



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

DÁIL ÉIREANN

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

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DÁIL ÉIREANN

Déardaoin, 26 Samhain 2020

Thursday, 26 November 2020

Chuaigh an Leas-Cheann Comhairle i gceannas ar 9 a.m.

Paidir.
Prayer.

Ceisteanna - Questions

Ceisteanna ar Sonraíodh Uain Dóibh - Priority Questions

Human Rights

1. **Deputy John Brady** asked the Minister for Foreign Affairs his plans to review the existing human rights and business plan 2017-2020. [38304/20]

Deputy John Brady: As many families across the country and thousands of young children are preparing to watch “The Late Late Toy Show” tomorrow, the big question on their minds is whether Covid restrictions will be lifted sufficiently to allow Santa Claus visit at Christmas. A representative from the North Pole has been in touch with me also to ask whether clearance will be given for Santa Claus to enter our airspace. This is an important question. It is not the one that I tabled, but it is playing on the minds of hundreds of thousands of children across the country.

I also ask the Minister what plans the Government has to review the existing business and human rights plan, which applied from 2017 to 2020.

Minister for Foreign Affairs (Deputy Simon Coveney): We have been working on the Santa Claus issue for a number of weeks. It is important to point out to all children in the country that we regard the travels of Santa Claus as essential travel for essential purposes, so he is exempt from the need to self-quarantine for 14 days and should be able to come in and out of Irish airspace and homes without having to restrict his movements. However, children should not stay up at night because he needs to socially distance. People need to keep at least 2 m

away at all stages to ensure they keep him and children safe. He is exempt and he is coming. He has confirmed that and appreciates the fact that Ireland has ensured that in a very different Christmas in 2020 the visit of Santa Claus will remain consistent.

On the less important issues, in November 2017, my Department launched the inaugural national plan on business and human rights, to begin the process of implementing the UN guiding principles on business and human rights. The plan is a whole-of-Government initiative. It aims to promote responsible business practices at home and overseas by all Irish business enterprises, in line with Ireland's commitment to the promotion and protection of human rights globally. The plan is directed at Government and State agencies, Irish companies operating at home and overseas and multinational enterprises operating in Ireland. The Department has established an independently chaired business and human rights implementation group to oversee implementation of the national plan. The group was convened in December 2018 and given a three-year mandate, expiring in December 2021. Its first meeting took place in January 2019. Membership consists of representatives from civil society, academia, the business community and Government Departments and agencies.

The programme for Government commits to a review of the implementation of the national plan. My officials are currently examining the options for giving effect to this commitment, having regard to the structural changes to my Department upon the formation of the new Government. Although the implementation group is mandated to meet twice per year, it will convene four meetings in 2020. It should also be noted that the UN working group on business and human rights is currently reviewing implementation of the UN guiding principles in UN member states, with a view to charting a course for the next decade of action.

Deputy John Brady: I thank the Minister for the reassurance he has given to thousands of children. Realistically, they knew in their hearts that nothing would stop Santa Claus, but that reassurance is very much appreciated.

Returning to business and human rights, there is a commitment in the programme for Government to review the existing plan, which is very important. The review will also look at the mandatory due diligence. I believe it has gone beyond the point of having a look at that. It is the accepted norm in many progressive countries that mandatory due diligence is an essential component of any plan. What will the Government do in respect of mandatory due diligence? Will the Minister also consider introducing legislation in that regard?

Deputy Simon Coveney: I have been asked questions on this issue a number of times previously and I have said we have an open mind on it. This is more than a conversation across the EU as it is something on which the European Commission is also giving leadership. While corporate governance in a domestic context falls outside the remit of my Department, the European Commissioner for Justice has announced he will bring forward a new initiative next year in the area of sustainable corporate governance. A public consultation is now under way in which the EU is asking stakeholders how it can best help businesses embed environmental and social interests, including human rights, in their business strategies. I welcome this initiative and Ireland will be co-operating fully with it.

Deputy John Brady: The Minister says Ireland will co-operate fully with it, but concern has been expressed about Ireland's position even in terms of the UN treaty on business and human rights. The Government has failed to offer public support as an individual nation. Ireland has an opportunity to lead on this front and we cannot afford to wait on the EU to make up its

mind on the position relating to the treaty. Ireland can and must act of its own accord. I encourage the Minister to speak to the EU on the treaty and pledge full support to that treaty.

Deputy Simon Coveney: Ireland remains open to looking at options for progress on a legally binding treaty. The sixth session of the open-ended intergovernmental working group on transnational corporations and other business enterprises took place from 26 to 30 October last. The European Union delivered a statement and separately raised specific concerns relating to the draft text on behalf of Ireland and other member states. The EU statement welcomed some of the changes to the latest draft of the legally binding instrument, highlighted further necessary changes and outlined the many measures under way in the EU and across member states to give greater protection to human rights in the context of business activities.

In simple terms, the question raised by the Deputy is under active consideration. We need to know the consequences of the decision that we make. We also need to make sure that it is capable of being implemented. We also need to try to ensure consistency across the European Union for all sorts of reasons, not least membership of the Single Market.

EU Budgets

2. **Deputy Cian O’Callaghan** asked the Minister for Foreign Affairs the actions he has taken following Poland and Hungary’s veto of the EU budget over the new rules linking funding to the rule of law; and if he will make a statement on the matter. [38181/20]

Deputy Cian O’Callaghan: In the context of the importance of the European Union recovery fund, what action is the Minister for Foreign Affairs taking following the veto by Poland and Hungary of the EU budget, and the new rules linking funding to the rule of law?

Deputy Simon Coveney: This is a very relevant question given the broader multi-annual financial framework, MFF, considerations generally, and the fact that very significant funds could be held up, which Ireland may well need to access, in particular in the context of the Brexit adjustment fund.

As the Deputy will be aware, agreement was reached in the European Parliament on 5 November for a general scheme of conditionality for the protection of the EU’s budget. This follows the July European Council conclusions on the MFF-Next Generation EU package, which stated that a regime of conditionality to protect the budget and Next Generation EU will be introduced. The Presidency tabled a compromise proposal for a regulation in September, which led to difficult discussions since, while a number of member states strongly support the use of protective measures, others oppose such measures or want to limit them to very specific breaches as they affect the EU budget.

The mechanism agreed with the European Parliament would require member states allocated funding from the EU’s budget, including the recovery fund, to respect the rule of law, which is an essential precondition to comply with the principles of sound financial management enshrined in Article 317 of the Treaty on the Functioning of the European Union. Approval of the own-resources decision as soon as possible is critical to allow the recovery fund to support member states, through grants and loans, to deal with the impact of the Covid-19 crisis and to recover from it. I regret that Hungary and Poland are not yet in a position to support the MFF agreement and own-resource decision due to their opposition to the rule of law mechanism.

However, I am hopeful that a compromise solution can be found and it is my understanding that the German Presidency will continue to work towards a reasonable solution.

While member states are entitled to use their veto on such matters, this is not the spirit in which we would have hoped to see the matter approached. It is in the interests of all member states to agree the MFF-Next Generation EU package so that moneys from the recovery fund can start flowing as soon as possible in 2021 but it is also an expectation from Ireland and many other countries that the legitimately held concerns on the application of the rule of law across the European Union would be respected as well.

Deputy Cian O’Callaghan: I am a little concerned about the talk of a compromise position because what was already agreed with the European Parliament was, in effect, a compromise position. It is a limited provision. It is important that we stand firm on the very limited provisions agreed given the attacks on press freedom, the independence of the judiciary, civil society organisations and the LGBT community, including through the establishment of so-called LGBT-free zones in Poland. Given the gravity of the situation and the importance of insisting that democratic and human rights are upheld in all parts of the European Union, we cannot countenance breaches of the rule of law anywhere within the EU. Instead of talking about a further compromise or diminution of the provision, does the Minister not agree that we need to stand our ground? There has been slippage for ten years and it is time for the European Union to stand its ground.

Deputy Simon Coveney: I do not disagree with the Deputy’s concerns but we still have to find a way forward. That is the nature of politics. It is the responsibility of whoever holds the Presidency of the European Union to try to find a way forward. Respect for the rule of law is one of the EU values enshrined in the treaties, alongside respect for human dignity, equality and human rights, including the rights of persons belonging to minorities. Ireland is a firm supporter of these EU values. Hungarian Government reforms, mainly in the justice area, give rise to concerns about fundamental principles of the operation of the rule of law, including judicial independence, media freedom, academic freedom and the protection of civil society organisations and human rights defenders. There have been a number of hearings at the General Affairs Council over the past two years involving the Commission, Hungary and other member states. We have actively participated in these hearings and we will continue to do so, highlighting the importance we attach to respect for the rule of law.

Likewise, Polish Government reforms, mainly in the justice area, give rise to concerns around fundamental principles of the operation of the rule of law, including legal certainty, the separation of powers, shielding of the judiciary from undue influence from other state powers and security of judicial tenure. There is also concern about LGBTI issues that have legitimately been raised in this House.

I share the Deputy’s concerns. The European Union is taking a stand on the issue. President von der Leyen has been very strong on it in a number of statements. The European Commission is taking this very seriously and member states, by and large, are supporting the Commission in that. However, we have two and possibly three member states supporting the Hungarian and Polish position, as Slovenia may well also support them.

An Leas-Cheann Comhairle: I thank the Minister. We are well over time.

Deputy Simon Coveney: We need to find a way forward that respects the values of the EU

but that also allows us to go ahead with the budget.

Deputy Cian O’Callaghan: I agree with the Minister that we need to find a way forward on this. For a decade, we have seen the undermining of democratic and human rights in parts of the European Union. At the same time, we have seen billions of euro in European Union funding flowing into these countries. The measures proposed currently are very limited. I do not believe they go far enough. They are as much of a compromise as we could possibly countenance. In terms of a way forward, if the veto continues to be used to block the budget, will Ireland support the other 25 European Union countries going ahead with the transition fund and the EU budget rather than allowing a few countries that are not willing to sign up to a very basic set of rules in terms of the rule of law to block progress?

Deputy Simon Coveney: Ireland has welcomed the agreement reached on the rule of law conditionality mechanism, which has been an important issue for Ireland and for the wider MFF negotiations. We support the current text as the best possible compromise available. The agreement has a broader scope than the Presidency proposal and we have welcomed it as an improvement on the original text from 2018. Ireland has consistently supported the position of like-minded member states on the importance of introducing strong and effective rule of law conditionality through this type of mechanism. The agreement means there will be consequences for member states for breaches of the rule of law. It signals that rule of law issues are important for the EU.

That said, as I indicated at the outset, we must find a way forward on this. There are a number of issues that risk significant divisions within the European Union and this is one of them. Migration and migration law is another. One of the challenges for the European Union is to find a way of ensuring that we take seriously the values of the Union, which hold us together, and that there are consequences for countries that move away from that value system, at the same time as finding a way of moving the budget process forward because many countries, including Ireland, rely on the budget mechanism to function. I hope the German Presidency will be able to find a way forward that is acceptable to everybody.

Middle East

3. **Deputy John Brady** asked the Minister for Foreign Affairs if the Government will be seeking compensation from the state of Israel for the destruction of infrastructure paid for by the Irish taxpayer by Israeli forces. [38305/20]

Deputy John Brady: Has the Irish Government sought compensation from Israel for its ongoing, systematic destruction of Palestinian homes and other infrastructure such as schools? I know other European countries have asked for compensation from Israel? Has the Government considered this? Has it carried out an assessment of how much Palestinian infrastructure that was provided by Irish taxpayers’ money has been destroyed by the Israeli strategy of demolition?

Deputy Simon Coveney: We have discussed this matter of demolitions and settlements before at Question Time. The demolition by Israeli authorities of private property is of grave concern. Demolition and confiscation of humanitarian assets, including education infrastructure, is contrary to Israel’s obligations under international humanitarian law, particularly the Fourth Geneva Convention. The only conclusion we can draw from the systematic nature of these

policies, especially in areas where illegal Israeli settlements have already been constructed, is that they are aimed at forcing Palestinians off their land.

Ireland regularly conveys its views on these actions to the Israeli authorities, both directly and through the EU. I have also raised the issue on my visits to the region on numerous occasions. I issued a statement on recent demolitions on 6 November in which I underlined that destruction of private property such as this is clearly prohibited under international humanitarian law. Ireland, the EU and the wider humanitarian community are supporting impacted communities.

My primary concern is the hardship and injustice that demolitions and confiscations cause for Palestinian families. It is of additional concern when those structures confiscated or demolished are donor-funded. It is important that the question of recompense for humanitarian relief funded by our taxpayers should be pursued. Ireland pursues this matter issue consistently through the West Bank Protection Consortium, which plays a leading role in supporting threatened communities from forcible transfer, co-ordinating the provision of essential services to them, including material and humanitarian assistance and legal aid. It is the practice of the consortium to raise the issue of compensation directly with the Israeli authorities and to date, the consortium has sought compensation of over €625,000 in respect of confiscated or demolished assets. In other words, we believe that we can be more impactful and effective if we work with other countries in a consortium like this, which involves some other EU countries as well, and we help to fund activities such as legal action taken on the back of these cases of demolition and confiscation.

Deputy John Brady: I thank the Minister for his reply. I appreciate what he said. I also appreciate some of his recent statements on the illegal demolition of Palestinian homes in the West Bank. He indicated that he has raised these matters with Israel and also through the EU, but his intervention is having absolutely zero impact. Belgium made a decision to seek compensation and it has been refused. If nothing else, it is important to draw attention to this aspect. It is another strategy to pursue.

A recent statement by the Israeli foreign minister indicates that whatever we are saying is having no effect. He stated that donor states should use their taxpayers' money for the funding of legal constructions and projects in territories that are controlled by Israel, thereby ensuring that they are planned and executed in accordance with the law and in co-ordination with the relevant Israeli authorities. What we are saying is having no impact. It is time to take action and stop the illegal actions by Israel.

Deputy Simon Coveney: We are taking action. I understand the frustration in this House about the Israel-Palestine matter in general. I am glad it is raised every time I take questions. However, I assure the Deputy that we are using all the tools we think can be most persuasive in bringing about change in that relationship. We potentially have an opportunity, with a change of US President, to be able to refocus on the Middle East peace process and the relationship between Israelis and Palestinians. I want Ireland to be in the middle of the discussion using the context we have raised and the relationships we have to try to ensure we can assist in a process of moving forward a peace dialogue that ensures equality of esteem for both sides. That is so we can work constructively towards the creation of a two-state solution, with two states living side by side in peace. It is why I am vocal, publicly and in this House, on these matters on a regular basis. I am happy to engage with other parties on that.

Deputy John Brady: The Minister mentions the new US Government and US President, who will take office in January. Nevertheless we are seeing a ratcheting up of illegal settlements and just this week we have seen tenders approved for 1,200 illegal settlements in north Bethlehem. This week, ten families have been ejected from their homes to allow for military manoeuvres in the West Bank. It is a systematic attempt to destroy any prospects of a two-state solution.

We can consider planning, particularly in area C of the occupied territories, where only 2% of planning permission applications are granted by Israel. At the same time we have seen the systematic destruction of homes, schools and other humanitarian infrastructure. It has gone well beyond the point of issuing statements of condemnation or speaking quietly in the ear of the Israeli ambassador. Now is the time to take action.

This Sunday marks the UN day of solidarity with the Palestinian people. We need to express solidarity but Palestinians need to see definitive action. Ireland can take the lead by having a strategy of confronting the illegal actions of the Israeli state. We can start by issuing a compensation bill for the demolition of settlements.

An Leas-Cheann Comhairle: I have given great lenience, like Santa Claus. I must act in fairness to the other Deputies asking questions.

Deputy Simon Coveney: I understand the Deputy's perspective on this. As the Minister for Foreign Affairs, my job is to use my judgment to consider how we can create a position where Ireland can be as influential as possible in the bigger picture. That is how to work with other governments around the world to create an environment where Israeli and Palestinian negotiators can sit around a table negotiating a permanent solution to a conflict that has been going on for decades. That is the issue. Of course, there is also the question of how we ensure we are both consistent and credible in our constructive criticism of the actions taken primarily by Israeli authorities. If there are other violent actions involving Palestinians, we must also be consistent on that. I have been very consistent in calling out breaches of international and humanitarian law. I will continue to do that while trying to ensure we can maximise Ireland's influence on the bigger picture as well.

Passport Data

4. **Deputy Marian Harkin** asked the Minister for Foreign Affairs his views on the feasibility of the State introducing a Covid-19 stamp on passports to demonstrate that travellers have received the vaccination against the virus. [38293/20]

Deputy Marian Harkin: I ask the Minister his view on the various different proposals that we might have immunity stamps on passports or, more likely, digital identities created to show that a person has been vaccinated against Covid-19 for the purposes of travel, both in Europe and with long-haul travel.

Deputy Simon Coveney: Passports are internationally recognised travel documents that attest to the identity and nationality of the bearer. The Irish passport is an invaluable identity document and its integrity is paramount to the maintenance of the level of visa-free access that Irish citizens enjoy to 93 countries worldwide today. Any changes to the format of the Irish passport must be fully compliant with International Civil Aviation Organisation, ICAO, regula-

tions and standards. The ICAO is a UN specialised agency which defines in detail the required format for a passport.

My Department currently has no plans to introduce a Covid-19 stamp on passports to demonstrate that travellers have received any vaccination against the virus. All passengers arriving to Ireland from overseas, with limited exemptions, are required to complete a Covid-19 passenger locator form. The form supports a system of engagement with arriving passengers, including the targeting of key public health messages through SMS and email. The form can also be used for contact tracing. The Covid-19 passenger locator form is now an online form.

The Government decided at its meeting on 10 November that persons claiming an exemption from the request to restrict their movements on the basis of a negative PCR test up to three days before departure will be required to indicate on the passenger locator form that they have had such a test. This will require a further amendment to the passenger locator form and work is under way within the Department of Health and across Government to give effect to this decision. It may also be possible to include vaccination data when the vaccine becomes available which will provide further reassurance with regard to international travel.

Deputy Marian Harkin: I thank the Minister. I agree with his comments on Irish passports and their value when travelling. He spoke about the passenger locator form but that relies on goodwill and people following the rules. Many people follow them, and many more will, but it is not evidence-based. The aviation sector is so important to our economy, particularly our tourism sector and in that context, are there any discussions at European level on this? I know that it will have to be at that level. Are there any discussions around this issue? Maybe the information does not need to be a passport but could be in the form of a digital app or digital identification stating that a person had been vaccinated. If one listens to the head of Qantas or other airlines, it seems that this is coming down the track. There have been discussions in the UK Parliament about it. Are we preparing for this eventuality?

Deputy Simon Coveney: Yes. We would like to see more co-ordination at an EU level although there has already been quite a lot, in terms of the traffic light system which is now providing a lot more certainty. The truth is that very few people are travelling anyway. The Government guidelines are very clear that any international travel should be limited to essential travel under level 5 restrictions but we are working towards a situation where we hope that can change as we move into next year.

The passenger locator form is not something that relies on goodwill or voluntary co-operation. It is a legal requirement to fill out a passenger locator form on entering the country. It is also a legal requirement to fill it out accurately. If a person puts false information on the passenger locator form, he or she is breaking the law and the penalties for that are quite severe. Travellers who are exempt from the restrictions because they are essential workers or because they have taken a PCR test and are coming from an orange region will have to include that information on the passenger locator form and do so truthfully. Otherwise, they are breaking the law. I hope we will be able to accommodate something similar when vaccination becomes available so that people coming into Ireland who have been vaccinated can complete a passenger locator form that recognises this fact. Obviously, we will have to take public health advice on this but my expectation is that if people are vaccinated, they will be able to avoid the restrictions that currently apply to international travel, particularly those arriving from orange locations. We are working on this and the more we can do together, across the EU, the more effective it can be. However, Ireland needs to protect its citizens against the potential threat of a reseeded of the

virus through international travel. We must be careful.

Deputy Marian Harkin: I agree with the Minister that we need more co-operation and co-ordination at European level. The Minister talked about the traffic light system and said that the passenger locator form is a legal requirement, which it absolutely is but the truth is that there is little follow-up. How do we know that the terms and conditions are being adhered to? How many people have travelled through Dublin Airport since we have put it in place and how many have been prosecuted for not filling it out? Some people do not, although the vast majority do.

When the vaccine becomes widely used, more people will travel and unless we want to restrict that travel, we need to find a way to make it work. I am asking the Minister to think about that and to start planning for it.

Deputy Simon Coveney: I can assure Deputy Harkin that we are thinking about it and have been thinking about it all year in the context of international travel. It would be safe to say that Ireland has been one of the most restrictive countries in the EU in terms of international travel. We have taken a lot of criticism from the airlines and there has been huge frustration at our airports because of that. We believe it is for good reason, despite the fact that Ireland, arguably, relies on air travel more than any other country in the EU, with the possible exceptions of Malta and Cyprus. We want to try to change our approach while making sure that we are continuing to be compliant with public health advice. We do not want, following enormous efforts and sacrifices from people, to reintroduce the virus again through international travel, which is a danger if it is not managed right. This is a difficult balance to get right.

We have also made the decision that we are not going to have mandatory quarantine, enforced by knocking on people's doors. Instead, we have introduced a mandatory element to the policy in the context of the passenger locator form and the legal requirement to fill that out accurately. It is not a perfect system but by and large it has worked reasonably well. It has limited international travel significantly and has kept the number of clusters linked to such travel to a very low level. That is not to say it is perfect but we will continue to try to evolve this policy in a way that facilitates international travel but in a safe way.

Ceisteanna Eile - Other Questions

Shannon Airport Facilities

5. **Deputy Catherine Connolly** asked the Minister for Foreign Affairs his plans to raise the ongoing use of Shannon Airport by the US military with US President-elect Biden, particularly in view of the fact that from January to October 2020, 65,965 US military personnel transited Shannon Airport; and if he will make a statement on the matter. [38480/20]

Deputy Catherine Connolly: My question is a direct one. What are the Minister's plans to engage with the new President of America, Mr. Joe Biden, in respect of the continued use of Shannon Airport by American troops, given that this year alone 65,965, or almost 70,000, troops have passed through in ten months which is more than in any year from 2014 to 2017?

Deputy Simon Coveney: This Government has offered congratulations to President-elect Biden and Vice President-elect Harris. We look forward to working with the new administra-

tion, once it is in place, to progress international peace and security, including during our time on the UN Security Council and on the important global challenges of Covid-19, economic recovery and climate change.

Deputy Connolly refers to the use of commercial aircraft by the US Government. While the Department of Transport has primary responsibility for civil aircraft, I would note that the use of Shannon Airport by the US military is a long-standing practice which has been in place for over 50 years. I am satisfied that this practice is fully consistent with Ireland's policies, including our traditional policy of military neutrality. This policy of military neutrality, together with our international activism on issues such as disarmament, international crisis management and peacekeeping has helped us to speak with a distinctive and independent voice on many of the key challenges facing the world in relation to the maintenance of international peace and security.

Our relationship with the US is strong and deep and it is this Government's intention to work with the new Administration on strengthening that relationship through building on those long-standing and close political, diplomatic and economic ties.

I have addressed, as have other Ministers, the issue of the facilitation of planes coming through Shannon Airport on many occasions. There are safeguards in place. I do not propose to make a significant issue of this with the incoming administration in the US unless there is very good reason to do so.

Deputy Catherine Connolly: There is actually a very good reason to do so because America has been involved in many wars. The figures are shocking. I hope the Minister would use his voice for the sake of peacekeeping rather than peace enforcement. According to the UN Refugee Agency, 79.5 million people were displaced in 2019. Of those, approximately 39 million were displaced as a direct result of America's involvement in wars since 2001. A great number of soldiers and military flights go through Shannon on their way to creating mayhem. I am disappointed that the Minister will not make it an issue. I would have thought it the perfect time to make an issue of it. This small country can stand as an independent voice for peace in the world, set out a new way and begin to remove the military presence from Shannon.

Deputy Simon Coveney: I agree with the Deputy on many things in respect of Ireland's role in the world and being a voice advocating for human rights, peace and peacekeeping. We do advocate for all of those things. These are some of the reasons we fought so hard for a place on the UN Security Council, beginning 1 January. The priorities we have set for our term on the Security Council are built around peace, peacekeeping and holding countries to account for their actions under international law. That is what we campaigned on and that is why we got significant support from UN member states, particularly small countries and countries that have been impacted by conflict. Many such countries trust Ireland to be a voice to which they can speak, knowing that they will be listened to. They see us as a country that will advocate for their concerns. That is not in question. I do not extend that argument, as the Deputy does, to suggest that having these objectives requires us to stop facilitating something that has been in place for more than five decades. We are talking about a country with which we want to work to advance our principles and policies internationally.

Deputy Catherine Connolly: It is not possible to advance those principles and policies if we are facilitating war, and we are facilitating war. Almost 3 million soldiers have passed through Shannon Airport since 2002. Some 475 American planes have landed and 734 over-

flight permissions were granted in 2019 alone. It is not possible to promote peace if we are facilitating war. It is simply not possible; they do not go together. The argument that we must continue with this because it is long-standing practice is the weakest I have ever heard propounded. Later on today we will be talking about the appointment of judges, which also involves long-standing practices. Being of long standing does not make a practice right. In this situation, it is all the more important. I have read out figures that are absolutely damning with regard to the number of people displaced. The trend is such that these millions of people will not be able to go back to their countries. That is what the UN Refugee Agency has noted. War is a primary cause of that displacement and, given our history, we should be the strongest voice in promoting peace. It is not possible to do that while facilitating war by allowing military use of Shannon Airport.

Deputy Simon Coveney: With respect, the way for Ireland to maximise its influence to promote peace is to build relationships with countries all over the world that are involved in conflict so that we can try to influence the decisions they make. That is how the world works when it comes to international politics, as opposed to countries taking stands that may sound good domestically but which get nothing done internationally.

With regard to the use of Shannon Airport, the practical implementation of the conditions for granting permission for landings by foreign military aircraft is guided by and reflects Ireland's traditional policy of military neutrality. Conditions routinely applied include that the aircraft must be unarmed and carry no arms, ammunition or explosives; that they do not engage in intelligence gathering; and that the flights concerned do not form part of military exercises or operations. These conditions apply equally to military aircraft from all countries, including the US, seeking to land in Shannon or elsewhere in Ireland.

Brexit Negotiations

6. **Deputy Christopher O'Sullivan** asked the Minister for Foreign Affairs the status of negotiations between the European Union and the United Kingdom with regard to the future relationship; and if he will make a statement on the matter. [38449/20]

40. **Deputy Éamon Ó Cuív** asked the Minister for Foreign Affairs the progress to date with the Brexit discussions between the EU and Britain; and if he will make a statement on the matter. [38364/20]

Deputy Christopher O'Sullivan: For clarity at the outset, as this question is grouped with Deputy Ó Cuív's Question No. 40, am I correct in saying that both Deputy Ó Cuív and I will get two one-minute slots each for supplementary questions after the initial question?

Acting Chairman (Deputy Aengus Ó Snodaigh): Yes. There is to be one 30-second introduction, then the Minister will respond. Both Deputies will then be allowed supplementary questions if the Minister proposes to take the questions together.

Deputy Christopher O'Sullivan: Very good. I seek an update on negotiations between the EU and the UK in respect of Brexit.

Deputy Simon Coveney: I propose to take Questions Nos. 6 and 40 together. Negotiations on the EU-UK future relationship have entered an even more intensive phase since 21 October,

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with negotiating teams working daily to close the gaps between the two sides. Due to a member of one of the negotiating teams falling ill with Covid-19, talks at chief negotiator level were temporarily suspended late last week. The talks have now resumed and the negotiating teams are continuing their work online.

A brief update on Brexit was provided by President von der Leyen at a videoconference of EU leaders on 19 November. On 20 November, she noted that recent days had seen movement on some of the key areas, including that of state aid, although further work remains to close the remaining gaps. That is now the focus of the negotiating teams.

The Deputies will appreciate that this process has reached a particularly sensitive point. It is clear that unlocking a deal will only be possible if appropriate arrangements are found with regard to the key issues of the level playing field for open and fair competition, governance and fisheries, a key national interest for Ireland.

In intensifying the negotiations in October, both sides agreed that regardless of progress in individual workstreams, nothing is agreed until an overall agreement is reached. Nevertheless, we understand that progress has been made in recent weeks in a range of other areas of importance to Ireland, including connectivity and police and judicial co-operation.

Any deal must involve compromises on all sides but a deal cannot come at any price. The EU cannot accept proposals that impact on the integrity of the Single Market or damage the long-term political and economic interests of the Union. We recognise that the UK also has its red lines. The work of the negotiators is to find a set of arrangements that respects both EU and UK values and interests and which gives us a strong and sustainable framework for the vital co-operation between us in the future.

Michel Barnier has our full support, and the support of the entire EU 27, at this crucial moment in the negotiating process. As the EU's chief negotiator, he has been central to the united and cohesive approach of the EU 27 throughout the Brexit process, including during its most critical moments. The universal confidence and respect he inspires in EU capitals is testament to his efforts.

My colleagues in government and I have remained in close contact with our European counterparts over recent times. I acknowledge the absolute and unflagging support and solidarity our EU partners have demonstrated throughout the Brexit process. They have always recognised the unique ways in which Ireland, North and South, is affected by Brexit. This concern has expressed itself through the EU mandate and draft legal text and through the words and actions of our partners. I have no doubt that we will continue to enjoy their solidarity.

Irrespective of the outcome of the ongoing negotiations, the end of the transition period will bring substantial and lasting change. This means that business and citizens must take action now to be ready for 1 January. I particularly emphasise that, with or without a trade deal, any business that moves goods from, to or through Great Britain will be subject to a range of customs formalities, sanitary and phytosanitary checks and other regulatory requirements that do not apply to such trade today.

I also take this opportunity to remind the House that, regardless of the outcome of the talks, the full, effective and timely implementation of the withdrawal agreement, including the protocol, remains vital and that this is an internationally binding legal obligation on both sides. The protocol on Ireland and Northern Ireland is explicitly designed to operate regardless of whether

an EU-UK future relationship agreement is in place. I look forward to updating the House further as developments in the negotiations arise. There are certain things we cannot say right now. The negotiations are difficult at the moment but we are hopeful they can have a positive outcome.

Deputy Christopher O’Sullivan: I appreciate that the Minister is restricted in some of the things he can say. Negotiations are obviously at a sensitive stage. I do not envy the Minister his job but I certainly appreciate his dedication to finding a resolution.

I will focus on the fishing industry and fisheries. I read a concerning report in *The Irish Times* today to the effect that France is seeking the lion’s share of the €5 billion compensation fund. That will create a major concern for the Irish fishing fleet and industry. I am keen to hear an update, if possible, on where fisheries stand.

There are two aspects to this. The first is future access for the Irish fleet to UK waters. The Minister knows well that the Irish fleet relies heavily on UK waters for its current catch. The second is the issue of compensation and where we stand on the Irish fleet getting its fair share of the €5 billion compensation fund.

Deputy Éamon Ó Cuív: Does the Minister agree that it is in Ireland’s overwhelming national interest that an agreement be reached between the EU and the UK rather than having a no-deal Brexit? Will he indicate the absolute latest date for this? Is 31 December the latest date by which we can come to an agreement? Could an agreement signed as late as the end of next month be ratified after 1 January? There are reports that this might be possible and that the talking might go on until the last minute. If this is necessary, we should do it ensure no stone is left unturned in trying to reach an agreement between the European Union and the UK. Ireland will be the big loser in the absence of an agreement.

Deputy Simon Coveney: I will address Deputy Ó Cuív’s questions first. I will then respond on fishing, although I imagine Deputy Ó Cuív is interested in fishing too in the context of Ros an Mhíl and other ports.

First, we want a deal. That is absolutely the case. We have been working towards that end for four and a half years now. Since the UK made the decision to leave the European Union, we have been working with all sides to try to find a fair and acceptable deal that protects Irish interests, Ireland’s place in the EU Single Market and our relationship with the UK, especially in the context of relationships on the island, North and South. It has been an incredibly complex process. So far, Irish interests have been factored in to the solutions that have been agreed. We must try to ensure that the final agreement on a future relationship and a trade agreement can be reached in a way that does the same. However, that is not easy and the outstanding issues around fair competition, fisheries and governance in respect of the level playing field are proving difficult to make progress on, if the truth be told. I hope the negotiators will be able to do that.

I was asked about the timelines. I have said this more than once that we are running out of time. There is a ratification process that will take several weeks. The commitment from both sides is to get a deal done and ratified before the end of the year. Legalities and the obligations on trade change from 1 January when the UK will be outside the customs union and the Single Market. This has consequences and could be singularly disruptive, in particular for Ireland and Britain but also for some other EU member states. The incentive to get a deal is strong given

the cost of failure.

As a former Minister with responsibility for fisheries, this issue is one in which I am especially interested. I have spent many hours discussing how to find a way forward on fishing that is fair to the Irish fishing fleet and that protects their interests. We are trying to find a way in these negotiations to ensure fishing is part of a broader agreement. This broader agreement should recognise that the UK is being accommodated in terms of accessing EU Single Market areas, whether on energy, aviation, road haulage, data, data security or financial services. The EU has a legitimate request in accessing UK waters in the context of its legitimate fishing interests that go back many decades. We are looking for a fair outcome. We also want to ensure that, whatever the outcome, there is fair burden-sharing across the European Union and that any support packages are available.

Acting Chairman (Deputy Aengus Ó Snodaigh): The Minister will have another opportunity to contribute on this question.

Deputy Simon Coveney: I am interested in fish, first and foremost, and in keeping the fishing industry intact, as opposed to relying on compensation.

Deputy Christopher O’Sullivan: I am fully aware that the Minister has a keen interest in this issue as a former Minister with responsibility for the fisheries sector. He is a keen mariner and he is familiar with Cork coastal communities such as those in Kinsale, Union Hall and Castletownbere, which is the biggest fishing port. He is aware of how important access to UK waters will continue to be for these fishing communities. He is also aware of the devastating impact that not having access to UK waters would have on the industry and the communities it serves. I ask him to elaborate on that a little.

The Minister stated that his interest is in fish. Protection of fish stocks is absolutely vital. What if European vessels are frozen out of UK waters and boats from France and Spain come to Irish waters instead? Our waters are incredibly rich and we are lucky to have them. In such a scenario we could jeopardise fish stocks and biodiversity as well as an industry that is important to the country. I ask the Minister to elaborate a little on that.

Deputy Éamon Ó Cuív: Does the Minister agree that, in the event of a no-deal Brexit, Northern Ireland, as compared to anywhere else in the European Union, including this State, will be in a uniquely favourable position with tariff-free access to both the British and European markets? Moreover, it will be the only sterling area within the Single Market. Are there concerns in the Government about the disadvantage that would put this part of the island at in the event of a no-deal Brexit?

Deputy Simon Coveney: The fishing question is about access, quota share and fleet displacement. We are trying to ensure our fishing interests are protected in all these areas. The danger is that the conversation moves to compensation as opposed to protection of fishing interests and access to quota share. I have tried to resist that throughout this process. First and foremost, the Government and I are interested in protecting fishing interests to ensure we have a fishing industry in future. The issue of the Brexit adjustment fund and what proportion of it goes to fishing and so on is separate. I have had conversations with the Commission on the matter. I am confident that Ireland will do well in the context of the Brexit adjustment fund, but it should not be seen as a fisheries fund. Many other areas are being disrupted and will need financial support to help them to get through that disruption. Help will be needed to reconfigure

and reshape certain sectors of our economy linked to Brexit.

For me, fishing is about trying to hold on to as many fishing opportunities as possible across the pelagic and demersal sectors. What we are seeing in the negotiations is a breakdown of the sector stock by stock and a discussion between the two negotiating teams on access and quota share. We need to continue to deliver this while also ensuring that the issue of fish is part of the broader negotiation and not isolated from the other issues. I believe it would be dangerous for us to move there.

I will make one final point as there were two questions.

10 o'clock

We must talk more about the advantages for Northern Ireland and the all-island economy that will come from the full implementation of the protocol here. It is an extraordinary position for the EU to have granted Northern Ireland full, unfettered, tariff and check-free future access to the Single Market of 450 million consumers. That is in addition to ensuring unfettered access for Northern Ireland into Great Britain. There is an upside to that which we should see and share with Northern Ireland, as opposed to seeing it as a threat. We should view Ireland as an island for economic purposes and as an all-island economy, and we should ensure that the protocol works in that context.

EU Issues

7. **Deputy Barry Cowen** asked the Minister for Foreign Affairs his views on whether the actions taken by Hungary and Poland are undermining the effective functioning of the European Union; and if he will make a statement on the matter. [38445/20]

9. **Deputy Paul McAuliffe** asked the Minister for Foreign Affairs his views on Poland and Hungary blocking coronavirus recovery funding due to it being linked to the rule of law; and if he will make a statement on the matter. [38266/20]

47. **Deputy Cormac Devlin** asked the Minister for Foreign Affairs the action being taken to ensure that the rule-of-law mechanism will be effective in the EU budget discussions; and if he will make a statement on the matter. [38456/20]

54. **Deputy Brendan Howlin** asked the Minister for Foreign Affairs his views on the action of Poland and Hungary in vetoing the multi-annual budget and recovery programme of the EU; the way in which he sees the requirement for member states to adhere to the common values of the Union; and if he will make a statement on the matter. [37954/20]

Deputy Barry Cowen: I acknowledge that the Minister answered a similar question earlier and went into great detail. I just want to seek his response to and comments on reports regarding the Hungarian justice minister's comments on reported plans to set up a rule of law institute, hitting back at criticisms regarding the decline in democratic norms in the Poland and Hungary. She also stated that it was "hoped to bring other countries in the region into the initiative". It is quite inflaming, to say the least, and I would like to hear the Minister's response, notwithstanding the commitments to which he alluded regarding the German Presidency's efforts to resolve this issue and bring it to a conclusion. I am also conscious that two years' of hearings have taken place concerning the issues being raised by these two countries regarding others'

impressions of them.

Deputy Simon Coveney: I propose to take Questions Nos. 7, 9, 47 and 54 together. I thank the Deputy and I share his concerns. I outlined in my earlier reply the state of play on efforts to reach agreement on the MFF and the next generation EU recovery package. I am confident that the German Presidency will ensure that clear rule-of-law conditionality is retained. A prolonged delay in releasing funds to vital EU programmes due to continued objections from Poland and Hungary would have a negative impact on the EU's efforts to deliver recovery across the Union.

More broadly, Ireland is a firm supporter of the rule of law and the values of the EU enshrined in Article 2 of the Treaty on the European Union. We believe it is vital for the EU to have the necessary tools to monitor possible breaches across member states and to respond effectively to challenges when they arise. The EU must insist on the highest standards from its own member states if it is to remain an effective advocate for the rule of law globally. Indeed, the very credibility of the Union is at stake. We have, therefore, supported strong and effective rule of law provisions to protect the EU budget. Once the regime of conditionality is introduced, Ireland will support its fair, proportionate and effective implementation.

It is important to recognise that this regime of conditionality would strengthen the range of existing tools available to the EU for monitoring, promoting and enforcing the rule of law. These include the ongoing Article 7 proceedings against Hungary and Poland, under which there have been several hearings at the General Affairs Council. Ireland has been an active participant in these hearings and will continue to be.

We have also welcomed the publication of the Commission's first annual rule-of-law report this year, which presents a broad overview of the rule of law situations across member states and the EU as a whole. It provides a valuable, impartial assessment of both the positive and negative developments relating to rule of law. We actively engaged with the Commission in the preparation of the Ireland chapter of the report and we welcome the independent and impartial review of rule of law in Ireland. We look forward to discussing the Irish chapter of the report with fellow member states at a meeting of the General Affairs Council during the Portuguese Presidency in 2021.

Deputy Barry Cowen: I thank the Minister for his reply. I reiterate, from my perspective and that of many others, our acknowledgement of the ongoing politicking taking place within the EU in an effort to address this issue, notwithstanding the ongoing efforts to which the Minister referred and the hearings that have been taking place for the past two years. Our ability to respond effectively to Covid-19 and its impact on economies across Europe is now being threatened by the protracted delay in respect of this issue. Next generation funding is particularly relevant to assisting us across a wide range of areas. Even the Common Agricultural Policy budget is supplemented with funds contained within the next generation allocations.

