	

Tellers: Tá, Deputies Jan O'Sullivan and Brendan Ryan; Níl, Deputies Seán Kyne and Tony McLoughlin.

Amendment declared lost.

Deputy Jan O’Sullivan: I move amendment No. 14:

In page 12, between lines 11 and 12, to insert the following:

“Amendment of section 35 of Act of 2004

13. Section 35 (Table to section 34: interpretation and supplemental) of the Act of 2004 is amended by substituting the following for subsection (4):

“(4) In paragraph 4 of the Table the reference to a member of the landlord’s family is a reference to—

(a) a spouse or civil partner of the landlord, or

(b) a child (including a stepchild, foster child or adopted child) of the landlord.”.”.

Amendment put and declared lost.

Deputy Eoghan Murphy: I move amendment No.15:

In page 13, to delete lines 6 to 15 and substitute the following:

““(11) Where, in respect of a tenancy, a landlord serves on a tenant a notice of termination that cites, as a reason for the termination, a ground specified in the Table, the landlord shall give a copy of the notice of termination to the Board not later than 28 days after the expiration of the period of notice given by the notice of termination.”.”.

Amendment agreed to.

Deputy Thomas P. Broughan: I move amendment No. 16:

In page 15, line 3, to delete “28 days” and substitute “90 days”.

Amendment put and declared lost.

Deputy Thomas P. Broughan: I move amendment No. 17:

In page 15, line 7, to delete “28 days” and substitute “90 days”.

Amendment put and declared lost.

Deputy Thomas P. Broughan: I move amendment No. 18:

In page 15, line 15, to delete “28 days” and substitute “90 days”.

Amendment put and declared lost.

Deputy Thomas P. Broughan: I move amendment No. 19:

In page 15, line 28, to delete “28 days” and substitute “60 days”.

Amendment put and declared lost.

Deputy Thomas P. Broughan: I move amendment No. 20:

In page 15, to delete line 34 and substitute the following:

<i>Less than 6 months</i>	<i>60 days</i>
---------------------------	----------------

Amendment put and declared lost.

Deputy Dessie Ellis: I move amendment No. 21:

In page 15, to delete line 34 and substitute the following:

<i>Less than 6 months</i>	<i>90 days</i>
---------------------------	----------------

Amendment put and declared lost.

An Ceann Comhairle: Amendment No. 22 in the name of Deputy Broughan arises out of Committee Stage proceedings. Amendments Nos. 22 and 23, both from Deputy Broughan, are related and will be discussed together.

Deputy Thomas P. Broughan: I move amendment No. 22:

In page 16, to delete lines 25 to 29.

I will speak to amendments Nos. 22, 23 and 24. Section 19 of the Bill is to provide for the amendment of section 93 of the 2004 Act. My amendment No. 22 proposes to delete section 19 of this Bill. Amendment No. 23 is to delete section 20 which is an amendment of section 109 of the 2004 Act. These amendments relate to the proposed introduction of fees for mediation. The introduction of fees for this service would totally negate the importance of mediation for dealing with residential disputes. Barriers should not be created in the resolution of disputes and the introduction of charges may also do that. The amendment to section 93 removed the restriction on charging fees for mediation. The only reasonable logic for this is that there is an intention to charge a fee for the mediation in the future. A mediation process should be a readily accessible beneficial service to tenants and landlords alike whose grievance may not require the time and attention of an adjudication process. The application of any fee for such process has the potential to encourage applicants to opt for adjudication as any failure in the mediation process will ultimately lead to an adjudication or a tribunal. We feel with the annual registration fee for each tenancy there should not be a financial requirement for the RTB to charge a fee for mediation or to make such a fee in the future. Free mediation is highlighted on the RTB website and it states: “The aim of mediation is to give landlords and tenants a shared understanding of the issue so they can work towards reaching a mutually satisfactory outcome and agreement.”

Amendment No. 24 relates to the reporting of determination orders. I discussed this earlier with the Minister. We believe the reporting should be in an anonymised format. I would like the Minister to at least agree that, “The Board shall publish, in such manner as it thinks fit, in an anonymised format”. Some of the problems with the rental sector and of course the wider housing crisis have been partly due to a dearth of information, misinformation or skewing of statistics and data. A reliable, transparent and accountable system for reporting on the rental market is vital for a functioning market. I read recently about market failure in different parts of the European economy. The housing situation here represents a total failure of the market *vis-à-vis* a very significant number of our citizens. The concern, which I am trying to reflect in my amendment but with which the Minister does not agree, is that the publication of details of a determination order could potentially be used to blacklist tenants who have exercised their rights as per the Residential Tenancies Act. There is anecdotal evidence to suggest that tenants are often afraid to report breakages or the need for repairs to their landlords for fear of seeming

like a nuisance. There are also reports of tenants being fearful of being seen as trouble makers by merely asserting their rights as tenants, of having eviction notices served on them and having to find somewhere else to live, perhaps without a landlord's reference. While I welcome the mandatory reporting of determination orders, I tabled this amendment in order to protect tenants. I believe it is important that the data is presented in an anonymised format.

An Ceann Comhairle: Amendments Nos. 22 and 23 are grouped together but Deputy Broughan has also spoken to amendment No. 24 so I ask the Minister to address all three.

Deputy Eoghan Murphy: I thank Deputy Broughan for his amendments. Unfortunately, I cannot accept them because the intention of sections 19 and 20 of the Bill is to provide the RTB with the power to charge a fee for its mediation service, although I understand that the RTB does not plan to use this new power in the short or medium term. I agree that there is merit in continuing to encourage the use of the free RTB mediation service. As I said on Committee Stage, this encouragement will continue into the medium term, as the RTB is not planning to introduce a mediation fee.

Regarding amendment No. 24, the Deputy made the point that the market has failed and he is right. That is why the State is making such a significant intervention in the housing sector now. In terms of the anonymisation of data in the context of publishing determination orders, we are including the names in order to deter inappropriate behaviour on the part of landlords. The aim is to publish a list similar to the list published of those who have not met their tax obligations. We will publish a list of those landlords - and in some cases, tenants - against whom orders have been made by the RTB. As the Deputy knows, in terms of the determinations made by the RTB, the vast majority are cases where the landlord has been found to be in breach of his or her obligations. Were we to anonymise that data, we would remove the deterrent that we believe is necessary. We want to be able to hold landlords to account robustly and to deter other landlords who might think about breaching the law.

Amendment put and declared lost.

Deputy Thomas P. Broughan: I move amendment No. 23:

In page 16, to delete lines 30 to 32.

Amendment put and declared lost.

Deputy Thomas P. Broughan: I move amendment No. 24:

In page 16, lines 34 and 35, to delete all words from and including "Section 123" in line 34 down to and including line 35 and substitute the following:

"Section 123 of the Act of 2004 is amended by the substitution of the following for subsection

(7):

"(7) The Board shall publish, in such manner as it thinks fit, in an anonymised format—

(a) a determination order issued by it (including such an order as it stands varied by it under subsection (5)),

8 May 2019

(b) notice of the cancellation of such an order under subsection (5) or section 125.”.”.

Amendment put and declared lost.

An Ceann Comhairle: Amendments Nos. 25 and 33 to 35, inclusive, are related and will be discussed together. Amendments Nos. 33 and 34 are consequential on amendment No. 35.

Deputy Jan O’Sullivan: I move amendment No. 25:

In page 16, after line 35, to insert the following:

“Private residential tenancies register: publication of certain details

22. Section 128 of the Act of 2004 is amended by substituting the following for subsection (4):

“(4) The published register—

(a) shall not contain any information, as respects a particular dwelling, that discloses or could reasonably lead to the disclosure of the identity of the landlord or the tenant of the dwelling,

(b) shall disclose, as respects every dwelling, the amount of the rent payable under the tenancy of that dwelling.”.”.

This amendment provides for the publication of a rent register, with the proviso that it would not contain any information that would disclose or could reasonably lead to the disclosure of the identity of the landlord or the tenant in order to protect the anonymity of the individuals concerned. The aim is to ensure that tenants who are taking on a new tenancy will know what the rent was previously so that they will know if they are being charged more than they should be if the property is in a rent pressure zone. The objective is to provide transparency for subsequent tenants so that the rules of rent pressure zones are not broken.

I know that the Minister has tabled amendments that are related but they are not very strong. His amendments provide that a report will be published “not earlier than 12 months” after commencement and refer to “prevailing rent levels” in the rented sector. That is not what I understand as a rent register, which would provide transparent and useful information to new tenants to ensure that they were not being overcharged.

Deputy Darragh O’Brien: Deputy O’Sullivan has alluded to the Minister’s amendment No. 35 and we discussed at length the need for a rent register on Committee Stage. I hope that 12 months from the passing of this Bill a report will be published and work will be done on how to introduce such a register. Rent transparency is very important, particularly around price. Legal issues were mentioned on Committee Stage and I accept that such issues arise but for the moment, I am happy to support the Government’s amendment No. 35.

Deputy Richard Boyd Barrett: Most of us as public representatives are aware of situations where people have been evicted and later discovered that the reason given for their eviction was not genuine and all that has happened is that the rent on the property has been increased substantially. What Deputy O’Sullivan is proposing is an eminently sensible and practical measure to give some protection to renters against that kind of abuse by landlords. I do not see why the

Minister would reject her amendment.

Deputy Eoghan Murphy: I thank Deputy O’ Sullivan for her amendment. As I said on Committee Stage, I wanted to do this. I wanted to have a rent register to provide rent transparency on individual properties. I had a very robust back and forth discussion with the Attorney General’s office on this. The strong advice that came back was that I could not do this, that it would not be legally sound for me to pursue it. Therefore, what we will try to do by way of amendment No. 35 is to provide information at the street level to give people a better idea. Of course, if we go for the street level data, there is no point in producing that one month after the annual rent registration comes into effect, which is January of next year because not everyone will have registered in the first month. We need a 12 month period to allow the annual registration law to bed down. Then I will make a request of the RTB to give me street-level or area-level data or whatever makes most sense depending on the particular location, in order to provide a greater level of transparency. We have no transparency currently but the strong advice I received is that we cannot do it at individual property level. That is why I cannot accept the Deputy’s amendment. However, amendments Nos. 33 to 35 get us very close to where we want to be, in tandem with the annual registration of rents, which will come into force on the passing of this Bill.

An Ceann Comhairle: How stands amendment No. 25?

Deputy Jan O’Sullivan: I had hoped that we would get a rent register and the Minister, on publication of the Bill, said he wanted same. My understanding of a rent register is that one would know exactly what the rent was on each individual property. What the Minister is proposing is a very watered down version of that. Assuming we do get street-level data, as per the Minister’s proposal, could individual tenants use that general information if they felt they were being overcharged?