It is imperative, therefore, at this critical crossroads for our economy and for the economies of other member states and in the context of our response to Covid-19, that this money begins to flow in respect of the assistance available to us in the form of financial measures and packages to help and assist various sectors. I ask the Minister to impress upon our colleagues the need for them to revitalise their efforts to ensure that this issue can be resolved amicably but quickly.

Deputy Simon Coveney: I could not agree more with the Deputy. We just spoke about the

potential disruption of Brexit in the context of a deal or no deal, particularly in areas such as fishing and agriculture. We have a €5 billion Brexit adjustment reserve waiting to be allocated and Ireland is certainly going to be first in line for that funding because of the levels of disruption with which we may have to deal. We have, however, potential delays now in sanctioning and progressing EU expenditure because of a separate, but linked, issue in respect of accessing EU funds.

This is something on which the EU collectively has to find a way forward, without undermining its credibility and value system and recognising that the majority of EU member states have a genuine concern regarding the rule of law and its application, and that there be a link between that and the availability of financial resources. We are lucky to have the German Presidency in place now. It is putting in a significant amount of work to resolve this issue and find a way forward, and we support the German Presidency in that endeavour.

Deputy Paul McAuliffe: I thank the Minister for his comments. There has been debate on this issue already and I will not extend it. A sum of €2 trillion is an eye-watering amount of money, but even that amount is not enough to entice Europe to deviate from its values. Many in the UK argued for a long time that the EU is a Common Market rather than a Union. That is an important aspect in respect of how we consider this matter. Ultimately, the EU is more than a Common Market. It is a Union and, ultimately, a peace project and at the heart of peace are key values. Freedom of the press, freedom of civic space, lack of interference with the judiciary, etc., are important values. I also believe that the way we can tackle the popular right in Europe is by tackling disadvantage and issues in our communities. We do that through budgets like this one, so I impress upon the Minister, as a representative, and on the Taoiseach the need to stand by this position.

Deputy Simon Coveney: The European Union is much more than a Single Market and an economic opportunity for its member states. It is a political union, where there is agreed pooled sovereignty in certain areas, a value system and a vein running through all member states ensuring certain standards are maintained and protected that are core to democracy. It is a value system which allows the European Union to be a credible example of a multilateral system and project that secures peace and protection of its own citizens, but also to be an example internationally for how democracy, the rule of law, a legal system and an acceptable social safety net for people should actually function. While countries will have different policies in different areas, the value system across the European Union must be consistent. It is the job of the European Commission to be the guardian of the treaties and the value system linked to those treaties. That is what is at stake here. This is not just a difference in policy approach on a certain issue. That is why I believe that the German Presidency is taking this as seriously as they are, and why they have such strong support. That being said, we have to find a way forward because many countries need the application of the budgetary decisions that have been made in recent months, especially in the context of a post-Covid environment.

Acting Chairman (Deputy Aengus Ó Snodaigh): Is there a ceist eile from Deputies Cowen or McAuliffe?

Deputy Barry Cowen: No. I thank the Minister; he has been more than forthcoming.

Deputy Paul McAuliffe: I thank the Minister.

Acting Chairman (Deputy Aengus Ó Snodaigh): We will move on to question No. 10.

Had Deputy Kenny indicated that he wanted to withdraw his Question No. 8?

Deputy Gino Kenny: Before foregoing the question-----

Acting Chairman (Deputy Aengus Ó Snodaigh): We have to take the next one in line, which is Question No. 10, and then it is the Deputy's question after that.

Deputy Gino Kenny: Okay. Is it in order for Deputy Bríd Smith's question to be facilitated if possible?

Acting Chairman (Deputy Aengus Ó Snodaigh): That will be discussed in the grouping of Questions Nos. 11, 24 and 27.

Deputy Gino Kenny: That is fine.

Question No. 8 replied to with Written Answers.

Question No. 9 answered with Question No. 7.

European Council Meetings

10. **Deputy Cian O'Callaghan** asked the Minister for Foreign Affairs if the draft UN treaty on business and human rights was discussed at the European Council; and the position he took on same. [36238/20]

53. **Deputy Cian O'Callaghan** asked the Minister for Foreign Affairs if he supports the draft UN treaty on business and human rights; and if he will make a statement on the matter. [38197/20]

Deputy Cian O'Callaghan: Do the Minister for Foreign Affairs and the Government support the draft UN treaty on business and human rights? What position is Ireland taking with regard to the draft treaty?

Deputy Simon Coveney: I propose to take Questions Nos. 10 and 53 together.

This is somewhat linked to one of the questions I answered earlier. I will happily focus on the UN element of it. As the Deputy will appreciate, it would not be appropriate for the European Council to consider this matter at such an early stage in the process. The appropriate Council working group is engaged on the matter. Ireland participated in a range of discussions, both in Brussels and Geneva, relating to the EU's approach to the sixth session of the open-ended intergovernmental working group on transnational corporations and other business enterprises, which took place from 26 to 30 October 2020.

As I mentioned in my response to an earlier question, the Union delivered a statement and separately raised specific concerns relating to the draft text on behalf of Ireland and other member states. The EU statement is publicly available on the website of the United Nations Human Rights Council. The statement welcomed some of the changes in the latest draft of the proposed treaty, highlighted further necessary changes, and outlined the many measures under way within the EU and across member states to give greater protection to human rights in the context of business activities.

The statement set out continuing concerns including the need for any such instrument to cover all businesses in a non-discriminatory manner; be consistent with the UN guiding principles on business and human rights; be realistically implementable and enforceable; and be supported by a critical mass of UN members.

The EU continues to develop its approach to the proposed legally binding instrument and Ireland continues to support a constructive and engaged approach.

The Deputy may know, separately, that the UN working group on the issue of human rights and transnational corporations and other business enterprises is reviewing implementation of the UN guiding principles on business and human rights and next year, on the tenth anniversary of the unanimous adoption of the principles by UN member states, it will set out proposals for a “decade of action on business and human rights” more generally.

Deputy Cian O’Callaghan: I thank the Minister for the answer. The sixth round of negotiations on this took place in Geneva recently. While Ireland may have been represented in the room, if one counts that as participation, Ireland did not engage in the process and Ireland did not speak up on this. Ireland was silent on it. It is the case that the EU does not have an agreed mandate on this yet and I believe that it should. In the absence of an agreed mandate, and given how long it can take to get consensus on this in the Union and that there may never be consensus on this, I believe it is important that Ireland has a voice in this and is not silent.

Many of the concerns that the Minister raised about this previously, and which he has just articulated again about the treaty, must apply to all businesses to be fair, and not just to transnational corporations. Those concerns have now been addressed in the draft. Will Ireland now support this treaty, engage more, and not be silent at future negotiations?

Deputy Simon Coveney: As I stated previously, the EU made a statement on behalf of its member states at the sixth session of the working group, and raised a number of specific concerns on the draft text. While individual national statements can be important, in this context an EU statement on behalf of the 27 member states carries much more influence. Ireland, alongside fellow member states, helped to shape a coherent EU approach. I am aware that France made a statement, which included reference to some national initiatives while also highlighting some concerns with the current draft of the proposed treaty. These concerns are broadly similar to those reflected in the statement made by the European Union on behalf of member states. Both statements are publicly available on the UN Human Rights Council website. As I mentioned earlier, we are trying to be part of shaping a collective EU approach on this issue. That makes sense for all sorts of reasons in the context of how the European Union operates its Single Market and it applies standards and rules and regulations to businesses within that Single Market. We could do something very significant if we could be part of a group of proactive member states that progressed the issue at an EU level.

Deputy Cian O’Callaghan: I do not agree with the Minister in terms of an approach across the European Union. The issue is that this has now been going on for quite some time. As the Minister correctly said, other member states made a statement, including France. I believe that the Irish people would like to see the Government make a statement on this in future negotiations in the absence of an agreed EU mandate. They would not like to know that our representatives go to these negotiations, do not make a statement and are silent. The Irish people would like to see accountability for corporations and businesses with regard to how their business activities impact human rights, workers rights and climate change on a global scale. It is not

unheard of that a corporation or a business can have an excellent record on these domestically in Ireland and have a poor record abroad. There has to be accountability in this. I urge the Government to be more proactive in this in the future and to be more vocal.

Deputy Simon Coveney: There are two issues here. One is that we have to get our house in order domestically in respect of business and human rights. I answered questions earlier on what we are doing on that score. We have committed in the programme for Government to review what we had been doing for the past number of years so we can be a credible international contributor to the debate on this issue.

Second, at UN level and as an EU member state we must try to do everything we can to shape an approach within the European Union that is consistent across the Union, if possible, and which ensures the Union and its member states, go as far as we can to ensure the Union becomes a leader in the context of ensuring that not only transnational companies but also domestically focused companies are applying by a common standard and factor in human rights considerations in their business models, sourcing models, supply chains and so on.

Human Rights

11. **Deputy Gino Kenny** asked the Minister for Foreign Affairs if he will raise the matter relating to a person (details supplied) with his EU counterparts at upcoming EU-wide meetings; and if he will make a statement on the matter. [38338/20]

24. **Deputy Bríd Smith** asked the Minister for Foreign Affairs if he will report on his discussions with the ambassador of Saudi Arabia on the issue of the treatment and imprisonment of a person (details supplied); and if he will make a statement on the matter. [38336/20]

27. **Deputy John Brady** asked the Minister for Foreign Affairs the status of progress his Department has made towards the release of the women's human rights defender (details supplied) currently on hunger strike in Saudi Arabia. [38299/20]

Deputy Bríd Smith: I thank Deputy Kenny for foregoing his very serious question on abuse of human rights in Palestine to allow me to raise this matter. The reason he did so was that yesterday Ms Loujain al-Hathoul was 1,000 days in custody and had her first appearance in court, having been transferred to the anti-terrorism court by the Saudi regime. Her crime was to have posted on social media posts on women's rights. Ms al-Hathoul was jailed just before driving was made legal for women but she also campaigned on domestic violence against women in Saudi Arabia. Ironically, yesterday was International Day for the Elimination of Violence against Women. I am aware that the Minister has done some work on this but will he please comment on the question I have asked and will he raise the matter further with his EU counterparts?

Deputy Simon Coveney: I propose to take Questions Nos. 11, 24 and 27 together.

I thank the Deputies for raising this issue. Protecting and promoting human rights is a cornerstone of Ireland's foreign policy, as I have said in my answers to most questions. Ireland has consistently supported women human rights defenders and continually advocates for the freedom of all civil society actors to operate in a safe and enabling environment. The detention of human rights defenders in Saudi Arabia is deeply concerning and Ireland has raised our con-

cerns bilaterally with the Saudi authorities. Most recently, on 9 November, the detention and welfare of Ms Loujain al-Hathloul were raised directly by officials from my Department with the Saudi ambassador to Ireland.

Ireland also raises these issues in international forums. At the most recent meeting of the Human Rights Council in October, Ireland co-signed a joint statement expressing deep concern at the ongoing detention of women human rights defenders in Saudi Arabia. Ireland has also co-sponsored resolutions at the Human Rights Council calling on states to investigate alleged human rights violations in the administration of justice and abuses suffered by persons deprived of their liberty.

During the latest universal periodic review of Saudi Arabia's human rights record in November 2018, Ireland raised its concerns about the imprisonment of human rights defenders. Ireland regularly discusses these issues in various EU forums and works closely with other member states to ensure human rights issues in Saudi Arabia are addressed. The EU delegation in Riyadh has raised the cases of the detention of women human rights defenders, including Ms al-Hathloul, directly with the Saudi authorities on multiple occasions and will continue to do so. We welcome the advancement of plans to establish an EU-Saudi Arabia human rights dialogue. This will provide a valuable additional forum to discuss human rights issues, including individual cases. Ireland will continue to take every opportunity to raise this case with all appropriate interlocutors.

Deputy Bríd Smith: Some 31 Deputies and Senators signed an open letter on this matter to the Minister and he responded by sending officials from his Department to the Saudi ambassador. We have to ratchet up our response because Saudi Arabia has certainly raised the bar. Yesterday, Ms al-Hathloul was transferred and she had one day's notice that she was to appear in court after 1,000 days of illegal detention. Her family said they were shocked when they saw her in court. She was shaking uncontrollably and she was very weak. She has been on hunger strike to protest physical and sexual abuse and torture in prison. She is not the only feminist in prison in Saudi Arabia. Saudi Arabia is charging her with crimes that it claims involve espionage and agency work. Espionage and agency work do not get posted on social media to encourage women to fight for their rights. The Minister needs to ratchet it up and call in the ambassador himself, rather than sending officials. I ask him to please call him in and intervene directly and correctly in this issue.

Deputy John Brady: This is not the first time we have looked at the case of this young woman or women human rights defenders in Saudi Arabia in general. There is a growing body of opinion that the loss of international prestige is too high a price for Saudi Arabia to pay and many want this crackdown to end. There needs to be more focus. This particular case is horrific, as has been outlined. Ms al-Hathloul has been beaten, tortured and sexually assaulted and her crime, if any, was speaking out for women's rights and applying for a job in the UN. Women such as Samar Badawi, Nassima al-Sadah and Loujain herself are being subjected to torture, including flogging, electric shocks, sexual abuse and solitary confinement, on a daily basis. They cannot afford to wait for the niceties of international diplomacy to be observed by countries such as Ireland, the UN or the EU. It is time to act and put serious pressure on Saudi Arabia to defend these human rights defenders.

Deputy Simon Coveney: I appreciate the concerns of colleagues about this case and others that have been mentioned. As I said earlier, officials from my Department spoke to the Saudi ambassador to Ireland on 9 November to set out our concerns about the ongoing detention of

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Ms al-Hathloul and the conditions under which she is being held, including the restrictions on visits from her family and other concerns, some of which have been outlined. Ireland also raises concerns about women human rights defenders in Saudi Arabia, including Ms al-Hathloul, as a member of the EU. The UN delegation in Riyadh has raised the cases of the detention of women human rights defenders directly with the Saudi authorities on multiple occasions and at various levels. I welcome plans, which are advanced, to establish an EU-Saudi Arabia human rights dialogue co-chaired by the EU special representative, Eamon Gilmore. This will provide a valuable additional forum to discuss human rights issues, including individual cases such as the one that has been raised. Deputies are asking me to take a more direct approach with the Saudi embassy here in Dublin and I will certainly do that on the back of the requests made today.

Deputy Bríd Smith: A direct approach and as strong an approach as possible would achieve a huge amount more than what has been done so far. It is absolutely required because the Saudi regime, which is very wealthy and powerful and recently hosted the G20 summit, has clearly offered lots of platitudes about human rights. It talked about all the forums the Minister just mentioned and all the dialogue it has but it makes no odds when it comes to the repression of those who seek their own liberty. Due to its wealth and power, it seems to wield an awful lot of influence in the western world. We need to put pressure on the regime by calling in the ambassador and insisting this is dealt with in a humane way, that Ms al-Hathloul is released and that the terrorism charges against her are dropped. Clearly what she is doing is campaigning for human rights.

This is important because the open letter Oireachtas Members sent to the Minister has been circulated in Norway, Sweden and in the British Parliament as an example of how world pressure must be put on the Saudi regime, and other parliamentarians have been asked to follow the Irish model. If the Minister calls the ambassador in and does his absolute best to tell him this will not be tolerated and that it is seriously damaging Saudi Arabia's international relationships, they may well follow the Irish example. I ask him to please do something to set that example on behalf of the women of Saudi Arabia and on behalf of all human rights activists.

Deputy John Brady: The oppressive system of male guardianship within Saudi Arabia is well-documented and restricts women from enjoying the most basic of civil rights, which are taken for granted in this State and in most European countries. Women must gain permission from a male guardian for many of the most mundane and everyday decisions and actions. While Ireland has worked alongside other EU member states to ensure human rights issues in Saudi Arabia are raised with the authorities there, it does not appear to be having the desired effect. I appreciate and welcome that the Minister will take a more direct approach with the embassy here. However, as a nation set to take its seat on the UN Security Council, we also need to utilise our position and status to bring the world's focus onto the plight of oppressed human rights defenders across the globe, particularly in regimes such as that of Saudi Arabia.

Deputy Simon Coveney: I have heard what people have said. I am familiar with the letter and our response to it. I will certainly take on board the Deputies' concerns. I will talk to my team and try to do something as impactful as possible to ensure we impact on the decisions taken regarding the case in Saudi Arabia that has been raised today.

Ceisteanna ar Sonraíodh Uain Dóibh - Priority Questions

Dáil Éireann
Banking Sector

60. **Deputy Pearse Doherty** asked the Minister for Finance if proactive engagement will be undertaken with a bank (details supplied) regarding the reported closure of its branches and operations in view of the recent resignation of its chairman, the involvement of another bank in the strategic review of the operations of the bank and the potential sale of its loan book to a company; and if he will make a statement on the matter. [39489/20]

Deputy Pearse Doherty: Ulster Bank plays a key role in our communities. It supports business, provides local jobs to 3,000 people in towns and cities across the State and has a strong branch network of 88 branches. NatWest, the parent company of Ulster Bank, has undertaken a strategic review of Ulster Bank's operation and its future operation in this State. It has been widely reported that NatWest is considering the full withdrawal of Ulster Bank from the State. The closure of Ulster Bank would be bad for customers, employees and the Irish banking sector. What actions has the Minister taken in recent weeks to deal with this issue?

Minister for Finance (Deputy Paschal Donohoe): As the Deputy will be aware, I met representatives of Ulster Bank on 21 October. I outlined that I expected that staff, customers and other stakeholders would be informed promptly about any decisions being made. I used that meeting as an opportunity to emphasise my concerns regarding the impact of such a decision on the economy, the banking sector, staff and those who depend on Ulster Bank for both lending and investment.

News of the review is unsettling for all stakeholders, especially staff and customers. I outlined to the bank my expectation that it will keep stakeholders, especially its staff, fully informed about any developments in the review and engage with them on any proposals or decisions that result from the review quickly. I also emphasised the importance of Ulster Bank to the Irish financial services market, the wider economy and the communities it serves. Ulster Bank confirmed to me that the strategic review is ongoing and no decision has yet been taken. It also confirmed that there is no set timetable for this review and that it is fully aware of the strategically important role that Ulster Bank plays in the provision of financial services to the Irish market.

The continued presence of a viable and active Ulster Bank in the Irish market would be a very welcome outcome. Ulster Bank is a significant employer and has 88 branches across the country and is very important for competition and services.

I note that the chairman of Ulster Bank has resigned for personal reasons. The bank has stated that his resignation is unrelated to the strategic review.

In the absence of direct knowledge about the involvement of any other party in NatWest's strategic review of Ulster Bank's operations, I cannot comment on possible outcomes but I confirm that I will continue to raise this matter with Ulster Bank and its parent company.

Deputy Pearse Doherty: Last year, Ulster Bank provided €3.1 billion in new lending in this State. It provides 20% of lending to SMEs and has deposits of €22 billion. Ulster Bank is the third largest mortgage lender in the State. Its withdrawal from the State would lead to a duopoly in the mortgage market that would stifle competition and leave us vulnerable to higher interest rates.

Rumours abound that Cerberus, one of the most aggressive vulture funds in the State, is

considering buying the entire loan book of Ulster Bank valued at €20.5 billion. This month we had the premature resignation of Ulster Bank's chairperson, Ruairí O'Flynn, less than two months into the role. This week, it was reported that Goldman Sachs is advising NatWest on the future of Ulster Bank in its strategic review, despite claims from Ulster Bank that this review was internal. It should not be lost on anyone that Goldman Sachs has set up vulture funds in this State to snap up distressed loans. Such a conflict of interest only adds to concerns. Has the Minister in his discussions or consultations with Ulster Bank requested or seen the terms of reference of NatWest's strategic review of the future of Ulster Bank? In line with his remarks to Ulster Bank at the meeting of 21 October and given that Ulster Bank is not keeping staff informed and is not being up front with them, does the Minister believe the staff and customers of Ulster Bank deserve the truth from NatWest? Will he relay that message to them?

Deputy Paschal Donohoe: I will continue to engage on this matter both with Ulster Bank and its parent company. As I said, I am well aware of the significance of Ulster Bank as an employer, a provider of competition and a supplier of services in the country, in particular the branches it has located in areas outside Dublin. It is a very important employer and bank. I emphasise that I and the Government do not have a formal role in this review. This is a bank which is owned entirely by another broader parent company. Notwithstanding that key point, I will continue to raise my concerns regarding the future of the bank in the country with Ulster Bank and its parent company, and its importance as an employer and a retail bank for Ireland.

Deputy Pearse Doherty: The last time the Minister met Ulster Bank on this issue the chairperson was Ruairí O'Flynn, who has resigned from the job after less than two months. Has the Minister had an opportunity to speak to the former chairperson about his departure? Has he asked the CEO of Ulster Bank about the appointment of Goldman Sachs as advisers for NatWest's strategic review into the future of the bank, given its potential conflict of interest? We do not need a passive Minister in this. I understand that it is a private bank and so on, but we need the Minister to ask these questions. Did the CEO inform the Minister of this appointment? Has he been in contact with NatWest in recent days or weeks or, indeed, since 21 October when he last met Ulster Bank?

Last month, I requested that the CEO of Ulster Bank appear before the Joint Committee on Finance, Public Expenditure and Reform, and Taoiseach to answer questions. The CEO of Ulster Bank refused. The finance committee is united in demanding that Ulster Bank appears before it. Will the Minister add his weight to that call?

We all know that the withdrawal of Ulster Bank from the Irish market would threaten competition in the market. No clarity or certainty has been given to staff, customers, mortgage holders and businesses. It is a grave situation. When does the Minister intend to sit down with or speak to NatWest and Ulster Bank again? Has he elicited any of the information that I have provided to him, particularly around the appointment of Goldman Sachs? What are the next steps that he intends to take?

Deputy Paschal Donohoe: The matters the Deputy referred to regarding whose services NatWest and Ulster Bank are procuring are not matters in which I am involved, as the Deputy knows. This is a bank in which the State does not have a formal stake or role. Who it procures to provide services is not a matter in which I have any role. Where I have a role is in relaying the strong concerns I have about changes that could happen in relation to the future of Ulster Bank. Far from being passive on this matter, as I informed the Deputy, I have already met Ulster Bank on this matter and I met the then chairman of Ulster Bank at that meeting. I became

aware of his resignation at roughly the same time it became apparent to the public. I plan to meet and engage with Ulster Bank again in the coming weeks. I will continue to engage with its owner on the matters which, as Deputy Doherty says, are very serious for banking, employees and the economy.

Tax Avoidance

61. **Deputy Richard Boyd Barrett** asked the Minister for Finance if his attention has been drawn to reports that a company (details supplied) that generated €153 million in profits over a seven-month period turned those profits, through complex accounting procedures, into a loss and paid no tax; and if he will make a statement on the matter. [39491/20]

Deputy Richard Boyd Barrett: It was reported in the past week or two, and perhaps earlier, that a company set up by Goldman Sachs - it is a crowd called Tramore Funding DAC, a special purpose vehicle that is just two years old and is due to disappear shortly - and which had purchased loan portfolios off banks generated €153 million in tax-free profits from its backers but, through “complex accounting procedures”, managed to turn those profits into a loss and paid no tax whatever. Is the Minister aware of this? What does he think about such an extraordinary situation where those kinds of profits are not taxed?

Deputy Paschal Donohoe: I thank the Deputy. As he is aware, I am not in a position to comment on the activities of individual taxpayers. However, I can give the following overview of section 110 of the Taxes Consolidation Act 1997 as it relates to the securitisation of mortgages.

Securitisation allows banks to raise capital and share risk. By providing a repackaging and resale market for corporate debt it lowers the cost of debt financing. It is accepted that having the option of more diversified sources of financing is good for investment and business. It is also important for financial stability in the economy, as the ability to securitise loan books plays an important role in allowing banks to meet their capital requirement obligations and continue lending to businesses and individuals.

The role of securitisation has been recognised by the European Commission through its work on capital markets union. However, this regime is subject to several anti-avoidance provisions. For example, the Finance Act 2011 restricted the ability of section 110 companies to avail of a tax deduction for interest payments to connected persons in respect of profit participation notes. The Finance Act 2016 put further restrictions in place.

I am aware that there are competing concerns in this area. On the one hand, there are ongoing concerns regarding loan book sales and the appropriate levels of taxation. On the other hand, it is recognised that bona fide securitisation is important for both consumer lending and bank capital requirements. My officials, together with officials in Revenue, will continue to monitor the sector with a view to taking action if necessary.

Deputy Richard Boyd Barrett: The securitisation of loans helped to crash the entire global economy in 2008. The Minister would have to do a fair bit of convincing to persuade me or most people that it is not a very hazardous practice. It is absolutely unacceptable that outfits like Goldman Sachs can purchase these loan portfolios and set up designated activity companies, DACs, in this case Tramore Funding DAC, that can generate €153 million in profits and

somehow turn that into a loss. This is not just about that individual company. This is how a huge number of multinational corporations manage to pay nothing like the 12.5% tax rate. They pay next to no tax, or none at all, by using accountancy tricks to write down profits and turn them into losses. The Minister is allowing this to happen.

Deputy Paschal Donohoe: In recognition of some of the issues raised by Deputy Boyd Barrett and others, important changes were made in Finance Acts in 2016, 2017 and 2019 to deal with taxation of income and of these vehicles. I am not in a position to comment on any individual transaction but I wish to emphasise that tax liability arises on the distribution of the income to noteholders.

Deputy Richard Boyd Barrett: I can only say that whatever efforts the Minister claims he is making have made absolutely zero difference to the capacity of big financial corporations and other multinationals to use networks of subsidiaries in this way. They can generate profits in one subsidiary and through distributions, royalties or payments of interest on loans from other subsidiaries they magically turn a profit into a loss on the balance sheet. They can therefore tell the Revenue that they did not make any profits at all, even though these practices are reported on and celebrated by the companies in question. They boast about the tax-free profits they are making. A 12.5% share of €153 million is a lot, and we got zero. The Minister and his Government are allowing this to happen.

Deputy Paschal Donohoe: I am commenting generally in my reply. Tax is due when income is distributed to noteholders in section 110 organisations. I want to ensure that the tax laws governing these entities reflect the important role of securitisation in enabling our banks to function and fund themselves efficiently while dealing with issues that have rightly been raised in this House. That is why changes have been made. Tax is not due on transactions inside these units. Liability arises when the income is distributed.

Insurance Costs

62. **Deputy Pearse Doherty** asked the Minister for Finance his views on the Second Private Motor Insurance Report of the National Information Claims Database; the action he will take in response to its findings; and if he will make a statement on the matter. [39490/20]

Deputy Pearse Doherty: On 3 November the Central Bank published the second motor insurance report of the National Claims Information Database. The report is very clear. It sets out the facts in black and white for anybody to see. In the past decade the cost of claims per policy fell by 9% while the average motor insurance premium increased by 35%. The insurance industry generated a profit of €142 million last year, an operating profit of 10%. What actions will the Minister's Department take on foot of the report's findings? Will the Minister rein in the price-gouging that goes on in the insurance industry once and for all?

Deputy Paschal Donohoe: As the Deputy is aware, the National Claims Information Database was a key recommendation of the cost of insurance working group. It is intended to facilitate a more indepth analysis of annual trends in motor insurance claims. The second report, published earlier this month by the Central Bank, confirms that premiums for private motor insurance policies decreased by 9% from their recent peak in 2018 to the end of 2019. This is in line with the downward trend in the consumer price index of the Central Statistics Office, CSO, and reflects work done in recent years on insurance reform. I expect and hope that this

structural trend has continued into 2020.

Regarding award levels, the report continues to highlight the fact that in the majority of personal injury claims there is not a significant difference between settlements reached using the Personal Injuries Assessment Board, PIAB, process and those pursued through litigation, with the latter subject to much higher legal costs and longer settlement times. I strongly believe the report shows that there is a clear benefit in getting more claimants to settle through the PIAB. This benefits the claimants themselves and also consumers generally, as increased costs for insurance companies are ultimately reflected in higher insurance premiums. This is an issue which the Cabinet insurance reform subgroup is prioritising. It will consider proposals on enhancing the role of the PIAB in due course.

The report also highlights the cyclical nature of the insurance market, in particular the growth in insurance premiums relative to the cost of claims and the growth in the profitability of motor insurance underwriting since 2015. This report should assist in dampening these extreme cycles of profit and loss in the motor insurance sector.

With regard to my next steps, I note that the report includes a significant amount of information and data, which my officials have worked on. This will be utilised by the Cabinet insurance reform subgroup as it carries out this work. That group is due to publish an action plan on further steps in the coming weeks.

Deputy Pearse Doherty: The Central Bank's second report has completely and utterly destroyed the spin which the industry uses to justify the high cost of insurance premiums and which is all too often peddled by Fine Gael and Fianna Fáil Ministers and Deputies. For years the Government has told consumers that high premiums are solely caused by the high cost of claims, or that they are the result of some kind of delinquent compensation culture in this State. The facts of the matter, however, show something very different. The Central Bank found that between 2009 and 2019 the cost of claims fell by 9%, the number of claims fell by 45% and, despite this, the average motor insurance premium was 35% higher in 2019 than in 2009. As I said, the industry is gouging customers and making superprofits and, mark my words, its profits will increase next year.

I want to know what concrete actions the Minister will take. Will the Government, for example, stop blocking for another year my legislation, including key sections agreed by the House? Will the Minister lift the block on that legislation and show us for once and for all that he is really serious about taking on this industry instead of being in its pocket? The latter is the only conclusion I can draw as customers are ripped off over and over again and the Minister decides personally, after having sat with the industry earlier this year, to block key sections of my legislation.

Deputy Paschal Donohoe: This is typical of Sinn Féin. Its members come in here and levy accusations about me, my party and the Government being in the pocket of an industry, whereas the truth is that I am focused on trying to ensure, through policies that can make a difference and laws we can implement, that we can deliver lower premiums for businesses, families and motorists over time. The Deputy does not make any reference to the fact that the data set published by the Central Bank shows that motor premiums have fallen. Deputy Doherty knows that the insurance market in 2009 that he is using as his base had a level of competition and pricing in it that went on to have a whole other set of consequences. It is below the Deputy, and he belittles this as an issue, to come into the House and make cheap claims about me or anybody else being

in the pocket of this industry. I am working on policies that have made a difference and that continue to make a difference. The action plan on the sector that the Government will publish will reflect our seriousness about making a difference, not producing, like the Deputy does, cheap claims and accusations that progress nothing but his own interests.

Deputy Pearse Doherty: This House agreed key legislation after it had been blocked by the Government for two years with a money message trick. It is on the record of the House that the Minister sat down with the industry. The industry asked him to stall key sections of the legislation. What did the Minister for Finance do? He bowed to the industry. Who pays the price for this? People who are being ripped off do. The facts are the facts. Insurance premiums have gone up by 35% in the past ten years, the cost of claims has fallen by 9%, the number of claims has fallen by 45%, and next year this industry will make bigger profits.

I will ask the Minister about another piece of legislation and a key report I gave to the Central Bank which triggered its own examination of dual pricing, a practice that is going to be banned in Britain and is banned in 20 states in America. Let us put the Minister to the test on this one. I will publish legislation in the coming weeks to ban this policy outright. Will the Minister for Finance say he supports this or does he again need to find out what the insurance industry wants on this issue?

Deputy Paschal Donohoe: The Deputy is not being serious on this matter. He comes in here and roars at me on different matters. I know how important these issues are. If I do not meet the insurance sector to raise the issues of competition and of ensuring that those to whom the sector provides policies are treated fairly, he will come in and roar at me about that as well. He will condemn me for not meeting the insurance sector-----

Deputy Pearse Doherty: For blocking legislation.

Deputy Paschal Donohoe: -----and when I do meet the insurance sector, Deputy Doherty walks in here and roars again. He stands up and gives, as I have said before of him, the single transferable roar, depending on what the issue of the day is. He and other Members of the House, I remember very clearly, called on me to meet the insurance sector in order to raise the issues he and others have raised. Then, when I do so, he comes back in here and accuses me of being in the pocket of the industry.

Deputy Pearse Doherty: The Minister blocked legislation agreed by the House.

Deputy Paschal Donohoe: I am not interested in sound bites on this; I am interested in making progress on an issue I know is very serious. The data the Central Bank has published show the progress that has been made on motor insurance premiums.

Deputy Pearse Doherty: Let the Minister correct the record-----

Acting Chairman (Deputy Aengus Ó Snodaigh): Táimid ag bogadh ar aghaidh anois.

Covid-19 Pandemic Supports

63. **Deputy Denis Naughten** asked the Minister for Finance the expected cost to the Exchequer of the stay-and-spend scheme in 2021 and 2022; and if he will make a statement on the matter. [38837/20]

Deputy Denis Naughten: The Department of Finance expected people to spend over €7 million per day on the stay-and-spend scheme. We now find that people are spending just €1 million per month. I want the €100 million underspend to date on the scheme to be used to underwrite a gift voucher guarantee for the tourism and hospitality sector. I hope the Minister will look positively on this proposal.

Deputy Paschal Donohoe: The stay-and-spend scheme provides tax relief by means of a tax credit at the rate of 20% on qualifying expenditure of up to €625 per person, or €1,250 for a jointly assessed couple. It opened on 1 October 2020 and is scheduled to run until 30 April 2021. The tax credit is worth a maximum of €125, or €250 for a jointly assessed couple. The purpose of stay-and-spend is to provide targeted support to businesses within the hospitality sector whose operations are likely to be most affected by continued restrictions.

As it is a demand-led scheme, it is difficult to forecast its cost to the Exchequer in 2021 and 2022. When it was announced in late July, it was estimated that the scheme would involve an Exchequer cost of up to or approximately €270 million. This was an outside estimate based on 2.15 million individual taxpayers availing of the tax credit. In addition, as I indicated at the time, the measure was introduced in anticipation that the economy would be on the way to being fully open and there would be mobility across the country. A number of weeks after we announced the scheme, that all changed. The scheme is due to operate until April of next year, but the flexibility exists for me to extend its operation next year beyond that date. As for uptake and the eventual cost across next year and the year after, a lot will depend on how matters unfold in the weeks and months ahead. As at 18 November, the Revenue Commissioners advise that total qualifying expenditure recorded on receipts uploaded was €2.2 million, with total tax credit of €440,000 due to taxpayers.

Deputy Denis Naughten: The objective behind the stay-and-spend scheme was to tap into pent-up savings in order to save jobs in the tourism and hospitality sector. The Government, as the Minister says, has set aside €140 million for the stay-and-spend scheme up to 31 December. As a result of the lockdown, that will not happen. Rather than losing this money for the sector, however, I ask the Minister to ring-fence the €100 million underspend to date and to use it to act as a guarantee for those who purchase gift vouchers in the hospitality sector between now and Christmas. We have seen iconic attractions such as Dublin Zoo under threat of closure. This will make many people wary of purchasing gift vouchers for hotels, restaurants and tourist attractions as they fear they may not reopen. However, the purchase of gift vouchers would provide vital cash flow to those businesses, ensure they remain open next year and, importantly, encourage people to holiday at home in 2021. I therefore urge the Minister to consider this proposal.

Deputy Paschal Donohoe: I remind the Deputy that, unfortunately, much of the money to which he refers is money that we are borrowing, so if the stay-and-spend scheme ends up costing far less than I expect, much of that will be due to reasons that are beyond my control. This means, in effect, that we are borrowing less and adding further debt onto this generation and generations to come. The scheme's underperformance, for reasons the House will be aware of, is one of the reasons I decided to introduce the lower VAT rate on the hospitality and service sector, along with precisely the reasons Deputy Naughten has identified. I recognise the work the Deputy is doing in promoting and advocating for the interests of tourism in the midlands, which I know is important to him.

11 o'clock

The extension of the scheme to include vouchers is something I have considered but there is a significant amount of complexity and difficulty involved in doing that. It is something I will keep under review, but much of what the Deputy is referring to will now be advanced by the lower VAT rate.

Deputy Denis Naughten: I welcome the fact that the Minister is considering extending the scheme beyond April. That is positive news. However, the reality is that it is far better to borrow money to protect jobs in the tourism and hospitality than to borrow money to pay social welfare. I ask the Minister to again look at this issue urgently.

Employers have the option of giving staff tax-free vouchers worth up to €500 at the end of the year as a bonus. As a once-off measure, will the Minister consider increasing that limit to €750 on the condition that the vouchers are for local shops to encourage people to support local business this Christmas? It would help recognise the work done by many staff during a very difficult year with the pandemic and also, more important, it would help to protect the viability of many local businesses across the country.

Deputy Paschal Donohoe: That is another constructive suggestion from the Deputy. We evaluated what opportunities there were for supporting local spend and supporting activity in local shops which, as the Deputy stated, have had a very, very difficult year this year. It was in recognition of the challenges retailers faced that the Government in the July jobs plan lowered the standard rate of VAT. As the Deputy will be aware, that was aimed at trying to give small and medium-sized retailers additional profitability and additional support if needed to continue to have the chance to stay open or reopen and keep on their current employees. The reason I ultimately did not go with the additional tax support for the voucher to which the Deputy referred is that I cannot make that conditional on the voucher being spent in Irish-owned retail businesses below a certain scale. If one brings in a voucher such as that, it would be for use in all retailers, regardless of how they are owned. As such, there is every possibility that a significant amount of the money would then not be used in the way for which the Deputy is advocating.

Primary Medical Certificates

64. **Deputy Mattie McGrath** asked the Minister for Finance the date he will bring forward an amendment to the Finance Bill 2020 to provide for the existing medical criteria in primary legislation to allow for the primary medical certificate assessments to recommence. [38925/20]

Deputy Mattie McGrath: When will the Minister bring forward an amendment to the Finance Bill 2020 to provide for the existing medical criteria in primary legislation to allow for primary medical certificate assessments to recommence?

Deputy Paschal Donohoe: The short answer is that to deal with that matter I have brought forward an amendment to the Finance Bill to provide for the existing medical criteria in primary legislation and I hope it will be accepted by the House on Report Stage next week. That will allow the continuation of the issuing of certificates once the Bill is passed. This is only an interim solution. On Committee Stage, I confirmed that we will open a review of the operation of the scheme to deal with all of the issues relating to the scheme that are being raised by Deputies across the House. When the Bill is ratified and signed by the President, the issues to which the Deputy refers will be addressed. In parallel with that, there will be a review involving my Department and the Department of Children, Equality, Disability, Integration and Youth to look

at what is the role of a scheme such as this.

Deputy Mattie McGrath: That sounds like good news but the Supreme Court made its decision on 18 June 2020, more than six months ago. There has been significant delay and inconvenience to people. I understand the scheme is still operating and that all persons and suitable charitable organisations that currently access the scheme can continue to do so, but the problem is in respect of new applicants. I am aware of one such new applicant. She is an elderly lady of aged 79 years who suffers from severe scoliosis and COPD and is unable to walk or get around or get into a car. The situation is very problematic for her. I welcome the fact that the Minister tabled an amendment, but it will only be an interim solution. Why has it taken six months to get this sorted out? Why will the review only kick in after the Finance Bill is passed? As Deputies will be aware, legislation can be passed by the Houses and signed by the President but then left to lie dormant. What is the timeline for the review? How long will it take? When will we have this situation sorted out for good? It is unfair to new applicants who have come into bad health through no fault of their own and who need this scheme badly.

Deputy Paschal Donohoe: When the Bill is enacted, it will allow for assessments to recommence in circumstances where the legal basis for such assessments is clarified. The Deputy asked why this is only being done now. The answer is that it must be done by means of amendment through a finance Bill. Finance Bills are progressed at budget time, so I had to await the opportunity of this year's Finance Bill to make the change. That is what I have done.

On the issue of any delay in the ratification of the Finance Bill, as the Deputy will be aware, that is rarely be the case with a finance Bill because its enactment by the President then allows the operation of many important tax measures for the start of the following year. I expect the review will be complete so that we can then deal with its recommendations and consequences for the finance Bill next year.

This is not a scheme for people who may fall into ill-health; it is a scheme for citizens who have the most acute levels of disability and legitimately and deservedly need additional support from the State to allow them to be mobile.

Deputy Mattie McGrath: What does the Minister mean by stating it is not a scheme for people who fall into ill-health? People who were good and healthy but get scoliosis or a similar serious medical condition, which means they are unable to walk or get into a car, qualify for the scheme. Obviously, that is a medical decision, rather than a decision for the Minister or myself, thankfully. He sounds a bit harsh in that regard.

The woman I am talking about has not left her house once during the eight months of the Covid-19 pandemic. She is suitable for the scheme because she is severely physically disabled. As I stated, six months have gone already. Is the Minister telling us now that the Bill will be signed into law and that he hopes the amendment will be passed - I do not foresee anybody opposing it - and the review will then be carried out? He mentioned it will form part of the finance Bill next year. How can it take 18 months or nearly two years to rectify a loophole the courts have identified in respect of this scheme that has been operating for decades? We want certainty here. I cannot wait until the finance Bill of 2021 for it to be rectified. The Government regularly brings in legislation to suit banks and vulture funds. Hearsay legislation was brought in through the health regulations. This issue needs to be dealt with. It is a very important scheme for people who fall ill or become disabled. I am not talking about getting the flu or Covid; I am talking about physical disability. I know what I am talking about and the Minister does too.

There is no point being flippant about it. We want definite dates for this loophole to be plugged.

Deputy Paschal Donohoe: The Deputy speaks with real pedigree regarding emergency legislation that he voted for being brought in. He voted for some of the legislation that had the most damaging effect on the State and burdened generations to come with the debt with which we are still dealing. I do not know where in my statement he got any hint of harshness. I think he must have been distracted and looking at something else because I said that I recognised how important this scheme is and that it is made available for those who need it the most. It plays a very valuable role in looking after those who have a very high level of need. I amended the Finance Bill at the earliest opportunity. The first chance to address this issue was in the Finance Bill following the Supreme Court ruling. I have no doubt that if the House co-operates in the speedy passage of the Bill, it will then be enacted by President Higgins and the procedures and assessments that need to happen will commence soon after that.

Ceisteanna Eile - Other Questions

State Savings Schemes

65. **Deputy Eoghan Murphy** asked the Minister for Finance if there has been an increase in the purchase of State bonds or savings certificates administered issued by the National Treasury Management Agency, NTMA, or State prize bonds in the past 12 months; if so, the increase and current amounts invested in these bonds and products; and his views on the matter. [36722/20]

77. **Deputy Eoghan Murphy** asked the Minister for Finance if he is considering a new State-backed investment scheme via a bond, certificate or savings account. [36723/20]

Deputy Eoghan Murphy: I ask the Minister to update the House with regard to information on or an increase in the purchase of State bonds, savings certificates or prize bonds by citizens in recent months. My second and related question asks whether he is considering any new savings schemes. That is not a reference to a potential new special savings incentive account, SSIA, but, rather, to a new saving certificate or something in that vein.

Deputy Paschal Donohoe: I propose to take Questions Nos. 65 and 77 together.

The introduction of any new State-supported savings measures would normally be considered as part of the annual budgetary and finance Bill processes. Given that precautionary saving is likely to have increased as a result of the pandemic, the need for the State to encourage further saving or introduce any State-backed investment scheme is not clearly established at this time. Regarding the existing State savings offering, the NTMA, through State savings projects, offers a wide range of tax-free savings products to the public, including prize bonds and fixed-rate savings bonds and certificates. Both short-term and long-term fixed-rate products are offered, with maturities from three to ten years.

The low level of return from normal savings vehicles is a product of the low interest rate environment generally. As such, interest rates on offer via State savings products are competitive and provide good value for their holders. The return rewards savers who hold products to maturity. Early redemption is possible, although at the loss of most, if not all, of the return. There has been an increase in the purchase of State savings products in the past 12 months. This

growth in deposits is consistent across the financial services sector in Ireland. State savings balances at the end of October 2019 were €21.1 billion, while the end-October 2020 balances totalled €22.4 billion. In the intervening 12-month period, therefore, customer inflows were approximately €1.3 billion. This increase comprised changes in the deposit account of €400 million, prize bonds of €400 million and other products, including national solidarity bonds, savings certificates and savings bonds of €500 million.

These data confirm that there has been an increase in savings going into State-backed products. That is really welcome. The NTMA and I keep under review the suitability of products, which includes looking at how they are performing. The increase in savings we have seen via the products that are currently available shows their attractiveness. That attractiveness is enhanced in the context of very low interest rates across a whole variety of products.

Deputy Eoghan Murphy: I thank the Minister for his reply. The information he provided confirms what we are seeing throughout the country and in every lending institution. There is a dramatic increase in savings happening at this time. Earlier in the year, I read that €1 in every €3 earned was being saved, compared with a more usual savings rate of €1 in every €6 or €7. That dramatic increase is also happening in the case of State bonds.

The Minister made the apt point that if one is saving with a traditional lending institution, one is probably losing money because of the fees one is paying, the very low interest rates and inflation. The State offering is far more attractive. The reason I asked for this information is that there is a series of questions we need to ask ourselves as we look to next year and consider what will happen to these savings and all this pent-up demand. The first question is what it will mean for inflation when all this money is released into the economy. What happens if that pent-up demand in savings cannot be released into the local economy because of continuing restrictions? What might be the impact of those private savings being released into the economy at the same time as we see a massive increase in public spending? What will all of this mean for the economy in peaks and troughs and negative impacts such as inflation and everything else that comes with it?

Deputy Paschal Donohoe: The Deputy has raised an incredibly important point. The reason we have had a higher level of public spending in place is to coincide exactly with the huge reduction in private spending, consumption and investment which has, in turn, been mirrored by the increase in savings to which he referred. When we get into a situation where those savings begin to be released into our economy, we will then have decisions to make about what is the appropriate level of public spending that will be needed. The public spending we have had this year and our plans for public spending for next year are absolutely appropriate in the context of the collapse, and potential collapse, of private sector demand, income and employment. We probably were successful in staving off even worse outcomes in all of this by way of the level of public spending we have implemented. However, the Deputy is correct that the consequences of how those savings are used in our economy will be a huge factor in how we decide the right economic policies for our country for the years to come. I hope that decision is driven by what will be the great development of the availability of a vaccine and a corresponding improvement in public health. That would be a wonderful point to get to.

Deputy Eoghan Murphy: I thank the Minister for his response. There is time to plan ahead and make sure we find a balance between the increase we hope to see in private spending and the increase in public spending arising out of decisions that have been made. We want people to go out and spend money again but we need to make sure it is happening in the local

economy and is supporting local businesses to get back on their feet. We do not want it to be counterproductive by leading to hyperinflation in the domestic economy, which would undo some of the gains that might have been made through public sector investments and the spending of private money.

Deputy Paschal Donohoe: The Tánaiste launched a very important initiative yesterday, the Look for Local campaign, which encourages consumers to be aware of the opportunities to spend with local business. The Deputy made the important point that in a open economy such as ours, it is possible that when people start spending again, the money may be spent to the benefit of businesses other than those involved in providing employment and creating income in our country. There is a flip side to that argument, which is that the same high level of savings is evident throughout the EU and in many other developed parts of the world at this time. As those savings are spent, we need to be in a place where our exports are competitively priced and accessible to avail of the demand that is likely to develop in the economies to which we export. As an exporter, we have a stake in the continued openness of economies and those economies being structured in a way that values the sale of goods and services into them. However, I take the Deputy's broad point that we need to ensure that our budgetary and credit policies are consistent with what may happen around the potential reduction in savings in the latter part of next year and beyond.

Covid-19 Pandemic Supports

66. **Deputy Barry Cowen** asked the Minister for Finance the number of businesses in counties Offaly and Laois that have qualified for support under the Covid restrictions support scheme; and if he will make a statement on the matter. [39197/20]

Deputy Barry Cowen: My question relates to the scheme to support businesses and self-employed people who trade from a premises impacted by level 3 plus restrictions. The scheme is very welcome and is another example of the expensive but necessary financial interventions that have been made by Government. I would appreciate if the Minister could relate the details of the uptake of the scheme, including applications made and awards afforded, in my constituency of Laois-Offaly.

Deputy Paschal Donohoe: I thank the Deputy for recognising the value of the CRSS. I will comment first on its national performance, after which I will provide the information requested by the Deputy in respect of his constituency.

The registration system for the CRSS was released by Revenue on 1 November. Up to 26 November 2020, 10,200 businesses had registered for the scheme in respect of 11,100 business premises. Revenue has informed me that a further 3,700 applications are being processed. To put those figures in context, at the very early stage of implementation of the employment wage subsidy scheme, EWSS, there were 22,000 employers registered. The eligibility criteria for the CRSS are a lot tighter than for the EWSS because the former requires a business either to be closed or to have a very low level of trading.

In regard to the Deputy's constituency, as of 23 November, there were approximately 100 businesses registered for the CRSS in County Offaly and a further approximately 100 businesses registered in County Laois.

Deputy Barry Cowen: I thank the Minister for his response on the state of play nationally, as well as in my constituency. I ask him to consider a situation that has arisen in recent weeks. I received a representation from a hotel in my constituency. Unfortunately, many hotels, restaurants and pubs cannot meet the payment demands of suppliers. Yes, they are gladly availing of the schemes the Minister mentioned, such as the temporary wage subsidy scheme, rates breaks and the Covid restrictions support scheme, but they still have many issues in respect of bank and lending repayments because of liens against properties. It appears to restrict banks in approving or granting funds under the Government's guarantee scheme, which it had been hoped would be used to assist in the payment of suppliers. However, as a result of them not being able to access those funds, this is leaving them at a loss as well. It is an anomaly that sees some businesses, and definitely suppliers, exposed. I ask the Minister to consider a similar scheme to the one he alluded to earlier for suppliers to this sector.

Deputy Paschal Donohoe: I can give the Deputy further information about his constituency in the context of how the counties are drawing down the other supports he mentioned. Looking at Offaly and Laois collectively, there are now 379 employers participating in the employment wage subsidy scheme. There are 4,056 employees of those 379 employers participating in the scheme. I raise that because that is the other way in which we are trying to help, for example, the suppliers to whom Deputy Cowen refers. In terms of expanding the eligibility for the CRSS programme to include people who are indirectly affected by Covid-19 but not forced to close their premises, the CRSS is designed to support businesses that are broadly closed. I hope that the employment wage subsidy scheme is of help to the suppliers of whom the Deputy spoke. Of course, the greatest help we could give to them is to have their customers open and trading, whereby they are in a position to trade with them as normal.

Deputy Barry Cowen: Many of my constituents involved in businesses that have been severely impacted by the restrictions greatly appreciate and acknowledge the commitment the Government has made in its response to the pandemic by virtue of the massive amount of funding being pumped into business to give businesses an opportunity to be in a position to take advantage of the uplift if and when the restrictions are eased, and we hope that will be very soon. I have been in touch with the Department and officials specifically in respect of the issue that has arisen as a result of the banks' failure to acknowledge the commitment one would have expected to materialise by virtue of the guarantee scheme being in place. It is due to restrictions they believe impact their ability to make funds available because of liens that may exist on properties where this trading is taking place. That is creating the anomaly or gap I mentioned whereby businesses are not able to meet the demands of suppliers, which threatens both entities and was never the intention of everybody concerned.

Deputy Paschal Donohoe: I thank the Deputy for raising this matter. A similar matter was raised with me yesterday in the Dáil. The employment wage subsidy scheme, in particular, is supporting businesses that have every prospect of being viable again in the future. We all hope that opportunity for viability will come sooner rather than later. That is why implementing public health guidance is so important. I recently met all the CEOs of the banks, as I regularly do. It would be helpful if Deputy Cowen would give me the details of the business he referred to, if that business is comfortable with sharing the details with me, and I will follow up on the matter. I have every confidence the schemes we have in place are making a difference to supporting employers in a tough time. For example, the banks have informed me that they will treat mortgage applications on a case-by-case basis, and being on an employment wage subsidy scheme should not disbar somebody from getting a mortgage. It should not in general terms,

but it has to be examined case by case. If Deputy Cowen gives me the information, I will follow up on the matter.

Tax Code

67. **Deputy Denis Naughten** asked the Minister for Finance if he will reform inheritance tax rules whereby a favoured niece or nephew is treated in the same manner as a child in circumstances in which the deceased has no family; and if he will make a statement on the matter. [38840/20]

Deputy Denis Naughten: Childless couples and individuals with no sons or daughters should be able to leave their home to a niece or nephew, without him or her being taxed to the hilt. I am calling for a change to Ireland's inheritance laws whereby they will no longer punish people for not having children by issuing those to whom they leave their homes with huge tax bills.

Deputy Paschal Donohoe: A fundamental principle of the capital acquisitions tax, CAT, regime is that inheritance or gift tax is levied on the beneficiary and that the level of taxation is determined according to his or her relationship with the disponent. The reason for this approach is that the capital being transferred has not been earned by the beneficiary and the effective taxation of windfall capital is an important tool for addressing income and wealth inequality.

There are a number of generous reliefs and exemptions to CAT available, one of which is the favourite niece or nephew relief. This relief allows a niece or nephew to be treated as a child of the disponent for CAT purposes in certain circumstances. A person may qualify for this relief if he or she receives a gift or inheritance of business assets, including farming assets. This means the person is entitled to the group A tax-free threshold, currently €335,000, when calculating the CAT liability for the gift or inheritance, rather than the group B threshold, which is currently €32,500. The use of this relief is not restricted to circumstances in which the disponent or beneficiary has no family. To qualify for this relief, the niece or nephew must have worked for the disponent for five years immediately before receiving the gift or inheritance and for a minimum number of hours per week. This is a targeted relief. The policy rationale underpinning the relief is to recognise a niece or nephew who has placed his or her labour and expertise at the disposal of the disponent for an ongoing period to the benefit of the business or farm.

If the Deputy's question refers to potentially extending this scheme, it would clearly represent a fundamental departure from the principles underpinning our CAT regime. It would also be a significant departure from the policy rationale of the relief. Such a move would undermine the basis of our CAT regime and could lead to a significant erosion of the revenue base. That is the reason I currently do not have plans to amend the favourite niece or nephew relief scheme.

Deputy Denis Naughten: If a person leaves a home with a market value of €300,000 in a will to a favourite niece or nephew, who might be the person's nearest relative, the recipient will be hit with a capital acquisitions tax bill of almost €88,275, while a son or daughter would get a tax-free inheritance threshold of €335,000. A nephew or niece is only entitled to a threshold of €32,500 before paying tax at a rate of 33%. By contrast, Britain has a tax-free inheritance allowance of £325,000, regardless of who the beneficiary is in the deceased person's will, before taxation comes into effect. The threshold is even higher for children of a deceased person. Will the Minister look again at these thresholds?

Deputy Paschal Donohoe: We are in the annual process of passing the Finance Bill and Report Stage will be taken in the House next week. I have indicated that I do not have plans to change the thresholds to which Deputy Naughten refers in the Finance Bill. It is important that I am open about that to the House. I do not believe that such changes are currently merited given the huge pressure that we are under to pay for a level of public service that the country now needs in the context of our battle with Covid-19. The reliefs are always kept under review from budget to budget and when we approach next year's budget I will assess where the reliefs stand. The kind of structural change I believe the Deputy is looking for is not one that is justified, but I thank him for raising this matter.

Deputy Denis Naughten: I will put an alternative suggestion to the Minister. The favourite niece or nephew relief applies where someone has been working the land or working in a business with an uncle or aunt. Will the Minister extend the relief to a favourite niece or nephew residing in the home of the uncle or aunt who is providing care to the uncle or aunt? This happens regularly and these people can end up being hit with a significant financial burden after caring for an uncle or aunt. In the context of Covid-19, as referenced by the Minister, we must try to ensure we provide as many supports as possible for older people in the community. This could be a mechanism to do that and acknowledge, through the taxation system, the care that is being provided to older people in their own homes.

Deputy Paschal Donohoe: Deputy Naughten raises an important matter in regard to care. The care that people provide to other family members is indispensable to those families and also allows the State to look after those who are vulnerable, in particular those who are elderly and vulnerable.

I have concerns about making changes to a scheme that does provide such a significant amount of additional relief under the favourite niece and nephew scheme for the reasons I have already outlined. However, the Deputy raises an interesting point which I can consider when preparing for next year's finance Bill.

An Leas-Cheann Comhairle: As Deputies Pa Daly and Devlin are not present, we will move to Question No. 70. Questions Nos. 68 and 69 may be answered later.

Insurance Industry

70. **Deputy Duncan Smith** asked the Minister for Finance if he is considering the calls from a group (details supplied) and other arts and cultural bodies for insurance reform; and if he is considering a refund of public and employer liability insurance for organisations that now have no insurable events going ahead. [27499/20]

Deputy Ged Nash: I will take this question on behalf of Deputy Duncan Smith. As we all know, the high cost of insurance is a major issue for businesses right across the country. It is a particular issue for the arts and culture sector. We know the sector was the first to close in the initial lockdown and will be the last to open when the threat of the pandemic recedes. An Arts Council survey has shown very clearly that venues that are closed are losing revenue in terms of income from audiences and other sources, up to €3 million per month. I believe that is a conservative figure. Does the Minister support the view that those venues that are closed should receive refunds from insurance companies for public liability and employer liability insurance?

Deputy Paschal Donohoe: I acknowledge all the work Deputy Nash has done in raising the interests of the arts sector. It is an area that he and I both feel very strongly about. We look forward to the point at which we will be able to enjoy live music gigs again. We truly appreciate the value of live performance when we are not able to enjoy it in the way we were in the past. I recognise the work done by the Minister for Tourism, Culture, Arts, Sport, Gaeltacht and Media, Deputy Catherine Martin, in this area. She has been extremely innovative in trying to put in place new funds and programmes to support the arts sector. It is great to see a number of web streaming live performances will take place to provide much-needed income to the artists involved. It will be an opportunity for music lovers and families to enjoy that, albeit in a different way.

To deal with the particular matter Deputy Nash has raised on behalf of Deputy Duncan Smith, I believe the insurance sector must play a role in assisting its customers in what has been an extraordinary and very demanding period. In light of that, my officials and I engaged with the insurance industry through its representative body, Insurance Ireland, although with particular regard to the provision of motor insurance reliefs earlier in the year.

Deputy Nash will be aware that further commitments were made earlier in the year by most of the key insurers in the Irish market that they would ensure that a number of common forbearance measures would be made available to their customers. I welcome the statement issued by Insurance Ireland on behalf of some of its members last month that these measures would continue to be implemented.

The Minister of State, Deputy Fleming, raised this specific matter and I will take the opportunity to raise it also. Given its importance, perhaps Deputy Nash could give us a perspective on how he believes those forbearance measures are being implemented.

Deputy Ged Nash: I thank the Minister for his comprehensive reply. He is correct that significant action has been taken by the Government to support venues and individual artists. He is also correct that the arts and culture sector is intrinsic to our identity and sense of ourselves. The Minister and I share a deep interest in the practice of arts and culture in this country. One of the largest outgoing venues here is their annual insurance bill. There is currently no blanket refund scheme in place, such as those we have seen in the motor insurance and private health insurance sectors earlier this year to reflect the facts that people did not have access to certain hospital treatments during the first lockdown and the roads were less busy during that lockdown period. That was reflected in motor insurance and health insurance refunds. I ask the Minister to look deeply at this. I am aware of organisations throughout the country and in my constituency that had to battle very hard with their insurance companies to access individual refunds. I ask the Government to take a closer look at the matter.

An Leas-Cheann Comhairle: The Deputy is over time. I am sorry but I am just trying to ensure we stick to the time. Deputies are waiting.

Deputy Paschal Donohoe: Yes, I will raise this matter. I am aware that forbearance measures are being made available to the arts sector, but I did think that they were being made available in a manner that was typical of what happened with motor insurance earlier in the year. My understanding is that this was not being done through a common forbearance decision, but that it was being dealt with on a business-by-business basis. I understood more progress was being made than Deputy Nash has indicated. On the back of the Deputy raising this matter with me, the Minister of State, Deputy Fleming, and I will raise this matter again with Insurance Ireland.

It would be great to see our music venues and theatres being in a position to reopen in the way they operated in the past.

An Leas-Cheann Comhairle: I thank the Minister.

Deputy Paschal Donohoe: We have a while to go on that yet but I hope they will be able to do that with as low a level of debt as possible. I will get back to Deputy Nash on the matter.

Deputy Ged Nash: There is not a blanket understanding across the sector and there have been some difficulties with individual venues, which were battling with their insurance companies to obtain some refunds to reflect the fact that they have not been open to the public and there is obviously less risk associated with that. Given that both the Minister and I are extremely interested in the arts and culture sector, I urge him to consider very deeply the calls by individual and national arts organisations to allow them to reopen safely, with some limitations, during the Christmas period so people can enjoy live music and live culture experiences in individual galleries, museums and arts centres across the country. I ask him to consider that, as I know he has an important meeting later today with his Government colleagues to consider how we lift the level 5 restrictions and move safely into December and early January.

Deputy Paschal Donohoe: I assure Deputy Nash that we are trying to get the balance right between the absolute imperative of keeping citizens safe and healthy and recognising the deep and intrinsic value of culture. Such culture includes live performances and museums. I look forward to the day, for example, when schoolchildren can go into our museums again and we can have Irish and international artists performing in venues, particularly in smaller venues, presenting the art that is so special to us all. We have important decisions to make and a journey to go yet in allowing these venues to be opened safely. Much work needs to be done.

On the specific point raised by Deputy Nash, I will bring up the insurance treatment of artistic venues to see what further progress can be made.

An Leas-Cheann Comhairle: I will go back to Deputy Cormac Devlin's question now.

Brexit Supports

69. **Deputy Cormac Devlin** asked the Minister for Finance the status of his Department's preparations for Brexit; and if he will make a statement on the matter. [39213/20]

Deputy Cormac Devlin: I thank the Minister for taking these questions. With just 35 days to go before the UK leaves the EU, what preparations have the Minister's Department done in advance of this?

Deputy Paschal Donohoe: I thank the Deputy for raising this very important matter. My Department has been participating in whole-of-government preparations for Brexit since before the UK referendum in 2016 and, in line with the Government's overall approach, it has intensified work ahead of the end of the transition period on 31 December.

Without prejudging the outcome of ongoing negotiations between the EU and the UK, the central scenario underlying budget 2021 assumes the transition period ends without agreement. Budget 2021 provides €340 million for measures to prepare for Brexit through the continuation of existing measures and new supports for sectors and enterprises likely to be most affected.

This comes on top of more than €700 million in budgets since 2017, and budget 2021 also provides for a recovery fund, in part to respond to the fallout from the ending of the transition period. I assure the Deputy that every effort has been put into getting ready for the approaching deadline. Since the morning of the referendum result in 2016, it has justifiably absorbed a significant amount of my time and that of the Department.

To give a little more detail, the Revenue Commissioners have now written to 90,000 businesses that traded in goods in the UK last year and phoned 14,000 of those businesses that were identified as having more than €50,000 in activity with the UK. In October, they hosted seminars with 2,000 businesses in that month alone, and very soon the Revenue Commissioners will launch a campaign focusing on the changes that are due on day one, 1 January 2021.

Deputy Cormac Devlin: I have no doubt this has been extremely time-consuming for the Minister and officials not just in his Department but across the Government for the past number of years. That said, it is prudent for us to have the reserve that budget 2021 has given us because of the potential of a no-deal Brexit. It is the right course of action.

I know the Department is making every effort to deal with the challenges of Brexit but the next few months will be extremely difficult for Ireland and businesses, not just because of Brexit but because of Covid-19 as well. Is the Minister aware of this morning's report in *The Irish Times*, which claims that Ireland could lose out to France in laying claim to a significant portion of the €5 billion Brexit compensation fund? Even if we got all the fund, it would not compensate the hit to our economy. As the Department of Finance and ESRI analysis indicates, the long run impact to gross domestic product is between 2.6% and 5% in a no-deal Brexit, meaning losses of between €9 and €17 billion in 2017 prices. Will the Minister comment on that?

Deputy Paschal Donohoe: I will do so and I thank the Deputy again for raising a very important matter. I assure him that the Department of the Taoiseach and all of us in the Government are working in an integrated and very careful way to ensure we can access our fair share - a good share - of the Brexit adjustment reserve fund that the Deputy refers to. I am now familiar with these kinds of negotiations and the claims and counter-claims that can arise in them. I further assure him that the effort and diplomacy we have demonstrated over the past number of years in pursuing our issues with Brexit will continue as we approach the negotiations over the Brexit adjustment reserve fund. The nature of that fund and its use will become clearer when we are clearer on the shape of Brexit.

Deputy Cormac Devlin: I thank the Minister and I welcome his remarks on the diplomatic approach. It is important that Ireland avails of this fund as much as possible, considering the grave impact Brexit could have on our economy. We must avail of that compensation fund as much as possible.

The Minister made remarks on the work of the Revenue Commissioners and their engagement with businesses, which I very much welcome. We can see from experience with Covid-19 support schemes that many businesses are, unfortunately, not availing of existing supports. It is important we ensure these businesses are prepared for Brexit and that they also avail of supports that are available to them.

Britain has provided six months for the implementation period in their economy, with a deferral of Brexit customs declarations until 30 June 2021. Would a similar adaptation period be

considered by the Minister and his departmental officials here?

Deputy Paschal Donohoe: Matters relating to customs policy and procedures are dealt with at a central level by the European Union and we have requirements we need to uphold as the UK formally becomes a third country. I know the EU will try to ensure the rolling out and introduction of new customs procedures will be done in a way that is proportionate and will reduce the adverse effect on businesses that are trading from the Union. On the other hand, the EU and Ireland must also ensure the integrity of the Single Market is protected. It is an Irish interest in that it is in the long-term interest of Irish businesses and consumers that this happens. The Revenue Commissioners and the Government will do all they can to raise awareness of the schemes, ask businesses to participate and roll out the new customs procedures and policies that will be needed in a manner that is as effective as possible. What comes will be better if there is an agreement rather than no agreement; any agreement would still be very different from the position if the United Kingdom had remained in the European Union.

Covid-19 Pandemic Supports

68. **Deputy Pa Daly** asked the Minister for Finance further to Parliamentary Question No. 319 of 10 November 2020, if he will reconsider the position on mortgage lenders relating to customers that are on the employment wage subsidy scheme and who are being denied mortgages even though they are in long-term employment and their jobs are not considered to be in jeopardy; and if he will make a statement on the matter. [36678/20]

71. **Deputy Pádraig O'Sullivan** asked the Minister for Finance his plans to assist home buyers who are being refused the drawing down of approved loans due to one or both borrowers being on the temporary wage subsidy scheme; and if he will make a statement on the matter. [38632/20]

Deputy Pádraig O'Sullivan: I have been contacted by many aspiring homeowners over the past few months about their mortgage applications. Unfortunately, they are facing much uncertainty about their applications to financial institutions and the drawing down of funding because their employers are availing of the temporary Covid-19 wage subsidy scheme. I know the Minister has engaged with banks about this. During his discussions with the banks, has he received any indication as to how many people are being affected? I have seen in my constituency office, as I am sure the Minister has in his, a volume of queries coming in and I know it is a significant matter.

An Leas-Cheann Comhairle: Deputy Pa Daly is not in the Chamber but this is grouped with his Question No. 68.

Deputy Paschal Donohoe: I was about to ask which question this refers to.

An Leas-Cheann Comhairle: They are grouped but they are separate questions.

Deputy Paschal Donohoe: The numbers do not make a difference in me getting to the material. I can deal with the Deputies' questions and I thank them for raising the matter.

I propose to take Questions Nos. 68 and 71 together.

I have raised the matter with the chief executive officers of all the banks and my officials

continue to raise it. I have passed this view strongly to the banks and some have now indicated publicly the same view. Participation in a wage subsidy scheme should not, in general, preclude somebody from being able to get a loan or a mortgage. This must be evaluated on a case-by-case basis by the banks but they are trying to strike a balance, which I understand. I also understand that it is a difficult case to make to those who are worried about whether they will be able to get a loan or a mortgage but the banks need to take care with granting a loan to people who, in a few months or next year, may not be able to repay it because their employer has ended up in difficulty due to the effects of Covid-19 or the effect of changes in the wage subsidy scheme. This goes back to the principle of ensuring that lending is done with care and in a way that is in the long-term interest of the borrower.

Again, being on one of our subsidy schemes should not, in general, preclude somebody from getting a loan but the viability of the employer and the nature of the support the employer is getting are matters that must be taken into account. It is my expectation that many of the employers that are on our wage subsidy schemes will continue to be viable and successful in the future. These subsidy schemes should be seen for what they are, namely, an exceptional bridge to get Irish employers through an exceptionally demanding time.

Deputy Pádraig O'Sullivan: I thank the Minister for his response. I appreciate that the regulatory framework for the decision to grant or refuse an individual application for a mortgage is a matter for the financial institutions. However, many of the constituents to whom I have spoken have not been impacted financially. The issue is that they cannot draw down a previously approved mortgage. Often their employers provide letters to state that their employment will not be affected and there is no long-term financial difficulty, yet they are not able to draw down the mortgage. I urge the Minister to engage further with the banks on this issue.

Deputy Paschal Donohoe: I will continue to follow up on this matter. It is very important, not only for those directly affected who are looking to draw down a mortgage but also because the programmes that we have in place now will be in place throughout much of 2021. It is important in the context of our mortgage market continuing to operate and mortgages continuing to be issued, that broad schemes which will continue in some format into and for most of 2021, are not an impediment to people accessing a loan. It has to be done on a case-by-case basis but I hope and expect that if an employer is willing to vouch for and provide evidence of the continued viability of the company, this would be an important element in the evaluation of a loan application. I assure the Deputy that I will continue to raise this matter

Deputy Pádraig O'Sullivan: I thank the Minister for his response and appreciate where he is coming from regarding the importance of protecting people who may not have long-term financial security. Nobody is advocating that banks approve loans to people whose jobs are not viable or that they lend recklessly. I am not suggesting that for one minute. I emphasise that I am referring to applicants who were pre-approved for mortgages. They are having difficulty with the drawdown of same because they are on one of these schemes. I am grateful for the opportunity to raise this issue again because it is imperative that we continue to allow people who can purchase a home to do so in order to ensure that we have a functioning housing market. On that note, I welcome the recent announcement by the Minister for Housing, Local Government and Heritage on the launch of an affordable housing scheme. I eagerly await the details on this.

I would be grateful if the Minister and his officials would continue to keep the mortgage issue under review.

Deputy Paschal Donohoe: We will do so. Many of the decisions on the granting of a mortgage were made at a time when the country and the world were very different; things have changed now. I know Deputy O’Sullivan is not advocating an irresponsible approach to these matters. The case he is making is that if there is every prospect of an employer continuing to be viable in the future, that should be taken into account when a person is looking to draw down a loan for which he or she qualified in the recent past. I understand that point and will continue to raise this matter with the banking sector. I recognise the sensitivity of the matter to which the Deputy refers for those who are raising it with him.

Question No. 71 answered with Question No. 68.

Question No. 72 replied to with Written Answers.

Credit Availability

73. **Deputy Thomas Gould** asked the Minister for Finance if consideration will be given to incentives to encourage credit unions and post offices to lend to persons whose income has been temporarily affected by Covid-19 to ensure they are not forced to obtain loans from private moneylenders with extortionate interest rates. [39153/20]

Deputy Thomas Gould: Has the Minister given consideration to providing incentives to encourage credit unions and post offices to lend to people whose income has been temporarily reduced during the Covid-19 crisis so that they are not forced to obtain loans from private moneylenders who are charging exorbitant rates?

Deputy Paschal Donohoe: I thank Deputy Gould for raising this matter. I engage with the credit union movement regularly and since this terrible disease arrived on our shores, I have made a point of meeting the leaders of the main credit union organisations. I assure the Deputy that I will ask them to continue to be aware of the vulnerability of some of their customers and members at this difficult time and of the importance of treating them appropriately so that they can avoid having to resort to illegal moneylenders. I am also considering legislation to provide for the capping of interest rates for short-term loans. Having engaged with the credit unions and their leaders, I know that they are very much aware of the issue to which the Deputy refers. They are also aware of their duties to their vulnerable members. If the Deputy has any examples of specific changes he believes could be made, I would be very happy to hear about them and to respond.

Deputy Thomas Gould: I thank the Minister. Sinn Féin recently carried out a household survey and 94% of those who responded were concerned about their household income this year. A survey from last year showed that one in eight Irish parents goes into debt for Christmas, something that will be much worse this year because of the Covid-19 crisis. A financial broker quoted in the *Irish Independent* said that banks are not lending to those on the EWSS or PUP and are reluctant to lend to people who work for companies that have availed of the EWSS. The banks are not lending which means that people who are struggling to get finance are being driven into the hands of moneylenders. I ask the Minister to provide more details on what he intends to do about this in conjunction with the credit unions and post offices.

Deputy Paschal Donohoe: The very reason we introduced the EWSS and the PUP was to protect the incomes of all, but particularly the most vulnerable, as we deal with the ravages of

this terrible disease. The biggest action the Government can take is to put in place direct measures to support the income of families at this most difficult time and we have done that. The PUP has made a decisive difference to those who need help the most. In terms of how we will deal with the issues raised by the Deputy regarding the post offices and credit unions, he knows that I cannot give a direction to our credit unions about how to lend. That is a matter for them but I will meet them again soon and will listen to any requests they have regarding how the needs of the most vulnerable can be looked after. We have a common, shared interest in this.

12 o'clock

Deputy Thomas Gould: Moneylenders are currently distributing leaflets promoting loans. My father recently received one in the post. If one borrows €1,000 from one of these moneylenders, one will pay back €32 a week for a year, which means paying back €1,560. That is a scam and a disgrace. How can we allow this? The problem is that, if people cannot find another avenue to borrow money, they are driven to these moneylenders. Christmas is a special time and it will be even more special this year. All families want to do their best. Parents in particular want to do the best for their children and they are being driven into the hands of moneylenders. We in Sinn Féin are bringing forward legislation which aims to cap interest rates and to stop this type of moneylending because it is a scandal.

Deputy Paschal Donohoe: The Government will be bringing forward proposals in this regard. These will be effective and will deal with issues relating to the legality of moneylending and the interest rates charged. I represent and engage with constituents who are dealing with the matters to which the Deputy has referred. The Government is implementing a significant number of policies to protect those families as we come towards a Christmas that will be particularly special. What we have done with the pandemic unemployment payment, the nature of the employment wage subsidy scheme and even the decisions regarding the Christmas bonus have all been motivated by this Government's desire to do all it can to support people at a time when so many are vulnerable. As I have said, we will be bringing forward our own proposals on interest rates for short-term loans. We were conducting a survey and review in respect of this matter during 2020 but it was disrupted as a result of the Covid pandemic. I informed Cabinet on Tuesday morning that I would be bringing forward proposals in this regard, to which I hope to get agreement, in the near future.

Written Answers are published on the Oireachtas website.

Ceisteanna ó Cheannairí - Leaders' Questions

Deputy Eoin Ó Broin: Yesterday, we learned of two more tragic deaths in our capital city. In the early morning, a man in his 40s living in a tent in the shadow of Leinster House was found dead. He had been living there for some time. Later in the afternoon, another man died in accommodation run by a well-known charity. We do not know the full circumstances of these tragic deaths but it is clear that both men were homeless. This brings the number of such deaths reported in Dublin this year to more than 52, which represents a significant increase on the number of deaths of those sleeping rough or in emergency accommodation in 2019. There have also been increases in the number of such deaths reported in the cities of Cork and Galway. I express my condolences to the family and friends of both men. Their deaths are a tragedy.

It would be a mistake to see these deaths as isolated incidents. People experiencing home-

lessness, who often have acute addiction or mental health needs, are at a greater risk of dying prematurely. The exact causes of death vary. It is sometimes an overdose, suicide or hypothermia or, in rare cases, murder. The interaction of homelessness, mental ill health and addiction dramatically increases the risk of such deaths. Are we doing enough to reduce this risk and prevent such deaths? Is our emergency accommodation system fit for purpose? Are the mental health and addiction supports available to these very vulnerable people adequate? Are we moving people into long-term secure tenancies fast enough? Are we learning lessons from such deaths and improving the supports for vulnerable people in order to reduce the risk of future deaths?

The Minister for Housing, Local Government and Heritage, Deputy Darragh O'Brien, announced a review, to be carried out by the HSE and the Dublin Region Homeless Executive, DRHE, of the dramatic increase in deaths. I welcome the review but it is not enough. Will the Tánaiste commit to putting in place an immediate emergency response and to increasing supports for those experiencing long-term homelessness with the explicit aim of reversing the rise in the number of deaths among people experiencing homelessness in the coming months?

The Tánaiste: I thank the Deputy for raising this really important issue. I was very saddened to hear of the deaths of those two men in recent days. At any time of year, although particularly in the run-up to Christmas, the deaths of people who are homeless fills us all with sorrow. As I understand it, there have been media reports concerning the deaths of two individuals in Dublin between the evening of 24 November and the morning of 25 November. One of these deaths was of a man who had a tenancy in long-term supported accommodation. The second man was found in a tent in Dublin 2. The circumstances of his death have not yet been fully established. These deaths are tragedies for the families involved and we extend our sympathies to those families and to all who knew them. Out of consideration for the families of these men, people should respect their privacy and should not speculate as to the individual causes of their deaths.

On the evening concerned, the DRHE outreach team worked through the night, as it does every night, to bring rough sleepers into emergency accommodation. A total of 31 people came into emergency beds on that night while 32 spare emergency beds were available to homelessness services in Dublin city. No person should die on our streets because of the lack of a bed. There were beds available and there were support workers on the street encouraging people to come in that night. The death of people who use homelessness services is taken very seriously. As the Deputy has mentioned, the HSE and the DRHE have commissioned a detailed review of all recent deaths in homelessness services. This was agreed on 10 November. Although we already know a great deal about this matter from previous work, it is important to get a more current picture to help us to understand why the number of homeless people who are dying is rising while the number of people who are homeless is falling.

Each case is different and has a personal story behind it. We should respect that and not engage in gross simplifications. I appreciate that the Deputy did not do that. He spoke about the interplay between homelessness, addiction, mental health and all of the other issues that make this such a difficult problem to solve. It is important to ensure that the Government fulfils its duties to protect our vulnerable and to reduce homelessness in our cities and towns. It is vital that we continue to deliver appropriate measures to ensure that all individuals experiencing homelessness are helped to exit homelessness and move into permanent housing and that those with complex health and mental health needs are provided for.

The programme for Government contains a commitment to expanding the Housing First approach, which has been successful to date. This approach is based on understanding that the best way to deal with people's underlying problems, whether these relate to their mental or physical health or other issues, is to make sure that they have a roof over their heads. That has worked quite well so far and further investment will be made in it. The Government is also acquiring more one-bed homes. There is a real shortage of one-bed social housing units in Ireland at the moment. So many of those who are homeless are single men and they need such accommodation in combination with the required support services. As of the third quarter of 2020, 459 people have been housed under the Housing First programme. This is making a difference and we will continue to build on it.

Deputy Eoin Ó Broin: I thank the Tánaiste for his response. We all remember that Mr. Jonathan Corrie died on 1 December 2014 while sleeping rough in a doorway opposite Dáil Éireann. The tragic death of the 43-year-old father of two caused widespread public concern and anger. His daughter, Natasha, told RTÉ in an interview that, in her view, those in power failed her father. She said: "He could have been helped a bit more, like they didn't help him the way they should have helped him." On the basis of the very significant increase in the number of deaths among those who are either sleeping rough or in emergency accommodation, it seems that little has changed and that, in fact, some things are getting worse.