Deputy Eoghan Murphy: Yes, I did want it by individual property but after a number of engagements with the Attorney General, I cannot proceed down that path. Deputy Daragh O’Brien is right that we need to allow the annual rent registration process to come into force and then see how we can best use that data to give as much transparency to tenants as possible. Once that data is collected and that becomes the new norm, I will be able to go to the RTB and ask it to provide as much information as a tenant might require. While street-level data is not ideal, it is a lot better than not knowing at all or trying to rely on what is being advertised on a website like *daft.ie* in order to figure out the prevailing rent. Tenants will then be able to use that data as a basis to challenge the rents that they are being charged for a property they hope to move into or when a rent review is taking place. They can determine whether the rent being charged is in line with the rent caps that are in place.

Amendment put and declared lost.

An Ceann Comhairle: Amendments Nos. 26 to 30, inclusive are related and will be discussed together. Amendment No. 27 is consequential on No. 28.

Deputy Darragh O’Brien: I move amendment No. 26:

In page 17, line 7, after “tenancy” to insert “with the exception of tenancies under an approved housing body”.

We discussed this at length on Committee Stage.

8 May 2019

I do not believe that approved housing bodies, AHBs, should have to register long-term tenants every single year. It is too onerous a process. When we debated it, the Minister said that AHBs should have the resources and that it was not too onerous. I have heard quite serious concerns from the Irish Council for Social Housing on this measure, particularly as we have not seen how the system and portal for updating tenancies will work. The Minister and officials said on Committee Stage that this will not be too onerous and that the ICT will be *in situ* to deal with it. We have many AHBs in the country doing good work. Most of us want them to expand. That is my big concern regarding this measure. I will not rehash what I said when we went through this in detail on Committee Stage, but I am still not convinced and that is why I suggest in amendment No. 26 that “with the exception of tenancies under an approved housing body” be inserted after “tenancy”.

Deputy Richard Boyd Barrett: I made this point on Committee Stage but it is important. The AHBs do not have the capacity to do what the Government wants them to do. Unless they are given the sort of resources that local authorities have, they will not be able to do this kind of thing or, more generally, play the sort of role which local authorities are able to. This is something on which they have given evidence on a number of occasions at various committees. While they play an important role, I worry that, in addition to the retreat from the direct provision of housing by local authorities which I perceive and the well discussed and debated over-reliance on the private sector, there is an over-reliance on the AHB sector, which does not have the resources to cope at a number of levels including estate management and dealing with problems that arise in tenancies. They just do not have the resources and now the Minister is going to add an extra burden. All tenancies should be registered regularly, but the resources have to be provided. If these bodies are asked to do things which they do not have the resources to do, an excessive burden is being put on them. I want to flag the more general concern I have, which is that the AHBs are going to be put under pressures which they simply do not have the capacity to cope with, even as it stands.

That fact leads into something else, which is that we now have a whole range of tiers of social housing. There is premium social housing, which is a council house. Here there are many supports, maintenance and welfare services. Then there is AHB housing, which is the next tier down. This is better than being in the private rented sector but it is significantly under-resourced. Then there is the tier of the housing assistance payment, where one is a third-class social housing tenant. Social housing should be social housing. Everybody who is in social housing should have the same supports, backup, rights, securities and so on, but the Government is creating a tiered, hierarchical social housing system which is completely unfair and which discriminates against the people who do not get the premium housing. It is wrong.

Deputy Jan O’Sullivan: Deputy Darragh O’Brien makes a good point. We discussed keeping it as simple as possible and that it would just be a matter of clicking a few buttons. I am not too sure if that will turn out to be the case. The Minister has told us he is going to bring forward more legislation in the autumn. I ask him to keep this measure under review. I suppose it will depend on when it is introduced. If it does not turn out to be a simple procedure and if it turns out to be over-onerous on that sector, it should be looked at again. The point being made by Deputy O’Brien is fair.

Deputy Thomas P. Broughan: One point made by the AHB group, the Housing Alliance, in its presentation this morning was that many young housing professionals tend to choose to work for AHBs rather than for the councils. That is a very interesting point. Staff in the council tend to be generalists whereas people who specialised in housing administration during their

education tend to work for the AHBs. The other thing about the AHBs is that some of them are now incredibly large. It is very striking when one looks at an organisation like Clúid Housing or Co-operative Housing Ireland. These bodies may have 4,000, 5,000 or 6,000 tenancies. This means that they are bigger than, for example, Fingal County Council, one of the county councils in the area I represent. They have huge estates. The big lacuna in the Minister's administration over the last two years is that he has not brought forward the long-promised legislation to encompass and fully regulate the AHBs. We are still waiting for that. We were told that there were issues with the Charities Regulator and so forth, but we are still waiting. We have been promised this legislation for a long time. Even going back to a time when we had Fianna Fáil Ministers we were promised legislation specific to AHBs, which still has not been put in place. However, I generally believe that all tenancies should be registered, including by all organisations providing social housing. The thrust of the Bill is right in this case.

An Ceann Comhairle: Members should not rush. We will be back to deal with this matter further at 11 p.m.

Deputy Eoghan Murphy: It is interesting to note the completely contradictory views of two Deputies on the role of the AHBs, on their size, and on the ability of AHBs to meet some of the demands that have been placed on them. In response to Deputy Boyd Barrett, there is no tiering of social housing in this country.

Deputy Richard Boyd Barrett: There definitely is.

Deputy Eoghan Murphy: Local authorities are building more homes than housing bodies using Government money. It is interesting that many people who are housed by such housing bodies would say that they are better at managing local estates than local authorities. We have to be careful about drawing conclusions from the views the Deputy has expressed, which are anecdotal rather than based on evidence. That is the point I am making.

On this particular measure, because we are moving to the annual registration of tenancies there will be an administrative burden on AHBs in the first year. That burden will significantly lessen in subsequent years because tenancies in AHBs tend to be of a much longer duration than those in the private rental sector. Even in respect of the small housing bodies which may only have ten, 11 or 12 tenants, we are talking about a fee of €8.50 per tenant. That is not too much of a burden to place on the AHB sector.

Amendment put and declared lost.

Deputy Eoghan Murphy: I move amendment No. 27:

In page 17, line 18, to delete “the tenancy, and”, and substitute the following:

“the tenancy, and”,

and”.

Amendment agreed to.

Deputy Eoghan Murphy: I move amendment No. 28:

In page 17, between lines 18 and 19, to insert the following:

“(iv) the insertion, in paragraph (b), of “and one to which subsection (1A) of section

8 May 2019

3 applies that commences after the period of 3 months from the commencement of section 3 of the Residential Tenancies (Amendment) Act 2019” after “passing of this Act”,”.

Amendment agreed to.

Deputy Eoghan Murphy: I move amendment No. 29:

In page 18, to delete line 2.

Amendment agreed to.

Deputy Eoghan Murphy: I move amendment No. 30:

In page 18, lines 4 and 5, to delete “(construed in accordance with subsection (8) of section 137A)”.

Amendment agreed to.

An Ceann Comhairle: Amendments Nos. 31 and 32 are related and may be discussed together by agreement.

Deputy Eoghan Murphy: I move amendment No. 31:

In page 23, line 7, to delete “section 148S(17);” and substitute “section 148S(19);”.

This amendment provides a minor technical correction to referencing in the proposed new section 148R, which provides definition to the new Part 7A of the Residential Tenancies Act 2004 as inserted by section 28 of the Bill which provides for the Residential Tenancies Board sanctioning regime.

Amendment agreed to.

Amendment No. 32 not moved.

Deputy Eoghan Murphy: I move amendment No. 33:

In page 35, to delete lines 35 and 36 and substitute the following:

“29. Section 151 of the Act of 2004 is amended—

(a) in subsection (1), by the insertion of the following paragraph:”.

Amendment agreed to.

Deputy Eoghan Murphy: I move amendment No. 34:

In page 35, line 38, to delete “Part 7A,”.” and substitute the following:

“Part 7A,”,

and”.

Amendment agreed to.

Deputy Eoghan Murphy: I move amendment No. 35:

In page 35, between lines 38 and 39, to insert the following:

“(b) by the insertion of the following subsection:

“(2A) (a) The Minister shall, not earlier than 12 months and not later than 15 months after the commencement of section 22 of the Residential Tenancies (Amendment) Act 2019, request the Board to provide him or her with such information in relation to prevailing rent levels in the rented sector (other than lettings referred to in paragraph (b) of the definition of that term) as he or she may specify by such date (which shall be a date that falls not later than 3 months after the date of the request concerned) as he or she may specify.

(b) The Board shall comply with a request under paragraph (a).

(c) The Minister shall, not later than 3 months after the date specified under paragraph (a) in respect of the request concerned—

(i) prepare a report in relation to prevailing rent levels in the rented sector (other than lettings referred to in paragraph (b) of the definition of that term), and

(ii) lay a copy of that report before each House of the Oireachtas.”.”.

Amendment agreed to.

An Ceann Comhairle: Amendment Nos. 36 to 38, inclusive, are related and may be discussed together by agreement.

Deputy Eoghan Murphy: I move amendment No. 36:

In page 40, lines 31 and 32, to delete all words from and including “by the licensee” in line 31 down to and including line 32 and substitute the following:

“to the licensor by any person (whether or not the licensee) in consideration of the licence concerned; and”.

Amendments Nos. 36 to 38, inclusive, are technical in nature and relate to student-specific accommodation.

Amendment agreed to.

Deputy Eoghan Murphy: I move amendment No. 37:

In page 41, to delete lines 1 to 5 and substitute the following:

“(a) given by the owner (in this section referred to as the “licensor”) of student accommodation to a student (in this section referred to as the “licensee”), and

(b) created not earlier than one month after the commencement of this section, permitting the licensee to enter and reside in a residential unit (whether or not self-contained) within that student accommodation in consideration of the making by any person (whether or not the licensee) of a payment or payments to the licensor;”.

Amendment agreed to.

8 May 2019

Deputy Eoghan Murphy: I move amendment No. 38:

In page 42, lines 13 to 15, to delete all words from and including “and includes” in line 13 down to and including line 15 and substitute the following:

“and includes a licence that permits the licensee to enter and reside in the house or part thereof for any such period in consideration of the making by any person (whether or not the licensee) of a payment or payments to the licensor.”.”.

Amendment agreed to.

Bill, as amended, received for final consideration and passed.

Road Traffic (All Terrain Vehicle and Scrambler Motor-cycle) (Amendment) Bill 2019: Second Stage [Private Members]

Deputy John Lahart: I move: “That the Bill be now read a Second Time.”