We need to increase funding for mental health and addiction supports, particularly for this vulnerable cohort, as a matter of urgency. We need to end dormitory-style emergency accommodation and we need thousands, rather than hundreds, of Housing First tenancies. We also need adult safeguarding reviews to ensure that we learn lessons from past mistakes. Will the Tánaiste commit to raising these issues at Cabinet? Will he push for an emergency response to the growing crisis of deaths among those experiencing homelessness?

The Tánaiste: I will certainly raise the issue at Cabinet. It is discussed in Cabinet meetings in the ordinary course of events but I will raise it again when Cabinet meets on Friday or Tuesday. As we know, the number of people who are homeless has fallen by approximately 20% in the past year. Now, that is only 20%. It means for every five people who were homeless there are now four. It is going in the right direction but it is not enough. Notwithstanding that, there seems to be an increase in the number of people availing of homeless services who experienced a premature death in the past year. That should be a matter of concern. It is always a matter of concern that people who use homeless services die early. They may die considerably earlier than average. It is of particular concern that the number of deaths is rising at a time when the number of homeless people is falling. We need to get to the bottom of that and respond to it as an emergency, as the Deputy describes it.

What is being done? Cold weather arrangements are being put in place at the moment for the winter period, including more bed capacity and 24-hour facilities with meals, continuous placement for families and enhanced rough sleeper outreach. The Dublin street outreach services are provided by Dublin Simon Community and funded by Government. This involves a broader engagement for people who are sleeping rough. There has also been an increase in the mobile health clinic. It delivers weekly services to outreach teams in co-operation with Dublin Simon Community and the Housing First intake team, which is part of the Peter McVerry Trust.

Deputy Michael Lowry: I wish to address the issue of social media. No one can dispute the fact that social media has changed our lives beyond recognition. It has now become the centre of many people's lives, so much so that it is now a medically recognised addiction. In

fewer than 14 years it has morphed from being a way of expanding our social network to being a means to destroy people's credibility, reputations and lives at the simple touch of a button. Social media has changed life as we knew it. It has impacted on politics across the world. Some of this change has been positive, but for the most part turning the political system into a free-for-all has proved to be damaging and unsettling.

For the vast majority of politicians, having a presence on social media is almost as vital as having their names on the ballot paper. It is crucial for public representatives to be in touch with people and communities. However, no person, whether in public life or otherwise, should be the target of lies and abuse. This is happening more and more across the world and, sadly, it is also happening here in Ireland.

A clear example of this was the most recent general election. It is widely known that social media platforms were used to target and undermine parties and candidates. Fake profiles were created on social media with the sole purpose of spinning lies and false information intended to cause maximum damage. Reports of certain political groupings encouraging their supporters to target other candidates by posting negative and false comments were rampant. This did not simply happen on the usual platforms, such as Facebook and Twitter. There were chatrooms on a number of sites where keyboard warriors, using monikers to disguise their identities, tore apart the political and personal lives of candidates. For the most part, the comments held as much water as a sieve, but how many voters would have taken the time to check the veracity of the information?

Social media, if left unmonitored, can whip up support for almost anything. Lies and truth compete for the attention of the public. It has happened time and time again throughout this pandemic. Cleverly worded false information has put innumerable lives at risk. Governments across the globe have been accused of using the pandemic to gain control over peoples' lives. Supposedly scientific articles have falsely informed people that mask-wearing is unnecessary. Protests and riots have been organised at the drop of a hat in major cities with crowds screaming demands for freedom from restrictions.

Social media is now the most powerful weapon of our age. It encourages the right to freedom of expression. When will it protect the rights of people who are victimised or misled by lies? This Government has taken commendable action in bringing forward legislation to make the sharing of inappropriate images of women on the Internet punishable by a prison sentence. We must not stop there. We must not forget other victims. Cyber-abuse in all its forms must be legislated for and stamped out.

The Tánaiste: I thank the Deputy for raising this important issue. This is something that has been on the minds of many people in our country in recent weeks and months, including parents who are worried about their children and individuals who are worried about their reputations.

It is true that social media has been a great innovation. Like all technologies, it comes with positives and negatives. I believe that in many ways social media has changed our lives for the better but it has also changed our lives for the worse. It allows us to connect on a daily basis with people who perhaps in the past we only saw once a week or once a month. It has been helpful in the pandemic, when it is difficult to meet up with people. It allows us to stay connected with people overseas, relatives and friends with whom we would otherwise have lost contact. We are now able to see what they are doing in their daily lives in a way that we could not in the past. It

also allows people to organise as residents' associations, political campaigns, groups of workers and groups of businesspeople. That is not a bad thing in itself. It is probably a good thing but it does come with new dangers. Those new dangers include dis-information, misinformation, downright fake news, conspiracy theories and things that would never be published in a normal newspaper or on a television news bulletin. Yet, these things can be distributed online and seen by tens of thousands of people as though they were true with no consequences.

In many ways social media is the public square and should be treated as the public square. The things that people are not allowed to do in a public square should not be allowed on social media either. We know what these are. We are all in favour of free speech. We allow people to speak freely, but there is a limit to that. There are things that people cannot say in the public square, because if they did they could be sued for libel or defamation. The same things apply to a disguise. We allow people to disguise themselves, to dress up, as it were, in the public square, but not if they do it with a view to causing harm to others. That is fundamentally the principle we should apply to social media. If a person is allowed to do something in the public square, then it is okay. If a person is not allowed to do it in the public square, then it is something we need to take action against.

How are we taking action? As Deputy Lowry mentioned, the Minister for Justice, Deputy McEntee, is bringing forward legislation to make imaged-based sexual abuse a criminal offence. This will build on some work done by Deputy Brendan Howlin. The idea is to turn this into a legal protection against people using intimate images to harm or threaten others.

We are also going to bring in legislation to establish an electoral commission. It is long overdue but very much needed. This will allow us to regulate online political content. The third aspect is the legislation being brought forward by the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media, Deputy Martin. It relates to an online safety commissioner and giving a new office and role to the media commission. The plan is to give the online safety commissioner the power to order platforms to take down content that they have not taken down where it is harmful.

Deputy Michael Lowry: When the term cyberbullying is used, most people think it refers solely to children and teenagers. This is a misconception. The harassment and abuse of adults, particularly public figures, can be equally cruel and damaging. Those involved in high profile roles in media, entertainment, sports, medicine, teaching, politics and even the church are considered to be immune to the vitriol thrown at them on a regular basis. There is an illusion among some people that well-known individuals are unaffected by name-calling and hateful comments and should somehow be able to handle it.

I believe our House has a role to play. Political leaders must act to curb the crude, vicious and scurrilous attacks on political opponents. Many of these social media warriors are out of control and need to be reined in. A pattern develops where the same cowards repeatedly pop up to peddle hateful, offensive and malicious commentary. This brand of political support should be banished. Any party or organisation with a morsel of self-respect would not tolerate or condone this shameful activity. Our country requires further legislation and regulation to deal effectively with these messengers of disruption.

The Tánaiste: The Deputy is spot on. Public figures, whether in media, sport, politics or business, have to have a thick skin. Public figures put themselves out there and have to accept that they are going to be criticised in a way that average or everyday people would not be, but

there is a limit to that. Cyberbullying, whether of children, adults or public figures, is wrong. The best thing we can do to counteract it is to apply a basic principle. Is what is said something that would be tolerated if it happened in the public square? Could somebody say what is being said in the street and do so without consequences? The other issue is how we can legislate in this context. We plan to legislate for an online safety commissioner as part of the media commission. That online safety commissioner will have the power to order platforms to take content down where it is harmful. We will have a job to do in this House to define what harmful means, because one person's harmful is another person's opinion. We must bear that in mind. We must also bear in mind that this is the World Wide Web and that Ireland is only one country out of 200. There are limitations to our extraterritorial remit, but many of these companies are based in Ireland and that gives us more influence than most countries.

Deputy Carol Nolan: The vast majority of us in the State have been trying to live with Covid and support the measures put in place to save lives and livelihoods. Unfortunately, the same cannot be said of everyone. Some financial organisations are only too happy to prey on misery and distress, some of which has been generated by the Covid pandemic. This is particularly true of those vulture funds that have initiated a vicious cycle of ruthless activity involving the forced sale of hundreds, if not thousands, of farms across this State. Indeed, earlier this week Declan O'Brien of *The Farming Independent* reported that there has been a renewed upsurge in forced farm sales by these funds. This has involved the adoption of an extremely aggressive approach by these lenders since the end of the Covid-19-related moratorium on forced sales. The same report also noted that personal insolvency practitioners and farmer organisations, such as the Irish Cattle and Sheep Farmers Association, the Irish Creamery Milk Suppliers Association, ICMSA and the Irish Farmers Association, IFA, have been sounding the alarm on this issue for years. Yet, nothing has been done by the Government.

The picture emerging from across this State is absolutely horrendous. I have taken calls from some very distressed constituents. This matter is of profound concern to many farmers who are trying their level best to engage with lenders regarding debt management and repayment. As I understand it, personal insolvency practitioners have also sounded alarms on this issue. They have stated that some farm sales are even being forced through without any prior notice being given to the farmers involved. I am aware of one case where a farmer was informed by his neighbour that his farm was up for sale online. That is disgraceful. We need Government action on this issue.

As I understand it, several of these forced sales have been denied through the application of protective certificates under the personal insolvency legislation. This is not a new issue. We need much more action from the Government. We cannot allow this ruthless activity on the part of vulture funds to continue. In 2018, farm organisations, including the IFA and the ICMSA, warned the Joint Committee on Finance, Public Expenditure and Reform, and Taoiseach, that there was an urgent need to put in place a greater degree of enforcement by the Financial Regulator in respect of the protections offered to farmers. The 2018 IFA submission noted that "Vulture funds take a short-term approach to the loans acquired and are not generally interested in working out a long-term debt resolution with the customer". This generates real and lasting damage, as the sale of assets damages the underlying viability of family farms. This is a particular problem for farms where the value of security held is often far in excess of the debts. Here we are, almost three years later, with a hard Brexit overshadowing Irish agriculture and a reformed fair deal scheme for farmers still not finalised and yet there is no movement on this issue. Where are the protections for farmers against vulture funds? What is this Government

going to do to stop this ruthless aggressive activity?

The Tánaiste: It is important to say at the outset that people have a responsibility to repay their debts. If people borrow money, they have a responsibility to pay it back. That is true for mortgage holders, farmers and business people. If people do not pay back their debts, they are causing social harm. Farmers not paying back their debts means that is harder for other farmers to get credit and that they have to pay higher interest rates when they do. Business people not paying back their debts also has an effect in that it will be harder for other business people to get credit and that they will also have to pay higher interest rates when they do. People not paying back their mortgage debts also makes it harder for other people to get mortgages in the first place and it will also mean that they will also have to pay higher interest rates when they do. We need to be frank and honest about the fact that people not paying back their debts causes social harm to others. It is not just a case of not paying money back to the banks or other financial institutions.

Having said that, I believe strongly that people who make an honest and reasonable effort to pay back their debts as best they can, whether that means over a prolonged period or by means of a restructuring of the debt, should be facilitated. Nobody wants to see anybody losing a home, a business or a farm. Generally speaking, the courts are sympathetic in those circumstances. I do not see how a sale of a farm or a business could occur if there had not already been repossession hearings in a court, because that would have to happen first. Courts in Ireland do not grant repossession orders lightly. The number of such orders granted is very low. It must be borne in mind, therefore, that many protections already exist. I encourage people to engage with personal insolvency practitioners and banks and financial institutions to try to find a solution to their debts, where that occurs.

Deputy Carol Nolan: I am shocked by the Tánaiste's lack of understanding of this issue. These vulture funds are ruthless. I know farmers who are doing their level best to engage with the financial institutions, but these vulture funds are faceless entities. I am shocked that the Government is happy to let them run riot and cause misery and distress to people. I am not for one second saying that we should not get people to pay their debts. There are, however, people who are genuinely trying their best and they are not being afforded space or fairness.

Solutions were put forward on this matter. My colleague, Deputy Mattie McGrath, was involved in tabling legislation relating to vulture funds several years ago. The IFA has also stated that the first thing needed is regulation of the vulture funds. The Tánaiste is stating that such regulation is not needed. I do not think he understands the gravity of the situation in rural Ireland. As the IFA has observed, it is simply unacceptable that farmers who gave security to long-standing institutions and pillar banks can have that security sold to faceless entities that may not be answerable to anybody. I am asking the Tánaiste to ask the Minister for Finance if he will roll out meaningful protections for farmers, because there are no real protections. That Tánaiste and his Government cannot stand over this ruthless land grab.

The Tánaiste: Regulations and protections are in place. Perhaps those regulations are not strict enough or those protections strong enough, but we are of course always open to hearing proposals that might strengthen protections for borrowers or the regulation of financial institutions. We have done that in the past and it is something we remain open-minded about into the future. It must be borne in mind that all of these circumstances and individual cases are different. Often, the story which we hear is not always the full story when we look into it. If people have borrowed money, they have a responsibility to pay it back and find a mechanism by which

they can do so. Ultimately, people not repaying their debts cause wider social harm to others and we must be honest about that aspect.

Deputy Mattie McGrath: Talk to Brian Hayes.

Deputy Marian Harkin: I received number of emails recently regarding the severe difficulties being experienced by private nursing homes in recruiting and retaining staff, especially healthcare assistants. This issue is especially acute in small, rural nursing homes. The simple reality is that private nursing homes are not able to match the HSE in the context of pay and benefits, as well as, recently, more aggressive recruitment by the HSE and HSE-funded agencies. This is placing intolerable pressure on private nursing homes. I am a strong supporter of home care packages and I believe that we need to invest significantly in that model of care. For many different reasons, however, we will continue to need the very important services of the nursing home sector. I am not in the business of trying to increase profits in the sector. My objective is to try to ensure decent wages and proper benefits for staff as well as an accessible, affordable and quality service for those who need it.

I have no ideological bias between private or public care. I want a quality service, fit for purpose, which represents value for money. On the issue of value for money, the Comptroller and Auditor General published a report this year on the fair deal scheme. That report states that the weekly average fee in 2018 for public nursing homes was €1,564, while for private nursing homes, it was €968. As care standards overseen by HIQA are the same in all nursing home settings, this means the staff in private nursing homes bear the brunt when it comes to cost savings because the homes have to make a profit, otherwise they close their doors. This is completely unacceptable. In July 2016, the Tánaiste, then Taoiseach, published the terms of reference for a review of the fair deal scheme. That report remains unpublished. Why is this? Will the Tánaiste publish it now, or will he ask the Minister for Health to do this?

The report from the Comptroller and Auditor General stated the National Treatment Purchase Fund, NTPF, which is responsible for the determination of fees under the fair deal scheme on behalf of the State, did not provide his office with a model to inform how the fee is determined under the fair deal. There is no clarity on the models of funding. If the scheme is called “fair deal”, it should be a fair deal for all involved - the residents, the nursing homes and the staff who work there.

I have looked at the programme for Government and I am not excited by what I see. What proposals can the Government bring forward to ensure the sustainability of this sector?

The Tánaiste: I thank the Deputy for raising this important issue. Like her, I think there will always be a role to play for nursing homes. We want more home care and more people being able to stay in their homes for longer and that is the plan and the direction of travel. This is why so much additional funding has been provided for home care in recent years with a 40% increase in the past couple of years and a further increase next year. There will always be people who need a nursing home and who need residential care and this needs to be provided for. Like the Deputy, I have no ideological bias as to whether that is provided by the public or private sector, so long as standards are high and that people are cared for properly.

On the fair deal review, I had thought that was published ages ago. I may be wrong. If it was not, I will check into that.

The fees paid by the State to the nursing homes under the nursing homes support scheme are

negotiated between the NTPF and nursing homes individually and that is done on a confidential basis because it is commercially sensitive. The NTPF tries to make sure that reasonable costs are covered and that a reasonable profit is possible for those nursing home providers.

It is difficult for private nursing homes to compete with the State and with the HSE for staff. This is because in the State sector the pay is generally that little bit better and there is the possibility of a public sector pension, which is very valuable, and the leave arrangements can also be beneficial. We need to bear in mind that the nursing home sector is very profitable. I know that this year may have been an exception but, in the round, the nursing home sector is profitable. It may be the case that there are a lot of nursing homes around the country that have the capacity to offer better terms and conditions for their staff by reducing their profits. We need to be frank about this too.

There is a difference between public and private nursing homes. They are not directly comparable. It is generally the case that those public nursing homes under the HSE tend to care for people with higher care needs. We often see figures comparing one sector with the other and saying that the cost of providing care in a HSE nursing home is higher than that in a private nursing home. This is often because the public nursing homes tend to take people with higher care needs, so it is not always directly comparable in the way some people try to compare it.

Deputy Marian Harkin: I thank the Tánaiste. I hear what he said and he made some valid points. When the former Minister for Health, Deputy Simon Harris, addressed the Nursing Homes Ireland annual conference last year, however, he spoke about the changes in regulations and said that these changes had been “stressful” and “have come at a cost and you haven’t been remunerated for that cost.” The Tánaiste’s own former Minister for Health has recognised this. In my constituency in Sligo, public nursing homes cost 60% more; in Leitrim, 68% more; in Roscommon, 76%; and in Donegal, 81% more. I spoke to nursing home owners who said that especially in the context of Covid-19 their income has dropped. They, rightly, had to go from double rooms to single rooms. Their income has not dropped by 25% or 30%, however, so they have not been able to access State supports such as the employer wage subsidy scheme or the restart grant. They have had help with personal protective equipment, but it is proving especially difficult. The Tánaiste is correct that we do not want a model where enormous profits are made in the sector on the backs of workers but we have to find a way that the smaller rural nursing homes in particular remain sustainable and provide that service.

The Tánaiste: The Government acknowledges that nursing homes have been badly affected by Covid, that income is down and that costs are up. In response to that, we established a Covid-19 temporary assistance payment scheme. That was set up back in April. Applications opened on 17 April. The core concept of the scheme is that the State will provide additional funding to nursing homes that require it to contribute to their additional costs associated with Covid-19, and to the costs of dealing with mitigation and outbreak management where that occurs. Eligible costs include both additional payroll and non-payroll Covid-19-related costs. The scheme was originally to operate only for three months to the end of June but it was extended to the end of September. The scheme is now being further extended to the end of 2020 and for the first six months of 2021. This additional funding will run through at least until the middle of next year.

I appreciate what the Deputy said about smaller nursing homes, especially in rural areas, which because of their scale may have higher costs. This needs to be taken into account also. If she has individual cases she would like the Minister or me to look into, to the extent that we

can, we would be happy to do so.

Ceisteanna ar Reachtaíocht a Gealladh - Questions on Promised Legislation

An Leas-Cheann Comhairle: The Ceann Comhairle has kept a list the names of Members who are to be called and I will go through them first following the leaders' contributions.

Deputy Eoin Ó Broin: Three weeks have now passed since the Tánaiste stood in this Chamber and told the House that he would be happy to provide any and all records relating to his passing of the IMO contracts to his friend and member of a rival organisation, the National Association of General Practitioners. In the same week, the Taoiseach told my party leader that his Department had an open door and that he too would provide all documentation. Yet here we are three weeks later and we have not received a single document from the Tánaiste, the Taoiseach, or the Ministers for Health and Finance, as requested in writing on three separate occasions. If the Government has nothing to hide, then surely we would have got the documents by now. Many of us are asking exactly what is going on. When will the Tánaiste make good on the commitment he gave to this House three weeks ago to provide all the information we have been requesting?

The Tánaiste: For my own part, there are not any more records other than those that have been put in the public domain already and have been flashed all over the Internet. I provided any records that I have. Any records that are held by the Department of Health or the Department of the Taoiseach I do not hold. It is normal practice that when Ministers leave Departments, they do not take their records with them. The records stay with the Department. Any records would be held by the Department of the Taoiseach and the Department of Health. I am sure they will release them if they exist but the nature of this interaction, which has been discussed at length for the last few weeks, means that there were no records. I am sure that any records that do exist of communications between the Government and the NAGP will be released by those Departments but I do not hold them personally.

Deputy Alan Kelly: I want to raise an issue relating to workers, prior to the Government making its decisions on what is going to happen around Christmas. We have not had a chance to chat about this but I encourage the Tánaiste to extend the period for travel between counties from 2 or 3 January to 4 or 5 January. Many workers, particularly healthcare workers, who do not have children work through Christmas and the new year period is more important to them because they give up their time at Christmas for people with kids. I just wanted to say that.

The real issue I wish to raise relates to student nurses. Overnight, 12,000 people have signed the petition from the Irish Nurses and Midwives Organisation, INMO, on this matter. Everybody in the country knows this Christmas will be different. These student nurses have done everything for us over the last eight months. They have been incredible. One of the best Christmas presents this Government could give workers is to show solidarity with these extraordinary people who have done so much on the front line over the last number of months and pay them what they deserve, or make some contribution towards that.

The Tánaiste: We all appreciate the extra work student nurses have done during the pandemic to help us increase our health service capacity. In recognition of that, many student nurses were taken on as healthcare assistants during the first wave and were paid for that purpose. It is important to acknowledge that generally, students are not paid across the public service.

Medical students, trainee gardaí and teacher trainees are not paid. Student nurses in their final or pre-registration year are paid because they are different and do real work on wards that would not be done were it not for them. That is why there is special recognition for student nurses and why they get paid in their pre-registration year, even though most students in the public service and, indeed, the private sector, do not get paid for their work. The Minister for Health, Deputy Donnelly, is examining whether we can improve the payment they receive but this issue must be seen in the wider context that it is not the norm for students to receive payment in either the public or private sector.

Deputy Cian O’Callaghan: I also extend my sincere sympathies to the families and friends of the two homeless people who have died. There has been increased use by the Government over the last year of private hostels for people who have become homeless, without the support services in place in accommodation provided by NGOs, and there have been reports of some very serious breaches of human rights in these hostels, such as rules about not being allowed to chat and people who have become homeless being barred for very minor infringements of these rules. Does the Tánaiste share my concern about the impact these private hostels without support services are having on homeless people? What action will the Government take to address this?

The Tánaiste: Our objective is to ensure that people who are homeless receive wraparound supports, regardless of whether they are accommodated in hostels provided by NGOs or by private providers. Those supports are obviously easier to provide in accommodation provided by an NGO or a charity than in private accommodation. When these private providers are used, it is probably out of necessity because there is no alternative available. I will ask the Minister for Housing, Local Government and Heritage, Deputy O’Brien, to contact the Deputy directly and engage with him on this issue. I share his concerns but the matter may not be as clear-cut as it is sometimes presented.

Deputy Mick Barry: Nursing is arguably the most dangerous job in the country in this pandemic. Around 50 nurses a day have to stop work because they have either contracted Covid or are a close contact of someone who has. More than 3,000 student nurses have done placement work in our hospitals in the last few months. If someone studies nursing in college, Covid risk is on the curriculum. The Tánaiste said in response to Deputy Kelly that paying students does not tend to be the practice across the public sector. However, it also does not tend to be the practice across the public sector for people doing placement work to have anywhere near the level of risk our student nurses face. Despite this, they go to work in our hospitals to be paid precisely €0. This has to end. Some of them receive an allowance but it is a pitiable allowance of €50 a week or €7 a day and those who receive it are in a small minority. I understand that the Department is currently in negotiations with the INMO on the student pay issue. Can the Tánaiste give the House an update on the progress of these talks and some indication as to when they might be concluded?

The Tánaiste: Everyone who works in our health service puts themselves at risk of contracting Covid because of their work, as do many people beyond it. It is not just nurses but also doctors, cleaners, caterers and anyone working in a hospital, including therapists. Many people who do not work in hospitals do so as well, such as people who work in retail and transport. We need to acknowledge that many people are more at risk than those who can work from home because they deal with other people. That is not just the case for nurses. Thankfully, while many healthcare workers in Ireland have contracted Covid, the number who have died as a consequence is very low relative to other countries.

As the Deputy noted, student nurses are paid in their pre-registration year in recognition of the fact that, unlike other students, they do work that would not otherwise be done and would have to be paid for. It is unusual for students in the public sector to receive payment. Negotiations are under way. I cannot give the Deputy an update on them right now but they are under way and hopefully they will come to a conclusion. It is best that they are conducted between the Government and the union rather than being played out here.

Deputy Michael Lowry: Since last Monday's comments by the Taoiseach, Tipperary publicans have been distraught and demoralised. We all want to have a Christmas and enjoy it, but the policy of the continued closure of pubs over Christmas has destroyed Christmas for publicans and their dependent families. It spells financial disaster for them. Unlike other countries across Europe, Ireland has victimised publicans. We are fooling ourselves if we believe house parties and social gatherings will not happen over Christmas. People have been through one of the toughest years in living memory. They will celebrate Christmas because they need to do so and alcohol will be part of that celebration. It would be much better if we celebrated Christmas in the controlled and much safer environment of a pub, where the publican would ensure proper rules are followed and behaviour is monitored. The publican will police his customers and if need be, the Garda will police the pub owner. That is the way it should be. Publicans have generations of experience. They are responsible, trustworthy and capable of opening for business in a safe manner.

An Leas-Cheann Comhairle: The Deputy is over time.

Deputy Michael Lowry: I ask the Tánaiste to see what can be done to assist publicans in the next 24 hours.

The Tánaiste: There will be a meeting of the Cabinet sub-committee on Covid today and a Cabinet meeting tomorrow. After that, we will be able to make a decision on what can and cannot reopen in December. No decisions have yet been made about restaurants, pubs or hotels at this stage. Whatever happens, we will make sure financial supports like the employment wage subsidy scheme and the Covid restrictions support scheme, CRSS, remain in place for businesses that cannot open. As Minister for Enterprise, Trade and Employment, I will make sure that happens. I understand the argument that a pub is a controlled environment and that people are less likely to interact there than they would at a house party or a home gathering, and I am sympathetic to it. However, we need to bear in mind that just because people can gather in a pub, it does not mean that an equal number of home gatherings will not happen. In fact, it is very possible that, having spent a few hours or a night in the pub, people will then retire to somebody's house and have a house party there. It is not necessarily true that if we open the pubs there will be fewer house parties. We might end up with the same number or even more and therefore increase risk.

Deputy Mattie McGrath: I raised the issue of Tipperary town and its task force with the Tánaiste several times last year and the year before. Thankfully, he set up a task force, which is now chaired by Alison Harvey. The task force is doing its best with the Jobs4Tipp and March4Tipp initiatives and the creation of the chamber of commerce. However, the county council is proposing to do another two years' work on Main Street, which will effectively close down the town for two further years. We welcome the funding but there needs to be engagement. The Part 8 process closes this weekend. There have been hundreds of submissions from business people and ordinary people living there. We need a proper ring road around Tipperary town that will alleviate the problem and get the trucks out of town. Will the Tánaiste speak to

the Minister of State, Deputy Joe O'Brien, and the Minister, Deputy Éamon Ryan, to collaborate with all those groups and the county council to see if we can work together. Ní neart go cur le chéile. It is important that we work together and bring the people with us. They will not accept the closure of the town again for a further 18 months or two years. They cannot do it.

The Tánaiste: I know that Tipperary town needs help. It is a town that needs to be reinvigorated and revitalised. The Deputy has raised this with me many times, as have Deputies Lowry and Cahill and Senator Ahearne. Going back to my time in Department of Transport, Tourism and Sport, there was funding for a one-way system to the town which did not get approval. Now there is talk of a ring road.

We have set up the task force, and I am glad to hear that it is doing good work. I will mention the matter to the Minister, Deputy Ryan and the Minister of State, Deputy Joe O'Brien, so that the matter can be brought to a conclusion.

An Leas-Cheann Comhairle: We have a short list of speakers carried over from yesterday. I ask everyone to be as brief as possible so we can get everyone in.

Deputy Jackie Cahill: I wish to raise the fair deal scheme. Small businesses and farm families find it very hard to avail of this scheme in its current form. We have been promised legislation on it to make it more financially acceptable for both businesses and farm families. When will that be implemented?

The Tánaiste: I am advised that legislation will be ready at the end of December, that is, in the next few weeks. There is an unfairness in the fair deal scheme and how it treats farm assets and the assets of small business. We want to make that change and make the fair deal fairer for those who own a business or farm. I appreciate this new legislation has been promised for a very long time. I know the Deputy will not believe it until he sees it but I am advised it is only a matter of weeks away at this stage.

Deputy Pat Buckley: This is an issue I have been trying to raise for the past three weeks on the Topical Issues debate. Since August 2016, I have raised the lack of secondary school places in east Cork. Unfortunately, this arises every year. In March 2020, I raised the issue of 200 children in east Cork who could not get to school because of transport problems. In June 2019, I raised the problems with planning for a three-school campus in Carrigtwohill. Now I am being contacted by parents who are very stressed and anxious, as are the children, that they face problems getting children into secondary school next year. I have spoken to many principals who have borne the brunt of parents' frustrations because the children cannot get a place in schools and they are getting the blame.

Will the Department step up to the plate and take responsibility to support the principals, and to support the families and provide adequate places in the schools? East Cork school places are oversubscribed and under-resourced. I ask the Tánaiste to get the Department to address this so that we do not have to face this problem again.

The Tánaiste: I appreciate that the shortage of secondary school places in east Cork is a burning issue, as it also is in my constituency. It is a feature in several parts of the country where it is not always possible to provide a child with a place in their school of first choice, but it is always possible to provide a place in a school not too far away.

I do not know the details of the particular schools mentioned by the Deputy but I will see

the Minister for Education, Deputy Foley, tomorrow, and let her know that it was raised again in the Dáil and ask her to contact the Deputy directly.

Deputy Mark Ward: The Council of Europe Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment reported that high-support units in Irish prisons that accommodate mentally ill prisoners offered poor conditions and inadequate treatment. Reading parts of this, one would be forgiven for thinking it was a report on Irish prisons from more than 100 years ago, but the committee only visited Irish prisons in September this year. The report stated that one mentally unwell man was found “lying naked in his cell, with the cell smeared with faeces and puddles of urine on the floor,” with a urine-soaked poncho for cover. This is not only unacceptable; this is inhumane. I join the Irish Penal Reform Trust in asking when the Government will establish a task force to resolve this matter.

The Tánaiste: I think we all agree that prisoners should be treated humanely, especially those who suffer from mental illness. I do not know the answer to the Deputy’s question about the task force but I will certainly raise it with the Minister for Justice and ask her to provide him with a written response.

Deputy Paul Donnelly: The programme for Government features the roll-out of cycle lanes. In our constituency, around Hartstown, Huntstown and the Mountview area, this has caused great consternation and annoyance for many people. I have received hundreds of complaints from residents who are trying to access and egress their estates. I live in Lohunda in Clonsilla, just off the Mountview Road where it has caused huge problems for people trying to get in and out. We need more consultation on these cycle lanes and to examine the guidelines. Reports from Fingal County Council suggest it is using the National Transport Authority, NTA, guidelines, which, unfortunately, do not appear to be fit for purpose. People have been woken at 2 a.m. They cannot get in and out of their homes and up to a dozen people have fallen over the lane dividers. We need to do something. Can we get a commitment to change the guidelines?

The Tánaiste: I have also received some complaints on the same matter. It is more one for the council than central government. I think everyone appreciates why the cycle lanes have been put in place. We want people to cycle more and, at a time public transport is advised against for public health reasons, we want to facilitate more people to cycle. However, there must be proper consultation with local communities, which does not always happen. We have had some difficulties with traffic in the Phoenix Park, and with cycle lanes in Hartstown, Huntstown and Mountview. I will commit to engage with the Minister, Deputy Ryan, and the NTA on this to see if we can improve things.

An Leas-Cheann Comhairle: We return to today’s list. I call Deputy Murnane O’Connor.

Deputy Jennifer Murnane O’Connor: Community employment, CE, supervisors remain without pension entitlements. This is a long-running issue that has not been addressed. I have been contacted regularly by a number of CE supervisors in my constituency of Carlow-Kilkenny who feel very left behind. Why, after more than ten years, do they remain without a pension? A deep sense of frustration is felt by the CE supervisors and assistant supervisors in their efforts to secure an occupational pension. The State hires these supervisors and, to all intents and purposes, employs them. We need this issue to be sorted once and for all.

Promises were made but two judgements are being ignored - one historic and one recent. The first is the 2008 Labour Court recommendation that the funding agency was a statutory

body of the Government and had responsibility for the CE supervisors' pensions, and, more recently, a report by the Workplace Relations Commission, WRC, which indicates a responsibility on the State's part to provide a pension. This judgement is available on the WRC website. There are talks going on and we should have a solution.

An Leas-Cheann Comhairle: The Deputy has her point made, she has used her time.

The Tánaiste: This is a long-running issue and sore. It ongoing for 15 years by now. I would also love to see a resolution. It is the case that CE supervisors are entitled to the State contributory pension, as everyone else is, but they are not entitled to a public service pension. The reason for that is, first, they are not public servants, they are not employees of the State even though the body that employs them is funded by the State and, second, they have not been paying a public sector pension contribution throughout their working life, as every public servant does. If we start giving public service pensions to people who are not public servants and have not been paying a percentage of their salary into their public service pension, there will be no end to that and that is not something that any Government can concede. If we can find some solution another way, we would be happy to do so and we want to do so.

We are on the verge of resolving a long-standing issue around school secretaries and caretakers, and this is another that we would really like to see resolved, but it can only be resolved in that context. We cannot get into a situation whereby we give public sector pensions to people who are not public servants and did not pay a public service contribution all their lives.

Deputy Johnny Mythen: Tackling homelessness is mentioned many times in the programme for Government. It is a very serious issue in Wexford that requires immediate action.

1 o'clock

There is no homeless hostel in my county specifically for women. When I asked a parliamentary question about the issue I received a reply about a shelter for women suffering domestic violence. At the moment women in my county who are in dire need of safe accommodation due to homelessness have no safe place to go. I know that eradicating homelessness is a priority of the Taoiseach and the Government. I, therefore, urge the Government to intervene in this matter and request that the Department of Housing, Local Government and Heritage to provide Wexford County Council with the funding and support necessary to provide this vital humanitarian service.

The Tánaiste: I thank the Deputy. I am afraid I do not know the details of the issue he has raised, but I will take it up with the Minister for Housing, Local Government and Heritage, Deputy Daragh O'Brien, and ask him to reply to the Deputy directly.

Deputy Patricia Ryan: Page 62 of the programme for Government states that the Government will work on a package of reforms with approved housing bodies, AHBs. Will the Government consider allowing AHBs to sell their housing stock so that those residents who wish to, and are able to, put down permanent roots can do so? I also call on the Government to ensure money is ring-fenced so that housing units are not affected. I ask the Minister for Housing, Local Government and Heritage to meet with residents of AHB housing in south Kildare. These residents feel they have been robbed of the opportunity to own their own homes. Promises were made to them and were not followed through.

The Tánaiste: I will certainly mention the fact that the Deputy raised this matter to the

Minister when I see him later. However, we generally prefer that social housing, particularly housing held by AHBs, not to be sold off. That stock should remain as public housing for reasons the Deputy will understand. Selling off public housing stock will leave less for people in need of it. However, I appreciate that people who have lived in those homes for 20 or 30 years want the right to own them. It is a case of trying to get that balance right.

Deputy Chris Andrews: Dublin City Council recently published plans for the regeneration of the Pearse House flats, located just across the River Liffey from here. The Government has indicated its support, which is very welcome. The regeneration of Pearse House is a really important development but plans suggest that it could take 12 to 15 years. Will the Government fast-track funding for the scheme so that residents do not have to live on a building site for many years or possibly decades?

The Tánaiste: I thank the Deputy. I will have to ask the Minister for Housing, Local Government and Heritage to contact him directly on this issue. The Deputy will be as familiar as I am with the refurbishment of big housing schemes in Dublin city. The issues are not always just about money, particularly if the schemes are to be retained rather than being demolished or rebuilt. If they are listed or partially listed, the work can take years but I appreciate the Deputy's point.

Deputy Thomas Gould: I would like to ask the Tánaiste about his recent comments on the Covid-19 crisis and the potential for another lockdown in January. This is an extremely worrying time for people. We are being asked to follow public health advice, but the Tánaiste is now projecting that advice. To some people, his comments mean that they will have a limited window to see their families and friends. This will push some people into socialising to make the most of the short period. Others are scared that they will not be able to see their parents, grandparents or families for an extended period after Christmas. We need to give people certainty.

The Tánaiste: I would love to give people certainty, but the only certainty we can give people is that this virus makes a mockery of our plans all the time. Nobody wants a third period of restrictions in January or February but the projections of the National Public Health Emergency Team, NPHET, present that possibility. As we ease restrictions in the coming weeks, cases will rise and that may require us to reimpose restrictions in January and February. That is simply the truth. It is not scaremongering. I am being honest with people.

The other issue I would like to mention is there is no question of there being an outright travel ban between North and South. It is not under consideration and is not being discussed, period. We do not have a travel ban with Poland and we are certainly not going to have one with Northern Ireland. However, as we move from level 5 to level 3, which we hope to do next week, inter-county travel will still be restricted. It will only be allowed for work, school or essential purposes like caring for an elderly relative. Inter-county travel, including cross-Border travel, for shopping or for visiting friends and relatives will not be allowed. We hope to be in a position to advise people that they can travel between counties, including in Northern Ireland, to visit friends and relatives closer to Christmas but that will depend on the epidemiological data then. At the moment the rates of Covid-19 infection in Northern Ireland are much higher than they are here, but that might look very different in two weeks because restrictions are being reimposed there and relaxed here. We will make a decision on inter-county travel, including Northern Ireland, closer to Christmas.

Deputy Ruairí Ó Murchú: I thank the Tánaiste for his clarity in stating that there will not

be a ban on cross-Border travel.

The Environmental Protection Agency, EPA, has stated that the outlook for the environment in Ireland is not good unless all sectors are addressed. I would like to discuss Irish Water. There are 113 priorities for dealing with pollution. Raw sewage is being pumped into the water in 35 towns and villages, including Omeath. There are no plans to deal with 33 of these until after next year. This is not on. What interaction will the Government have with Irish Water to deal with this?

The Tánaiste: We appreciate that there is a lot of work to do in the next few years to improve our water quality. It has improved a lot in recent years, but big investment by Irish Water is required to make it better. The budget for 2021 includes increased capital spending and a bigger capital budget for Irish Water, which will allow the company to make some real improvements throughout the country.

Deputy Neale Richmond: This morning, I raised the very concerning issue of a Derry-based bus company advertising shopping tours to Dundrum in my constituency in advance of Christmas. In light of the Tánaiste's responses to Deputies Gould and Lowry, does the Government have any plans to introduce regulations or legislation to deal with this extremely irresponsible online activity, which promotes something that completely goes against the guidelines that he has discussed?

The Tánaiste: If the Deputy can provide me with the details, I will check out the legality of that example. It may already be against the law. We are now under level 5 restrictions. We hope to move to level 3 next week. At level 3, inter-county travel is allowed for work, education and essential purposes such as medical appointments or caring for elderly relatives or children who cannot be cared for by somebody else. Unfortunately, that does not cover visiting friends and relatives, shopping or weekends away. Level 3 will not permit inter-county travel of a non-essential nature. That also applies to North-South travel, which is inter-county travel. Any relaxation of the rules on visiting friends, shopping or anything else of that nature will be considered closer to Christmas depending on the epidemiological data at the time.

Deputy Marc Ó Cathasaigh: I wish to ask about the development of a national clean air strategy, which is a commitment of the programme for Government. According to the EPA, 1,300 people die prematurely each year due to air pollution. Long-term exposure to air pollution has also been linked to higher Covid-19 mortality rates. Is there a timeline for the development of this strategy? Will there be investment in our network of air monitoring stations, as promised in the programme for Government?

The Tánaiste: I thank the Deputy for raising this really important issue. The report issued by the EPA in recent days highlights how much work we all need to do to improve air quality. As he rightly pointed out, air quality has a direct impact on health, particularly for those with asthma or chronic obstructive pulmonary disease, COPD. It is linked to higher mortality. This is a life-and-death health issue. A lot of progress is being made on the new clean air strategy. It will involve increased investment in air monitoring stations. What we do not measure we cannot improve. We need to improve measurement in this regard.