I am sharing time with Deputy Curran. We are delighted to get this Bill to Second Stage. It is necessary legislation which we introduced on First Stage recently. I wish to address the reasons Fianna Fáil is introducing this legislation. Quad bikes and scramblers are terrorising too many communities. It is a growing and disturbing trend. We are all familiar with the media case of the Armenian man, Ilabek Avetian, who lost an eye and was left in a coma last year when he was run over by a scrambler bike while sunbathing with his wife in a public park. In 2017 alone, 62 people were injured in quad and scrambler bike accidents. While we acknowledge that gardaí do their best to police the use of these vehicles, they currently exist in a legal lacuna as road traffic legislation, probably the most contested legislation on the Statute Book, is not applicable to green spaces and parks where these vehicles are most commonly used.

9 o'clock

I know previous efforts were made in this House to address that. Even if those spaces were included under the road and traffic Acts, which is what the Minister was referring to in his press release when he said he would oppose the Bill and that gardaí have these powers to detain people using scrambler bikes already, the simple fact and what makes this Bill necessary is that in order to detain youths using scramblers, gardaí first have to catch them. In order to catch them, they have to pursue and chase them, which involves traversing public space and putting the public at risk. Senior gardaí across various joint policing committees in this county and beyond have issued instructions to officers not to pursue, chase or attempt to intercept youths on scramblers because the very act of chasing poses a danger to the public. Even when gardaí see a bike being driven in an illegal manner on public roads, drivers simply go off-road and prevent gardaí from taking any action.

This Bill will address these issues. For the first time, riding a quad or scrambler bike in an antisocial and dangerous manner will be an offence under public order legislation, not under roads and traffic legislation. This is an important step forward as it will give gardaí the power to seize bikes that are being ridden dangerously in all public areas, including parks and green spaces. The Bill will increase the penalties for supplying these bikes to underage people. Between 2014 and 2017, 39 people lost their lives on scramblers and quad bikes. Three out of four

of them were children. It is simply irresponsible and reckless to supply these bikes to children. The Bill will increase the maximum fine for doing so to €5,000. It will also allow gardaí to seize a bike that has been illegally supplied. The Bill will direct the Minister to establish a national vehicle register for these vehicles, to increase accountability for their owners. Too often, quads and scrambler bikes are not registered by any owner, making it very difficult for gardaí to enforce laws surrounding them. Finally, the Bill will require the Minister for Transport, Tourism and Sport to introduce regulations allowing gardaí to remove these bikes from the curtilage of a home.

I wish to address the question as to whether the Bill negatively affects legitimate quad and scrambler bike users, such as farmers. We on this side of the House are aware that all-terrain vehicles, ATVs, have many legitimate uses such as in farming. Certain hobbyists are also responsible and safe in their use of these vehicles. Much of this Bill is not applicable to these users as they are not guilty of using these vehicles in a dangerous or antisocial manner. As it stands, quad bikes are already supposed to be taxed and insured on public roads, so this does not create any new requirement for legitimate users. Nor does the Bill create any new requirements for quad and scrambler bikes that are used solely on private property such as farms. We do not believe it is overly onerous for these users to have to register their bikes with a national vehicle registration database as is required under this legislation. Safe and responsible users of these vehicles have nothing to fear from accountability and indeed this register may prove useful in terms of tracing stolen bikes. The Bill will increase the penalties where the bike is being driven in an unsafe or antisocial manner. However, legitimate users of quad bikes have nothing to fear in this regard.

The Bill is really needed. Representatives of the Garda have been very clear regarding the legal ambiguity surrounding quad and scrambler bikes. Last year, following that tragic accident in Darndale Park, Assistant Garda Commissioner Pat Leahy said that there was no certainty as to whether gardaí could enforce laws regarding quads and scramblers in public parks which fall outside the definitions of “public place” in road traffic legislation. According to the joint policing parks subcommittee, Dublin City Council, in conjunction with the other Dublin local authorities, An Garda Síochána and the Department of Justice and Equality, is also considering the options to deal with the danger caused by the use of quad bikes and scramblers within park grounds as the existing legislation has limited power to enforce such issues, permitting An Garda Síochána to take action only if they are being driven erratically on public roads and footpaths. Members of the force are advised not to pursue quad bikes due to the risk of accident or injury to users and bystanders.

The Minister’s decision as indicated in a press release to oppose this Bill is going to represent a turning point in this Dáil. It represents a complete inability to see the dangers and challenges on the ground, particularly that communities are facing. Deputy Curran and other Deputies will speak on this. In areas of my constituency such as Kingswood, Killinarden, Jobstown, Kiltipper, Old Bawn, Fettercairn and the Dodder Valley, scramblers are being used and, as one person said to me, they only seem to come out when the goal nets go up on the public pitches. They are being driven through laneways. Motorcyclists are doing wheelies. They are ploughing up pitches and open spaces, interrupting football games and interrupting social play and activity. They are preventing the 95% of people who use their local amenities sensibly and responsibly from doing so. In rejecting this Bill, the Minister is turning his back on communities across Dublin. He is making a political calculation that it does not matter and that there will be no political cost to it. In saying the Garda already has the powers it needs, the Minister has

8 May 2019

completely ignored what the gardaí are saying. I reiterate that gardaí have the powers to detain scrambler and quad bike users but to do so, they need to stop them, which means they need to chase and intercept them. Senior gardaí across the metropolitan areas have issued instructions that they cannot do this because it puts the lives of the public in danger. The Bill circumvents this and gives gardaí the powers to do it. The Minister is saying the gardaí ought to use the powers they have and to enforce them. He is saying gardaí on motorbikes should pursue a scrambler rider across open space and public parks, or they should be pursued by a four by four jeep if they had one in Tallaght or by a number of squad cars until they catch a person, putting God knows how many lives potentially in danger. Not to see that represents a disconnect from the reality of what is happening in these communities.

We are in an election cycle. Our preparation of this legislation came well in advance of that. This issue is not exclusive to Dublin. In Kerry, there are issues with quad bikes and scramblers on beaches. It is also beginning to emerge as a problem in Limerick and other centres. Failing to recognise this indicates that the Government is completely disconnected, unaware and - if it opposes the legislation - indifferent to the consequences. Simply stating that the Garda has all the powers it needs completely misses the point, particularly when the force is reluctant to use those powers because of the danger in which the general public can be placed as a result.

Deputy John Curran: I welcome the opportunity to contribute to the debate on the Road Traffic (All Terrain Vehicle and Scrambler Motor-cycle) (Amendment) Bill 2019. This Bill has come about because of the growing problem with quad bikes and scramblers in many urban areas. Deputy Lahart alluded to certain areas. There is not a Member of this House who represents an urban area who has not come across this problem. It affects areas, predominantly urban, right across the country and, unfortunately, it is growing. We did not begin by wanting to produce legislation. I consulted the Minister for Transport, Tourism and Sport and submitted parliamentary questions, which were subsequently transferred to the Minister for Justice and Equality. The matter has gone on for three years. I acknowledge that the Minister for Justice and Equality has taken it seriously and that he launched a consultative process. He acknowledges that there is a growing issue with quad bikes and scramblers in urban and, in particular, residential areas.

Like many of us, I have been out canvassing in recent weeks. For an hour and a half on a road in a housing estate - not in a park - a young fellow was driving a scrambler round and round. At every door I was informed that it was terrible and that people could not let their young children out. That is happening in communities across the city, not just in my area.

The Minister for Justice and Equality has been aware of it. Over a year ago he convened a cross-agency and interdepartmental meeting. The meeting was attended by officials from the Departments of Justice and Equality, Transport, Tourism and Sport, Housing, Planning and Local Government and Culture, Heritage and the Gaeltacht, An Garda Síochána, the Road Safety Authority and the Revenue Commissioners. There was an understanding that we have a significant problem that needs to be addressed. The Minister spoke about the need to develop a multi-agency approach in order to tackle this antisocial behaviour effectively. The purpose of the cross-sectoral meeting was to ascertain whether additional legislative or other solutions could assist in dealing with the misuse of scramblers and quad bikes more comprehensively with a view to determining responsibility and timeframes for implementation of solutions identified.

It is unfortunate that the Minister for Justice and Equality is not here tonight, but the Minister opposite, Deputy Ross, might relay this message to him. The Minister for Justice and

Equality stated that he remains committed to actively supporting any positive action that can be pursued in order to counteract the serious public safety issues associated with the misuse of scramblers and quad bikes. I encourage him to work with us on this legislation. I do not claim that it is perfect. It is a starting point and can be developed. We are open to working with the Minister on amendments. In fact, it would have been preferable if the Minister were advancing this legislation because the resources in the Department are far greater than those available to us. I will gladly work with him because a solution is necessary.

I accept that we have an abundance of road traffic legislation. However, as my colleague explained, it is simply unenforceable. I have been a member of a joint policing committee, JPC, for three years. The issue of quad bikes and scramblers has arisen at every meeting and on each occasion it takes time to go through the same debate whereby the gardaí present clearly indicate the areas where they are in use. The superintendents of the different districts state, as a matter of public record, that they have instructed their officers not to pursue young people riding quad bikes or scramblers because it is not safe for them to do so. While some people may state that we already have adequate legislation, it is not effective and is not being enforced. The problem is getting worse each year. It is more prevalent, with more people and a greater range of quad bikes and scramblers involved. Something needs to be done.

Earlier, I outlined the Minister's response from a year ago. I have been following up with the Minister for Justice and Equality because the matter needs to be addressed. In February in response to a parliamentary question, he advised me:

... my Department's main focus over the past number of months has been on the consideration of legal advice received from the Office of the Attorney General in November. This required engagement with the Department of Transport, Tourism and Sport in the context of existing road traffic legislation.

The Deputies will be aware from my most recent reply that the consensus of both Departments, and the Office of the Attorney General, is that road traffic and public order legislation [these words are important] appear to provide adequate means for prosecuting offences relating to this anti-social behaviour.

He stated that they "appear to provide", but they are simply not working; it is not happening. While the legislation may be in place, enforcement and implementation are not happening. Based on the reply to which I refer, we decided to introduce legislation to assist the Garda. The real problem is that during the event when somebody is on a quad bike or a scrambler going up and down the banks of the canal, through a housing estate, on a football pitch, in a parkland, a linear park or whatever, they are getting away with it. Gardaí are simply not in a position to enforce the law to stop and seize the bike at that point. As Deputy Lahart indicated, this legislation affords the opportunity to seize the quad bike or scrambler at a time other than when the offence is being committed and that is the change that needs to be made. The existing legislation does not allow that to happen. We are asking the Minister for Transport, Tourism and Sport to reconsider his response.