Deputy Louise O'Reilly: I move:

That leave be granted to introduce a Bill entitled an Act to amend the Organisation of Working Time Act 1997 to allow for employees to carry over untaken leave in a year where it was not reasonably practicable for an employee to take some or all of the leave to which the employee was entitled as a result of the effects of Covid-19.

To avoid any confusion, I was looking to come in on Questions on Promised Legislation.

An Leas-Cheann Comhairle: I beg the Deputy's pardon.

Deputy Louise O'Reilly: It is okay. I knew I was on the list for this item.

I thank the Tánaiste and the Leas-Cheann Comhairle for the opportunity to introduce this Bill. I thank also the staff of the Office of the Ceann Comhairle and the Bills Office who worked very hard to help me with this. I am delighted to discuss my Bill in the House.

Covid-19 has ripped through our society and economy and has wreaked havoc on workers and their families. Many workers, especially front-line and essential service workers such as suppliers, shop and supermarket workers, workers in food processing and meat factories, nurses, doctors and gardaí, have been working around the clock since March to help us get through the Covid-19 crisis. They are working today and will be working throughout Christmas.

Unfortunately, for many of these workers, this means they have been unable to use up all their 2020 annual leave due to the workplace demands the pandemic has brought. As a result, countless workers could lose several days of annual leave once the year ends. It is for this reason I bring this Bill before the House. The Bill seeks to allow workers to carry over annual leave from 2020 which they were unable to take due to the effects of Covid-19 on the worker, the employer or the wider economy or society and to use that leave in 2021 and-or 2022. Put simply, this means that where workers could not take their leave due to Covid-19, they will be facilitated with a carryover of that leave into 2021 and-or 2022. I see no reason the Government should object to such a proposal given that we have seen similar changes in Britain, where they have amended their working time legislation to allow workers to carry over leave not taken due to Covid-19 into the next two leave years.

These are extraordinary times and as such they call for extraordinary measures. This legislation is intended to be only temporary but it seeks to give back to workers and to help those workers who have worked non-stop throughout the Covid-19 crisis and who have not been able to take their annual leave. I am sure I speak for everyone in the House when I say that no businesses or Government agency would want to see workers' untaken annual leave lapse at the end of this year. The Government has been quick to implement emergency measures and a number of supports to cover a range of matters but has been very slow in looking out for workers. Workers have accrued their leave and are entitled to take it. Sinn Féin wants to ensure that workers' annual leave rights are preserved. If they cannot take their leave in 2020 due to Covid-19, they should have a legal right to carry it over into 2021 and-or 2022, when, it is to be hoped, we will have a vaccine and will be able to move about with some semblance of normality.

I hope that when the Second Stage debate is taken, all those Deputies who stood up to give a round of applause to front-line and essential service workers earlier this year will support it. The Bill seeks to give workers something that will be of real benefit to them. There is a reason we get annual leave. It is not necessarily because employers love workers, it is because workers

sometimes need a rest in order that they might continue to do their work. I commend the Bill to the House.

An Leas-Cheann Comhairle: Is the Bill opposed?

Tánaiste and Minister for Enterprise, Trade and Employment (Deputy Leo Varadkar): No.

Question put and agreed to.

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

Deputy Louise O'Reilly: I move: "That the Bill be taken in Private Members' time."

Question put and agreed to.

Ábhair Shaincheisteanna Tráthúla - Topical Issue Matters

An Leas-Cheann Comhairle: I wish to advise the House of the following matters in respect of which notice has been given under Standing Order 37 and the name of the Member in each case: (1) Deputy Niamh Smyth - to discuss the need to address concerns about direct provision centres in Monaghan; (2) Deputy Carol Nolan - to discuss the need for a primary care centre to be constructed in Birr, County Offaly; (3) Deputy Pádraig O'Sullivan - to discuss a HSE allowance to cover the additional costs of waste disposal incurred due to a disability; (4) Deputy Steven Matthews - to discuss a Covid-19 outbreak in a County Dublin hospital and immediate measures to minimise any further risk to patients, staff and the wider community; (5) Deputy Michael McNamara - to discuss the withdrawal of mortgage approval at final drawdown due to the applicant being in receipt of the pandemic unemployment payment; (6) Deputies Joe McHugh, Darren O'Rourke, Matt Carthy and Ruairí Ó Murchú - to discuss the implications of Brexit for the invalidating of certificates of professional competence in road haulage and passenger transport; (7) Deputy Chris Andrews - to discuss the urgency of a date for vital surgery for scoliosis patients who have to wait more than six months for treatment (details supplied); (8) Deputies Kieran O'Donnell and Maurice Quinlivan - to discuss delays in construction of the Coonagh-Knockalisheen road; (9) Deputy David Stanton - to discuss the need to support second level students travelling from Cobh to school in Carrigtohill and transport affordability; (10) Deputy Jennifer Murnane O'Connor - to discuss proposals to honour the Labour Court recommendation on occupational pensions for community employment supervisors; (11) Deputy Richard Boyd Barrett - to discuss the working conditions and traumas faced by online control moderators; (12) Deputy Dessie Ellis - to discuss concerns that insurance companies are refusing mortgage protection cover to those with underlying conditions during the Covid-19 pandemic; (13) Deputy Aodhán Ó Ríordáin - to discuss the scarcity of second level places in north Dublin owing to schools reducing their intake to enable social distancing; and (14) Deputy Michael Moynihan - to discuss safety works planned for Ballymaquirk Cross, Kanturk, County Cork.

The matters raised by Deputies Niamh Smyth; Joe McHugh, Darren O'Rourke, Matt Carthy and Ruairí Ó Murchú; and Carol Nolan have been selected for discussion.

Sitting suspended at 1.14 p.m. and resumed at 1.33 p.m.

Judicial Appointments Process: Statements

An Ceann Comhairle: Before we commence this item, it is important for me to set out the terms of engagement. I almost said “terms of endearment”. Let us ensure they are terms of engagement. Last week, I ruled that the process followed by the Government in relation to judicial appointments could be raised, subject to keeping within the limits of parliamentary debate and respecting the normal rules on Cabinet confidentiality. As part of the official functions for which she is accountable to the House, the Minister for Justice, Deputy McEntee, undertook a process that led to a name being submitted to the Cabinet. The Minister may, therefore, be questioned on this particular process, including on the nature of the process, the steps involved in it and how it was actually conducted. These are all objective issues that are in order and do not encroach on other branches of government.

However, the Minister may not be questioned on the merits or relative merits of candidates, nor can she be questioned on how candidates were evaluated with reference to the selection criteria. All persons involved in this process are holders of judicial office and I remind Members that they cannot comment on their suitability for office. These are all subjective matters that Members are precluded from addressing, in accordance with the longstanding rules of the House. I would also make the point that the process conducted with the selection of one name for submission to Cabinet and some matters related with Cabinet, including the Government memorandum and discussions, may not be raised because of the constitutional provisions regarding Cabinet confidentiality.

Finally, I ask Members to adhere to the framework I have outlined. If this framework is followed, it will not be necessary for me to intervene in the course of proceedings, something I do not want to do. However, in the event that I do have to intervene, I ask Members, please, to respect that and to co-operate with the rulings and directions.

I call the Minister for Justice, Deputy McEntee, to make her opening statement.

Minister for Justice (Deputy Helen McEntee): I am happy to take this opportunity to update the House on the appointment by the Government of members of the Judiciary. Over the past century, one of the great successes of the modern Irish State has been the Judiciary, which has consistently acted in a robust and independent fashion and earned the respect of fellow judges in Europe and around the world. Since I was elected to this House, and especially since I have had the honour of serving as Minister for Justice, I have been acutely conscious of my over-riding duty to uphold and vindicate the independence of the Judiciary. As Minister for Justice, I will continue to do so throughout this debate.

I am happy to set out the details of this appointment for the information of Deputies. However, unlike previous Ministers who have answered questions relating to judicial appointments, I come to the House today as a number of Members have put forward a motion of impeachment. It makes it all the more important that everyone in the House today is mindful of their responsibilities. It is incumbent on all of us to uphold the independence and integrity of the Judiciary and not to do or say anything that could undermine the courts or any sitting judge or, indeed, undermine the separation of powers. We do not have to look too far across Europe to see instances where the independence of the Judiciary is questioned. I have participated in European Union meetings where this very issue was discussed many times.

It is important to first set out the process by which judges are appointed under the Constitution and the law. I know many Members will already be familiar with this process, given the lengthy debates in the House in recent years on the judicial appointments legislation proposed by the last Government. Appointments to the Judiciary are made in accordance with Articles 13.9 and 35.1 of the Constitution by the President acting on behalf of the Government. This is a constitutional function that cannot be transferred or delegated. The constitutional prerogative to advise the President on judicial appointments lies with the Government alone. The Government takes this responsibility seriously and our objective at all times is to propose the best person to fill each judicial vacancy. I can assure the House that that was also the case when the Government decided to nominate Justice Séamus Woulfe to the Supreme Court.

As I outlined to the House in replies to parliamentary questions earlier this week, it has been the practice to maintain a vacancy on the Supreme Court due to the reduction achieved in waiting times in that court in recent years. However, this is, of course, kept under review. In this particular case, the Chief Justice wrote to the then Minister for Justice and Equality, Deputy Flanagan, on 4 February 2020, requesting that the Supreme Court vacancy arising from a retirement in June 2019 be filled. He cited emerging pressures, including the establishment of the CervicalCheck tribunal. As he was obliged to do under law, the then Minister for Justice and Equality wrote to the Judicial Appointments Advisory Board, JAAB, on 17 February 2020. In keeping with the usual practice, the Minister asked the board to furnish him with nominations for the vacancy and the name of each person who had informed the board of his or her wish to be considered for appointment. The then Minister also responded separately to the Chief Justice, stating that this request of JAAB did not presuppose the filing of the post; it was to facilitate the procedure should a decision be taken to make an appointment at whatever point in the future the vacancy might be progressed.

The only judicial nomination made during the period of Government formation was to the post of President of the High Court. As this is a senior position and has broader statutory functions it was done. It should be noted that this appointment on 18 June, a week before the Government was formed, resulted in a second vacancy on the Supreme Court.

It might be helpful to explain that the Judicial Appointments Advisory Board is an independent board established under the Courts and Court Officers Act 1995 to identify persons and inform the Government of the suitability of applicants for appointment to judicial office. In line with the Cabinet handbook, between 11 and 14 July I informed the Taoiseach, the Tánaiste, the Minister for Transport, Deputy Eamon Ryan, and the Attorney General of my intention to propose Séamus Woulfe for the position, following which I brought a memorandum for the consideration of the Government on 15 July, recommending a name to Cabinet for appointment by the President.

In this case, the recommendation was in line with the recommendation of JAAB, which is chaired by the Chief Justice and includes the Presidents of the four other courts, as well as members of the Bar Council and the Law Society and several lay members. The process through which JAAB recommends applicants for consideration by the Government is set out in Part IV of the Courts and Court Officers Act 1995, as amended. These are the applicants who meet the eligibility criteria for the particular court, as set out in the Courts Act 1961, including, for example, 12 years as a solicitor and a barrister for appointment to the superior courts. Serving judges are not currently required to apply to JAAB. It is worth noting that section 18 of the 1995 Act makes specific provision that the board may recommend the Attorney General for appointment to judicial office. Where the Attorney General wishes to be considered for such

appointment, he or she shall withdraw from any deliberations of the board concerning his or her suitability for office. That is the law.

In a letter to my predecessor dated 11 March 2020, JAAB advised that it had met on 9 March and decided to recommend one candidate, Mr. Séamus Woulfe SC, whom it considered suitable for appointment to the Supreme Court. As requested by the Minister, and as required by the Courts and Court Officers Act 1995, JAAB indicated that there was one applicant considered for this post through the JAAB process, namely, Mr. Séamus Woulfe SC, and there were no other applicants. Deputies will note from the annual reports of JAAB that this number is in keeping with previous such processes of appointment to the Supreme Court. There was one applicant in each case for two Supreme Court posts in 2019, one application in 2017 and one in 2015, from persons eligible to apply through JAAB, namely, those who are not currently serving judges. Under section 20 of the 1995 Act, all proceedings of the board and all communications to the board are confidential. That is all of the information made available to me by the independent board.

As I mentioned, the outgoing Government made no judicial appointments other than dealing with the urgent appointment of the President of the High Court. Following my appointment at the end of June, I was informed by my officials of the vacancy to be filled on the Supreme Court and that the Chief Justice had written to my predecessor on 4 February seeking that the position be filled as soon as possible. A draft memorandum was submitted to my office on 6 July 2020. The submission included details of the recommendation that had been made by JAAB, expressions of interest from serving members of the Judiciary and the names of all other judges eligible for the position. The expressions of interest from serving judges were received over a number of years and retained on file for any current or future vacancy that might arise. Whether or not existing judges put forward expressions of interest is a confidential matter, for obvious reasons, and it is not the practice to release information that might identify any of those judges.

The practice in regard to appointments or nominations to positions made by Government is that only one name is brought to Cabinet by the proposing Minister. This practice is particularly important in the context of judicial appointments, as an open debate on the merits or otherwise of sitting judges, as well as others who have been nominated by JAAB, would amount to a complete politicisation of the judicial appointments process. One of the very great strengths of the Irish Judiciary has been its non-political character and independence, unlike what we see in many other countries. It is a solemn duty on the part of the Minister for Justice to propose to Cabinet someone who, in the opinion of the Minister, is the best person for the particular judicial vacancy. The Government then decides whether to approve the appointment. That is exactly what happened in this case.

Turning to the future, it is fair to say that reform of the law relating to judicial appointments has been ongoing for some years. Under the previous Government, the Judicial Appointments Commission Bill 2017 was introduced and debated at great length in the Houses of the Oireachtas. The reforms set out in that legislation arose from a public consultations process on a review of the judicial appointments system in 2014. While the JAAB process was regarded as an innovation in its day, it was considered timely and worthwhile, almost 20 years on from its establishment, to review its operation and, indeed, the entire judicial appointments system, to ensure that it reflects current best practice. The need to ensure and protect the principle of judicial independence was a significant factor in this consultations process.

The Government has acted appropriately at all times throughout the current process, which

we stand over, having adhered to the process and the law. However, the Government has never believed that the judicial appointments process currently in place is as good as it should be. That is why we built into our programme for Government an undertaking to bring forward new legislation very quickly to reform the process. It seems that we can all agree in this House that there is significant room for improvement in the current system. I am determined to lead that reform and to do so quickly.

I want to work with all Deputies to make sure the new system is future-proofed in order to meet the very highest standards that we expect in choosing our future Judiciary, including that the members of which have the diverse backgrounds and skills that reflect the society they serve. I know I can look forward to the support of all Deputies in this crucial task. I will shortly seek the approval of the Government for a new general scheme of a judicial appointments commission Bill 2020 to provide for the establishment of a new commission to replace JAAB. This will be reforming legislation and there will be ample opportunity for the House to discuss and debate what it needs to contain. I intend to lead this reform, make it happen and, above all, make it work in the interests of the independent Judiciary and the public we all serve. I trust in having Deputies' support to bring that reform about at the earliest opportunity.

Deputy Martin Kenny: I am sharing time with Deputy Carthy.

The facts of the matter before us are as follows. On 27 June, the Minister for Justice took office. Waiting on her desk when she arrived in the Department were four applications for the job of Supreme Court judge, a massive job carrying a salary, in excess of €220,000, paid for by taxpayers. The Minister had four applications - not one, as she and other Ministers have tried to make out, but four. Whether they came from JAAB or via expressions of interest is immaterial. She had four applications. On 15 July, she recommended one of those applicants to the Cabinet for appointment to the Supreme Court. That person just happened to be the previous Attorney General and long-term Fine Gael activist, Séamus Woulfe. Four became one.

Any reasonable person would have expected the Minister to come before the Dáil today and set out how those four names were whittled down to one. She has not done so. She said that she had no discussions about the applicants or their suitability for office with the Taoiseach, Tánaiste or any other Minister. This is not credible in the slightest. The Tánaiste, who is the Minister's party leader, knew there were other applicants. In fact, he knew Séamus Woulfe had applied for the position because he said so to the now Taoiseach and the leader of the Green Party during the negotiations on the programme for Government. The Minister did not, however, tell the Taoiseach that there were other applicants. Why was the Fianna Fáil leader kept in the dark in this regard when the Minister's party leader and others were aware that there were additional applicants?

Much of the Minister's story just does not add up. At a meeting of the justice committee last week, she said in response to a question from me:

... I looked at the recommendation that had been made and other expressions of interest that often come for any of these positions. Following that I spoke to the Taoiseach, the Tánaiste, the Minister, Deputy Eamon Ryan, and the Attorney General. On foot of that, a recommendation was made, and a name was given to Cabinet.

I find it absolutely baffling that the names of the applicants and their suitability for appointment would not be discussed at that time by the Minister and the party leaders in government.

The successful applicant was a long-term Fine Gael activist who served as Attorney General in a previous Government. Yet, there was no disclosure and no discussion in this regard with the Minister's partners in government. Even if we suppose that the Minister did make this decision on her own, the fact remains that one name out of four was signed off by Cabinet and it is the one the Minister brought to Cabinet. The other three rejected applicants were all sitting judges and, presumably, experienced and very well qualified if they were applying for such an eminent position. However, Séamus Woulfe, the long-term activist, is the name that miraculously made its way to Cabinet.

I have heard the Minister say that she looked at the four names and made her decision. On what basis did she evaluate the applicants? What motivated her decision to bring to Cabinet the name that she did? Was it the individual's experience? Was it his reputation in dealing with complex cases? What were the criteria applied in respect of this appointment to the highest court in the land? What the Minister is telling us simply does not stack up. She told RTÉ last Friday evening that she took a number of weeks to consider the appointment. However, in response to a parliamentary question, she said that she did not receive the memorandum with the details of persons applying for the post until 6 July. According to the same response, she started to speak with party leaders on 11 July, with whom she says she did not discuss the issues of suitability or experience. The consideration she gave to the matter took days, then, not weeks. None of this stacks up and that is why we are here today.

This appointment was a done deal. A Fine Gael-supporting Attorney General was on his way out and Fine Gael needed to find a job for him. He was one of Leo's cronies and that is the Fine Gael way of doing business. The Minister did it and Fianna Fáil went along with it. The Green Party, God help it, did not know what to say or where to look. This was a Fine Gael appointment. It was boxed off long before the Minister ever took office and she signed off on it. That is the reality and it is why we are here today.

Deputy Matt Carthy: As Deputy Martin Kenny said, we are here today because Fine Gael in government has a problem in regard to cronyism. It has a problem of doing favours with insiders. It has a big problem with being held to account when caught out. This is the second time in three weeks that a Fine Gael member of Government has had to come before the Dáil to answer questions about his or her conduct. First up was the Tánaiste and Fine Gael leader to answer for leaking confidential information to his political ally when he was Taoiseach. Now, the Fine Gael Minister for Justice is before us regarding the highly questionable manner in which the former Attorney General and Fine Gael supporter, Séamus Woulfe, was appointed to the Supreme Court. Both cases stink to the high heavens. Both the Tánaiste and the Minister for Justice had to be dragged into the Dáil kicking and screaming. Why did that happen? Fine Gael does not do accountability. However, it does arrogance, in spades. Whether it is the former Minister of State, Brian Hayes, seamlessly moving to become the champion of the banks and the vultures, or another Fine Gael former Minister of State, Michael D'Arcy, moving straight into a cushy job as a lobbyist for high finance, time and again we see the arrogance of the Fine Gael old boys' network at work. This arrogance is not without consequence. The behaviour exposes all that is rotten in Irish politics - favours for friends, cronyism and insider deals. Who pays for it? The ordinary people pay. It is the people looking for a home or waiting for a hospital bed, families struggling with mortgages or insurance costs and workers looking for decent jobs and wages. Instead of focusing on what is best for our people, Fine Gael each time focuses on what is best for its friends in high places. People go without so Fine Gael's friends can have it all. Fine Gael arrogance is at the centre of this controversy.

The Minister insulted the Dáil for weeks by resisting calls to come to the Dáil and answer questions. Now, she is insulting people's intelligence by offering implausible scenarios. The truth is that this judicial appointment was an old-fashioned political stroke. It is as simple as that. Instead of bringing clarity, the Minister has sought to muddy the waters in the hope that people will just tire of the matter. I hate to break it to Members, but that is not going to work. Everyone knows that this was a shady deal and that it stinks. They know what it looks like when people in power box off a job for their political friend, because they have seen it all previously. The reason this process appears to be all over the place is that there was no process. The dogs in the street know that. The reason the Minister cannot explain properly how she whittled four names down to one is that she did not. It was not even as crass as saying "eeny, meeny, miny, moe"; it was saying "eeny, eeny, eeny, Woulfe".

This deal had been done before Deputy McEntee became Minister for Justice. The appointment was not even decided in the Department of Justice. It was decided in Fine Gael. Everybody knows that it was a done deal. Fine Gael is now trying to take the people for fools, just as it took the Taoiseach for a fool and kept him in the dark about an appointment to the highest court in the land. So determined was Fine Gael to get its man through, it ran rings around the Taoiseach, Deputy Micheál Martin, to ensure it happened. It is not often I agree with a member of Fianna Fáil and it is rare for me to agree with Dermot Ahern. However, the former Minister for Justice was bang on point when he wrote:

It now seems that leading Fine Gael members pulled a fast one by rushing to fill the Supreme Court vacancy with their own former attorney general. Incoming Taoiseach Micheál Martin should have smelled a rat. He's long enough around.

Fine Gael wiped Micheál's eye by rewarding a loyal friend with a highly paid and very powerful job. For all the talk of new politics from Fine Gael, we are being dragged back to the old days and the old ways. It is the culture of arrogance so typical of Fine Gael that ensures that Governments come and go, but nothing changes.

People are sick to their back teeth of it. They are sick of the political strokes, the who-one-knows manoeuvring and Fine Gael cronyism. They are determined that the days of the old boys' network and insider backroom deals are well and truly numbered. The Minister had an opportunity to come clean and confirm what everybody knows. It is deeply regrettable and disappointing that she did not take that opportunity. She was a party to a Fine Gael old boys' club political stroke. That is the long and the short of it. She should come clean. She will have a further opportunity to do that during the questions and answers, and I urge her to take it.

Deputy Brendan Howlin: I warmly welcome today's exercise in proper political accountability. It is one of the core functions of the House to hold the Executive to account for all its actions. I have been privileged to serve in three coalition Governments, two of which were coalitions with Fine Gael. In each Government, all senior Government appointments were subject to cross-party agreement after detailed discussions about all available and suitable candidates. Few appointments received greater scrutiny than the appointment of senior judges, so much so that one Government fell in 1994 on the basis of a lack of cross-party agreement.

While it is correct that the Minister for Justice proposes one name to the Government for appointment, it was never the sole or exclusive right of that Minister to determine alone who should be nominated. The names of all suitable candidates were circulated to, and considered by, the leaders of each party in the Government. Detailed papers were presented to each leader

and they eventually arrived at a consensus. As I understand it, the Minister's position is that this process was set aside, that she alone made the decision and then presented it to the Taoiseach, Tánaiste and Minister, Deputy Eamon Ryan, as a done deal and that they, their advisers and party managers simply nodded through her personal choice. I believe I am presenting her position fairly.

After a decade of experience in three Governments, I consider that an absurd position. To get listed on the Cabinet agenda, a memorandum has to go through a vetting process involving all party leaders involved in the Government and especially the Taoiseach. Presumably, the Minister's officials prepared the memorandum for the Government. She said in her contribution today that she received a draft memorandum in her office on 6 July. Surely she was advised that the previous Government, led by Deputy Varadkar, had established a non-statutory advisory group outside of the JAAB to assist with identifying eligible and qualified persons suitable for appointment as senior judges. That committee was served by a secretary who was a representative of the Department of the Taoiseach. Was the Minister aware that this advisory committee recommended a number of persons to be considered for judicial office? Did she have regard to the recommendations of this advisory committee in making her choice of who to propose to the Government to be nominated to the Supreme Court?

The Minister stated previously that she brought a memorandum to the Cabinet proposing a judicial appointment to the Supreme Court, and that the memorandum contained only one name. The Taoiseach has also suggested that her memorandum did not contain the information that three sitting judges had expressed an interest in the position, although she told the House today that the draft memorandum included details of the recommendations made by the JAAB, expressions of interest of serving members of the Judiciary and all other judges eligible for the position. Was that detail included in her final memorandum, as it was in the draft? In either case, how is it that the Taoiseach was unaware of the others? Did the Minister check if not listing the names was normal practice? Did she examine the most recent judicial appointment memorandum brought forward only weeks before by her predecessor to check what was normal practice and if it was appropriate to list all eligible candidates for the information of the Government?

Section 3.2(c) of the Cabinet Handbook states that every memorandum for the Government should "ensure that all relevant considerations are brought to the attention of the Government in making a decision, that information provided is complete and accurate and that any qualifications are clearly stated". Does the Minister believe she fulfilled the requirement of the Cabinet Handbook in this instance?

2 o'clock

If it was the case that political agreement had been reached between the Government parties that the outgoing Attorney General should be appointed to the Supreme Court, I believe that would be both legal and constitutional. In deference to you, a Cheann Comhairle, I will simply say, however, that it certainly would not be best practice. If it was the case that the Minister was simply left with a *fait accompli* on arriving into ministerial office, that there was already a political agreement about who should fill this vacancy, that would be politically understood, if not accepted or agreed with.

What is undermining the Minister's position and the credibility of the Government is the maintenance of the unbelievable, that she or any Minister for Justice, experienced or not,

whether she was three weeks in the job or five years in the job, would take it upon herself to appoint the outgoing Attorney General to the Supreme Court in preference to all other applicants, including senior serving members of the Judiciary, without discussing the implications of that action with the leader of her party and the leaders of the other parties in government and, especially, for constitutional reasons, with the Taoiseach of day. I also question that any self-respecting party in government would simply exclude itself or allow itself to be excluded from such an important process. That simply does not bear credibility. As Richard Nixon discovered, it is not always the action that is one's undoing, sometimes it is the strain involved in presenting a version of events which, to anybody who actually knows the process or simply follows politics or history, is not credible.

Deputy Catherine Murphy: The Supreme Court is the highest court in the land. It is essential that those who are appointed to it come through a rigorous process in order that any vacancies are filled by those most qualified to do the job. That is why process is important. The Judicial Appointments Advisory Board, otherwise known as JAAB, is a vetting process. It is all about considering if a barrister or solicitor has the skill set to make a good judge. Once JAAB establishes if an applicant or applicants meet that criterion, the name or names of those applicants go on a list and they are deemed to be eligible to be appointed. That is very important. This is not a recommendation to appoint. The Minister should not keep saying that it is. As we know, judges do not apply through this process. I presume that is because they already do the job. They have a track record of doing the job, so they do not have to be vetted for their ability to do a job they are already doing. Judges apply directly to the Minister for Justice and the Attorney General, both of whom know the names of those who apply through this route.

I listened very carefully to what the Minister had to say in her interview on "Six One". She said that, following her appointment to the justice portfolio in June, she looked at the JAAB recommendation – I underline the use of the word "recommendation" again - and other expressions of interest. I note the Minister keeps calling it a recommendation. Why is she doing that? That is a cover.

Following that, she told us that she spoke to the Taoiseach, the Tánaiste, the Minister, Deputy Eamon Ryan, and the Attorney General. We know she did not tell them that some judges specifically applied for this vacancy. She said a recommendation was made after this discussion and a name was given to Cabinet. She said that only one name is ever given to Cabinet. That does not mean that the Taoiseach, the Tánaiste and other coalition party leaders would not be fully briefed on who applied and the process used to establish who is the best fit for the job. The Minister said in the interview: "Considering Justice Woulfe's name was delivered through the JAAB, that is the name that was given to Cabinet." That is a direct quote from the Minister. She emphasised that Séamus Woulfe's name came through an official process which was chaired by the Chief Justice himself, giving the impression that this was a recommendation. JAAB was the only official process in all of this but, as I keep saying, it is a vetting process not a recommendation to appoint. However, that process has become superior to any informal application process, through which those with judicial experience apply.

The Minister was appointed as Minister for Justice on 27 June 2020. I want to concentrate on a few things that happened before that date. On the Order of Business on 17 November, the Taoiseach, Deputy Micheál Martin, said:

I and the Leader of the Green Party, Deputy Eamon Ryan, prior to the formation of the Government, were told that Mr. Justice Woulfe ... The bottom line is very simple and very

straightforward. We were simply told that Mr. Justice Woulfe would come through the Judicial Appointments Advisory Board. That is it. As far as I am concerned, he came through the board and was recommended as being suitable for the position. He was an outgoing Attorney General and, in my view, was qualified for the position. In the aftermath of the formation of the Government, as Taoiseach I had no difficulty with the Minister for Justice bringing his name forward. I had no difficulty in supporting that nomination.

On 19 November, the Tánaiste said:

I am pretty sure it was the week before the new Government was formed that the party leaders discussed whether Séamus Woulfe would be reappointed as Attorney General or whether there would be a new Attorney General. We decided collectively that there would be a new Attorney General and that Séamus Woulfe would not be reappointed as Attorney General and at that point, for transparency and information, I informed the other leaders that there was a vacancy, that Séamus Woulfe had been recommended by the Judicial Appointments Advisory Board, JAAB, as suitable for that vacancy, and that was the end of the conversation.

In a nutshell, the Taoiseach told us the decision was made in advance of Deputy McEntee being appointed as Minister for Justice. He said that because Séamus Woulfe was the outgoing Attorney General and came through JAAB process, he would get the job. The Tánaiste pretty much said the same. It is as simple as that. The decision was made. There was only one name considered. The other CVs did not need to be considered. Judicial experience did not matter. That is what a political appointment looks like, yet the Minister would have us believe she went off, worked away on this on her own, went through all those eligible for promotion to the Supreme Court, including several judges who applied specifically for the role, and came to the conclusion that the former Attorney General was the best person to fill the vacancy, and that she was completely oblivious to the fact that it was a done deal. As I pointed out, it is a problem that she is using the cover of JAAB as a recommendation rather than a vetting process. If I am wrong, the Minister needs to address the following questions. What criteria did she use to evaluate the applications? Who else was involved? What value was put on track record and judicial experience? When did the Minister become aware that some judges had specifically applied for this job? I also want to know if the Minister discussed the matter with the Tánaiste, the former Minister for Justice and Equality or the former Attorney General at any point before she brought the name forward. Was she told who was to get the job?

I want to go back to the Taoiseach. One thing I find very strange in all of this is that the Taoiseach made such an issue of the importance of judicial experience when he was in opposition in 2017. This was in the context of the outgoing Attorney General, Máire Whelan, being appointed to the Court of Appeal. His central point was that she lacked any judicial experience, yet there was no issue with a very personalised debate on the floor of the Dáil. Anyone looking back at that debate will acknowledge that it is very different from today's debate. Yet when an appointment was being made to a higher court, the Supreme Court, judicial experience was not a valued criterion for the Taoiseach or the Tánaiste. The Minister would have us believe that there was a fair and equal consideration of all applicants. The Minister received a hospital pass and is being put in the firing line. She is defending the process by which the appointment was made when we all know full well there was no process.

Just as the Minister has been put in this position, the Opposition has been taken for fools. The nonsensical suggestion that the Minister would come in and use the normal ministerial

Question Time to deal with this was not only an insult but a dangerous precedent. Those who applied other than through the JAAB process must be questioning what was the point. I put some questions about this to the Taoiseach in July but they were ruled out of order. I was told that under Standing Order 44, there was no official responsibility to Dáil Éireann for some of the matters I raised relating to the criteria for appointment.

We need a judicial appointment process that truly reflects the separation of powers. The Social Democrats are of the view that cannot be done with the involvement of the political strand and there must be total separation, with appropriate checks and balances. That requires a referendum and we must end this kind of nonsense.

Deputy Bríd Smith: To be honest I find much of this debate amusing and I am somewhat surprised we are having it. We are having it nonetheless. One of the most amusing statements today came from the Minister, who said the great strength of the Judiciary is its non-political character. I was in knots of laughter when I heard that comment.

In essence, many Deputies are expressing outrage that the Government used a vacancy on the Supreme Court to appoint a politically connected person because that person was politically connected rather than because he was the best or most suitable person for the job. I have a newsflash; all our top judges are, effectively, political appointees. When Fianna Fáil is in government, we get judges with Fianna Fáil connections; when Fine Gael is in government, we get judges with Fine Gael connections; and the odd time, if Labour is the extra wheel, we might get one of their mates. This time we have Fianna Fáil and Fine Gael in government and Fine Gael got to appoint the judge.

Perhaps the outrage expressed is because this is a glaring example of a political appointment, as opposed to the more normal and subtle way of appointing judges via the old boys' network. Is the outrage because the person appointed was not a barrister? The normal route to the court is through a judicial system dominated by a very small and self-perpetuating elite. The judicial system and barristers are drawn from a small pool, largely controlled by the Honourable Society of King's Inns, set up by none other than Henry VIII to ensure controlled access to the Bar, and initially to keep out Catholics. This is the only place where somebody can become a barrister. Judges are not exclusively but are overwhelmingly barristers. The Honourable Society of King's Inns is the only place that trains barristers but there is no statutory basis for this in any law made democratically by us. It owes its origins to Henry VIII and was set up to ensure that a small, well vetted elite controlled who could become a barrister or who would be kept out. It is still doing that.

Inside the Honourable Society of King's Inns there is another secret society, known as the benchers. There is an inner bench and outer bench. Anybody who is made a judge automatically becomes a member of the benchers. They have secret dinners about which nobody finds out. These happen regularly. I wonder if some of the outrage is caused by the fact that Séamus Woulfe was not even a bencher.

The idea now is the Minister for Justice has appointed a candidate because he was a Fine Gael activist. We are now in for a bigger shock, so we should get the smelling salts ready. Here is another newsflash. There is no such thing, in reality, as the separation of powers. We have a political system dominated by Fianna Fáil and Fine Gael, with a splash of Labour and this time around the Greens have been thrown in. We have a judicial system dominated by the friends of Fianna Fáil and Fine Gael, with the odd Labour appointee. In expressing outrage about such a

fiasco, I say to the other party leaders, including Deputies Mary Lou McDonald, Alan Kelly and Catherine Murphy, that next week they will have a chance to demonstrate outrage by supporting the motion tabled in the name of People Before Profit by Deputy Paul Murphy to remove Séamus Woulfe for stated misbehaviour. Those Deputies can demonstrate that we are serious about the separation of powers and democracy. Just as important, we are serious about demonstrating that we recognise the major sacrifices of the Irish people over the past nine months in abiding by public health guidelines. It would show that these guidelines were not made just for the little people but were also made for the great and the good, whether they came from the benchers club or not.

Is the Minister aware that Séamus Woulfe is a former branch secretary of Fine Gael in Dublin Bay North? Is she aware that Mr. Justice George Birmingham, who sat on the Judicial Appointments Advisory Board, JAAB, which recommended Séamus Woulfe, was a former Fine Gael Minister of State? Is she aware that Séamus Woulfe sat on a previous JAAB that recommended Mr. Justice Birmingham for a position as President of the Court of Appeal? Does she believe there is a danger of “you scratch my back and I will scratch yours”? Did she know Mr. Justice Frank Clarke, who also sat on JAAB that recommended Séamus Woulfe, was a former Fine Gael candidate for the Seanad? The Minister should have found it distasteful that a body with so many Fine Gael connections should itself recommend somebody with a Fine Gael connection.

Deputy Paul Murphy: I find it quite outrageous, to be honest, that after two weeks of ducking and diving by the Government, in trying to shield the Minister from questioning, we have received a statement that goes on for ten minutes and manages to avoid the central issue about which questions have been raised. The central issue is, if the Minister’s story is accurate, on what basis did she decide that Séamus Woulfe would be the name she would recommend to the Cabinet? On what basis did she decide it would be him rather than the other judges on the memorandum before her? It is astounding that the Minister can manage to speak for ten minutes while avoiding the central matter about which questions have been asked repeatedly.

Everybody knows what this controversy is about. It is about whether Séamus Woulfe was a political appointee. Was there a deal between Fine Gael and Fianna Fáil that Fianna Fáil would get the Attorney General if Fine Gael got its former Attorney General on to the Supreme Court? Did Fine Gael pull a fast one? Either way, is Séamus Woulfe now on the Supreme Court because he is close to Fine Gael and was a Fine Gael activist? That is the central question.

The dogs in the street are in no doubt about the answer to that question. As Deputy Catherine Murphy implied, in a way the Tánaiste gave the game away in speaking in the Dáil on 19 November, pointing towards the truth of the arrangements that had taken place. For those outside who see it as glaringly obvious that this is a political appointee, there are very good reasons for such thinking. In 2011, the *Irish Independent* did a survey of judges, finding one in three has personal or political connections to political parties. That is wildly disproportionate to what happens in society at large. We do not have that kind of mass participation, where one in three people in society is a member of a political party.

It should be noted, of course, that we will not find judges that are personally and politically connected to parties of the socialist left. It is overwhelmingly the case they are connected to Fianna Fáil and Fine Gael, the traditional establishment parties of Irish capitalism that are wildly over-represented within the Judiciary. It is perfectly normal, as Deputy Bríd Smith has mentioned, to have political appointees, unfortunately.

The story presented by the Minister is not at all credible but let us take it on its merits. We will have a chance to ask questions and, I hope, get some answers on it shortly. The Minister described a timeline. On 29 June, she is appointed as Minister. On 6 July, she gets a memorandum, which includes the name of Séamus Woulfe but also includes, importantly, other names. On 15 July, she brings a memorandum to Cabinet and a recommendation, with the other names stripped out and Séamus Woulfe's name alone remaining. That is the essential part of the Minister's narrative and, crucially, apparently between 6 July and 15 July, or earlier if she knew earlier, the newly-appointed Minister, who was two weeks in the job at that stage, does not talk to a sinner about it. She does not talk to the Tánaiste and her party leader, to the Taoiseach or to the leader of the Green Party, although that might not surprise people. She does not talk to the Attorney General, the Secretary General of her Department or to a sinner. Instead, she looks deep inside her heart and decides, "Yes, this one". Séamus Woulfe is the man for the job as opposed to all these other people. It is very blatantly and very obviously not credible at all. It very clearly is not what took place.

There is a question that flows from that. If it is the case that on 6 July the Minister got a memorandum with a number of names, chose to strip out names and leave one remaining and bring that to Cabinet and the Government decided to appoint Séamus Woulfe as a Supreme Court judge, on what basis can it be said that the Government met and acted as a collective authority? Article 28.4.2° of the Constitution is clear that the "Government shall meet and act as a collective authority". Never mind bringing the names, did the Minister even inform the Cabinet that there were a number of possible options? Did the Minister bring that information to Cabinet? It cannot have acted collectively if it did not know that there were other applications and thought there was only one from Séamus Woulfe.

Deputy Peadar Tóibín: Everybody listening to this debate at home will be familiar with the recruitment process for a job and most will have been through some type of recruitment process in their own work. Everybody understands that a recruitment process should be fair, open and transparent and that the person with the best knowledge, experience, character and skill should be selected for the job. We live in a meritocracy and merit is the basis for the selection for any position in this country. That should apply from the bottom of society to the very top. It is not rocket science. It is a basic standard that people demand in their own working lives. For the applicant, it ensures fairness and for the recruiter, it ensures that the best person is selected for the job.

Let us look now at how this country works. For far too long in Ireland people got jobs on the basis of who they know and not what they know. The establishment parties have, for years, divvied up jobs on the basis of party affiliation. When I was a kid, if a person wanted a job with Telecom Éireann, he or she went to the local Fianna Fáil councillor and got the job. That culture is still alive and well. I know of Fianna Fáil and Fine Gael politicians who still make representations on behalf of their supporters for State jobs. We also saw how the inner circle functions a couple of weeks ago when we learned that the Tánaiste leaked a confidential, not-for-circulation document to his friend. People recognise this culture as part of who Fianna Fáil and Fine Gael are and they recognise the gross injustice of it as well.