I listened in detail to what Deputy Lahart said. This is a reasonable proposition; it is not punitive. Fianna Fáil has many Members who represent rural areas. Deputy Lahart asked whether this would be punitive road traffic legislation for people in rural areas who may legitimately use quad bikes on their farms. We are aware of that. Most of this legislation is not applicable to those people because they are not guilty of using vehicles in a dangerous or antisocial manner.

It is worth noting that quad bikes that are used on farms are already supposed to be taxed and insured for use on public roads. This legislation does not create any new requirement in that regard for legitimate users. The Bill does not create any new requirement for quad bikes and scramblers that are used solely on private property such as farms. People in rural areas, who may be of the view that this will be punitive in respect of quad bikes they use for agricultural purposes, should not be concerned. We are quite clear that this is not the intention behind the legislation. If anybody has an issue with that, they can propose amendments to clarify the position. However, it is not the purpose of the Bill.

Deputy Lahart went through the main points of the legislation. To address the antisocial and dangerous manner in which these bikes are used, under the public order legislation we would increase the penalties for supplying these bikes to underage people. The Minister has acknowledged the legislation is there; we are proposing that those penalties be increased. We also propose the establishment of a vehicle register. For most law-abiding citizens, registration should not be a problem and could, in fact, be a benefit where vehicles are stolen for recovery and identification purposes. The registration should not be an issue.

I take issue with the Minister for Justice and Equality's previous stance in claiming that the provisions of the current legislation "appear to provide adequate means for prosecuting offences". We do not agree and we do not believe it. That is why we are here tonight. We regularly sit on JPCs and listen to the same argument where superintendents consistently say the existing legislation does not allow gardaí to catch these offenders. They are instructing their gardaí not to pursue. The purpose of tonight's legislation is to allow for the seizure of these vehicles after the incident and not during it.

We understand the Minister is intent on opposing the Bill. I ask him not to oppose the legislation and to consider working constructively with us. That is the manner in which the Bill has been put forward. I also ask other Members, who represent urban communities and who are sick and tired of this plague in their communities, to constructively work with us on it. We will work with Members from all sides of the House to refine this legislation, to give gardaí the power and authority to seize these vehicles and to take them out of our communities before somebody else is seriously injured.

Minister for Transport, Tourism and Sport (Deputy Shane Ross): I thank Deputies Curran and Lahart for introducing this measure which identifies a problem. I believe we share a determination to resolve it. My only difficulty is that whereas we share the knowledge that the problem exists and the resolve to sort it out, I do not believe this Bill will advance doing that in any way. I will explain to the Deputies the reason I believe that. I will take up their offer and am happy to make my officials available, and to be available myself, to progress resolving this problem and to include other Deputies who are interested in this issue, and I know Deputy Ellis has been interested in it for a long time. However, there is not an easy solution to it. I will set out the reasons their Bill is not acceptable but in the future let us get together and sort this out. This is a significant difficulty, mostly in urban areas, which we all have a common interest in resolving.

Scramblers and other such vehicles are designed for off-road use and are, essentially, sporting vehicles. However, anti-social, dangerous and irresponsible use of these vehicles has caused a great deal of concern. We have all heard of the horrific and life-changing injuries suffered by Ilabek Avetian who was run over by a scrambler while he and his wife were lying out in the sun last summer in Dublin. We all agree this menace must be stopped.

As I look at what Deputies Curran and Lahart are proposing, I believe we are in broad agreement on what is required. There should be clearly defined offences with appropriate penalties, and gardaí need appropriate powers, including the power to detain vehicles, either when offences occur or by entering places where they are kept. I believe we can agree too that we need a clear message that these vehicles should only be used responsibly, as is the case with every mechanically propelled vehicle.

The Government has examined this issue in some detail. Last year, as referred to by Deputies Lahart and Curran, a group was established under the co-ordination of the Department of Justice and Equality to examine it. Membership includes the Departments of Transport, Tourism and Sport and Housing, Planning and Local Government as well as An Garda Síochána and other stakeholders. A great deal of consideration has been given to whether there are any deficiencies in the law. However, the laws clearly exist both to punish offenders and to detain the vehicles where necessary. The real difficulty is with intercepting these vehicles while they are being used in a dangerous way around members of the public. As I believe Deputies will appreciate, any attempt to stop these vehicles in an area where members of the public are present could put innocent bystanders, as well as the riders of the vehicles, at risk.

While we are in agreement on the issues, I am afraid the Government cannot support this particular Bill, and I would ask the House, and Deputies Curran and Lahart, to consider with care the reasons I will give. As I will explain, the provisions of the Bill would not in fact add to existing Garda powers as intended, but would largely replicate them, while some of the new proposals would not be practicable. In doing so, the Bill risks creating confusion in the law and would, I am afraid, undermine rather than strengthen the law regarding the misuse of the vehicles in question. That is not questioning the integrity, honesty or intention of those who are proposing it but is stating that it is not really workable.

Let us consider what the Bill is proposing. Section 2 would allow gardaí to confiscate and dispose of a scrambler or other similar vehicle where, in the opinion of the member, it was being used contrary to the Road Traffic Acts or the Public Order Act without a clearly visible registration plate. Gardaí already have power to detain a vehicle without a number plate, and in a variety of other circumstances. I recognise the proposal here goes further, and envisages confiscation and disposal of the vehicle, not just temporary detention. That raises two problems. The first is proportionality. Confiscation would apply only to all-terrain vehicles and scramblers - the same offence, with a different type of vehicle, would not lead to confiscation. The much larger problem is constitutional. The Constitution guarantees property rights. Property can be confiscated in some circumstances, but I hope Deputies Curran and Lahart will recognise on reflection that confiscation based on the opinion of a garda, as opposed to a conviction in court, would be a step too far, and would invite constitutional challenge. Section 3 envisages confiscation as a penalty on conviction, in certain circumstances, for dangerous driving. While I do not object in principle to the idea of confiscation as a penalty, I have to say it is not fully thought out here. First, it takes no account of whether the person convicted of dangerous driving is the owner of the vehicle. If he or she is not, the Bill would mean punishing the owner with confiscation of his or her vehicle even though he or she would not have been convicted of anything.

Second, the offence of dangerous driving is divided into two classes. Cases where death or serious injury are involved are tried on indictment - that is, before a jury - while other cases are tried summarily, which is to say before a judge only. The Bill is proposing confiscation as an optional additional penalty for the summary cases only. This would create a very unbalanced situation, with confiscation a penalty in less serious cases but not in more serious ones. I should

note that a person convicted of dangerous driving, summarily or on indictment, is already prevented from driving by receiving a consequential disqualification.

Section 3 would also create separately a new power for gardaí to seize and dispose of all-terrain vehicles and scramblers used for dangerous driving. This raises again the constitutional problem of permanent confiscation based on the discretion of a garda. It also brings us back to proportionality - an all-terrain vehicle or a scrambler could be confiscated at Garda discretion, whereas any other vehicle could be confiscated only as a penalty on conviction. The Bill would add confiscation of a vehicle as a penalty for supplying a vehicle to a minor. This is in section 4. Minors cannot legally drive a mechanically propelled vehicle in a public place, and gardaí already have the power to detain a vehicle on the basis that the driver or rider is too young to be licensed to drive the vehicle. However, the Bill would confiscate the vehicle from the minor based on the conviction of the supplier. This raises serious questions regarding the law - the person convicted is the supplier, but the person punished is the holder of the vehicle. I believe this would be highly problematic, and I can foresee challenges in the courts.

Now we come to the proposal in section 5 to amend the Criminal Justice (Public Order) Act 1994. The Public Order Act falls within the responsibility of my colleague, the Minister for Justice and Equality. The Minister is of the view that sufficient powers to charge people for dangerous or anti-social use of scramblers and other such vehicles already exist in the legislation. The 1994 Act primarily deals with what could be considered traditional public order offences which can occur in public places - for example, disorderly conduct, threatening behaviour, etc. It does this in a general rather than specific manner, in the hope of avoiding the inadvertent exclusion of non-specified types of threatening behaviour or nuisance activity which may occur in public places.

Over the past 12 months, the Minister for Justice and Equality has consulted a number of stakeholders on this issue. Legal advice, received from the Office of the Attorney General last year, noted that, in principle, there appears to be no difficulty in prosecuting a person who commits a public order offence with these vehicles under the current public order legislation. Importantly, An Garda Síochána shares this view. Therefore, it is the view of the Minister for Justice and Equality that the proposed change in section 5 of the present Bill would not add in any meaningful way to Garda powers in relation to public order.

Section 6 makes a number of proposals. It would require the Minister to make regulations within three months of the enactment of the Bill to allow the removal of all-terrain vehicles or scramblers from the curtilage of a dwelling where a garda is of the opinion that it has been used in an offence under this Act - in other words, an offence created by this Bill. While the Bill would create a new offence under the Public Order Act, there are no offences under the Bill itself. This means that the provision of regulations would be a dead letter. Happily, gardaí can already enter the curtilage of a dwelling to seize vehicles suspected of use in an offence.

Next, the section would require the Minister and the Minister for Finance to report on the establishment of a database of all-terrain vehicles, with a view to ensuring that all such vehicles are registered on my Department's national vehicle and driver file, the NVDF. This proposal requires a report on the creation of a database, but does not require the creation of that database, except implicitly. Furthermore, if the goal is to have all-terrain vehicles listed on the NVDF, why would we create a new database for them first?

Another problem, and one I must emphasise, is that the proposal to create a new database,

even if it is implicit, would mean incurring costs and, as such, this Bill requires a money message. Specifically, we would need to consider how much establishing a new database would cost the Exchequer in capital terms and whether its management would generate extra costs too. Every mechanically propelled vehicle used in a public place is already required to be registered on the NVDF. If some owners do not register their vehicles, creating a new database would not fix the problem.

An additional difficulty, and I ask Deputies Curran and Lahart to consider this carefully, is that the Bill refers to all all-terrain vehicles, not just those being used in a public place. Many all-terrain vehicles are used exclusively on farms. Do they really intend to put an added burden of cost and administration on the farming community? I am sure that is not what they intend but it would be the result.

Deputy Dessie Ellis: It should come as no surprise to anyone that Fianna Fáil has put together a Bill on quads and scramblers that is both ill-thought through and focused on forthcoming local elections. In October 2018, the Sinn Féin spokesperson on transport, Deputy Imelda Munster, and I brought to the Dáil a comprehensive Bill to regulate quads and scramblers. We made it clear at the time that we would give consideration to any concerns the Government or Fianna Fáil had with our Bill and, if they voted to allow the Bill to pass to the next Stage, their concerns could be addressed. I made this clear to both the Minister for Transport, Tourism and Sport and the Fianna Fáil spokesperson on transport. We brought our Bill to the Dáil and Fianna Fáil, along with the Government, voted against it. In 2014, I was also opposed by Fine Gael on a similar Bill.