In recent weeks, the Taoiseach and Tánaiste have hidden behind a smoke screen that they call the separation of powers. Surely the biggest threat to the separation of powers is a culture that allows for party affiliates to be fast-tracked for appointment as judges. If we want to really separate the Oireachtas from the Judiciary, we need to separate the selection of individuals from the party system. The majority of Attorneys General in the history of this State have been

made senior judges. A full 16 of 31 Attorneys General have been appointed to senior positions ranging from the Court of Appeal all the way up to the Supreme Court. Furthermore, a number of Attorneys General were offered posts as judges but refused them for personal reasons. There is conveyor belt system in the appointment process. Judges at all levels have been party members, speech writers, candidates, Deputies, Ministers as well as close friends or siblings of politicians. It is not just Fianna Fáil and Fine Gael who have been involved in this practice. The Labour Party has also been an eager participant in the system over the years.

What is the remedy for this situation? The remedy is transparency. We must have a clear and transparent process for recruitment to the most important jobs in the land. A second remedy Ministers and Governments being willing and open to answer questions on the process itself. Incredibly, most Irish people know more about the US process for the selection of a judge to the Supreme Court than the Irish process. I have heard Ministers being asked on radio shows about the process of selecting judges for the Supreme Court of this land. They shrugged and were not even able to answer the questions. Why does the process of selecting judges in this country have to be more opaque than the third secret of Fatima? It is because it suits the political establishment to do things behind closed doors and not to have an open, transparent process.

Over the course of three weeks, the Minister had to make a choice as to who would be the next judge of the Supreme Court. It is interesting that in all of the speeches and radio interviews she has given, she has focused on one list only. However, there are two other lists relevant to choosing candidates for the Supreme Court. One is a list of those who are eligible for promotion to the Supreme Court but I have never heard the Minister mention that particular list. The other is the list of those who are interested in appointment to the Supreme Court and ,again, there is a lack of detail on that. Both of those lists are held by the Attorney General. Did the Attorney General give the Minister these lists and if so, when? Is it plausible that the Attorney General would not have, at some level, discussed these lists with the Taoiseach, the man who appointed him to his position?

We need to know many things about this process. In the three weeks that the Minister had to select a judge, did she work out the existing experience or skills gaps on the Supreme Court? If so, how did she do that? Did she go through the volumes of published judgments from existing judges? Did she do this by herself or did she have a team to do it? Did the team produce a shortlist for the Minister? Did she interview any of the applicants? Did any of the applicants or a third party make a presentation to her on the skills set of each nominee or each individual available for the job? Why did she select the candidate with the least amount of court experience of all of the individuals interested in the job? It is very hard to believe that the Minister would go through all of this process and never mention the names of the other candidates to the Taoiseach or the Tánaiste. Does anybody think it is credible that in a system that is already knee-high in political horse trading, the Minister did not at any stage speak to her political bosses about the applicants for the job? If she did not speak to the Taoiseach or the Tánaiste three weeks into her role, who did she get advice from?

Most people listening to this debate will understand what everyone in here understands, namely that the decision was already made and that the process was separate from the particular decision. Have any of the people who applied for the role been in contact with the Minister since? Is there a process open to them whereby they can articulate their discomfort with the fact that they have been overlooked in this process?

We need to have confidence in the Judiciary. In all research published in this country,

people's confidence in the Judiciary has been rated very highly. These questions are not designed to impugn the name of the judges but rather to focus on the process. The truth is that the lack of transparency associated with this process has done significant damage. I have been a Deputy for ten years now and I note that the standard response when Ministers get into trouble is to claim that they did everything right with regard to the process only to have it magically revealed to them that the process was wrong before saying that they will do the best they can to fix the issue in question. That is horse manure. If the Opposition did not seek to flood this issue with the light of transparency, you can bet your bottom dollar that it would be a case of business as usual for this Government. This is the equivalent of a child being found with his hand in the cookie chair before telling his mother that it was her fault for leaving the jar too low.

Politicians and political parties are forever calling for political reform. I have to laugh at that because the most obvious place in which to reform politics is within those parties. It is for political parties to resist doing things that are obviously wrong, such as the actions in question today. Laws and regulations are necessary only when the people concerned do not have the moral compass to do the right thing. From what we have seen here and in the history of political parties with regard to the selection of judges, that moral compass does not exist. We need to change the law to make sure that this cannot be done again.

Deputy Pádraig Mac Lochlainn: May I just point out that we are now more than an hour into this debate but copies of the Minister's speech have not been circulated?

An Ceann Comhairle: I presume that is being looked after. We will make arrangements.

Deputy Pádraig Mac Lochlainn: People need a chance to read the speech to prepare their questions. I ask that we delay for a minute until we can all get copies of the Minister's speech.

An Ceann Comhairle: We will not be delaying but it would be most helpful if the speech could be circulated.

Deputy Mattie McGrath: Tá sé taobh amuigh den doras.

An Ceann Comhairle: Perhaps somebody could bring it inside the door.

Deputy Mattie McGrath: I do not think that is allowed under the Covid restrictions. I am serious. That is what I was told last week.

Deputy Brendan Griffin: May I just point out that it is not in order for people to stray into the area of the personal suitability of somebody who has already been selected? This has happened on numerous occasions already today and it should not continue.

Deputy Mattie McGrath: Is the Ceann Comhairle now being censured or lectured? He is doing a fine job, as always. I always find him to be very fair. This is extraordinary. The whole timeline in respect of this situation is utterly unsatisfactory and extraordinary. I am worried and concerned about the people at home looking at, or reading, this debate. They are under the floor in debt, are living in fear and have anxiety and trauma as a result of what is going on in respect of Covid. We can look at this side by side with what is going on here and how long it took to get agreement for these questions today, limited as they are.

I will again go over the timeline, which is utterly extraordinary. In June 2019, Ms Justice Mary Finlay Geoghegan, a Supreme Court judge, retired. On 14 January 2020, a general election was called. Also in January 2020, Mr. Séamus Woulfe applied to JAAB to be considered

for the Supreme Court job. On 4 February, the Chief Justice, Mr. Justice Frank Clarke, wrote to the then Minister for Justice and Equality, Deputy Flanagan, seeking a judge for the Supreme Court. On 8 February, the general election was held. We were all very busy at that time. On 17 February, the then Minister wrote to JAAB, which is chaired by the Chief Justice, Mr. Justice Clarke, to ask the board to recommend a candidate for the position of Supreme Court judge. On 9 March, the board sat under Mr. Justice Clarke and cleared the name of Mr. Woulfe as the only name proposed for the Supreme Court vacancy. On 11 March, JAAB wrote to the then Minister to inform him that it had cleared the name of Mr. Woulfe. After a long gap, on 27 June the new Government was formed after all the talks, anxiety, wheeling and dealing, horse trading and anything else that went on. Those of us in the Rural Independent Group were interested but we were not wanted next, nigh or near the Government. We have a good idea why that was the case. The current Minister, Deputy McEntee, then brought the only name proposed by JAAB, that of Mr. Woulfe, to the Cabinet meeting on 15 July. I believe it was her first Cabinet meeting but I am open to correction on that point.

This is deeply suspicious. A former Fine Gael Attorney General, Mr. Séamus Woulfe, applied to JAAB, which is chaired by his old friend, the Chief Justice, Mr. Justice Frank Clarke, in respect of a Supreme Court vacancy. This post had been vacant for seven months, which is extraordinary, but suddenly, when Fine Gael faced possibly losing office as a result of the election, Mr. Justice Clarke decided to get moving and set the wheels in motion by writing to the then Fine Gael Minister, Deputy Flanagan, telling him that he needed a judge to be appointed. The Minister then wrote to JAAB, which is chaired by the former Fine Gael supporter, the same Mr. Justice Clarke, to ask it to convene to consider the vacancy. The board met in haste and sent Fine Gael supporter, Mr. Woulfe's name back up to the then Minister who decided to sit on the nomination for over three months, or 12 weeks, until the new Government was formed. He and the new Minister, Deputy McEntee, appear to have binned the other expressions of interest from well-qualified judges. Deputy Flanagan handed this minefield over to Fine Gael's new Minister for Justice and Equality who took it to Cabinet. It is absolutely crystal clear that the current Minister did not make this decision alone. She was probably absolutely innocent in doing the party's work, which one can call what one likes but it begins with a "d". It is shocking.

What process was followed in respect of the other judges appointed on the very same day as Mr. Séamus Woulfe, now Mr. Justice Woulfe? From where did the Minister get her advice on these other appointments? Did she consult the Taoiseach, Deputy Micheál Martin, the Green Party leader, Deputy Eamon Ryan, the Tánaiste, Deputy Varadkar, or the previous Minister, Deputy Flanagan with regard to these appointments? Did she speak to Deputy Flanagan, who is now a backbencher, about the appointment of Ms Mary Morrissey to the Circuit Court? Did she know that Judge Morrissey had once worked in Deputy Flanagan's firm? I do not have great eyesight and I have to wear glasses but a blind man could see what is going on here. There are none so blind as those who cannot see at all. This stinks to high heaven. It is extremely sad.

As I assured the Taoiseach on the day we met, the Rural Independent Group has no interest in engaging in a witch hunt with regard to Mr. Justice Séamus Woulfe or in pursuing the impeachment process. There are no grounds for it. We could not do it even if we wanted to. I will be very clear that our group will not support such an action. We do, however, have to get this sorted. Would these shenanigans have taken place if the former Minister for Transport, Tourism and Sport, Shane Ross, was still in Cabinet? He lost his seat. That was unfortunate. We had many a good row but, nonetheless, he tried gallantly to reform this process for decades whether in his writings, in Cabinet, in the Seanad or in the Dáil as an Independent Deputy.

We did get some reform. We got a judicial conduct committee which is empowered to deal with complaints. An Act in this regard was debated here and signed into law six, seven or eight months ago by the President. I believe that building has been rented for it and that it has a full complement of staff. All that is needed is a doorman to open the door so that the general public will be able to make complaints. Why are we waiting until next June for this? Why is it being delayed? There are some very sinister reasons behind this which need to be questioned. I will not put them on record but I know what they are. Murky business is going on.

We have the separation of powers. The Ceann Comhairle can stop me if I stray from what it is permitted to say. There are people in the Four Courts today. The courts are not meant to be sitting to hear cases relating to evictions but they have been sitting right throughout the pandemic and through both lockdowns. There is supposed to be a moratorium on banks evicting people but people are being evicted from their homes.

An Ceann Comhairle: I advise the Deputy not to go there.

Deputy Mattie McGrath: I am not going there; I am just saying what is going on. We say this process is not going on. We are hiding that murky business.

Deputy Paul Kehoe: We have already gone there.

Deputy Mattie McGrath: There will be an avalanche in the new year when the moratorium relating to the banks is lifted. We can see Fine Gael's friends in the banking industry, the poachers who have become gamekeepers. Former Ministers of State have been given powerful jobs in that industry. We know this; we have seen it. In addition, unregulated thugs are going around the country. Some have been brought before the courts and fined for carrying on like the heavy gang. Some of these are mercenaries from other countries who have murky pasts. The regulation agency is in Tipperary. I have made complaints to it and have met members of its staff. Indeed, the chairman came up to the Dáil to meet Deputy Michael Collins, Deputy Nolan and me to discuss the situation but it still goes on. We are supposed to represent the people. We have a constitutional right to defend the people, not to persecute them and to drive them into oblivion. The British did that to us for generations and over centuries.

We commemorated Bloody Sunday last week. We were proud in Tipperary to get out on that field, albeit in Cork, and win. That is the spirit of that jersey and the people who fought for this country. I am talking about Ó Treasaigh, Breen and Michael Hogan. Those people spilled their blood, as did countless others. What kind of a democracy did we get? We looked for it and fought for it. What have we got? It is as twisted as some of the juntas in Africa and other places that we talk about. It is shocking and sad.

I have the privilege of being a representative of the people of Tipperary for the moment. I respect that greatly. I will abide by their wishes in future elections, but it is sad that this continues to go on.

Those in Fine Gael think they can do what they like. They think it is their preserve. They were so long out of power since Paddy Donegan, Paddy Cooney and that gang were in place. God rest some of them now - I do not know whether they are all dead.

The heavy gang operated from 1973 to 1977. The House has heard me refer to how this has crept back into the Business Committee. Some of the enforcers were shouting a minute ago, before I got up, for the Ceann Comhairle to ensure that I would be censored and controlled. I

will not be censored or controlled by Fine Gael.

The sad part about it is that we have a Taoiseach who was so behoven and craven to get that job. He got his prize. It is like he has got his first communion or leaving certificate or whatever. Whatever happens, it will not get in the way of him losing his job. He knows, with fear and terror, that the Tánaiste, Deputy Leo Varadkar, is riding high in the polls. If the Taoiseach trips up, they will dump him over. We will have an election and he will be gone and that prize will be taken away from him. It was much sought after. He had been looking for it for 25 years and he got it. He kicked out his own Ministers, Deputies Barry Cowen and Dara Calleary, and saved the Fine Gael skins. We saw it two weeks ago with the former Taoiseach, and now Tánaiste, answering questions. We will see it here again today. Yet, the Fianna Fáil people can be sacrificed. It is a proud party. My father was a founding member. They are being sacrificed to the wolves for the sake of naked greed, power and luxury.

We see it every day here the disdain when we ask questions about what is going on. We cannot get information or the figures and data on Covid counts. We cannot get the science. The Taoiseach will be protected no matter what happens. God, if a tsunami came, one he could swim over, he would stay and keep his head above it and to hell with the Croppies - they could lie down. They forget the country and the people who fought for Ireland. They forget the families struggling today. They forget the workers trying to carry on and eke out a living. Then there is big business and the banks, insurance companies and the bands of vultures who are carrying on the murky, dirty, messy work of sucking the lifeblood out of the fighting spirit of the Irish.

I put a call out for the fighting spirit of the Irish to rise up and not take this disgraceful behaviour. It is pathetic. In the spirit of C.J. Kickham from Mullinahone, I will not take it or accept it. That is the spirit of the McInerney family from Cashel and many others. T.J. McInerney was fighting there. The ballot box will change all this soon. We thought we got it the last time but we did not. They have control. The fingers are on the handlebars of power. Anyone would need a chisel and hammer to get them off.

Deputy Paul Kehoe: Deputy McGrath does not have the bottle left.

Deputy Catherine Connolly: I welcome this opportunity to participate in the debate. I would like to think it is the start of a bright light shining on the opaqueness of our appointments system for the Judiciary.

I believe the Minister for Justice has been handed a hospital pass. That phrase has already been used by Deputy Catherine Murphy. In a previous life, while we were delighted to get a hospital pass as barristers, we knew exactly what it meant. I believe what has landed on the Minister's lap is a hospital pass.

It is regrettable that it has taken this much effort to have this limited debate in this manner. I put the blame squarely on the Taoiseach. I am afraid he has learned nothing.

Earlier this week, we considered the lobbying Bill brought forward by Sinn Féin. I had read the Standards in Public Office Commission reports. I asked myself why we must rely on the Opposition to bring changes. Fair play to Sinn Féin for bringing forward that Bill. SIPO has told us repeatedly what changes were needed, yet in January of this year the former Minister for Public Expenditure and Reform told us no changes were necessary. It has taken all the scandals to date and the revolving door, plus the initiative from Sinn Féin, to force some type of change.

Even then, the Government said it needed nine months.

It is similar with this. Why do I mention it? It is because I looked back. I thank some parts of the media for their work on this story. Without them, we would have little information. Certainly, we would have none if we were reliant on the Government. The Government has told us it has done nothing wrong and has complied with the procedures. The procedures have been totally opaque because no one knows how they work.

Let us consider the words of the former Chief Justice, Ms Susan Denham, who retired in 2017. She said many interesting things in her farewell speech. She talked about the lacunae and the necessity for change. She said:

This lacuna is so in spite of many years of discussions on the topic. I first discussed the matter with the minister for justice, Nora Owen, in 1997...

She referred to what was needed in terms of legislation, training for judges, a more transparent system for appointments and so on. She also referred to the Council of Europe and GRECO, which has been referred to many times. In 2014, she referred to a 2007 GRECO report that made five recommendations, namely, that a judicial council be established; that the system for appointing judges be reviewed; that a special pay and conditions body be established for the Judiciary; that a code of conduct for judges be formally established; and that a dedicated training institution for judges be established. She said in 2017 that, notwithstanding the fact that those recommendations had been made by the Council of Europe or a body acting under its aegis, not one recommendation had been acted upon. This was the Judiciary asking for change. GRECO has continued to publish interim compliance reports and other reports and it is still unhappy with the rate of change in Ireland.

I disagree with the comments of Deputy Bríd Smith, although mostly I agree with her. I believe it is remarkable that the Judiciary has been independent. Indeed, I remember Mr. Justice Niall McCarthy, now deceased. He stands out. He tried to hold the Government to account in respect of the amendment to the Constitution relating to abortion. The former Justice, Mr. Peter Kelly, also stands out among many other judges. I am not here to make any apology for judges but their independence is remarkable. In my moments of despair with this institution, the Health Service Executive and many other institutions, the Judiciary stands out for me as the last bastion for an ordinary person on occasions. The greatest problem of course is that most people do not have access to the courts because the process is far too expensive. I wish that is what we were talking about today.

I would call the Minister's speech today disjunctive. I do not believe the paragraphs follow from each other and I believe the Minister is in a difficult position. I believe the Taoiseach should be before the House answering these questions today and setting out what has happened. He was well able to speak on the last occasion Fine Gael and the Labour Party allowed the then Attorney General to go to the Court of Appeal. He called it an insider job that stank to the high heavens.

Deputy Brendan Howlin: We were not in government at the time.

Deputy Catherine Connolly: I take that back. At the point when it went up, his comment was that it stank to the high heavens.

I am not here to score political points. I am here to outline is that each Government has

absolutely failed to learn that we need to change the process for appointing judges so that it is not opaque. I will stay with Ms Justice Denham for the moment. In paying tribute to the media, she said:

I would like to thank the journalists who have reported on the work of the Supreme Court during my tenure as a judge of the court, and as Chief Justice. For the rule of law to flourish in a democracy, an understanding and knowledge of what happens in our court is required.

The last sentence is significant. I would add to it by saying that for democracy to flourish, what we need is a knowledge of how institutions work, in particular governments and the Executive and how they appoint judges. It seems to me that there is no openness and accountability in the Minister's speech today or in the manner in which the former Attorney General was made a justice of the Supreme Court. I have no wish to comment on the merits or otherwise of that appointment. I am commenting on the process. It seems to me extraordinary that one of the paragraphs in the Minister's speech refers to the fact that it was practice to leave a Supreme Court vacancy.

I find that extraordinary given that the Chief Justice wrote in February of urgently making the appointment.

We seem to have many parallel systems of appointment. We must remember that back in 1995 the Act was brought in to bring some measure of reform to the appointments system. The JAAB process, through which the former Attorney General went, was one route. We also then had judges who were interested, and they send their expressions of interest through the Attorney General or the Minister for Justice. The Minister has not clarified whether it is the Minister for Justice who receives those expressions of interest from the sitting judges or the Attorney General. If it is the Attorney General, has anybody asked if there is a conflict of interest when, on the one hand, a sitting Attorney General wants to become a Supreme Court justice while, on the other, he has the applications from the sitting judges who are interested in the position? Has anyone thought about that or how that conflict is handled, if there is one? To me, it has all the appearances of a conflict of interest. The Minister has not dealt with that issue.

The third system of appointment involves sitting judges who have not come forward but whom the Government is allowed to consider. What is the procedure for looking at that? Does it not strike the Minister that this is not an open and accountable system in a republic and a democracy? We cannot call ourselves a republic and a functioning democracy if we do not have an open system.

Following the debacle of the previous Attorney General being appointed to the Supreme Court - again, I am making no comment on the person concerned but commenting only on what happened following that appointment, and Deputy Howlin has referred to this - I understand a review was carried out by Martin Fraser. Following that review, a committee was set up, parallel with the JAAB made up of the Chief Justice, a layperson and other distinguished people. We are not aware of who was appointed, how they were appointed or how the committee functioned. It appears, however, to have functioned well and to have been instrumental in appointing a number of applicants to the higher courts. Where did that system go? Was the Minister told about it?

That committee is the fourth part of the jigsaw. The four parts are the JAAB; the notices

which go straight to the Attorney General or the Minister, a matter that nobody has clarified; the sitting judges who the Government can pick; and this advisory committee which was set up following the previous debacle and in relation to which the Taoiseach, Deputy Micheál Martin, said it stank to high heaven. What happened to that set-up? It would be helpful if that was outlined to us today. It would be helpful if the Minister stated the Government could no longer stand over this system. This is the way this has always been done but we can no longer go on like that because we are in trouble in Europe. We are pointing the finger at other countries, and rightly so, but we need to look in the mirror first. We must look at what the Council of Europe, through its organisation, GRECO, has highlighted repeatedly.

The irony of all of this is that we do not have a system in place yet regarding complaints about judges' behaviour. Much of the information we have here is by default because we did not set up a fair and just system for complaints concerning judges, as happened in respect of the former Attorney General, now Supreme Court Justice, Séamus Woulfe, and his attendance at golfgate. We had no procedure in place to deal with that matter, so we went back to a former Chief Justice, set up an informal system and a total mess ensued in that regard. We learned from the openness and accountability of the printed transcript certain facts about how Séamus Woulfe was appointed. That is ironic in itself. I hope it is the start of a stronger light being shone in this area and of reform.

An Ceann Comhairle: I thank Deputy Connolly. That concludes the first part of this debate. At the outset, I asked Members to stay within certain parameters. Some Members may have pushed towards the boundaries, but I accept that Deputies have respected the request I made. Deputy Griffin wishes to advise me that he does not think that is the case. I am very grateful to get the Deputy's advice from time to time. What I think we have heard are some severe political charges. I do not know if they are necessarily helpful, but so be it.

As we move on to the questioning process, I ask Members to have respect for the parameters within which we must operate. We must also stick rigidly to the five-minute time limit. It would also be helpful if Deputies were to indicate whether they intend to have back and forth questions with the Minister or if they intend to group several questions and then leave the Minister time at the end to respond.

Deputy Martin Kenny: It would be better to have a back-and-forth process, if that is possible.

An Ceann Comhairle: That is fine. Let us get on with it.

Deputy Martin Kenny: We all know we must get some facts out, including that Séamus Woulfe was a long-time Fine Gael party activist. That has not been disputed by the Minister or anybody else. He sat around the Fine Gael Cabinet table for four years. The Minister took up her role on 27 June. She got a list of four names on 6 July, including candidates with long judicial experience. In record time, a matter of days, the Minister whittled that list of four names down to one and that single name went off to the Cabinet.

The Minister said nothing really about how that process worked. She cannot seriously think that people believe this yarn that a process was followed here. Nobody believes that. Does the Minister seriously believe that people believe the yarn that this was not a Fine Gael political stitch-up? That is plainly not the reality. The Minister must stop fooling people and recognise and admit that there was no process and no evaluation because she has not outlined

one, and there could not have been one. The Minister needs to admit that to her colleagues in this Chamber.

Deputy Helen McEntee: I do not think anybody's political persuasion should prevent him or her from being promoted or moving through the ranks of any job, whether for a judicial appointment or not. I was appointed on 27 June, which was a Saturday. On Sunday, 28 June, I came into the Department and, as is customary, I was given a huge amount of notes and information. As part of that information, I was told by my Department that there was a vacancy and a request from the Chief Justice to fill it as quickly as possible.

I also found out within those first few days that there was a list from the Judicial Appointments Advisory Board because that was already in my office and had been with the previous Minister. That was obviously made available to me, that there was one name. When I talked about the document I received on 6 July, that is a pre-document that I sign off on before it goes to Cabinet, so it does change. In the interim period, from when I was appointed and learned there was a vacancy to when I learned that Séamus Woulfe had come through the JAAB, I had a conversation, informally, with my colleague and with the Tánaiste. He informed me that there was a vacancy and that Séamus Woulfe had come through that process. I informed him that I was already aware of that. He also informed me or gave a view, I suppose, that he thought Séamus Woulfe would be a good judge.

I did not make a decision then because at that stage I did not have all the other names. I only received them when I got the e-submission. That was on 6 July and this matter did not go to Cabinet until 15 July. There were two subsequent Cabinet meetings in between that time. What I did, therefore, was not bring it immediately, even though I had been told that this was urgent. I took time to look at the JAAB recommendation, and it is a recommendation because it states that in the letter and in the relevant section of the legislation referring to JAAB. I looked at all the names that had come through the expressions of interest process, and then there was obviously a list of sitting judges. They had not expressed an interest, however, so that was something which is looked at last. Following that process, I spoke to all the leaders, as I have outlined in the timeframe, and, based on their responses, I made a recommendation. It is a very clear process.

Deputy Martin Kenny: To be clear, the Minister is saying that basically she spoke to one person in Cabinet and that was the Tánaiste in respect of this issue. If that is the case, it means that the Minister and the Tánaiste were the ones who made this decision. That is clearly what the Minister is saying. The Minister is also saying, which is vital to this issue, that she did not inform the Taoiseach. The Taoiseach of the day was not informed. I want to know why the Minister left the Taoiseach in the dark in respect of the decision which she and the Tánaiste made, this Fine Gael decision that was made leaving the Taoiseach out of the loop.

Deputy Helen McEntee: I am not saying that the Tánaiste is the only person I spoke to. I am saying that he gave his view and made his opinion known. Following that, after I received other names, I looked at those names-----

Deputy Martin Kenny: Who else did the Minister speak to?

Deputy Helen McEntee: I ask the Deputy to please let me answer. It is my role, as the Minister for Justice, to make a recommendation. I made that recommendation to the Taoiseach, the Tánaiste, the Minister, Deputy Eamon Ryan, and the Attorney General. Deputy Kenny's

colleague earlier mentioned the former Minister and Deputy, Dermot Ahern.

3 o'clock

If the Deputy was to quote from his article this week, what he said was that not once did he ever bring more than one name or make more than one recommendation to the Taoiseach. In fact, he told them the night before.

Deputy Martin Kenny: That is not the point.

Deputy Helen McEntee: What the Cabinet handbook says is that in the case of appointments to the Judiciary, the Taoiseach, the Tánaiste and other party leaders, the Minister for Finance and the Attorney General should be informed in advance of proposals to make such appointments and I did just that.

Deputy Martin Kenny: But the Minister did not inform the Taoiseach.

Deputy Brendan Howlin: The Taoiseach's line of defence is that he could not have done anything improper since he did not know what was going on. He did not know who the contenders were and he did not seek to find out. The Minister for Justice is left having to claim to be, as far as I can determine, the first Minister for Justice in history to determine personally a Supreme Court nomination without reference to the Taoiseach in a coalition Government. Is that the Minister's position?

Deputy Helen McEntee: I refer to my previous response that other former Ministers for Justice have very clearly said they never brought other names to the Taoiseach.

Deputy Brendan Howlin: That is not the question.

Deputy Helen McEntee: What I am saying is that I made a recommendation. It is my job and my role as Minister for Justice to make a recommendation. When I made that recommendation to the Taoiseach, the Taoiseach did not object. It is a long-standing practice, and has been the case for many years, that there is not just the JAAB process, there are expressions of interest from judges-----

Deputy Brendan Howlin: The Minister should not talk down the time.

I have laid out the process and I am familiar with it. I served in two Governments with Fine Gael. The Minister for Justice brings a proposal after it has been debated at some length with the leaders of Government. Why did that not happen in this instance? When was the Minister first told of the application of Mr. Justice Woulfe for the position and who informed the Minister of that?

Deputy Helen McEntee: Again, I can repeat what is in the Cabinet handbook. I cannot talk about what happened in a Government in which the Deputy served. As Minister for Justice, it is my job to bring forward a name and that is what I did exactly in this instance.

Deputy Brendan Howlin: Did the Minister refer to previous memoranda for Government in checking the appropriate and normal form and contents of memoranda in relation to the appointment of judges?

Deputy Helen McEntee: In terms of appointing a judge, again I will read out the only reference in the handbook to the appointment of judges-----

Deputy Brendan Howlin: That is not my question. I did not ask about the handbook. Did the Minister check other memoranda?

Deputy Alan Kelly: Answer the question. The Minister is not answering any of the questions.

Deputy Helen McEntee: The only memorandum concerning judicial appointments that is referred to says that I should inform the relevant individuals that I have just outlined, namely, the Taoiseach, the Tánaiste, the Attorney General, any other party leader and, in this instance, the Minister for Finance who was informed in the submission that would have gone to all of the Cabinet before the appointment was made.

Deputy Brendan Howlin: It is very difficult when the questions are not answered.

Deputy Helen McEntee: So I have adhered to the letter of the law.

Deputy Brendan Howlin: I did not ask the Minister to quote the handbook. I asked if she looked at the previous memorandum for Government on judicial appointments to find the format. Normally, there would be appendices listing all suitable applicants. Why was that not done?

Deputy Helen McEntee: So that is not the case. As I outlined in my earlier response, what I receive initially is an edocument, which is a draft memorandum. I received that on 6 July. After I have signed off on that, it is then adjusted to be sent to Cabinet. It has always been the case that a name itself does not even go to Cabinet; a memorandum informs colleagues that a name is going to be brought for appointment, be it to the Supreme Court, the District Court, the High Court or anywhere else. That is exactly what happened in this instance. That is what happened previously. So there is never a case where multiple names are brought to Cabinet to discuss; it is always the case that one name is brought to Cabinet. As someone who has served at Cabinet, the Deputy would know that.

Deputy Brendan Howlin: Is the Minister saying it is never the case and that she has looked at the previous memoranda and is telling the House that the previous memoranda circulated on the appointment of a Supreme Court judge did not include appendices listing all those who were entitled to be considered? Is that what the Minister is telling the House?

Deputy Helen McEntee: That is my understanding, yes. That is my understanding that that is the precedent that has been set.

Deputy Brendan Howlin: Did the Minister look at the previous memoranda?

Deputy Helen McEntee: I have asked my officials what is the precedent here. What I was informed is that no names went to Cabinet. Therefore, I asked the question and my officials in the Department informed me that only one name goes to Cabinet. What we have heard from many previous Ministers for Justice is that only one name ever goes to Cabinet.

Deputy Brendan Howlin: Was the Minister aware of the existence of a previous non-statutory advisory committee set up by the previous Taoiseach, Deputy Varadkar, to nominate suitable people for appointment and why did she not have regard to that?

Deputy Helen McEntee: I am aware of this non-statutory advisory group. I am also aware that this group was established specifically for the sole purpose of appointments of Chief Justice

and presidents of courts, not for actual judges, so this did not apply in this regard.

Deputy Brendan Howlin: It seems to me that the Minister's contention that she alone made that decision is unbelievable. Can the Minister tell us in making that decision who else did she consult?

Deputy Helen McEntee: In making that decision I looked at all of the names myself. Before sending a name to Cabinet, I made my recommendation to the Taoiseach, the Tánaiste, the Minister, Deputy Ryan, and to the Attorney General. Having had those conversations, I then made a recommendation to Cabinet.

Deputy Catherine Murphy: The Minister has told us she had a discussion with the Tánaiste specifically in relation to the former Attorney General. Did she have a discussion with the former Attorney General, with the former Minister or with anyone else in relation to this appointment? Did the Minister take it that the Tánaiste was saying that he favoured the appointment of Séamus Woulfe? Did he tell the Minister that he had told the Taoiseach and the Minister, Deputy Ryan, that he had come through the JAAB process?

Deputy Helen McEntee: First, I did not discuss this with the now Supreme Court judge, Mr. Justice Woulfe. I did not discuss this with my former colleague, Deputy Flanagan. I have said that I did have an informal conversation with my colleague and Tánaiste who informed me that Séamus Woulfe had come through the process and that in his view he would make a good judge. He did not tell me that this was to be the case. He did not inform me of any other conversations that he had with other party leaders, but I think the three of them have very clearly stated that this was said to them by the Tánaiste, and the Taoiseach and the Minister, Deputy Ryan, have corroborated that.

Deputy Catherine Murphy: The very fact there was an informal discussion is an intrusion in the process. It is pretty much saying that "I would really like to see this person appointed, this is who I favour, before you go and have a look at the other list." Can the Minister tell us what criteria she used following that to evaluate the other people against the person who was the preferred person of the Minister and the Tánaiste?

Deputy Helen McEntee: The Ceann Comhairle has outlined that I cannot get into criteria and I will not get into criteria. This is my job. There are still names of persons who applied for that position sitting on file in my Department. There is still a vacancy and if that vacancy is to be filled, they will be again looked at. It is not for me to get into criteria. There is no specific criteria for me. I do not have a list or boxes that I tick. It is not given to me. I have to use my judgment and I do apply my own set of criteria. I am not going to get into that because we are talking about sitting judges in this instance.

Deputy Catherine Murphy: So judicial experience, track record - none of that matters. There are no criteria set down for those. How could the Minister possibly evaluate a person for a job if we cannot understand the criteria?

An Ceann Comhairle: We are going into difficult territory now. We cannot start comparing one with another.

Deputy Catherine Murphy: I am talking about criteria rather than individuals.

Deputy Helen McEntee: What I have said is that for me to make that decision and to en-

gage with my colleagues, there is no criteria. However, through the JAAB there are very clear criteria. Where it makes a recommendation, it has to show that the individual has displayed in his or her practice as a barrister or solicitor a degree of competence and a degree of probity appropriate to, and consistent with, the appointment concerned. It talks about suitable grounds of character, temperament, complying with requirements and being suitable. It also talks about appropriate knowledge of the decisions and the appropriate knowledge and experience of the practice and procedure of the Supreme Court or any relevant court. There are, therefore, very clear criteria through the JAAB. The recommendation that I made was of somebody who had come through that process which was chaired by the Chief Justice, the presidents of the courts, the Law Society, the Bar Council and, of course, I took it on board.

Deputy Catherine Murphy: There is a scoring system and a mechanism for evaluation for any job one goes for. It is very difficult to figure out how any Supreme Court judge, or any judge, would be appointed in a way that takes account of judicial experience and other relevant experience without some sort of metric. It is apparently being done on an emotional basis as opposed to a rational basis.

Deputy Helen McEntee: All I can say to that is the system is what the system is. I said in my statement that it is not perfect and that we all agree that it needs to be reformed but I cannot change the fact that this is the current process. We receive recommendations from the JAAB, expressions of interest from the sitting Judiciary and then there is a list of those who are eligible. It is then incumbent on the Minister for Justice to look at all those names and to engage with colleagues. In this instance, when I made the recommendation no concerns were raised, no further questions were asked and the name was subsequently sent to Cabinet. I cannot get into the criteria.

Deputy Mary Lou McDonald: Yes, you can.

Deputy Helen McEntee: It is not deemed appropriate in this instance. The names of members of the Judiciary are still sitting on a list in my office and if I am ever asked to fill this next vacant position, they will be put forward for that as well.

Deputy Paul Murphy: I want a “Yes” or “No” answer to this question. When the Minister spoke to the Taoiseach about this matter, did she mention the fact that there were other expressions of interest besides Séamus Woulfe?

Deputy Helen McEntee: I have already said that I did not. I made one recommendation to the Taoiseach, as is my job to do as Minister for Justice.

Deputy Paul Murphy: When the Minister’s party leader, Deputy Varadkar, told her he thought Séamus Woulfe would make a good judge, did that weigh heavily on her mind when it came to recommending him?

Deputy Helen McEntee: At that stage, I had not received the other list. Of course, I took that on board but having then looked at the other names, I made a recommendation based on who I felt was the best person for the job.

Deputy Paul Murphy: When Deputy Varadkar expressed the opinion that Séamus Woulfe would make a good judge, was he in possession of the other names?

Deputy Helen McEntee: The Tánaiste has already said that he was not but I cannot answer

for him other than what he has said.

Deputy Paul Murphy: In making her mind up and going from the memorandum of 6 July to bringing one name to Cabinet, having whittled down the names herself, did the Minister speak to anybody else about moving from four names to one? Did she speak to anybody else in coming to that decision?

Deputy Helen McEntee: I want to clarify this issue because a number of Members have mentioned it. I have never referred to how many names there were. There were five expressions of interest. It is not good practice to start talking about how many names there were but in the interests of clarity I wish to be very clear. There were five expressions of interest, plus the recommendation through the JAAB.

I have said very clearly that I spoke to the Taoiseach, the Tánaiste, the Minister, Deputy Eamon Ryan, and the Attorney General after I had deliberated. I did not move on this process immediately. It is a very sensitive and confidential process so the answer to the Deputy's question is "No". I did not speak to officials or anybody else about it.

Deputy Paul Murphy: The Minister did not speak to a single person about this. She made the decision 100% by herself that she would recommend Séamus Woulfe, as opposed to the others whose expressions of interest she had received.

Deputy Helen McEntee: I have already said that but I have also said, not just in this House but elsewhere, that I have never put forward a name to Cabinet without the full agreement of the Taoiseach, the Tánaiste, the Minister, Deputy Eamon Ryan and the Attorney General, and this instance is no different. There were no questions and no concerns were raised. In other instances where I have proposed names, there have been greater conversations and some back and forth. That did not happen in this instance. I made a recommendation, it was agreed by the party leaders and was then put forward to Cabinet.

Deputy Paul Murphy: In the same process where she talked to the Taoiseach, when she returned to talk to the Tánaiste, having previously had a conversation in which he expressed the viewpoint that Séamus Woulfe would make a good judge, did the Minister then inform him that there were other expressions of interest?

Deputy Helen McEntee: It has been made clear that I did not. It is also clear that it has been a long-standing practice for there to be other names and that other judges put their names forward through expressions of interest. Having heard from former Ministers for Justice, it is also clear that it is not always the practice for the Minister to inform the Taoiseach or the Tánaiste of other names. The Minister makes a recommendation and that is what I did in this instance. There have been other instances because six appointments have been made in the past four and half months where questions have been asked and other names have been discussed. That did not happen in this instance.

Deputy Paul Murphy: When she brought the name of Séamus Woulfe to Cabinet, did the Minister inform the Cabinet, not necessarily of the other names but of the existence of other expressions of interest?

An Ceann Comhairle: The Deputy cannot get into Cabinet confidentiality.

Deputy Helen McEntee: The memorandum that goes to Cabinet does not include any

names. It just states that a name is coming to Cabinet. The Deputy will be aware that I cannot talk about anything that is discussed with Cabinet colleagues inside Cabinet.

Deputy Paul Murphy: When the Minister was in this process all by herself, not talking to a single other person and presumably looking into her soul and working out that Séamus Woulfe's name would emerge, on what basis did she make that decision? On what criteria does one make that decision? I am not at all asking for the qualities of Séamus Woulfe relative to the other expressions of interest, but what kind of things did the Minister take into account when saying that he would be right person for the job?

Deputy Helen McEntee: The Ceann Comhairle has been very clear that it is not appropriate for me to discuss criteria here. I have already explained that there is no list or boxes that I am given to tick. The Deputy is suggesting that this was a huge decision to make. Upon being appointed Minister for Justice, one immediately has a number of huge decisions to make. I take my role and my job as Minister for Justice very seriously and I very seriously considered every single name that was put before me before making a recommendation, which was then agreed by the Taoiseach, the Tánaiste, the Minister, Deputy Eamon Ryan and the Attorney General and subsequently by Cabinet. It is the prerogative of Cabinet to reject or not approve a name and, again, that did not happen in this instance.

Deputy Peadar Tóibín: We are not being given any qualitative criteria because there are none. It is as simple as that. It is not difficult to understand at all. How many candidates did the Minister consider for the role?

Deputy Helen McEntee: I have just outlined that there were five expressions of interest. One name came through JAAB and there was a lengthy list of suitable judges but those people had not expressed an interest in this role.

Deputy Peadar Tóibín: There were three lists. I wanted to ask how many candidates the Minister considered for the role because we want to bring transparency to this process and if we do not know how many candidates were considered, it is not transparent. The Minister mentioned people who expressed an interest. Outside of them, there was another list of judges who are available and have the experience to do the job. How many candidates were considered for the role?