Since then, those in Fianna Fáil have felt the backlash not just from local communities but also from their local councillors and support base. At every forum meeting and policing committee meeting, this issue has come to the fore. Senior gardaí have admitted there is a serious problem with the definition of a public space, as we outlined in the past. While I do not know what this committee has come back with, this comes up as an issue at every meeting I attend.

In my constituency of Dublin North-West, the community was incensed that the Government and Fianna Fáil colluded together to vote down our Bill. In fact, according to an article in *The Local News* on 6 December, “furious” Fianna Fáil councillor, Paul McAuliffe, believes that the Sinn Féin Bill took an “arguable position” on scrambler and quad bike legislation. In fact, Councillor McAuliffe told *The Local News*, “All I can say is that, if I’d been in the Dáil myself, none of this would have happened”.

On 18 April, in the *Dublin Gazette* newspaper, the sponsors of the Bill, Fianna Fáil Deputies Lahart and Curran are quoted as saying, “Existing road traffic legislation does not apply to green spaces, housing estates or public parks, which are the very places where these vehicles are most commonly used”. The Deputies are absolutely right and the Sinn Féin Bill would have dealt with this anomaly, but they chose to vote it down for political reasons.

The Bill, as presented, will not prevent the illegal use of quads and scramblers in public parks and greens. This is a fundamental flaw in the Bill and, as we identified in the Sinn Féin Bill, there is also a flaw in the Road Traffic Act, as everyone is aware. The antisocial activity associated with the use of these vehicles in these areas will continue unabated. Unfortunately, since the Sinn Féin Bill was voted down, there have been further fatalities and injuries resulting from the illegal use of quads and scramblers. Any attempt to seize vehicles in such places will most likely result in legal challenges. In fact, if such a vehicle is seized, it will most likely not

8 May 2019

be destroyed and will be returned to the owner. We have no problem in further penalising those who illegally use quads and scramblers and are engaged in serious antisocial activity. However, if this Bill continues to the next Stage, I will call for a review of the penalties handed out for road traffic offences as this Bill would create an inconsistency in that more serious road traffic offences would, in theory, receive lesser penalties.

Let us make it clear. The Fianna Fáil Bill is seriously flawed, most importantly because it simply does not address the anomaly created by the definition of a public space. The illegal use of quads and scramblers will continue in parks and greens. Unfortunately, and I honestly say this with great regret, this Bill does nothing to seriously tackle the problem these vehicles cause throughout local communities. These communities will continue to suffer from the sort of antisocial activity they are continuing to experience while a legal grey area exists on their use in parks and greens. The Bill does not resolve this crucial issue. If the Deputies are so convinced that under the Criminal Justice (Public Order) Act, they can give a broad definition of a public place, including parks and green spaces, why was it not feasible to do the same under the Road Traffic Act? That is a question they need to answer.

To give an example, a few weeks ago, two scramblers were seized in Tolka Valley Park by gardaí after an hour of chasing, and they eventually caught one person. That person was on a stolen motorbike and, lo and behold, under the law the person can be charged with possession of stolen property but not with illegal driving or reckless driving because of where and how this motorbike was seized.

Unlike Fianna Fáil, Sinn Féin will not play politics with this serious issue. We will support this Bill, knowing it is a flawed Bill, and if it goes to the next Stage, we will endeavour to amend it accordingly.

Deputy Aengus Ó Snodaigh: As Deputy Ellis and others said, this is an issue that plagues many communities in this city but also the beyond the city. The Dáil record shows there was a debate in 2014 with the then Minister of State, Tom Hayes. He came into the House with a four-page script but I do not think he knew what was in it because one of the towns in his own area of Tipperary, Cahir, was also being plagued by scramblers and quads being driven illegally with the intent to do damage to unused spaces or public spaces. That was addressed by the council by blocking off the specific spaces. We do not have the luxury of doing this in some of the areas that are being plagued in my own constituency because they are public parks. Any time the gates are blocked up or changed to prevent scramblers from going into the parks, the people just break down the fence, causing criminal damage. While they should be arrested for criminal damage, as happens in many communities, the CCTV cameras do not seem to catch that activity.

The amount of damage to football pitches and playing areas for kids is horrendous but we must also consider the number of people who have been injured while carrying out this activity. The Minister mentioned the Armenian man who lost an eye while he was sunbathing when a scrambler landed on top of him, although he was not partaking of the scrambling or the wrecking of public play areas. There are people who have died in my constituency and elsewhere in this city. There was one incident a number of Christmases ago and, the following Christmas, the exact same thing happened. Luckily, the young fellow in that case did not die but he was left with horrific injuries.

Any other vehicle of this size, whether a car or otherwise, would be seized because it would

be a danger not only to the person driving but also to the public. The law will have to catch up sometime. Moreover, the Garda should be fully resourced. A big problem in most of the communities plagued with this problem is not just a lack of enforcement but a lack of gardaí to carry out enforcement. We in Ballyfermot thought we were very lucky to get seven gardaí recently, but six of them were very quickly seconded out of Ballyfermot to somewhere else. That did not help to address any issues.

There is also a need to address some of the young people who are involved in this type of activity. I know that local youth services are directly involved with some of those who in the past could be found scrambling, running amok and wrecking community spaces. Those young people's behaviour has been addressed, but other young people in the background then seem to pick it up. Anybody who lives in those communities knows full well what it is like to wake up on a Sunday morning and hear no end of scrambling, especially around Christmas time. Something must be done to address the fact that these high-powered vehicles are being sold to parents who then pass them on to young kids. I have seen them myself. Some of these kids are five, six or seven years old. They are barely hanging on. I do not know what kind of lunatic parent puts a child in charge of something like that with no training, no expertise and in many cases no helmet. Accident and emergency departments then end up trying to help a young person whose head is split open over the Christmas period.

I understand that legislation takes a while to get ready and I understand the arguments around the public space. We all need to get on with this. In 2014 I spoke about the Bill introduced by Deputy Ellis. We were raising this issue before that. This is urgent. We must act before somebody else loses a life. When that happens communities will be demanding to know what we have done apart from sitting here and talking. We need a bit of action.

Deputy Maurice Quinlivan: I am really happy to have the opportunity to speak on this very important Bill. Unfortunately I do not believe it will address the issues. As my colleague Deputy Ellis said, if it passes Second Stage, which we will support, we will be moving amendments. This is a massive problem in my constituency of Limerick City. In estates across the city quads, dirt bikes and scramblers are driven on public spaces and parks, causing problems for local people. They are a danger to children and result in intimidation for many residents. They cannot live safely in their own homes, which they should be entitled to do but unfortunately cannot. Many green areas and public parks are destroyed using these scramblers. Local sports teams sometimes show up to play a match only to find the pitch has been torn up by people driving scramblers around it. This exact thing happened at the beginning of this year in Geraldines AFC in Garryowen. People broke into the club and caused €10,000 worth of damage to the pitch by rallying scrambler bikes around on it. It is disgraceful. My colleague, Mr. John Nugent, who lives in the area, has been very vocal on this issue. Something needs to be done urgently.

Many elderly people are living in fear in their own communities. They do not want to venture outside when these people are on scramblers. Many of these bikes are powerful and incredibly dangerous, as we saw in the tragic case that occurred in Darndale Park. Unfortunately, gardaí are limited in how they can tackle this problem. The law as it stands prohibits the use of these all-terrain vehicles, ATVs, on public roads unless fully insured and taxed. There is a loophole in the legislation which allows people to use these vehicles in public spaces for antisocial behaviour and avoid any penalties.

This is why Sinn Féin brought forward the Road Traffic (Quads and Scramblers) (Amend-

ment) Bill 2017, which aimed to give An Garda the ability to stop individuals using scramblers in public parks or unused space. It would also have given them the power to impound scrambler bikes or quad bikes used illegally on private or public property. The aim of this legislation was not to criminalise users of these vehicles but to keep those who use scrambler bikes and the general public safe. Unfortunately, Fianna Fáil and that party's partners in government, Fine Gael, decided to block the Sinn Féin Bill, which has resulted in the problem of scramblers continuing. I know from talking to people in Limerick that it has gone on to this day.

As my colleagues have said, this Bill only provides for the seizure of these vehicles and their disposal if they are not displaying a registration plate. It would do nothing about people operating unregistered quads or scramblers in parks and greens. It allows the antisocial activity to continue without sanction and offers no solution to the illegal use of such vehicles in parks and greens. Unfortunately, this Fianna Fáil Bill is simply not good enough. It will not solve this problem and in my opinion it has been scheduled for debate tonight simply for election purposes.

There was recently a bizarre situation reported in the Limerick local media, when the Fianna Fáil local election candidates stood up and spoke about the need to legislate for quad bikes while their Deputies here opposed the Bill which would have done that. Deputy Ellis and my colleagues in the previous Dáil introduced a Bill in 2012, which was debated in 2014. That was defeated as well. The Minister finished his statement tonight by asking Deputies Lahart and Curran to withdraw their Bill but he provided no solution himself. I really believe the Minister has no interest in doing this. The reason he has no interest in solving this problem is that it is affecting working-class areas. If this was happening in south Dublin the Minister would have legislation ready and it would be his priority Bill. The first Bill he would introduce in the Dáil would be to stop it. This would not happen in the estate where the Minister lives. It is unfortunately allowed to happen in working-class areas across the State, not just here in Dublin but also in Limerick. People in those estates are citizens of this country. They deserve to live safely and securely in their own homes and the Minister will not legislate for it. I am asking him to do so now.

Deputy Brendan Ryan: The Labour Party supported the Sinn Féin Bill on this matter at the end of last year and we will support this Bill. Somebody needs to address this issue. It is welcome yet again to have a debate in the House aimed at tackling this illegal and dangerous use of quad bikes and all-terrain vehicles. We need legislation to address the issue and we all need to keep the pressure on. There is a momentum in this House to tackle this issue. Elements of this Bill are very welcome.

What this Bill lacks, which we can perhaps look at on later Stages, is an answer to one of the existing problems. Gardaí feel they cannot enforce the law that is already there. In regard to seizing quads and scramblers, the Minister for Justice and Equality made two points in reply to a parliamentary question on 12 July 2017. He noted:

...the use of mechanically propelled vehicles, MPVs, including quad bikes and scramblers, in a public place is subject to the relevant requirements of road traffic legislation... [The vehicles] must comply with the Road Traffic Acts, including in terms of motor tax, insurance and possession of a valid driver licence or learner permit. Under the Acts, any member of An Garda Síochána is allowed to stop an MPV in a public place and demand production of a driver licence. In addition, gardaí may inspect the vehicle for compliance with vehicle standards legislation, which makes it an offence to drive without reasonable

consideration, in a careless manner or dangerously. The Garda authorities also have powers of seizure, detention, storage and disposal of vehicles under the road traffic code.

The Minister went on to say:

Despite the road traffic and other relevant legislation available in this area, the Garda authorities have indicated that the use of quad bikes and scramblers by minors and youths in public parks has proven difficult to deal with from an enforcement perspective. Garda members are instructed not to pursue youths on quad bikes, scramblers and so on owing to the inherent safety risk in pursuing these vehicles. If such pursuits were to take place, there would be a high risk of them ending in collisions at speed, resulting in serious injury or death. As a result, bringing these vehicles to a stop is challenging.

This seems to indicate a policing issue about the practicality of stopping young offenders on dangerous vehicles rather than an issue around the legal authority to do so. On receiving our own legal advice the Labour Party has some sympathy for that position. We recognise the difficulties. This needs to be addressed and we all need to work together to bring about some kind of legislation to try to work this out.

The problem surrounding the misuse of quad bikes and scramblers has become more and more prevalent in the last five years. In the last three years more than 180 people have been injured in accidents involving off-road vehicles. I mentioned some particularly tragic cases in a previous debate on this topic. I will not go through them again. The Minister referred to one of them and Deputy Ó Snodaigh referred to another. The common problem behind these preventable accidents is the fact that some owners of quad bikes or scrambler motorcycles believe they can get away with using their vehicles wherever and whenever they choose. While the Road Traffic Act 1961 restricts the use of these off-road vehicles in public places, it has always been interpreted as applying only to public roads and not parks etc., as other Deputies have mentioned. However, as the public knows some owners unlawfully use their off-road vehicles in public places such as parks, greens, housing estates and other public and private properties. When they do that, they endanger pedestrians who frequent public places with erratic and rash driving of their vehicles. There have been many reports of those vehicles being unlawfully used in anti-social behaviour in my constituency in the Ward River Valley in Swords and in areas throughout Fingal, such as Balbriggan beach, Donabate and Portmarnock.

The Bill does not ban the vehicles completely because there is an acknowledgement that many owners drive their vehicles responsibly and safely in designated areas such as on motocross tracks or in designated off-road areas. Instead, it makes sure that those individuals who use such vehicles for anti-social purposes to carelessly drive through parks or green areas, to speed through housing estates doing wheelies and revving their engines to irritate the inhabitants of the neighbourhood and to terrorise innocent people just for fun, will not get away with such behaviour. We must address the issue collectively. If individuals cannot drive responsibly, they not only put other individuals in danger but they also put themselves in danger.

A number of accidents, some fatal, have been caused by individuals on scrambler motorcycles colliding or driving into parked cars. By restricting where such vehicles can lawfully drive, we would hold them accountable to safe driving practices, not just for the safety of the public but also for their own safety, as we need to protect them as well. The sad fact is that many owners of such vehicles who engage in anti-social behaviour are young and inexperienced drivers who seek the thrill of driving recklessly and think it is above the odds that they will be

involved in an accident. Therefore, we must go above and beyond to make sure that while they may not see the imminent danger in which they put others and themselves, the Oireachtas must plan in advance to protect them from themselves. It is important that the national Government addresses the issue. Some local councils have brought in by-laws to try to curb the havoc such vehicles create but the Garda has difficulty enforcing the laws especially in many of the areas that were not, but will now be, covered by the amended legislation.

There is a dire need for legislation such as the Bill before the House that addresses the unlawful use of quad bikes and scrambler motorbikes. The Minister set out the problems with the previous Bill and he has problems with this Bill. We must join together to find a Bill that will work. The Bill is a step in the right direction. We have lost too many people in the reckless usage of such vehicles. I have sympathy with what Deputy Quinlivan from Limerick said about it being a working class problem. I agree with his observation that if this was a problem in south Dublin there would be more focus on it. Let us make sure we do everything we can to assist the Garda to enforce existing and future laws to break the scourge of quad bikes in public spaces. While the Bill is welcome, the difficulty of enforcement will probably still remain. Finding a solution to that problem will not be easy but we should work together to try to find it.

Deputy Maureen O’Sullivan: It is a bit like *déjà vu* because it is not that long ago that we were here discussing Deputy Ellis’s Bill, which also sought to address the same concerns we are talking about tonight, namely, scramblers and quad bikes being used in inappropriate ways in places where they should not be, legally, and by age groups that should not be in possession of such vehicles. We also then spoke about the lack of adequate legislation, and where there is legislation the difficulty of enforcing it. In the previous debate we were all agreed on the concerns everybody had and there was a genuine desire on all sides of the House to try to sort it out. We agreed on the need for collaboration and consensus in order to bring that about. However, it did not happen and here we are again. In the meantime the situation is worsening.

Quad bikes and scramblers can be used in a very positive way by those who have them as functional vehicles for work on farms, beach patrols by lifeguards, by rangers and for use in other activities. Problems arise when they are used in a particular urban setting and most of that is associated with an anti-social element. The vehicles are off-road vehicles and they present problems in highly populated urban spaces, especially in open parks. Dublin Central has also seen fatalities, including one on Christmas Day a few years ago. Christmas morning does present particular problems because the parks and roads are generally much emptier, which presents an opportunity for those with scramblers and quad bikes to drive them at very high speeds. In the majority of cases, unfortunately, the users do not have safety helmets and they do not have documentation. There is an element of bravado involved because it is a form of ego trip and young people spur each other on to go even faster.

The Garda has some powers to stop and confiscate such vehicles. Gardaí have been very forthright at community policing forum meetings I have attended. They said they are cautious because they are aware of the dangers of giving chase, as sometimes that just fuels the activity because some young people want to be chased by the Garda. Gardaí must be cautious because there could be serious accidents and public safety must be at the core of their work. They have come in for criticism because they do not go after the young people involved, but I understand where they are coming from given the thrill bike riders get from being chased by the Garda. It is especially difficult on a Christmas morning when one can imagine the attempts of gardaí to take scramblers and quad bikes from young children who get them from Santy. I do not know what Santy is doing giving gifts of quad bikes. In many cases, it would cause even more may-

hem if the gardaí went into some areas to try to take quad bikes away.

There is a need for a public awareness campaign so that young people become more aware. We have had public awareness campaigns for drink driving, seat belts and using mobile phones in cars, with a certain amount of success so perhaps something similar could be used in this regard. An awareness campaign for parents is important because I do not know why a parent would buy a small child a quad or scrambler. It is like giving them a lethal weapon because quads and scramblers are lethal. Neither do I understand how the vendors get away with selling them without having much better safety measures in place and without ensuring that a safety helmet is also purchased, at the very least.

When we were discussing Deputy Ellis's Bill I mentioned a successful project run by Dublin City Council with a motocross club on the Alfie Byrne Road. People could go to a designated area with their scramblers and quad bikes and it was supervised. Riders were not pursued and they had to wear safety helmets. We know that risk taking is part of being young and that would be one practical way of trying to minimise the risk.

It is sad to hear old people, or those who are not so old, say they are afraid to go into a public park because quad bikes and scramblers could be there and they are afraid of being knocked down. In reality, quad bikes and scramblers will be purchased but I do not think we should allow them to be sold to people aged under 18. There must be some way that those in the trade would have to prove that they are not selling them to people who are under 18. I accept that would be difficult to administer and implement. Does the penalty for supplying a vehicle to those aged under 18, with the possibility of imprisonment, include parents who buy them for children, not just the seller?

I am in favour of having designated areas for motocross in certain areas because such activity is associated with particular areas. An awareness of appropriate use is also important, as are the safety aspects that are needed, registration plates and some type of licence or test. There seems to be more regulation around jet skis than there is for quad bikes and scramblers. I would also like rickshaws to be included in the legislation. Would the Bill apply to mechanically propelled rickshaws? In general, rickshaws need to be addressed. Again, there is no licence, no test and no insurance. Some drivers are responsible but we have many examples of irresponsible drivers who do U-turns on very busy streets. In addition, they are undercutting the taxi industry. There may be a novelty element to it but taxi drivers are paying tax and insurance and other hefty bills as well.

I read a recent article by a garda on the use of quad bikes and scramblers, in particular among underage people. One garda described the situation as now reaching epidemic proportions. Children as young as six are found riding a motocross in public parks in Dublin. He also stopped teenagers under 18 and tested them for drugs and alcohol and the tests proved positive.

10 o'clock Reports from Temple Street Hospital show young people have received life-threatening injuries connected with the use of quad bikes and scramblers.

There must be an awareness that quad bikes and scramblers are not toys. They are heavy, dangerous pieces of machinery and they can cause life-changing injuries or death. Those issues are still not being addressed. We hoped for so much at the time we discussed Deputy Ellis's Bill because the Minister did seem to be concerned about taking on this issue. He addressed certain criticisms he had with the Bill but they have not yet been addressed and, in the meantime, the situation is worsening.

8 May 2019

Deputy Mattie McGrath: I am pleased to contribute briefly to the debate on the Bill. I compliment my colleagues in Fianna Fáil on bringing it forward. It is very worthy and necessary. No Member wants to be a killjoy, but we must deal with these dangerous vehicles. They are not toys. Although I sympathise with communities or estates which are experiencing anti-social activity related to scrambler or quad activity of the sort referred to by other Members, the Bill may be a step too far and may not be proportionate. Of course, it is very difficult to get the balance right in any legislation.

The Bill proposes to make further provision for the seizure by An Garda Síochána of said vehicles and motorcycles in certain circumstances and provide for the confiscation and disposal of same where a person contravenes the law on the use of all-terrain vehicles and scrambler motorcycles in a public place. These vehicles should not be used in a public place. However, to get the legislation right and have it implemented and enforced is another issue.

I am from a rural background and own a quad which is used for mountain and hill sheep farming, with which the Leas-Cheann Comhairle is very familiar on the hills and slopes of County Donegal. The quad is a necessary tool, but it is extremely dangerous. A former president of the Irish Farmers Association broke his leg in a quad bike accident. They are very dangerous vehicles. Bulls, rams and other animals on farms may cause trouble, but these vehicles are very dangerous on rough and other terrain if operated by the wrong people because they have such powerful traction. They would be able to go up the steps beside where the Minister is sitting and might tumble back down on top of somebody. There have been many fatalities and injuries. That is a completely different matter from the one Deputy Curran and others are trying to address with the Bill. Although quads are a necessary and invaluable tool to get around to assess crops and animals in inclement weather conditions such as snow, they must be treated with the utmost respect.