Deputy Helen McEntee: I looked at all the names that were put before me. One was from the JAAB and there were five expressions of interest. I am saying that in the interests of clarity. It is not practice to give the number of expressions of interest. There was also a long list of eligible sitting judges from all the courts, who have not expressed an interest. That list changes and I do not have the exact number on it. However, there is a statutory and legal obligation to look at the Judicial Appointments Advisory Board list first, followed by the expressions of interest, then the other general list.

Deputy Peadar Tóibín: It is not practice to have clarity on this process and one of the reasons we are here is to change that practice. The Minister said on our local radio station recently that she was only asked to fill one Supreme Court position. Who asked her to do that?

Deputy Helen McEntee: When I came into the Department on 28 June, I received my briefings, which stated that there was a vacancy and that the Chief Justice had asked for it to be filled immediately. I said in my statement that because lists had been reduced in the Supreme Court, there was a tradition that not all of those positions would be filled. When this one needed

to be filled, which was before I came into the Department, the Chief Justice wrote to the then Minister, Deputy Flanagan, to say he wanted it to be filled. It has been made clear that it was not filled because we had an interim Government, as well as because of Covid and everything else. It was then dealt with immediately when I was appointed.

Deputy Peadar Tóibín: The Chief Justice asked the Minister to only fill one particular role on the court. Is that correct? Given that there are thousands of cases in the system, increasing by the year, and that the courts system is underpowered as regards judges, it is very hard to understand why, with multiple applicants and access to different lists, the Minister would not fill more than one position on the Supreme Court. The view of people around the country is that since we have a rotating Taoiseach, we will also have rotating nominations to the Supreme Court. Can the Minister give a good reason people would be wrong about that?

Deputy Helen McEntee: I was asked to fill one position. I have filled that position. There is currently a vacancy and if the Chief Justice asks me to fill that vacancy I certainly will. Regarding any other vacancies that have arisen since then in the District Court, High Court, Court of Appeal and the Circuit Court, when I have been asked by the Presidents of those courts, I have filled them. If I am asked to fill this vacancy, I will. What I do not believe is that we should choose judges based on their ideology or decisions they have taken. I certainly do not think we have a situation, unlike that which we might have seen in the US, where elections hinge on who gets to pick the next Supreme Court. I do not think that is a route by which we should go, nor do we.

Deputy Peadar Tóibín: The Minister's response contradicts the behaviour of the Chief Justice and other Supreme Court judges previously who have gone to the Government demanding that it fill positions within the Judiciary. It is not feasible for the Minister to say that she was not asked to fill a role. The Minister is driving the Department. It is the Minister's decision and responsibly to fill that role and nobody else's. He or she, therefore, needs to have a criterion to leave a gaping vacancy within that. The only criterion for that vacancy currently is that there is a rotating Taoiseach and, therefore, a rotating nomination for that.

Most of the Minister's focus has been on the particular list from the JAAB and there has been very little focus on the other two list - the expressions of interest lists and the lists of available judges. Is it not a two-tier process? If the JAAB is the primary focus of the selection of a judge, do the other judges not have a real grievance that their expressions of interest of their ability to do the job have been ignored by the Minister?

Deputy Helen McEntee: It is a legal requirement that in filling the position of a judge, that one does look at the JAAB list first. The opposite is the case when looking to fill the president of a court or the post of Chief Justice. One has a legal obligation to look at the sitting judge list or the expressions of interest list first. That is what is in the legislation and that is what I adhered to in this instance.

Deputy Mattie McGrath: Why was there a seven-month gap to fill retired justice, Mary Finlay Geoghan's position followed by a frenzy of activity at the time of the general election, when Séamus Woulfe had applied for the position in January?

Deputy Helen McEntee: On 16 June last year, a vacancy arose; on 4 February, the Chief Justice wrote to the Minister; on 17 February, there was a letter to the JAAB to try to fill that; on 18 February, the Minister responded to the Chief Justice's letter of 4 February indicating the

issue to the JAAB to request a list; and on 25 February, the Chief Justice replied to the letter of 18 February indicating the JAAB meeting is scheduled for 9 March. The JAAB met on 9 March and, on 11 March, the list was received. In between that time, there was a general election, there was an interim Government and a clear decision was taken not to appoint anyone bar the President to the High Court for the reasons I outlined. It was made aware to me that this was urgent. At the same time, I did take the time to look at all the names. I did not appoint someone immediately. There were two or three Cabinet meetings which happened before I eventually brought a name to Cabinet.

Deputy Mattie McGrath: Why was there a 14-week gap between when the then Minister, Deputy Flanagan, received Séamus Woulfe's name from the JAAB and it coming to the new Cabinet?. During that time Ms Mary Irvine was appointed President of the High Court, during the interim Government period, yet Mr. Woulfe's appointment was kept back for the new Government. Cén fáth?

Deputy Helen McEntee: Again, I have outlined that a decision was taken by the interim Government not to appoint anybody except to the presidency of the High Court because of the obligations on the presidency and the requirement for that.. The decision was taken not to appoint anybody else. However, I was made aware on my first day that there was a vacancy, and that it was urgent. Even with that, I made sure that I took the time to give everybody due consideration before I made a recommendation. That recommendation was made within two or three weeks of the Government being formed.

Deputy Mattie McGrath: I wonder would it be anything to do with the presence in Cabinet of former the former Minister and Minister of State, Shane Ross and Finian McGrath then. Let the people be the judge of that.

The judicial complaints board has an office rented and it is staffed, and has everything bar a doorman. When will it be in action and when will Joe Soap be able to make a complaint to the board that was set up under legislation passed by this House and signed by the President into law seven or eight months ago? When can the public get access to that? What is the delay? Who is being protected by not having this complaints board in place?

Deputy Helen McEntee: In terms of judicial conduct and that process, everything that has been done or needed to be done by myself, the Department and the Government has been done. The terms of reference are now being set out by the Judicial Council. It has a certain period to do that. I am assured it is working on that and will have that done as soon as possible. I assure the Deputy that everything that needed to be done on our part has been done. The terms of reference are now being set out by the Judicial Council.

Deputy Mattie McGrath: This is like the former presenter of "Céilí House", Kieran Hanrahan: "Around the house and mind the dresser." We have to mind things during the debate and I know we cannot stray but this was passed, why is it not in action? Why is this the case for the public today, many of whom feel aggrieved? Deputy Connolly mentioned that they cannot access it but some who have accessed those places, especially lay litigants, have complaints to make and there is no complaints process, even though these Houses have passed legislation. Who is blocking it?

Deputy Helen McEntee: I can confirm that no one is blocking it. There is a process. There is a timeframe. It is with the Judicial Council which is setting out the terms of reference. I am

assured it will come back as soon as possible. From the perspective of this House, everything that has or could be done at this stage, has been.

Deputy Mattie McGrath: That is strange because we passed laws here about vulture funds and to remove the prohibition on hearsay evidence, and it is implemented immediately. Why do we have to wait for nearly a year to have this body, which is set up and staffed and has rented buildings at great cost to the taxpayer? Denying taxpayers the solace of making of a complaint, regardless of how it goes or how far they get, is farcical.

The House spent a lot of time on it and I thank the former Minister, Shane Ross, for all his work on it. It was signed into law by the President, and set up. People would expect it to be up and running. Why is it not up and running?

Deputy Helen McEntee: I can only refer to my previous comment. It is often the case where legislation is signed into law, there is a period of time before it is enacted. In this case, it is with the Judicial Council. It is setting out the terms of reference and I have no doubt that when it is done, this process and procedure will get up and running.

Deputy Michael McNamara: Like Deputy Tóibín, I listened with interest to the Minister's interview with LFM, in particular the part where she said she knew there were two vacancies on the Supreme Court but she was only asked to fill one, so she filled one, and if she is asked to fill the other, she will do that. However, section 16(5) of the Courts and Court Officers Act 1995 states: "Where more than one judicial office in the same court stands vacant, or in advance of more than one vacancy arising in the same court, at the request of the Minister, the Board shall submit to the Minister the name of each person who has informed the Board of his or her wish to be considered for appointment...". Did the Minister of her predecessor agree with the JAAB that the Minister would only fill one of the vacancies?

Deputy Helen McEntee: The Minister of the day asks the Judicial Appointments Advisory Board to set the wheels in motion to make recommendations. However I only do so when I am asked either by the president of the relevant court or the Chief Justice to fill that vacancy. In this instance, there were two; the second only arose only a very short time before I came into this role on 27 June. I was asked to fill one role. In the time since, I was not asked to fill the second role. However, if the Chief Justice asks me to do that, I will, of course, do so and I will set the wheels in motion, with the Judicial Appointments Advisory Board.

Deputy Michael McNamara: It is clear that the Minister asked the board to fill one role.

The law is very clear about who needs to sit on the board; indeed, the Minister listed them on LFM. Can she confirm that all those people who are required to be on the board, sat on the board and that it was duly convened? It is important because the JAAB is really what all this is about. The Minister is sheltering behind it.

Deputy Helen McEntee: I can only assume that when the board met that all members of the board were there. I have outlined those who sit on it. I cannot tell the Deputy otherwise, but I assume that each time it meets, a full complement of members meets. That is their obligation.

Deputy Michael McNamara: But it has never been confirmed to the Minister one way or the other. I thank the Minister. The rest of my time goes to my colleague.

Deputy Catherine Connolly: Presumably, the five who expressed an interest were sitting

judges. To whom did they express an interest?

Deputy Helen McEntee: Formerly, before 2014 or 2015, the process was that the names came directly to the Minister. That has since changed where they go directly to the Office of the Attorney General, but then come directly to my office. I cannot confirm or deny but it is my understanding that they do not stay in the Attorney General's office and that they come directly to my private office.

Deputy Catherine Connolly: I did not hear that. Regarding the five persons to whom the Minister referred, where did their expressions of interest go, precisely?

An Ceann Comhairle: The Office of the Attorney General.

Deputy Catherine Connolly: So the Attorney General knew which sitting judges had an interest in going to the Supreme Court.

Deputy Helen McEntee: My understanding is that they come directly from that office to mine. I do not know whether the Attorney General sees them. These five expressions of interest dated from as far back as 2017 to as recently as June of this year, which, obviously, the former Attorney General would not have been privy to. I understand, again, they go directly from the Office of the Attorney General to mine. They are not held there. I cannot respond on behalf of someone else.

Deputy Catherine Connolly: I have no wish to make the Minister's life difficult, but she can imagine how this sounds to the people listening and watching. Five sitting judges expressed an interest in going to the Supreme Court. They submitted their expressions of interest to the Office of the Attorney General. The Attorney General himself had an interest in being promoted. Nobody reflected on that as a procedure and a practice yet the Minister has stood here today and spoken about traditions and practice.

I am a little confused. I heard the Minister say that the current Tánaiste, the former Taoiseach, said that the former Attorney General would make a good judge. However, the Minister did not discuss this with him. If he had an opinion on that, did he have an opinion on the other sitting judges who wished to sit on a higher court?

Deputy Helen McEntee: The process is what it is. As I said, it has changed. The names go to the Office of the Attorney General. Regarding the legislation, the JAAB may recommend the Attorney General for appointment to judicial office. It is clearly stated that this is allowed. As I have said, we all believe that the current process and legislation should be updated, which I am working to achieve.

The Tánaiste said he thought Séamus Woulfe would make a good judge. There were no further discussions about other names because at that stage I had not received them. This was before 6 July, at which point then I received the names. The reason I did not have those names is I am only given the names of those who have submitted expressions of interest after I indicate that something is to go to the Cabinet. I always have the JAAB nominations before I see the other ones.

Deputy Matt Carthy: If I may make a point of order before the debate ceases, the revelation that the Tánaiste indicated to his newly appointed Minister for Justice that a particular individual would make a good judge-----

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An Ceann Comhairle: That is not a point of order.

Deputy Matt Carthy: Will you allow me to get to it? The Minister's clarification that this informed her position and her consideration of the appointment sets out in clear terms that we need an urgent statement of clarification----

An Ceann Comhairle: That is a political charge. It is not a point of order.

Deputy Matt Carthy: I wish to make a formal proposal-----

An Ceann Comhairle: I cannot take it. I ask the Deputy to resume his seat.

Deputy Matt Carthy: Two weeks before-----

An Ceann Comhairle: Have a little respect. The Deputy should resume his seat. He cannot purport to move a point of order and then proceed to make a political charge. There is no provision for that in the process in which we are involved. I am sure the Deputy learned to follow procedures in Europe. He will have to follow the same sort of procedures here.

(Interruptions).

An Ceann Comhairle: The Deputy must resume his seat. If he wants to find some other avenue to pursue that matter, find it. However, it does not exist here and now. We are going to hear the Minister now with a five-minute wrap-up contribution.

Deputy Helen McEntee: If I may respond to the last comment-----

An Ceann Comhairle: It might be better if the Minister did not.

Minister for Justice (Deputy Helen McEntee): I hope I have clearly stated that a process is followed when appointing a judge to any court, not just the Supreme Court. As Minister for Justice, I have adhered to that process. I will outline it again for absolute clarity. I was appointed as Minister for Justice on 27 June. The following day I received briefings from my Department, one of which outlined that there was a vacancy on the Supreme Court. I was asked to fill that as soon as possible. I was also made aware a JAAB recommendation was already in my private office, which alerted me to the fact that the former Attorney General had come through that process. Later that week, in discussion with my colleague, the Tánaiste, I was informed that the former Attorney General had come through that process. I told the Tánaiste I was aware of that and he simply said he believed the former Attorney General would make a good judge. Of course, I took that on board, but at that stage I had not yet received all of the other expressions of interest. I received those in a draft memorandum on 6 July. Following receipt of that, I looked at all expressions of interest, the recommendations of the JAAB and the sitting judges eligible for this position. After several days and two other Cabinet meetings, I spoke to the Taoiseach, the Tánaiste, the Minister for Transport, Deputy Eamon Ryan, and the Attorney General. I made a recommendation to all four of them. There were no further questions. All four agreed with the recommendation I had made and it was on that basis that a name was presented to the Cabinet, which approved Mr. Séamus Woulfe as a Supreme Court judge.

Direct Provision System

Deputy Niamh Smyth: Some very disturbing photographs of a gentlemen in direct provision in St. Patrick's Accommodation Centre in Monaghan were recently circulated on social media. The phenomenon they show is not new. I would like to quote that gentleman:

I am living in St. Patrick's Direct Provision centre in County Monaghan for a long time and sharing a room with 3 persons even during Covid-19 outbreak in this centre. Last week I got this infection all over my skin, I don't know if it is mould in room or the numerous cockroaches and mice.

In the programme for Government we are committed to ensuring that Ireland provides protection to those seeking refuge from conflict, torture and persecution and, in doing so, we agree that direct provision needs to be changed. We have committed to ending direct provision and ensuring that communities are intrinsically involved with and consulted in the provision of accommodation for those who are fleeing their countries, usually due to war.

As of 15 November, 228 people were being accommodated at St. Patrick's Accommodation Centre in Monaghan. Four other premises, hotels and guest houses are used to provide accommodation while a further 183 people are accommodated in temporary accommodation throughout County Monaghan. A significant number of people are in direct provision in County Monaghan alone. I have received numerous calls to my office from people questioning the Government's plans for a further direct provision centre in Ballybay. The Minister's office has said that his Department has no plans for such a development, but it would be most helpful if he could confirm that today.

The Government has committed to the ultimate phasing out of direct provision, which I welcome. As we know, there is nothing humane about the conditions for those living in these facilities. In their current state, the facilities do not provide the proper opportunities to integrate with the communities in which residents are living. Moreover, the local communities are not afforded the proper opportunities to engage with the process, which creates division, suspicion, ill-feeling and separation. I know the scenario I have outlined is not unique to County Monaghan. It is replicated in many centres throughout the country. I would like the Minister to commit to checking on the well-being of the people in St. Patrick's Accommodation Centre. I would like to hear his plans and those of the Government to phase out direct provision in this country.

Minister for Children, Equality, Disability, Integration and Youth (Deputy Roderic O'Gorman): I thank the Deputy for raising this matter - I know she raised it a number of days ago as well - and for giving me the opportunity to come back and speak directly to the House on the matter. I am happy to do so. I am aware of social media reports circulating on this matter, and some Deputies, including Deputy Niamh Smyth, have contacted me directly about these reports.

To set the broader context, all accommodation centres are subject to regular unannounced inspections by both my officials in the International Protection Accommodation Service, IPAS, and an independent inspectorate company, QTS Limited. These inspections are generally undertaken twice yearly by my officials and once yearly by QTS. Inspections cover a wide range of issues, including the quality of the food, fire safety and other health and safety issues. Regular visits are also made to all emergency accommodation centres by IPAS. Any issues that are

brought to the attention of IPAS are raised with the accommodation provider for resolution.

St. Patrick's accommodation centre was inspected by an IPAS official on 24 September and again by QTS on 11 November. These inspections did not reveal any major issues at the centre. However, during the second inspection QTS noted that there had been a cockroach infestation in an annexe to one of the buildings used for accommodation. QTS also noted that the provider had taken the appropriate remedial action and had engaged an exterminator and that the matter was at an end.

In recent days my attention has been drawn to reports that a resident in St. Patrick's was suffering from a medical condition for which he could not access appropriate medical care. I assure Deputies that, as a rule, access to mainstream medical services through the primary health-care system is available to all direct provision residents, who have access to medical cards. I am informed that in this case the gentleman in question had a phone consultation with a doctor, resulting in a treatment option being provided, and that further in-person medical care, located very close to the accommodation centre, is at all stages available to the gentleman to avail of. I assure the Deputy that I continue to make inquiries to ensure that whatever additional steps are necessary to provide this gentleman with medical care are taken urgently. I intend to review the inspection reports on this centre and will continue to engage with IPAS on its findings and any recommendations that are specific to the centre.

IPAS has a complaints policy which is widely disseminated in centres. Complaints are made initially to the centre manager with a view to informal resolution. If a person is not satisfied with the outcome of his or her complaint, he or she may make a complaint to IPAS, which will investigate the matter and take appropriate action. As of last year, in the event that the resident is not satisfied with how his or her complaint is dealt with, he or she has full access to the services of both the Ombudsman and the Ombudsman for Children. Both bodies have been undertaking both individual and collective reports on direct provision. There is also a confidential freephone support service run by the Jesuit Refugee Service. It was introduced in May of this year in the context of Covid.

Finally, to address the Deputy's specific question, I confirm that my Department has no plans to utilise any other properties in Monaghan or Cavan not already in use as accommodation for international protection applicants.

Deputy Niamh Smyth: That will come as good news to those of us who are concerned for people who are living in inhumane conditions, as the Minister said. We know from information provided by his Department and the inspections that were carried out that the man in question was not exaggerating. There was no intent on his part to put out any false information or anything like that. The Minister has addressed that to some extent. As for people who find themselves in these situations, where there is a cockroach infestation in a centre, the Minister talked briefly about the health provisions in place. My understanding is that this gentleman looked to go to Cavan General Hospital but that support was not available to him. Could the Minister talk to us a little more about the health provisions in place - he has briefly summarised them - for people who find themselves in these situations?

I have checked the number of direct provision centres around the country. Monaghan seems to have a very high number of direct provision settings and centres, whether temporary or permanent. Monaghan Integrated Development does terrific work under Gabriel O'Connell in providing support to people. I think 183 was the figure I gave the Minister for one of the

centres; 228 is the figure for St. Patrick's. Could the Minister talk to us a little about the type of provision the Government is putting in place in terms of resources for the likes of Monaghan Integrated Development to try to help these people to stand on their own two feet and to integrate into the community, with language and education? What is the Government doing to help these people?

Deputy Roderic O’Gorman: It is important to say that all residents of direct provision centres are entitled to use the primary healthcare system and attend their local GPs. My Department makes provision for that. I do not wish to stray into the specific circumstances of the treatment of one individual - that would not be appropriate - but my Department and my office have been in contact, through IPAS, with the management of the centre in question to ensure that this gentleman gets the appropriate level of medical assistance. Every person in direct provision should get the appropriate level of medical assistance.

I am concerned about the statement that there were four people living in the room. My understanding is that only 7.5% of residents of direct provision accommodation now live in a room with more than two other unrelated people. I will double-check that point because what the Deputy says is not the information I have received. Those measures to reduce the number of people unrelated living together were brought in specifically as a result of Covid. That involved getting extra centres around the country, and that was the right thing to do during Covid because we wanted to thin the numbers in the existing direct provision centres as we know congregation is a definite Covid risk. My Department has received a substantial additional allocation for 2021 to support direct provision. One of the things we will do is to support these “friends of the centre” networks that have built up around the country. The Deputy referred to some of the local voluntary activity taking place in Monaghan. These centres are established in direct provision centres around the country, and I really want to support them because that gets the voluntary sector and the NGOs in to provide those additional supports. I have mentioned the Jesuit Refugee Service, which does huge work around the country in providing additional supports, particularly to those who are perhaps our most vulnerable.

Deputy Niamh Smyth: Will the Minister confirm whether inspections have continued during the Covid period?

An Leas-Cheann Comhairle: I will allow the Minister a further brief response but there is no provision for him to come back in.

Deputy Roderic O’Gorman: Yes, inspections have continued during Covid.

Brexit Issues

An Leas-Cheann Comhairle: Four Deputies have put their names to this matter. It will be difficult to accommodate them all given the time constraints, but we will see.

Deputy Joe McHugh: Tá fáilte roimh an Aire Stáit. This issue is posing a number of problems on a number of fronts in that a licensed road haulier operator requires a designated qualified transport manager. The legitimate and hard-working hauliers have had such managers *in situ* and have done the necessary courses in order to fulfil the competencies required for this role. However, one of the potential issues now coming up is that there will be an obligation on these hauliers post Brexit to go through another rigorous process in acquiring an EU compe-

tency in transport, which is essentially a degree. I ask the Minister to use a little common sense and to try to get this sorted.

Deputy Darren O'Rourke: I raised this issue yesterday with the Minister for Transport, Deputy Eamon Ryan. I look forward to hearing from the Minister of State, Deputy Hildegarde Naughton, on the matter. We are 36 days from Brexit. Regarding certificates of professional competence, CPCs, there is an element of bureaucracy here that needs to be straightened out. We will have the same people on 2 January as we have now, with the same qualifications and the same experience. They will be equally as competent. We need to do away with this bureaucracy. The requirement for transport managers to be resident in the EU is blind to the Good Friday Agreement and the relationship with the North. It is a significant issue that needs to be resolved.

Deputy Matt Carthy: I thank the Ceann Comhairle's office for selecting this issue and for allowing me to be part of the debate, albeit with a few problems along the way.

That this situation has been allowed to get to this last-minute point is deeply concerning. It is my view that the matter can be easily resolved with political will. What we need to ensure is that transport management CPCs that were issued in the North of Ireland or in Britain will be recognised post Brexit. In terms of the residency clause referred to by Deputy Darren O'Rourke, we need that to be amended to ensure that Irish citizens who happen to live in the North are recognised as being able to hold this position. As a former MEP, it is my absolute belief that there will be clear willingness at European level to facilitate that. The Government just needs to make sure that it happens.

Deputy Ruairí Ó Murchú: It has already been said that this issue is absolutely straightforward. We have been dealing with Brexit and we all realise there is no good Brexit for Ireland. We have looked at mitigation, which is what the withdrawal agreement and the Irish protocol are about. We hope that we will have them. What we have here is hauliers who are currently operating with recognised CPC qualifications that will not be recognised post Brexit. We have to introduce sensible solutions and mitigations. We also need to deal with the residency issue. I put it to the Government that this issue needs to be dealt with as quickly as possible. Deputies referred to conversations they have had with other Ministers. Deputy McHugh and I raised this issue with the Minister of State at the Department of Foreign Affairs, Deputy Thomas Byrne, at the Joint Committee on European Union Affairs. The Government knows about the issue. We just need to ensure that a solution is provided for the people who require it for their livelihood.

Minister of State at the Department of Transport (Deputy Hildegarde Naughton): I thank the Deputies for raising this matter. EU legislation sets out several requirements that must be satisfied in order to be eligible to hold a road transport operator licence, one of which is professional competence. In order to fulfil this requirement, every road transport undertaking in Ireland or, indeed, any other EU member state must have a nominated transport manager to effectively and continuously manage its transport activities. The transport manager must hold a certificate of professional competence in either road haulage or road passenger transport, depending on the nature of the operator's business. This certificate must be issued by an EU member state and is ordinarily obtained by passing a written examination. As highlighted by the European Commission in 2018 and, more recently, in July of this year, after the end of the Brexit transition period on 31 December, transport managers' CPCs issued by an authority of the United Kingdom, including Northern Ireland, or a body authorised by the United Kingdom will no longer be valid in the EU.

As part of the Government's Brexit preparations, the Department of Transport carried out a review and identified approximately 200 individuals with a UK-issued transport manager CPC who are currently nominated as transport manager for Irish road transport operators. The Department recently wrote to these transport managers and the relevant operators to ensure they are aware of the position as outlined by the European Commission.

There are steps that affected transport managers and operators can take to ensure they continue to be in compliance with the relevant EU legislation. Individuals who hold a UK-issued transport manager CPC and who wish to act, after the end of the Brexit transition period, as transport manager for a road transport operator based in the EU, including Ireland, will need to obtain a transport manager CPC issued by an EU member state. This affects UK-qualified transport managers working for Irish operators, but also those working for other operators based in other EU member states.

As outlined in the Department's correspondence to those UK transport manager CPC holders who work as transport manager for Irish-based transport operators, the Department has communicated with the European Commission on this important issue. I am pleased to inform the House that the Commission yesterday evening indicated that before the end of the Brexit transition period we may issue a corresponding Irish transport manager CPC to those UK-qualified individuals working for Irish operators. This is extremely welcome news for those affected transport managers and operators as it means that the transport managers will not now be required to undertake an Irish exam in order to continue to work as transport manager for an Irish operator.

In light of this clarification received from the European Commission, my Department is now examining as a matter of urgency the arrangements that must be put in place in order to allow for the issuing of corresponding transport manager CPCs to affected individuals. A further communication will shortly be issued to affected transport managers and operators to inform them of this recent update from the European Commission and to outline what needs to be done in order to obtain an Irish transport manager CPC. We will advise impacted transport managers to apply before the end of the year to avail of these new arrangements, and will communicate this as soon as possible. It is important to note that those affected will not need to sit an exam to secure an Irish CPC.

Deputy Joe McHugh: I do not know what to say. I am delighted. There is no doubt that the operators and hauliers who take their business really seriously and have many challenges ahead of them will be absolutely delighted with this news. I thank the Minister of State for the follow-up. Obviously, Deputy Ó Murchú and I value the fact that the message put across the table yesterday at the meeting of the Joint Committee on European Union Affairs, of which we are both members, reached the ears of people in the European Commission. I am absolutely delighted and very much look forward to how this will work out with the Department of Transport. That was a long-winded way of thanking the Minister of State.

Deputy Darren O'Rourke: The Minister of State provided a welcome update regarding one of the elements of this issue, namely, the CPC. I would like to hear from her regarding the requirement for transport managers to be resident in the EU. There is a specific Irish context in terms of the North, the Good Friday Agreement, and the way people live in one area but commute across the Border to work in another. That is an anomaly that still needs to be addressed. I have not heard anything from the Minister of State on that issue.

Deputy Matt Carthy: I was not aware that raising a Topical Issue matter could have such an impact. I certainly was not aware of the power of the Joint Committee on European Union Affairs. All of those are welcome. It is good news that those concerned will not have to sit a test. It is really important that the process the Minister of State is initiating is free of bureaucracy or a financial penalty or cost on those involved. Like Deputy Darren O'Rourke, I urge the Minister of State to ensure that Irish citizens who happen to live across the Border are not discommoded as a result of a decision which they completely opposed in the first place. Bearing in mind that the majority of people in the North voted to remain in the European Union, it would be a travesty if they were discriminated against.

Deputy Ruairí Ó Murchú: I thank the Minister of State for her response. We also need an answer on the related issue of residency. Like Deputy McHugh, I obviously put this completely down to our interaction at the Joint Committee on European Union Affairs yesterday. The constituent of mine who approached me on this issue thanks the Minister of State and me, as well as Deputy McHugh for the small part he played in my game.

Deputy Hildegard Naughton: I thank the Deputies for their contributions and for raising this issue. It is welcome news that will come as a relief to many transport managers around the country. On the EU residency requirement for transport managers, in accordance with Article 4 of Regulation (EC) 1071/2009, the transport manager for a road transport operator based in the EU must be resident in the EU. That was communicated to the transport managers in that communication by the Department. As I stated, my Department is working very hard to communicate this news to transport managers and the fact that they will not need to sit the exam, which is very welcome in the run-up to Brexit at the end of the year.

Primary Care Centres

Deputy Carol Nolan: I am delighted to be able to introduce this matter, which relates to the need for a primary care centre for Birr. The town has a growing population and also serves south Offaly and, indeed, people from north Tipperary. The people of the area have been left without a Midoc service for well in excess of two years. I am aware that the Sláintecare policy emphasises the need for the delivery of primary care units and acute services within the community.

4 o'clock

I stress the urgent need for a commitment to be given to establish a primary care centre in Birr. There was great disappointment when the application for approval of a site that had been earmarked for the centre was refused by the HSE after 12 months of waiting for a response. I was very disappointed, as a Deputy serving the area, not to get an answer to my parliamentary questions on this issue. I commend the cathaoirleach of Offaly County Council, Councillor John Carroll from Birr, who has done fantastic work on this issue. Councillor Carroll met with HSE representatives recently and it is my understanding that there are now three options on the table for a site for the centre.

I implore the Minister of State to ensure that her Department commits to the timely delivery of a primary care centre in Birr. The services it would provide are badly needed and there is a shortage of GPs in the town. If we had a state-of-the-art primary care centre, it would likely attract GPs to the town, which would solve that problem at the same time. Will the Minister of

State to commit to engaging with the HSE to secure the delivery of this facility for Birr? I have tried engaging with it and am very disappointed to say that I have had little or no response. My understanding is that when the site application was refused, after 12 months of people waiting to see what was happening, the decision was communicated by way of a telephone call to the county councillors in Birr. That is totally unacceptable.

This is a very serious issue and we need a commitment that progress will be made on it. The people of Birr deserve better and I am here today to ensure, on their behalf, that everything is done to secure the delivery of the primary care centre and that the process is not dragged out any further. As I said, the town has been without a Midoc service for more than two years, which puts it at a huge disadvantage. We must think of our elderly population and the children with particular needs who require access to acute services within a primary care setting.

Minister of State at the Department of Health (Deputy Mary Butler): I thank Deputy Nolan for raising this issue. On behalf of the Minister, Deputy Stephen Donnelly, I acknowledge the Deputy's work in advocating for the people of counties Offaly and Laois. I know she has concerns about the progress of the delivery of a planned primary care centre in Birr. Although the HSE has responsibility for the delivery of such centres, there is, of course, a level of engagement with officials in the Department of Health on those projects. I welcome the opportunity to update the Deputy on this important project.

First, I assure the Deputy that the HSE has not abandoned proposals for a primary care centre in Birr. In fact, it is continuing to work closely with local GPs and is engaging with private developers to ensure the residents of Birr and its surrounding area will ultimately have access to a purpose-designed, well-equipped, high-quality facility. The development of these centres, like other building projects, is dependent on many outside factors, including the suitability of available locations and planning processes. An additional complicating factor with this development is the desire to secure the commitment of local GPs to sharing accommodation and delivering healthcare services alongside HSE staff in support of a multidisciplinary team approach to patient care.

I understand that the original site identified for the centre was at the existing rugby club facilities in Birr and that agreement had been reached between the HSE and local GPs on developing this location. However, planning permission was refused by An Bord Pleanála in June 2018. This was an extremely disappointing development but the continued commitment to deliver a centre was demonstrated by the HSE's inclusion of Birr in a national advertisement in May 2019 seeking expressions of interest to deliver centres under the operational lease model. This advertisement resulted in a number of potential locations being identified in Birr. Offaly County Council proposed a site known locally as the rectory lands.

Discussions are continuing on how best to proceed, although they have been somewhat hampered by the Covid-19 crisis. I am aware that local GPs have indicated that they do not wish to pursue the council's option and their preference remains the original rugby club site. I understand they intend to make a submission under the new Offaly county development plan to that effect. The HSE has recently written to interested parties identified in the May 2019 advertisement inviting them to submit their best and final offer for the development and operation of a primary care centre in Birr. The HSE hopes these submissions, when returned, will be considered early next year and, in the absence of further issues arising, enable an indicative centre operational date of quarter 3, 2022.

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I have no doubt that Deputy Nolan and the local community in Birr are frustrated by the delays in progressing this project, but there should be no doubt that there is still a commitment to building a primary care centre in Birr. The HSE and other stakeholders continue to work to make that plan a reality and fulfil the Sláintecare vision of delivering better care, closer to people's homes and in their local communities.

Deputy Carol Nolan: I thank the Minister of State for her response. I am greatly appreciative of the information she provided because it was not known to me or to the local councillors exactly what was happening. The communication from the HSE in this matter needs to improve. I welcome that the Minister of State has got this information for us and that she is facilitating my questions on this important and urgent issue for the people of Birr and the wider area of south Offaly and north Tipperary.

I have another question for the Minister of State. She said that it the HSE hopes to made a decision on submissions received in the first quarter of 2021. I welcome that information, as I said, but we really need ongoing updates from the HSE on the matter. I do not want to have to keep chasing it for answers. In fairness, when I sent in my parliamentary questions to the Minister, they were acknowledged, but there was no follow-up from the HSE. This issue must be a top priority for the Department because the establishment of a primary care centre in Birr is very important to the people living there. I do not want to be back here in two years' time saying that nothing has happened and the sod has not yet been turned. I really hope we can get things moving very quickly and get the project off the ground.

I reiterate that the HSE needs to step up to the mark. Its communication thus far has been dire. I would like to see a timeline of what is happening as we go along. If the HSE could provide a briefing on the progress being made, as it is made, that would be very helpful. My constituents are very concerned about this issue and I, as their Deputy, would love to see the primary care centre in place. The cathaoirleach of Offaly County Council is also working very hard on the issue, as I outlined. Instead of promises, we want certainty that the project will be delivered. As it progresses, we want to be able to engage with the HSE and get feedback on it.

Deputy Mary Butler: I thank the Deputy for her constructive points. I can hear the frustration and annoyance in her voice regarding the slow pace of this project. The development of primary care centres to accommodate primary care teams and GPs in one location is an essential enabler of the delivery of community and primary care services nationwide. The driving force behind the development of the centres is the desire to support the implementation of new models of care that offer patients access to high-quality healthcare services and resources closer to their homes and in their local community.

As I have outlined, there are different factors that can have an impact on the delivery of a primary care centre. These delays are intensely frustrating for all involved, especially local communities who, rightly, wish to see local services developed. Notwithstanding the delays in this instance, the HSE continues to work closely with local GPs and is engaging with private developers to progress the development of a centre in Birr. I assure the Deputy that both my Department and the HSE are fully committed to the Sláintecare programme. The development of primary care centres will continue to be an important building block in enabling the vision of Sláintecare to become a reality. Indeed, significant progress has been made on the roll-out of centres nationally. There are now 135 centres operational throughout the country, up from 70 at the end of 2012.

To reiterate, the HSE recently wrote to interested parties identified in the May 2019 advertisement inviting them to submit their best and final offer for the development and operation of a primary care centre in Birr. The HSE hopes that these submissions, when returned, will be considered early next year and, barring any further issues arising, enable an indicative operational date for a centre in the third quarter of 2022. To clarify, an indicative centre operational date is when it would plan to have it open. These centres provide a setting in which a wide range of health professionals can deliver better care closer to people's homes in their local communities. I sincerely hope the people of Birr will be able to avail of such a facility in the not-too-distant future.

I accept the Deputy's point about the frustration with the lack of communication from the HSE. It is very frustrating and I will convey that to the HSE.

Mental Health Parity of Esteem Bill 2020: Second Stage [Private Members]

Deputy Mark Ward: I move: "That the Bill be now read a Second Time."

For too long mental health has been the Cinderella of the health service. Years of neglect, underinvestment and lack of political will have led to systemic failures in the mental health service. This is a Bill of hope. It is a vital legislative measure that will elevate the plight of people seeking mental health supports to the forefront. The legislation aims to compel a change in attitude towards mental health at the highest level of policy making and governance. A recent incident that caused concern among mental health advocates was when the Government launched its winter plan for health and there was no mention of mental health in the plan. If this Bill is passed, it will be incumbent on the Minister for Health to include a mental health plan in next year's winter plan. If this change of attitude occurs at the highest level, it will filter down into all levels of society and will see the stigma often associated with mental health conditions lessened. We must start to break the stigma once and for all.

The effective integration of mental health services and physical health services is particularly important. A parity of esteem approach to mental health and physical health will provide a holistic, whole-person response to everyone in need of care and support, with his or her physical and mental health needs treated equally. Mental healthcare has suffered from systemic neglect and a lack of appropriate resources over the years. Neglect of people with severe and enduring mental illness has negative outcomes for the individuals concerned, their families and society. This neglect of mental health occurs across the spectrum at policy, institutional, organisational and individual levels. The Bill will place a duty on the Minister for Health to promote health parity and to ensure all organisations in the health system meet parity obligations in respect of mental health.

As I have said numerous times, if one has an accident and cuts one's head, one will receive the appropriate treatment and aftercare when and where one needs it, but if one has a problem inside one's head, one may not receive the necessary treatment. This Bill aims to redress that imbalance. Mental health problems do not simply materialise Monday to Friday or between the hours of 9 a.m. and 5 p.m. and then magically disappear outside those hours. There must be access to a comprehensive, 24-7 mental health service which examines the holistic needs of the person. We heard experts at the Special Committee on Covid-19 Response describe the mental health services as out of date and not fit for purpose, with many services inundated with

cries for help.

We need a mental health strategy for young people to provide earlier intervention and support and to reduce the number of adults presenting with mental health challenges later in life. Prevention is better than cure. Before the Covid-19 pandemic, children were waiting up to two years to get an appointment with the child and adolescent mental health services, CAMHS. This is simply not good enough. It is expected that these waiting lists will increase post Covid. When the restrictions were first introduced many people, myself included, thought they would be short-term measures and that we would be back to some form of normality quickly. This has caused people extra worry and anxiety. They are missing family, friends and the like. As a result, people who would not normally have mental health issues have perhaps experienced them for the first time. At present, we are not delivering a comprehensive or adequate mental health service and if there is a big increase in demand during and after the pandemic, I do not know how the system will cope.

I have engaged with numerous stakeholders that have endorsed this Bill, including the Mental Health Commission, Mental Health Reform, Shine and others. I call on all parties and none to support this Bill, particularly Fianna Fáil which has advocated in the past for mental health parity. I hope it will support the Bill today. One of the recommendations in Sharing the Vision states that funding should reflect parity of esteem for mental health compared to other health conditions. The Mental Health Parity of Esteem Bill aims to offer hope for better mental healthcare by ensuring that vulnerable persons with mental illness are cared for efficiently, when needed and on a par with physical healthcare. I ask that the Bill be passed to Committee Stage when it can be teased out and examined further. It must be allowed to progress.

As I said, this is a Bill of hope. It will give hope to any person suffering from mental health problems that he or she will receive the right treatment at the right time. It is very easy to lose hope now, and people need it. They need an assurance that the increase in mental health issues arising from Covid-19 will be treated in a respectful and appropriate manner. In the meantime, the most important thing we can do is be kind to, and respect, each other. It is perfectly okay not to be okay right now. It is normal to feel anxious, frightened, frustrated or worried about things over which one does not have control. People should be kind and reach out if they are not feeling okay. If this Bill is passed today, it will send a clear message to everyone who is or has been affected by mental health, either personally or through family and friends, that we have listened to them, that they are not alone and not only have we listened, but we have acted and put in place the start of a process that will make their quality of life better. That is the very least they deserve.

Deputy Pat Buckley: It is great to have an opportunity to speak on this Bill. I congratulate Deputy Ward. I also wish the Minister of State, Deputy Butler, the very best of luck in her role. I will be very brief and try to explain to people what parity of esteem means when it comes to mental health. It is defined as valuing mental health equally with physical health, which would result in those with mental health problems benefitting from equal access to the most effective and safest care and treatment. It is about equal efforts to improve the quality of care. It is about the allocation of time, effort and resources based on need. It is also about equal status within healthcare, education and practice. It is about equally high aspirations for service users and equal status in the measurement of health outcomes.

We talk about parity because one of the biggest issues we have had in this country for many years is the stigma attached to mental health. Stigma refers to problems of knowledge, which

is basically ignorance, and attitudes and behaviour of discrimination against people. This Bill tries to remove the stigma attached to mental ill health. For many years we have spoken about the fact that with health issues we try to treat the problem, whereas with mental health we will have to treat the person and in order to do that we need wraparound services. I had a very brief meeting with the Minister just before this and we spoke about it. It is about educating everybody when it comes to how we judge people and, more importantly, how we do not judge people.

Taking a parity-of-esteem approach would also enable the HSE and local authority health and social care services to provide a holistic, whole-person response to a problem. The relationship between physical health and mental health is such that poor mental health is also linked with a higher risk of physical health problems and poor physical health is linked with poor mental health, so the parity is there already. In the current Covid climate, we are all aware from the many calls to our offices that people are suffering in so many different ways at the moment. We should do the right thing and make a positive move here today. The aim of the Bill is to include everybody and to accept that, come the exit from Covid, many people will suffer with some form of mental anguish or mental ill health.

The Bill is important because it gives an opportunity for all parties and none to start afresh. Let us go into 2021 putting our hands up and saying we will now accept that we have to treat everybody equally and respect everybody equally. We must give people the care they need. It is very simple. If a person breaks a leg and arrives in an accident and emergency department, everybody knows what their job is and what they have to do. It should be the same when a person is in trouble with a mental health issue. What is important is not to judge people because we do not know what ticks their boxes. With Covid, many people are suffering. Some have lost their jobs. Others have lost loved ones or they are in trouble with their mortgages. We are all individuals and we deal with anxiety and grief very differently. It is about having a wraparound service for each individual and treating the individual and not the so-called pain. We spoke many times about mental health in the Dáil Chamber. I am very optimistic that we can get off on the right foot in 2021, with the agreement of all parties. I would love to see us as human beings standing up and saying we are going to address the real issues and do the right thing.

I did a lot of research recently in the UK, which is probably three or four years ahead of the position here. The system there is working. I do not want to frighten the living daylights out of anyone but, as it stands, the life expectancy of a person with a mental health illness can be shortened by ten to 15 years and sometimes 20 years. It is very important that we treat each and every individual with empathy, respect and non-judgment. If we can bring about parity of esteem and understanding of mental health across the board in this country, we will be doing the right thing. I hope and pray that all parties and none will at least back the Bill to proceed to the next Stage. I hope we can increase people's life expectancy and their belief in the services improving. We know the services are at breaking point at the moment. They are very under-resourced. I would very much welcome if we could all agree on a starting point and a plan to move this issue forward in the coming years. I urge Members to please support the Bill and to do the right thing for everybody.

Deputy Réada Cronin: I commend my comrade, Deputy Mark Ward. He is truly passionate about his portfolio and about attaining parity of esteem for mental health and physical health so that they would be treated equally.

For many, when it comes to our mental health and physical health, it is not just a question

of what is wrong with us but of what happened to us. The psychologists say that if we cannot tell the story of what happened to us, it will tell itself anyway in our lives. Looking across this city and State we see people living with the consequences of what happened to them and what was done to them, all too often sometimes by the State. We had mother and baby homes, Magdalen laundries, industrial schools, hubs, hostels, soup runs and people living and dying in tents. A mother in my constituency was afraid to complain about HAP-funded, rat-infested accommodation because there was nowhere else for her to go with her family. Young mothers are taking their lives because of State-inflicted poverty, hunger, homelessness and sometimes the terror of Tusla.

If we are to have a serious conversation about mental health, we need to start with a serious conversation about why so many people are hanging on by a thread. I am a new Deputy and I am shocked when people ring and thank me for just listening to them. Sometimes they cry with relief. It is no wonder our offices are called clinics. Even as a councillor I often had people weeping across the table or down the telephone. One of the things they do not tell us we will need in our constituency offices is a box of tissues because of the pain that some people are in. I refer to people who work but who cannot get a home to rent or to buy. People are in pain because they have a blood platelet count of 435,000 and they cannot get a hospital appointment for a gastroenterologist since last July. They are in pain because their six-year old child needs a specialist interview for sexual abuse and they are waiting since March.

I have older men in my constituency who are living in conditions that are intolerable in a republic. They do not have light, running water, heat or electricity. They cannot wash themselves during a pandemic. Their mental health is really suffering. That is no wonder. They are asking themselves if they ever imagined, even on their worst day, that things would be this bad and that the system into which they have contributed would leave them like this. It is a measure of their own sanity that they question this because the answers to their questions are enough to drive anyone to despair. Society, in its addiction to the *status quo*, is content, so it is really important that we talk about parity between mental health and physical health. However, talk is cheap and ultimately it is useless. We as a State must look once and for all at what is driving people to despair. It is the lack of a decent home that they can afford, a lack of decent food, a lack of heat when it is cold or the lack of a job with good working conditions. When they are sick they should have the chance to be treated in a fit for purpose health system and, above all, they should have the chance to be listened to.

People say we should leave our politics at the door when it comes to mental health but we express our politics in how we vote on matters. People expressed their opinion in electing us to the Dáil so it is really important to bring politics into the Chamber, as our voting “tá” and “níl” affects people. I thank Deputy Ward for bringing forward this Bill and I hope it will get support across the House.

Deputy Johnny Mythen: I commend my colleague, Deputy Ward, on bringing forward this very important legislation. This Bill rightly puts mental health treatment at the same level of importance as physical health treatment. This principle was enshrined in British law in 2012, demonstrating we are at least eight years behind with our own Irish legislation.

The rationale for the Bill is to place a duty of care on the State to accept the principle of parity of esteem, both for physical and mental health. Earlier this month I raised with the Taoiseach the appalling position of there being no inpatient child and adolescent mental health service, CAMHS, beds in Wexford. Children who require inpatient care for their mental health

must travel to Cork or possibly other counties for a bed, or worse, be put into an adult unit. This Bill will bring about a change for good and influence future policies. It will change attitudes towards mental health and the overall well-being of our country.

Another area of mental health welfare that we really need to get to grips with concerns dual diagnosis of people suffering mental ill health and addiction. We all hear and know of people at their lowest point being passed from service to service. As there appears to be no collaboration between services to deal with such individuals, we need to urgently develop best practices and introduce “wet hostels” to support and treat citizens with dual diagnosis. There is no reason shared files, collaborative work and a comprehensive treatment plan could not exist in treating a dual diagnosis of mental illness and addiction.

If we are to have parity of esteem in mental health, we must also take an holistic approach. One such way for this to happen is through the promotion of early intervention and prevention work, as well as the more traditional mental ill health care. A service that comes to mind is the Jigsaw service for young people with mental health issues. It proves a listening ear and gives expert advice and support to young people aged between 12 and 25. It also provides families, teachers and those who support young people’s mental health with a wide range of coping and resilience skills. An excellent service such as this should be in every area and accessible to every young person.

In response to a parliamentary question I tabled in July, the south-east community health-care section of the HSE indicated it was not aware of any plans to develop a further Jigsaw programme in the region in 2020. I urge the Minister of State to recognise the importance of this service and begin planning the investment required for expansion. By supporting and passing this Bill, the House would commit to a noble principle that from now on, the physical and mental health of the nation would be treated as one indivisible right.

Deputy Seán Crowe: It says much and highlights the lack of regard, respect and priority that we display to those with mental health issues that we are forced to bring forward a Bill acknowledging that mental health issues should be held in parity with physical health. I welcome the Bill and thank my colleague, Deputy Ward, for introducing it and giving us the opportunity to begin this conversation on an important societal matter.

I also welcome that today the sub-committee dealing with mental health matters was established and had its first meeting. I thank the Ceann Comhairle for his role in fast-forwarding the establishment of that sub-committee.

Mental health services and supports in this State have always been an afterthought or something that was difficult to access in the past and they are often treated like a dirty secret and something to be buried. In those less enlightened times, the official approach was to exclude, lock away, medicate, ignore and somehow try to forget the people in those services.

Many people suffering from mental health issues face a lack of services across the board and those with mental health issues are also at much higher risk of suffering from addiction, falling into homelessness, being unemployed and being imprisoned for relatively minor offences that lead to jail sentences, and this in turn often leads to a worsening of their condition. Our prisons are certainly not the place to warehouse our mentally ill but many loved ones welcome it, as they believe imprisonment will eventually lead to supports and necessary care for a son, daughter, brother or sister. They believe that if people go into the prison system, an assessment will be

made and supports would be provided. We know that in many cases when people are released from prison, they end up back on the streets and without the necessary supports.

We also know prison staff are not trained to deal with these cases and facilities are not designed or equipped for such a purpose. The same could be said of our homelessness services, with dormitory-style accommodation and rampant drug use being the last type of conditions needed by people suffering mental health issues. We know many of the vulnerable homeless citizens placed in these settings go on to develop an addiction or fall deeper into the grip of drugs and alcohol, or they come into contact with dangerous and criminal elements, which only makes their problems all the worse.

What do we say to a parent who comes to us looking for help? We are supposed to be the font of all knowledge and people come to us and look for answers. What do we say to the parent who says he or she has a child or children who cannot speak? These people need support and wait years for an assessment, and for years following an assessment of need they still cannot get support for their child or children. This is happening in my area, which is covered by community healthcare organisation, CHO 7. Waiting lists for supports are getting longer so we can imagine the impact this has on a parent or parents when a child is suffering in trying to make himself or herself understood.

Many of the key staff in this broken system have been seconded to tracking and tracing work for Covid-19, and again I cannot understand the thinking from the HSE that this is somehow acceptable or that these children can be left behind during this Covid-19 crisis. As my colleague stated, Covid-19 will have a lasting effect, with months of lockdown and the stress of working from home possibly only becoming apparent in the months and years ahead. Social isolation is at the greatest level we have seen and gone are many of the escapes that many people need. I am not talking about the pub and a few drinks but sport and exercise have been curtailed and walks or hiking have been curtailed. Friends are at the other side of a WhatsApp group instead of being engaged in human interaction. We know the impact this has, particularly on older people who are isolated and unable to see grandchildren. People could once get into nature but they are now forced to walk on grey pavement under streetlights on dark evenings, depending on where they live. They remain isolated from others.

Our already overly stretched mental health services may not be able to cope with what may come. In my years as a public representative I have come into contact with hundreds of cases of people being tortured by mental health problems. Families have been torn apart because nobody could help when a loved one was seized by a violent or paranoid episode. We all know those stories and we have had parents come to us, crying their heart out, talking about the crisis happening in their homes. We see the figures for domestic violence now and I am sure they are increasing.

Older people often come to us. Their biggest fear is what will happen to their son or daughter after they die. We have a big responsibility as a society and as Oireachtas Members to ensure the availability of supports. We all know of the worry for parents of children with Down's syndrome, who are living longer these days, or parents of children who cannot speak or communicate and who cannot access supports or education. We have failed those children miserably.

We must acknowledge that mental health is every bit as vital as physical health. We have never done so, regardless of the rhetoric from various Ministers for Health. Our strategy for

preserving and improving the health of Irish people must be comprehensive and holistic. We must not just take care of the body but also the mind. We have an enormous responsibility in that regard. Again, I welcome this Bill and thank Deputy Ward for introducing it.

Deputy Patricia Ryan: I thank my colleague Deputy Ward for introducing this Bill. It is a very simple Bill, which I hope will have a positive effect on mental health services. We need to place mental health on a par with physical health and improve the provision and quality of mental health services. I have spoken in the House previously about a man whose son was experiencing mental ill health. He felt it would have been better had his son been diagnosed with cancer because at least then there would be clear path to care. Any family that has experienced mental ill health will be familiar with that feeling and this must change. We must ensure that those who are experiencing mental health issues have a clear path to care in order that they can get better.

For too long mental health has been the poor relation of our health services. Sadly, delays in diagnosis and treatment costs lives. These people are not just statistics, they are parents, siblings, children, spouses and friends. It is absolutely shameful that we do not have 24-7 services available to diagnose and treat mental illness. Mental illness does not take the weekend off and neither should the care services. Years of neglect, underinvestment and a lack of political will have left us with a broken system and it is high time it was fixed. Mental health affects physical health and *vice versa*. We must take an holistic approach.

Covid-19 has had a massive but unseen effect on the mental health of many people and it may be some time before we know the full extent of this. I commend the work of groups like HOPE(D) in Newbridge and the way they have adapted to cope with the challenges posed by the pandemic. They are saving lives but receive no money from the HSE, despite the executive referring clients to them. I want to say to everyone who is struggling in this pandemic that even with the privileged position I am in, there are times when I struggle. It is perfectly okay not to be okay right now. It is normal to feel anxious, frightened, frustrated or worried about things that are outside our control. People should be kind and reach out to one another. They need to know that if they are not feeling okay, they are not alone.

As someone who suffered with mental health issues when I was 16 years old, which is a long time ago, I know that if we do not look after our mental we will be in severe trouble. People do not differentiate between mental health and mental illness. In order to have no mental illness, we need to focus on mental health and teaching people how to keep mental illness at bay. As my party's spokesperson for older people, I am also very concerned about the impact of Covid-19 on people in nursing homes and their families, particularly on their mental health, which is pivotal.

Minister of State at the Department of Health (Deputy Mary Butler): I begin by thanking Deputy Mark Ward for bringing attention to the topic of mental health. The importance of supporting good mental health and well-being has been recognised for some years now and never more than during the current pandemic. The onset of Covid-19 has presented enormous challenges for people's mental health and the Government has responded rapidly by putting additional services and supports in place.

The Government acknowledges the positive intention of this Bill and does not intend to oppose it. Many Deputies will be aware that a very similar Bill was brought forward by a colleague in the last Dáil, Deputy James Browne, who is now a Minister of State. I distinctly

remember speaking on and supporting that legislation.

The stated aims of the Bill are to offer hope for better mental health care by ensuring that vulnerable persons with mental illness are cared for efficiently, when needed and on parity of esteem with physical health and to compel a change in attitudes towards mental health at the highest level of policy making and governance. Its main provision obliges the Minister for Health to continue the promotion of a comprehensive health service designed to secure improvements in physical and mental health and in the prevention, diagnosis and treatment of physical and mental illness .

An equal standing within the healthcare system for mental health and physical health is something that we strive for every day. The interdependencies between physical and mental health are well recognised. WHO research suggests that key risk factors for poor physical health and reduced life expectancy are more prevalent among people living with a mental health difficulty than among the general population. For example, people with schizophrenia are more than twice as likely to develop type 2 diabetes when compared to the general population. The incidence of respiratory and cardiovascular disease is also higher among those with a serious mental health condition. Equally, there is a higher incidence of conditions such as anxiety and depression among those suffering from long-term chronic physical health conditions such as asthma and arthritis. The need for a whole-person approach to achieving the highest possible standards of physical and mental health and well-being has been recognised in formulating our mental health policy, as is the need to support the wider psychological aspects of physical health challenges.

While the Government does not oppose this legislation, I have some observations to make on the Bill as proposed. I am offering these with the benefit of having some knowledge of a similar Bill introduced in the previous Dáil. The aims of the Bill are broad. It does not offer any guidance on what parity of esteem would look like in practice. Given the vast spectrum of conditions that influence both physical and mental health, it is silent on what esteem for mental health should be compared to when assessing parity. It does not include specific provisions for how parity of esteem would be achieved, implemented or measured. The Bill's provisions appear different to the narrative in the explanatory memorandum. As currently constructed, it is aspirational but unclear on what it would accomplish in concrete terms.

I urge Deputy Ward to consider these observations in the interest of developing a precise and specific Bill that is easily understood in practical terms. Without that precision, its implications are difficult to predict, and consequently will not be possible to quantify from a financial perspective. I believe this is where the last Bill fell down. I say all of this from a position of experience and in the spirit of the collegiality on matters of mental health that this House has traditionally enjoyed across all parties and none.

I remind the House that the WHO defines health as “a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity”. This is an all-encompassing view of health. It acknowledges that the determinants of health are multifaceted and does not recommend prioritising any one aspect above another.

The Health Act 2004 provides that the HSE shall use the resources available to it in the most beneficial, effective and efficient manner to improve, promote and protect the health and welfare of the public. It also states that the HSE shall manage and shall deliver, or arrange to be delivered on its behalf, health and personal social services. It further states that the HSE

shall integrate the delivery of health and personal social services. Deputy Ward's Bill seeks to oblige the Minister for Health to "continue" the promotion of a comprehensive health service designed to secure improvements in physical and mental health. I acknowledge the important role that legislation plays, as Members of this House will know. However, when it comes to health, treatment and services are what we look to for healing.

Funding for mental health services is a priority for the Government. Budget 2021 saw the continued commitment to mental health with increased funding of €50 million, bringing the annual budget to €1.076 billion. This represents an increase of over €365 million or 51% since 2012. The Government is committed to continuing to increase funding as circumstances allow. The Department of Health and the HSE are currently finalising the 2021 HSE service plan, which will be published shortly. I am confident that this will give a balance of new mental health developments across age ranges and sectors of the population. It will also cover the full spectrum of mental health, from mental health promotion and early intervention to acute and forensic inpatient care. It will also ensure that greater attention is given to improved links between mental health and other services.

With regard to policy, we recently published a new refreshed national policy, *Sharing the Vision: A Mental Health Policy for Everyone*. The *Sharing the Vision* policy does not replace that of *A Vision for Change* but instead updates our approach in the light of evolving and future needs. The implementation of *Sharing the Vision* is obviously critical to its success and this is a core objective for me as Minister of State. Last month, I announced the establishment of the new national implementation and monitoring committee framework that will drive implementation of the policy. An independent chair for the committee, Mr. John Saunders, has been appointed and selection of the membership is currently under way. Over the 10-year lifespan of *Sharing the Vision*, the committee will be integral to maintaining the momentum necessary to make the policy a reality and to hold stakeholders to account. Implementation will also be progressed through planned additional investment for the sector under the annual budgets and agreement of HSE annual service plans.

It is important that the implementation of *Sharing the Vision* is a collaborative process. I intend that the committee and its associated specialist groups will be fully representative and will include strong service user, service provider and non-statutory sector participation.

As the debate here this evening is about mental health legislation, I will take the opportunity to update the House on progress on the review of the Mental Health Act 2001. The Department is currently finalising heads of a Bill to significantly amend and update mental health legislation, taking into account the 165 recommendations of the expert group review, which was partly informed by a public consultation, a comprehensive submission by the Mental Health Commission and Ireland's domestic and international commitments such as those under the Assisted Decision-Making (Capacity) Act 2015 and the UN Convention on the Rights of Persons with Disabilities. The provisions of the Mental Health (Amendment) Act 2018 are also being incorporated into the draft heads of Bill.

There are over 100 sections in the draft heads. The Department has included detailed information under each head to allow for expert input from the Mental Health Commission and the HSE to be provided prior to publication. This will allow the Department the opportunity to address any concerns as early in the process as possible. The draft heads of Bill propose to extensively amend and update existing mental health legislation, moving from what has been described as a paternalistic approach in existing statute to a more person-centred, human rights-

based approach. The Department had hoped to submit these heads for legal advice by the end of 2020, however, the Department is currently awaiting further input from the HSE, which is expected in early December, and plans to consider the HSE's submission and finalise the draft heads prior to submission for internal legal advice and to the Office of the Attorney General, as required, in early 2021.

A new part of the Act related to children is being advanced separately, and the Department has approached the HSE, the commission, the Ombudsman for Children and the College of Psychiatrists of Ireland for their expert opinions on the draft heads.

I thank Deputy Ward for introducing his Bill. Work is required to ensure that the final Bill is legally robust, specific and implementable. I hope I have given some useful input on how the Bill might evolve and look forward to hearing the remaining contributions here this evening.

An Ceann Comhairle: I apologise for not calling on the Minister of State earlier. We have limited time. Deputies Ó Murchú, Ó Laoghaire and Martin Browne are offering.

Deputy Donnchadh Ó Laoghaire: May I ask how much time I have so that I can adjust my comments accordingly?

An Ceann Comhairle: I will have to get guidance as to the time available.

Deputy Donnchadh Ó Laoghaire: I will try not to speak for too long. The Minister of State has provided the World Health Organization's definition of health, which is not simply the absence of disease or a condition. Whatever about the World Health Organization's definition, the reality in our communities and in our health service is that there is not parity of esteem at this point in time. We have to recognise that a societal challenge still exists. Attitudes towards mental health and mental illness have significantly improved in recent years but physical and mental health are not viewed in the same way and that parity of esteem has not been achieved. Deputies, Government and society all have a responsibility to tackle that issue. That is crucially important.

An issue that may, perhaps, be addressed more rapidly is the lack of parity of esteem or of equal treatment within the health service. This can be seen in a wide range of areas. There is certainly no parity in the resources available to mental health. This lack can also be seen when one drills down into community services. My area of Cork is part of the same community healthcare organisation, CHO, area as Kerry. It would be remiss of me not to once again make the point that the numbers on waiting lists for psychology, psychiatry and child and adolescent mental health services, CAMHS, in this CHO area are among the highest in the country. In fact, the number on the waiting list for CAMHS is the highest in the country. That problem has been outstanding for a very long time. There are approximately 2,200 people on the waiting list for CAMHS in Cork and Kerry, 162 of whom have been on it for more than a year. That is absolutely unacceptable. These young people and their families are being left in a crisis situation for far too long.

A psychology position in CAMHS in the Cork north Lee HSE area has had to be re-advertised as it was not filled. That vacancy has been outstanding for well in excess of a year. It may well have been vacant for two years at this stage. That is unacceptable and it is a further sign that not enough emphasis is placed on these issues. It is always a matter of being penny wise but pound foolish. It may be questioned whether it is even penny wise. When one fails to deal with things promptly, things escalate, people's issues and conditions become more severe and

they need more extensive and more sustained treatment. We have never dealt with these issues at that early intervention stage.

The final point I will make in respect of parity of esteem is that there is an issue regarding discharges from the acute hospitals at times, although not always. I have raised some of these issues with the hospital group in Cork and Kerry. People who have been admitted as a result of mental illness or of difficulties or conditions relating to their mental health are, at times, discharged very rapidly. I appreciate that some of this relates to the severe pressure on our hospitals as a result of the Covid situation but I have come across instances of people who I have fed into the system being discharged in situations which were not appropriate, in which there was insufficient preparation and in which supports were not in place. One person I know of, who was not in the most severe part of their crisis, although they were still in a crisis situation, was left to their own devices and put out onto the street with very little support or guidance. The networks were not there for them. That is an area that needs to be tackled. We would not discharge somebody with a physical condition unless we were confident that they had somewhere safe and secure to go. With regard to parity of esteem, the area of discharges needs to be dealt with.

I will also emphasise once again that the resourcing issues in Cork and Kerry need to be dealt with. The waiting lists are too long. Young people and adults are suffering unnecessarily. Their crises are being extended. It is not good enough.

An Ceann Comhairle: There are 15 minutes remaining before we must begin the wrap-up. May I clarify whether Deputy Gino Kenny is looking to get in? Yes. We therefore have three Members to speak over 15 minutes. We will proceed with Deputy Ó Murchú, then Deputy Martin Browne and then Deputy Gino Kenny.

Deputy Ruairí Ó Murchú: I commend Deputy Ward on bringing forward this Bill. I agree with a lot of what has been said about the parity of esteem required in respect of mental health services and dealing with mental illness. I also accept that the issue is not necessarily straightforward. It involves some of the difficulties we deal with every day. There is the question of whether someone has an actual diagnosis. Some people are told they do not have a mental illness but rather a behavioural difficulty. We need clarity. Certain terminology is used quite often. We need the policy to be that there is no wrong door. This means we also need a proper system for dual diagnoses. Given the services and resources we have at the minute, if some of these situations are not clarified and if resources are not brought to bear, all we are doing is putting further pressure on services that are not sufficient to deal with what they are already dealing with.

5 o'clock

It is as simple as that. Across the board we have a bad history in this State in respect. We had a history of putting people in institutions and locking them up. We are all aware of the reality of what happened.

At this point, we are not operating best practice with acute beds. I accept not everyone with a mental illness necessarily needs hospitalisation but there are cases where it is required. Excuse me if I am wrong on the exact figure but I am told we operate in and around 20 beds per 100,000 whereas in parts of Europe the figure is between 50 and 70 per 100,000 or higher. This needs to be rectified. I am also told that within Louth and Meath and my local HSE com-

munity healthcare organisation the level of bed provision is less again. These things need to be rectified.

We have a situation with regard to mental illness behaviours. These may seem to many people like a mental illness but we are told that, without a diagnosis, what is at issue is no more than behaviour etc. We end up with the Garda dealing with this. Deputy Ward has already spoken this week on the situation. Sometimes our jails are full of people who need acute services but end up in that situation. All this needs to be rectified. We need a holistic approach across the board and we need all stakeholders to be included.

I imagine every constituency office is similar to mine. People appear or we are given issues. The issue may fall somewhere between mental illness, mental health, added disability or other situations and a lack of competence. Sometimes it falls somewhere between mental health services and social care. Really what happens is that the issue falls between the stools. Sometimes we deal with parents who are trying to deal with a child of theirs who is 30 or 40 years of age with many issues. The parents may be in their 70s and may not be fit to cope. We need to look at some element of diagnosis and treatment. We also possibly need to look at assisted living. Where this is not addressed, the pressure goes back on these people. Occasionally, this situation also puts pressure on either the Garda or mental health services. It absolutely fails.

I brought up another fact earlier when I talked to the Minister of State, Deputy Rabbitte, on institutions or congregated settings dealing with disabilities. I believe this happened in the Crosslanes unit in Drogheda recently. I do not believe we have proper screening or testing to ensure staff do not have Covid-19. We had an outbreak and we have difficulty sometimes with this. The public health advice may say people are not close contacts because they are operating certain procedures with masks etc. The fact is that many of our health settings were already under pressure without screening. They will come apart at the seams. I appeal to the Minister of State, Deputy Butler, to look at this situation. I understand that in September or October that was what happened in Crosslanes in Drogheda. I urge the Minister of State to come back to me on that. We need to look at the public health protocols as well as testing and screening at these facilities.

Deputy Gino Kenny: I will be as brief as possible. I will support this Bill. Fair play to Deputy Ward and Sinn Féin for their work on the Bill. It is important that as Deputies and as a society we talk about mental health. There has been a marked difference in the past five years in talking about mental health issues. Sometimes, talking about something can halve the problem.

This is about resources. A Vision for Change was published 14 years ago. The budgetary percentages were not fulfilled to tackle deficiencies in mental health services. The new document, Sharing the Vision, sets out a parameter for fixing the vision. That is important. We have said numerous times in the Chamber that this is about early intervention. When people get intervention early, there are better outcomes. If people do not get intervention, then there are worse outcomes, especially around mental health. The outcomes can be dire and people may simply die. If we can get early intervention for people when they need it, the outcomes are better not only for the people concerned but for society, community and family.

We talk all the time about reform. There needs to be a radical overhaul of the health service in this country. One thing Covid-19 has exposed is the fault line in our health service. Covid-19 has revealed what is probably a new phenomenon in human health. Today, the UN said

a global mental health crisis is on the horizon or is in existence. Covid-19 has amplified the anxieties and fears of everyone. It can amplify depression, loneliness and all that comes with it. It is imperative that we reach out to our neighbours and family. These are simple things but they can make a major difference.

The Minister of State, Deputy Butler, has spoken before about Covid-19. It is important that now and in the coming years we look at the effect Covid-19 is having on society. We need to put in place the facilities and resources that can help people get over it. We will get over this pandemic. However, we need to be in a better place not only in respect of our health service but our mental health services as well.

Deputy Martin Browne: I congratulate Deputy Ward on bringing forward the Bill. I acknowledge his vision and understanding of an area of well-being that, as this Bill suggests, has been left behind in terms of policy decisions and access to care and treatment.

In talking about parity of esteem, it may be worth talking about what represents a lack of parity of esteem. We see this with young people ending up in emergency departments or general hospitals when what they need is tailored mental health supports. In 2019, the Mental Health Commission spoke of how children in need of mental health supports are ending up in general hospitals. The commission said the reason for this was due to an immediate risk to the young person or due to the lack of a bed in a specialist child and adolescent mental health services unit. The report went on to say that children and young people in crisis are left with the unacceptable choice between an emergency department, general hospital, children's hospital or adult inpatient unit. This is one example of how a lack of investment in mental health services results in children having to present at overcrowded emergency departments or general hospitals which are not equipped to deal with their needs.

In 2012, St Michael's inpatient psychiatric unit in Clonmel was closed. The services were transferred to St Luke's General Hospital in Kilkenny, leaving County Tipperary without any inpatient beds. This means that many people in south Tipperary have to travel far from their homes, while those in north Tipperary have to go all the way to Ennis. As well as the distance issue, St Luke's in Kilkenny has a record of overcrowding. That decision denied us a key service. It was a cruel blow to County Tipperary.

Before his departure from office, the former Minister of State, Mr. Jim Daly, admitted that the wrong decision was made to remove the beds from Clonmel. We have been unable to get a similar sentiment out of the current Minister of State. This year I found out that €2 million is being spent on upgrading beds at the same unit, but not for mental health. It seems as though the money is available but only if it is not for the purposes of mental health services. Since St Michael's unit was closed, all we have seen are delays with Jigsaw as well as a delay and a total lack of clarity in the development of a new crisis house in Clonmel. The list of problems goes on for Tipperary. At the same time, while a room has been put aside at South Tipperary General Hospital for people presenting with mental health issues, they still have to go through the emergency department process. All of this shows how mental health services always take the back seat in overall healthcare.

A similar lack of priority has been shown with regard to dual diagnosis for people with mental health and addiction issues. It is widely held that if both issues are not treated together, then it is difficult to get the desired outcome. The HSE has spent €124,586 over a 14-month period and this resulted in the draft model of care.

It went nowhere and the only resource available from that study is a link to the website *drugs.ie*. This shows how, as Deputy Ward put it, mental health is the Cinderella of health services. Organisations such as CARMHA in Nenagh are doing great work in this regard, and I again appeal to the Minister of State to hear what such organisations have to say and see what they do. I appeal to everyone here to support this Bill.

I will finish with a question put to me by a 19-year-old girl from Carrick-on-Suir, and a community work student, who wrote to me about a rising mental health crisis in the south east and the difficulties young people encounter when seeking help. She said:

Deputy in our constitution it states that every child should be treated equally. Yet here we are in 2020 with a multiple-tier health system in relation to mental health. I say multiple because it's not as black and white as it may seem. As a young person struggling, you are asked various questions, depending on your social status and your address. There could be many or no services available in your area. Now please explain to me how we are treating all children equally?

We have a tsunami of mental health issues coming after the Covid-19 pandemic and that must be tackled urgently. I encourage every Deputy to consider this question and to support this Bill.

Deputy Jennifer Murnane O'Connor: The Government does not wish to oppose the Mental Health Parity of Esteem Bill 2020. That being said, further clarity is required regarding this Bill. The aims of the Bill are general and aspirational in nature and differ from the background to the purpose of the Bill, as set out in the explanatory memorandum. The Bill does not give any indication of how to achieve its stated aims. While the intention of the Bill is positive, further work is required regarding what the effect of the Bill is intended to be and what the financial implications of this Bill could be.

More generally, there have been many positives of late, with the provision of an additional €50 million in the area of mental health in budget 2021. Of this amount, some €23 million will be allocated to commencing the implementation of many of the short-term recommendations of the new national mental health policy, *Sharing the Vision*. This includes funding to improve child and adolescent mental health services, CAMHS, and, more specifically, the appointment of 29 whole-time equivalent staff in CAMHS. This increase in staffing can go some way towards reducing the current waiting lists so that children and young people, and their families, can access these supports more quickly where required. It is also essential that these staff are deployed in the areas where they are most required, taking into account that the CAMHS waiting lists vary significantly depending on what area a person lives in.

Mental health should be considered a disability when accessing certain services. This is currently not the case, especially when it comes to allocation in respect of priority on housing lists. I see this issue arising all the time in my clinics. I also refer to the same issue in respect of accessing grants etc. Help is needed in that respect and this is a major area which we must look at. I am passionate about this area and I have raised concerns regarding it. I will continue to raise this at the Joint Committee on Housing, Local Government and Heritage and the Joint Committee on Disability Matters.

People dealing with mental health issues are the most vulnerable people and they matter, as the Minister of State is aware. She is working hard on this issue, and we must ensure people

feel that mental health is important. Mental health is an issue we all need to talk about. I recently proposed that Carlow town become a talking town and that our county capital become a place where people can access the help they need at any time without stigma, judgment or obstacles.

Minister of State at the Department of Health (Deputy Mary Butler): I commend Members on this wide-ranging debate. These contributions underline our shared goal of a mental health system that reaches the highest possible standards. Going back to some points, Deputy Ó Laoghaire rightly raised the issue of the CAMHS waiting lists. It is something I have also discussed with Deputy Ward. I am concerned about that issue. The waiting lists are currently at about 2,200 people, but it does vary, as my colleague has just said, depending on where people live. The extra €50 million secured for this area in the budget, however, will mean 29 whole-time equivalent new staff working in CAMHS to drive down the waiting lists. Deputy Ó Laoghaire was also concerned about the Cork and Kerry area. I was informed this week by the person in charge of services there that two new appointments of psychiatrists were made in Cork and Kerry, so that should make a major difference.

Deputy Mythen spoke about Jigsaw, and that leads me on to Deputy Martin Browne's contribution. Jigsaw offers supports for young people aged from 12 to 25 years old. Prior to the onset of Covid-19, it was possible to self-refer, without the need for a referral from a parent, a GP or a teacher. That is fantastic. Jigsaw will open services in Bray in County Wicklow just before Christmas, and services will commence in Thurles just after Christmas. Regarding Deputy Browne's contribution, because it is fair to put things like this on the record, the reason Jigsaw services in Tipperary were delayed slightly is because temporary premises were originally being secured. The great news now, however, is that a permanent premises has been secured. The lease has been signed and there were advertisements in the newspapers this week for seven posts in respect of Jigsaw services in Thurles. There was worry among people living in Tipperary that this might not become reality. Today, however, it is certainly a reality and the sign will be over Jigsaw's door before Christmas, in keeping with the commitment I gave earlier in the year.

Mental health is one of the key priorities of this Government, and it is good that Members have the opportunity to debate these issues. I will set out some of the topical issues in the area of mental health. Many Deputies mentioned the Covid-19 pandemic, and it has presented challenges on an unprecedented scale to our health service, economy, communities and safety. We asked the public to make sacrifices, the kind which would have been unimaginable this time last year. The response to this request has been tremendous and has shown the very best of the spirit for which this country is famous.

However, the pandemic has had a profound effect on the mental health of many people. I hear from members of the public every day regarding the impact of these restrictions. All the Deputies hear the same stories. We have had to make changes in our services. So far, our statutory and non-statutory mental health services have withstood this adversity and I acknowledge the significant efforts of the staff in doing so. Acute inpatient and community residential facilities have remained open, though under necessary protocols. I am happy to state that during the first part of the pandemic, some 85% to 90% of all mental health acute services remained in place. Where numbers have been reduced in some settings, telehealth solutions have come to the fore to protect people using the services and the staff.

Urgent cases determined by clinical assessment continue to be seen across the mental health services, including emergency departments. HSE services have continued to operate at around

85% of pre-Covid-19 levels. GP and hospital mental health services remain open, and people should continue to access these if they are concerned about their mental health. The Mental Health Commission has put in place a risk framework, with contingency plans in every HSE community healthcare organisation, CHO, to mitigate the spread of Covid-19 and to protect service users and staff. The Department has also introduced primary legislation to facilitate the continued operation of mental health tribunals, and this was recently extended to June 2021.

Returning to the subject of this debate, the goal of legislation for parity of esteem for physical and mental health must be carefully analysed to see if that can be achieved. This sets challenges for all of us. Significant thought and effort will be necessary to ensure that it is crafted in a way which fulfils its aims of improving outcomes for all, which is what Deputy Ward is trying to achieve. We must be sure that any changes made are the right ones and are sure to have the effects which are intended. I assure the House that my officials and I will review all the contributions which have been made and bring them to bear in all of our important work in the design and delivery of mental health services.

Deputy Mark Ward: I welcome the Government not opposing this Bill and I appreciate the support this Bill has received across the House, or perhaps I should say across the convention centre.

I acknowledge some of the points the Minister of State raised and her observations on the Bill. There was a similar Bill previously and I acknowledge some of the reasons which were stated regarding why that Bill fell. This Bill, however, now progresses to Committee Stage. I am happy that it will get the legislative scrutiny it rightly deserves and that it will become legally robust, as the Minister of State put it.

I also acknowledge and welcome the Minister of State's appointment of the independent chair of the monitoring committee for the implementation of Sharing the Vision. That will help Sharing the Vision move forward. I also call on the Minister of State to ask the HSE to appoint a national director for mental health because that is one of the things that will help restore parity for mental health. The Minister of State's colleague, Deputy Murnane O'Connor, mentioned having different waiting lists in different areas for CAMHS. We need to start moving away from this postcode politics. We need the same level of service no matter what area one lives in or what part of the country one is from. That is another way of restoring parity for mental health.

This week marks a year since I was elected to the Dáil in a by-election. It has been an honour to serve in this House over the past year but it has sometimes been very frustrating as well. Our previous private Members' Bill did not relate to the Minister's remit but it was about community safety. Despite Government Deputies nodding their heads, agreeing with me and saying that legislation was good and valid, it was still voted down. The reason it was voted down was because of party politics and because it was a Sinn Féin motion. I am glad to see that party politics were put aside today and that this Bill will go to Committee Stage. I said in my opening statement that I would work with the Minister of State, who is responsible for mental health, in Opposition, that I would hold the Government to account and that I would propose tangible and real solutions to issues relating to mental health. Today is one of those days when something tangible happens. Today, we did not just speak about change, we acted. We listened to the people who are struggling with mental health issues and acted on their behalf. As has been noted, this Bill is not a panacea for all the problems with mental health services, but it will start the process of making things better.

To all the children mentioned earlier who are waiting for mental health appointments in CAMHS, we hear you. We also hear the parents of those children. To the children who are still being committed to adult psychiatric wards, we hear you. To the man whose story was reported this week, who was left naked in his own urine in a prison cell, we hear you. The voices of those experiencing additional mental health issues due to Covid are being heard today. To those experiencing eating disorders, we hear you. To those who have tried and failed to access services outside the nine-to-five and to anyone who has been affected by suicide, we absolutely hear you. Some people are experiencing mental health issues for the first time, a large number of which are related to Covid, so to anyone who is feeling worried, anxious, depressed, upset or fearful, we hear you today.

The Minister of State and her colleague said that this Bill is broad, aspirational and hopeful. Mental health is such a huge issue and crosses so many spectrums that this needs to be broad. As for being aspirational, we in Sinn Féin aspire to promote real, tangible solutions to mental health issues and we make no apologies for that. We will certainly never apologise for offering hope to anybody. We may all be in the same storm when it comes to mental health but we are not all in the same boat. Parity is the boat that will result in everybody being treated the same when it comes to health problems, whether mental or physical.

An Ceann Comhairle: I congratulate everyone involved with this Bill. I congratulate Deputy Ward for bringing forward legislation that is very constructive and helpful and the Minister of State for having the foresight to accept it. What we have seen here this evening is democracy working constructively and Members working collegiately together. The more of that we see, the better for all of us into the future.

Question put and agreed to.

Message from Select Committee

An Ceann Comhairle: The Select Committee on Foreign Affairs and Defence has completed its consideration of the Defence (Amendment) Bill 2020 and has made amendments thereto.

The Dáil adjourned at 5.25 p.m. until 2 p.m. on Tuesday, 1 December 2020.