It is very important that the vehicles be prohibited in public places such as parks and other recreational areas. One should need a licence to drive them, which would ensure that, at a minimum, people would have a provisional licence and have done some theory tests. There is a role for schools in this matter. I recently met a principal who said everything was being left to schools. However, there needs to be an holistic education of young people on the dangers of these machines, as was done to meet the danger posed by certain animals. Quads and scrambler bikes may look great and young people may see them scrambling through the mountains and so on on television programmes or in films and may wish to be able to be take part in that wonderful activity, but the inherent dangers are incredible. I know several young people who were paralysed in serious accidents and for whom we are fundraising to provide for rehab care and recovery. Some of them will never walk again; certainly, they will never get on a quad or a motorbike.

We must be very careful about where and how these vehicles are used. Legislation is needed, but consideration must be given to how it will be implemented. One cannot expect a garda on the beat or in a squad car to follow these vehicles because of their speed and the way in which they are able to escape. Someone causing trouble on a quad or scrambler in a park will be able to go over a ditch and be gone without a trace. All one will be left with will be the smell of the bike's exhaust fumes. Although the young people involved in such activities may get an adrenaline rush from them, they are very dangerous. We have heard evidence from people who were lying on beaches or in a park and were driven over. That is extremely reckless behaviour which must be stamped out. It is very important that we recognise the danger posed by these vehicles and the damage they can cause. There are also dangers involved in their usage

in farm and agricultural activities such as young people having access to them on family farms. I do not know how it will be policed, but it must. People must be taught to respect the inherent dangers posed by the vehicles, their sheer power and speed and, above all, the damage they can do. A person who falls off one of them at 20 miles per hour, let alone 30 miles per hour or 50 miles per hour, has no protection whatsoever. I acknowledge that the problem in Dublin must be dealt with, although I only have anecdotal evidence of what happens there and in other cities and towns.

The Minister, Deputy Ross, is very fond of the RSA and has given it sweeping powers in many areas in respect of tractors, cars, young drivers and so on. I attend shows and other events and often see quads at them. I was at an event last Sunday at which little bikes and quads were for sale. Children love them. Anyone can buy them as there are no restrictions on their sale. That issue must be investigated and we must ensure they are not purchased as birthday or Christmas presents. We all need to be re-educated and to re-evaluate the potential hazards and the danger they can cause. We need to strike a balance between the right to have a mechanically propelled vehicle and the safety of other amenity users and people who wish to use recreational areas without fearing or enduring the noise, fumes and, above all, speed of quad bikes or scramblers driven by thrill seekers. I do not oppose the use of quads for farming purposes, but extreme caution and care are needed. The RSA needs to wake up and deal with these mechanically propelled vehicles.

The Minister has not set a good example. I recently saw him pictured in a publication. I am all for the simulator vehicles which the RSA brings to roadshows in order to show young people how they could be seriously injured in an overturning car, particularly if they are not wearing a seat belt. The RSA puts up very clear signs stating one may not go on the simulators if one is under 16 years or over 60. However, I saw a picture of the Minister in one of those vehicles. What a way to educate young people. I do not know what age the Minister is, but he is certainly well over 60 years. I have passed that milestone and he has been around far longer than I have. He should know better than to recklessly go on a simulator. A sign in front of it clearly stated those over 60 years should not do so. What image is he portraying to young people - that the guy up in Dublin who hates rural Ireland, the ordinary people going for a pint and those who want to obtain a driving licence to drive to school or college is recklessly upside down in a simulator? It is outrageous that he would be so reckless as to ignore those signs. We are here to try to pass legislation. Such recklessness is nothing new for the Minister who has been reckless since he became Minister for Transport, Tourism and Sport. The sooner the Government falls and disbands and he is out of it, the better. It will be good riddance to bad rubbish. I mean nothing personal, but it was completely reckless of him to get into the simulator which is brought to schools, sites and shows to warn young people of the dangers involved in driving. My goodness - the Minister is the thrill seeker. It was not very thrilling, but it was downright stupid. It was bizarre and reckless behaviour engaged in by the Minister, but *sin scéal eile*. That is why he is keeping the Government in place. He needs to take a few training courses in order to learn to respect legislation that is printed and put in front of him.

An Leas-Cheann Comhairle: Deputy Butler is sharing time with Deputy Jack Chambers.

Deputy Mary Butler: The purpose of this Bill, introduced by Fianna Fáil, is to tackle the scourge of scrambler bikes, the owners of which are terrorising communities. Between 2014 and the end of 2017, a total of 39 people lost their lives on scramblers and quad bikes. Three in four of those individuals were children. I was shocked when I discovered that 39 people had died in the space of four years. In 2017 alone, 62 people were injured in accidents involving

quad bikes and scramblers. These bikes can be dangerous. They may not have very large engines but they have a high power-to-weight ratio because they are so light.

While gardaí do their best to police the use of these bikes, it must be noted that there is legal lacuna in respect of them because the road traffic legislation is not applicable to green spaces and parks where they are most commonly used. The Garda has warned of an epidemic of the use of motocross and quad bikes among teenagers. Reports have surfaced of children as young as six years old operating these vehicles. If a six year old was behind the wheel of a car, would we adopt the same attitude? Even when gardaí see a bike being driven in an illegal manner on public roads, the driver simply drives off the road and prevents them from taking any action. This Bill will address the fact that existing road traffic laws do not apply in the areas to which I refer.

When used on private property, these vehicles do not require tax discs or insurance under current law. They are supposed to be taxed and insured when used on public roads, however, so the Bill does not create a new requirement for legitimate users. For the first time, the Bill will make it an offence to ride a quad or scrambler bike in a public place in an antisocial manner. This will allow gardaí to seize bikes that are being ridden in a threatening or annoying manner. They can then be disposed of in accordance with the relevant laws. We believe this will effectively clamp down on the all too common practice of riding quad and scrambler bikes around parks, housing estates and green spaces in a way that threatens and endangers local residents. It is unfair that residents are terrorised by those using these vehicles and are unable to enjoy their local amenities. Furthermore, allowing gardaí to seize quad and scrambler bikes that have been sold or supplied to children will protect children, particularly as it is they who are very often involved in scrambler bike accidents. Of the 39 people who lost their lives on scrambler bikes between 2014 and 2017 - an appalling number - three quarters, or 30, were children.

There were also reports recently of stolen scrambler bikes being ridden at high speeds on pavements and footpaths. A man sunbathing in a park in north Dublin last year was struck by a bike and lost his left eye and suffered multiple fractures. If accidentally struck by one of these bikes at high speed, there is a much greater risk of high-impact spinal and back injuries than from activities such as playing soccer or trampolining. That is according to orthopaedic surgeon and motorcycle rider Keith Synnott. When walking in the woods near my home, I have encountered scrambler bikes that were operated by adults in a safe and responsible manner. I wish to make it clear that this Bill targets those who are not responsible. Plenty of users are responsible and enjoy using these bikes.

The Bill does not create new requirements for quad and scrambler bikes that are used solely on private property such as farms. The Minister, Deputy Ross, referred to the impact what is proposed would have on farms but it does not have an impact on them.

The Bill will increase the penalties for supplying these bikes to underage people. It is simply irresponsible and reckless to supply these bikes to children. The Bill will increase the maximum fine for doing so to €5,000. It will also allow gardaí to seize a bike that has been illegally supplied.

The Bill directs the Minister to establish a national vehicle register for these vehicles to increase the accountability of their owners. Too often, quad and scrambler bikes are not registered to an owner, which makes it difficult for the Garda to enforce the laws relating to them. The Bill will require the Minister for Transport, Tourism and Sport to introduce regulations to

allow the Garda to remove such bikes from the curtilage of a home. This increased accountability and transparency will have a positive effect for the owners and operators of quad bikes and, hopefully, will result in a reduction in the number of deaths and injuries.

Deputy Jack Chambers: I acknowledge the work my colleagues, Deputies Lahart and Curran, have done on this legislation. This problem is a scourge and a terror for many communities in Dublin. In every residents' association and at every public meeting there is a consistent trend of issues with scrambler bikes. People ranging from young children to those in their early twenties are terrorising communities. Children are not allowed onto green spaces because of scramblers being ridden through those spaces and through communities. The danger to children and young people in playgrounds and elsewhere is very serious.

As has been mentioned, 39 people, three quarters of them children, have lost their lives and there have been many injuries. An innocent man out sunbathing, Ilabek Avetian, lost an eye and was in a coma because of the impact of a scrambler. The fact that in 2019 there is still no regulation or oversight and a legal lacuna means that action is required. The Fianna Fáil Bill accurately addresses that legislative lacuna.

I listened to what Deputy Ellis had to say. Sinn Féin does not own this issue. We have a collective responsibility to deal with it properly. My colleague, Councillor Paul McAuliffe, in the Finglas-Ballymun area has done excellent work with the Fianna Fáil Parliamentary Party in driving and progressing this Bill. Public representatives like him want to work in a collaborative manner with other parties. Sinn Féin does not own this issue; no party owns it. We have a responsibility to do something, given the lives that have been lost and those who have been injured.

Deputy Dessie Ellis: Councillor McAuliffe made it clear that Fianna Fáil was wrong to oppose our Bill.

An Leas-Cheann Comhairle: The debate has been orderly up to now.

Deputy Dessie Ellis: I know, but I had to address that matter.

Deputy Jack Chambers: As with other legislative measures, we saw the headline about scrambler bikes but what was Sinn Féin proposing to do? It was proposing to amend and further complicate the Road Traffic Acts, which would have had a limited impact in addressing the issue.

This Bill seeks to achieve a few things. It will be an offence to ride a scrambler bike in a public place where it is antisocial. It gives the Garda the power to seize and dispose of or destroy these bikes. I have heard gardaí state at public meetings that the children's parents have collected the scrambler bikes from An Garda Síochána because of the lacuna in our legislation. The Bill seeks to address that. That was absent from the Sinn Féin Bill.

Deputy Dessie Ellis: It was not. The Deputy is wrong.

Deputy Jack Chambers: When it comes to protecting children and our communities, there is a responsibility to have a national vehicle database to ensure there is an accountability element at the point of sale for the people who purchase the bikes and for those who sell the scrambler bikes. That was not addressed in the other legislation.

Deputy Dessie Ellis: It was. The Deputy is totally wrong.

8 May 2019

Deputy Jack Chambers: In addition, there must be accountability with regard to a registry for owners. That is proposed in the Bill.

Our party is constructive and if there are amendments on which we can work with the Government and other parties, my colleagues will facilitate them in order that we can have the best legislation possible. However, it is important to take action in respect of this issue. We have waited too long. The fact that lives have been lost is a scandal. Children cannot play in the open spaces. I received emails in the past two weeks from people who use the Royal Canal Greenway in Ashtown and the Dublin 7 and 15 areas. They are being terrorised. The greenway was meant to be a cycleway and a place where people could run, walk and enjoy the canal. However, scramblers are travelling up and down each evening, terrorising the local community. We have a responsibility to do something about that.

With all due respect to the Minister, it is not good enough to wait for another working group and another report and review. The Garda is clear that it needs assistance with this and the legislative lacuna to be addressed. All the officials in local authorities have reflected that in their responses to us as public representatives. A consistent trend over this Government's tenure is a lack of delivery to communities. It has not delivered on legislation regarding scrambler bikes. That is why we are seeking to work with the Government to provide it. Opposing the Bill because the Government has promised its own legislation is not good enough. We have seen that happen in other areas and there has been no delivery.

When I canvass and attend public meetings, I encounter people's total frustration with this issue. It is the same few reckless and irresponsible parents and children who own and use these bikes. We will address that. We will address it at the point of sale, make it an offence to ride the scrambler bike, establish the national vehicle database and give the Garda the power it needs to seize those vehicles. I heard some of the script read by the Sinn Féin Member and I have heard some Sinn Féin public representatives attack this party for trying to do the right thing now. Sinn Féin does not own this issue. We all have a collective responsibility to address it. I hope the Government will facilitate this Bill through to Committee Stage and that it does not seek to obfuscate and block it, as it has done with other legislative measures.

Minister of State at the Department of Communications, Climate Action and Environment (Deputy Seán Canney): I am pleased that we have had the opportunity to discuss the matter of dangerous use of scramblers and other vehicles. We all agree that it is a serious issue and that it needs to be addressed. As the Minister said, regrettably, the Government cannot support this Bill. We have examined the issues involved, including the legislation, in some detail and it is clear that the difficulty is not the absence of appropriate laws but a matter of enforcement. We all know the saying that if all one has is a hammer, every problem looks like a nail. It is in the nature of democracy that the Legislature's hammer is to legislate. It is all too easy to become convinced that different legislation will solve the issues of the day. Sometimes that may be true. In this case, it is not. If it was and if An Garda Síochána was to identify gaps in the legislation, the Government would be happy to respond and address those gaps.

Deputy John Lahart: It has.

Deputy Seán Canney: This Bill is well-intentioned, as the Minister has acknowledged, but the problem here is not legislation. Even if it was, there are serious difficulties that mean we could not accept this Bill. Based on the opinion of a garda, gardaí already have the power to detain vehicles temporarily in many circumstance but we cannot legislate to confiscate and

dispose of property based on an opinion. We cannot reasonably say we will confiscate a vehicle used in a case of dangerous driving if the driver and the owner are different people. How can we put a punishment in the law directed at someone who is not the convict?

Deputy John Lahart: We are not saying that.

Deputy Seán Canney: Nor can we reasonably say, as the Bill does, that confiscation will be a punishment for less serious cases of dangerous driving but not for more serious cases. The provisions in the Criminal Justice (Public Order) Act are sufficient, according to the Department of Justice and Equality. A new database of all-terrain vehicles would be subject to the same problems of people not registering as the current national vehicle and driver file, NVDF, and it is not clear why we would create a new database with inevitable cost implications only for its contents to be absorbed into the NVDF anyway, which is what the Bill envisages. This is before we take into account that the proposed new database would cover all vehicles classed as all-terrain even if they were never used on a public road. This would put a burden on the farming community, in particular where many such vehicles are used exclusively on private land.

Deputy John Lahart: It does not affect it.

Deputy Seán Canney: Finally, the regulation-making powers in the Bill would have no benefit. Some are tied to offences in the Bill when there are no such offences. Offences inserted by the Bill into other Acts would not count in this regard as they are offences under those other Acts. Some powers are tied to matters referred to in the Bill as prescribed but there are no such matters.

If this Bill was to pass, it would not help in any way to address the menace of misuse of scramblers and other vehicles. It could prove counterproductive by undermining existing public order and road traffic provisions. It would certainly invite constitutional challenge. I would, therefore, ask Deputies Curran and Lahart, whose concern about the issues they have raised I acknowledge and respect, to consider the points the Minister and I have made, and to acknowledge the position that the difficulty lies with enforcement rather than with the law and to withdraw this Bill.

Deputy John Lahart: It is a pity the senior Minister has gone and that we do not have an opportunity to respond to him. I thank everybody from this side of the House who participated in the debate.

I will briefly summarise for the record what the Bill will do. It proposes to make riding a quad or scrambler bike in an antisocial and dangerous manner an offence under public order legislation. There would be an increase in the penalties for supplying these bikes to underage children. We know that 39 people lost their lives over four years and that three quarters of these were children. Fines would be increased for a parent. The Minister of State mentioned convicting the wrong person. It is not a question of convicting the wrong person. If a Garda calls to a house and a parent says that the child was not on the bike or that the parent owns the bike, the parent can be fined up to €5,000 under this legislation. The Bill would direct the Minister to establish a national vehicle register and require the Minister to introduce regulations.

In his reply, the Minister went on at length about property rights. What about the rights of people who live in residential areas who cannot use their parks and open spaces and who cannot walk safely through laneways without fear of a scrambler bike coming along that laneway on a back wheel riding roughshod over a neighbourhood? The Minister's response gives no

8 May 2019

indication that he is connected. One of the Deputies said this. If this was happening in Marlay Park or Leopardstown, the Minister would be all over it like a rash in terms of trying to find a solution. There is no demographic, certainly in my constituency, but what I have seen is that because it has gone unchallenged, it is beginning to grow and spread. As Deputy Ellis said, the Bill is not perfect. We are open to amendments. I know there were well-intentioned previous efforts to address it. That is water under the bridge.

The Minister's reply was very wordy. It stated that:

A great deal of consideration has been given to whether there are any deficiencies in the law. However, the laws clearly exist both to punish offenders and to detain the vehicles where necessary.

We made this point before the Minister of State came into the Chamber. In order to detain a youth on a scrambler, a garda has to catch him or her and to catch him or her, a garda has to chase and intercept him or her. Chasing and intercepting him or her puts the public at risk. That is not me saying this. As Deputy Curran and all my colleagues said, it is superintendents in regions and districts across the metropolitan area of Dublin who are saying this. They have issued instructions to rank-and-file gardaí that they are not to chase and intercept because they are putting the public at risk. The first garda on a motorcycle who runs over a child while chasing a scrambler rider would be the first person we would criticise for engaging in dangerous activity.

Not one Fine Gael Member of the House contributed to this debate. The Minister's response this evening essentially maintains the *status quo*. What Fine Gael and this Government want is for a garda to get up on his or her motorcycle or to get into a 4 X 4 or squad car and, as a previous Deputy noted, to pursue for hours people on scrambler bikes around neighbourhoods and residential areas until he or she catches them - putting a significant number of people at risk. That is essentially the response of the Minister. He has not put forward any suggestion as to how the Government intends to deal with it. He talked about proportionality and how our Bill is disproportionate and does not represent a proportionate response to what is happening out there. He should come out to Kilnamanagh, Killinarden, Fettercairn, Kiltipper or the Dodder Valley and tell me what is more or less proportionate - scramblers riding roughshod over open spaces and the rights of citizens and residents or giving An Garda Síochána the power to confiscate and destroy the bikes and quad bikes that these youths use.

In his response, the Minister said that:

Over the last 12 months, the Minister for Justice and Equality has consulted with a number of stakeholders on this issue. Legal advice, received from the Office of the Attorney General last year, noted that, in principle, there would appear to be no difficulty in prosecuting a person who commits a public order offence with these vehicles under the current public order legislation.

However, he misses the point, which is that gardaí have to catch them and to catch them, gardaí have to chase them and gardaí do not want to chase them because it puts the public at risk. The Minister concluded by stating that he would like to commend Deputy Curran and I on our concern about the public welfare on this issue and the work we have put into this Bill but that he would also like us to consider what he said and to withdraw this Bill.

The Minister of State has probably watched "The Shawshank Redemption". There is a great line in it when Andy Dufresne says to the warden, "How can you be so obtuse?". The Minis-

ter's reply reflects that sentiment.

We have made the point that the gardaí cannot enforce the law because it puts the public at risk. The Minister is asking us to withdraw the Bill, leave it at that and just let it sit. For the past 12 to 18 months, there has been an interdepartmental committee - a task force made up of various stakeholders - but nothing has emerged from it. They are all saying that this is a really difficult and serious issue. This is what we are asking the Minister of State, who is an Independent. The Minister for Children and Youth Affairs, Deputy Zappone, is an Independent Minister. She represents the same constituency as I do. She knows or ought to know all about scramblers and the havoc and chaos they are causing in the constituency of Dublin South-West and how it is spreading. If she is canvassing on doors in this local election cycle she will be well aware that, after housing and health, the issue of scramblers in Tallaght south and Tallaght central is one of the biggest issues being raised on the doors.

It is disingenuous of the Minister of State to bring in the farming community because this has absolutely no implications or consequences for law-abiding citizens or for people who use scramblers in a responsible manner. The Minister of State keeps talking about the gardaí having the powers to detain. Why then at joint policing committees throughout the county and the policing metropolitan area of Dublin are gardaí saying they need additional powers? Why are they advising rank-and-file gardaí not to pursue, chase or intercept because it puts the public at risk? Only in occasional circumstances will the Garda mount special operations. I understand the Garda did so at Christmas in Cabra. Deputy Ellis might know about it. It was a special operation involving multiple Garda vehicles and a vast amount of human resources from the Garda point of view. The result was that they confiscated ten or 12 scramblers. Then, some days later those involved went to the Garda station and got them back.

Deputy Dessie Ellis: That was in Ballymun.

Deputy John Lahart: We welcome the support of several of the Independents and our colleagues in Sinn Féin and the Labour Party. This should go to Committee Stage. We should take this issue out of these interdepartmental cross-departmental multifactorial quasi-functional committees and start talking turkey about it. Open spaces are being ripped up, football pitches are being interrupted and young people's lives are being affected. Residents are afraid to use their open spaces because of the absolute chaos and havoc being caused by scramblers. I hope that when it comes to the vote the Dáil will vote in favour of moving this to Committee Stage or even approve it tonight.

Question put.

An Leas-Cheann Comhairle: In accordance with Standing Order 70(2), the division is postponed until the weekly division time on Thursday, 9 May 2019.

The Dáil adjourned at 10.35 p.m. until 9.30 a.m. on Thursday, 9 May 2019.