



DÍOSPÓIREACHTAÍ PARLAIMINTE  
PARLIAMENTARY DEBATES

**DÁIL ÉIREANN**

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

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# DÁIL ÉIREANN

*Dé Céadaoin, 1 Meitheamh 2022*

*Wednesday, 1 June 2022*

Chuaigh an Leas-Cheann Comhairle i gceannas ar 9.10 a.m.

*Paidir.*  
*Prayer.*

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## **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 37A and the name of the Member in each case: (1) Deputy Pat Buckley - to discuss the conditions for refugees, particularly from Ukraine in the east Cork area; (2) Deputy Darren O'Rourke - to discuss with the Minister for Housing, Local Government and Heritage the need to expand the An Bord Pleanála review to decisions made relating to a development at Millbourne estate, Ashbourne, County Meath; (3) Deputy Donnchadh Ó Laoghaire - to discuss the shortage in special class places across the State; (4) Deputy Brian Stanley - to ask the Minister for Health to discuss the future of the mental health facility Erkina House in Rathdowney, County Laois; (5) Deputy Thomas Gould - to discuss the need for the expansion of the homeless housing assistance payment, HAP, scheme State-wide; (6) Deputy Kieran O'Donnell - to ask the Minister for Health for an update on the expert team deployed to tackle crisis levels of overcrowding at University Hospital Limerick, UHL; and (7) Deputy David Stanton - to ask the Minister for Housing, Local Government and Heritage to debate the need for more affordable housing units in County Cork, especially in east Cork, given the huge demand and small provision currently planned.

The matters raised by Deputies Pat Buckley, David Stanton and Brian Stanley have been selected for discussion.

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

### **Ukraine War**

**Deputy Pat Buckley:** I thank the Minister for his presence. We know there is a crisis but I do not know how many times I have come into this Chamber and said that we are reactive more than proactive. Since I represent east Cork, I will specifically stick to east Cork when it comes

to Ukrainian families. I do not like to call them refugees because they are not refugees. It is a war-torn conflict, but they are families.

My issue is that I have conflicting reports from volunteers and hotel owners about how these families are being treated. I have heard rumours of four different families being put into one holiday home. I do not know where issues like health and safety and children's rights are coming into that.

I need to know if any Department, including the Minister's, has a go-between for me, as a public representative, to go to east Cork and say that I need to meet Mr. or Mrs. X on behalf of concerned local people, Ukrainian families or hotel owners and to whom I can address the issues. We know it is all about the spondulicks. It is all about the money, which is a big issue. We are starting to pit local communities against each other.

There is also an issue where, specifically looking at the likes of Youghal, which is a tourist town, the hotels have been fully booked because of the iron man race coming up and it has caused much conflict. While I understand there is another conflict in Ukraine, there are other locations such as St. Raphael's Centre, Youghal, which is HSE-owned, so basically Government-owned, and therefore does not cost anything to put families into.

The biggest concern I have from what I am hearing on the ground is period poverty, because many of these people are mothers with children. I have talked to volunteers who are running shops and their biggest outgoing is soaps and shower gels. I cannot get clarity on who is supposed to supply all of these. Obviously, mental health has not been mentioned and all of these families are traumatised. Again, transport is an issue. Many of these are outside Youghal in Redbarn, which I think is about 8 km outside. There is no mention of transport to get the kids into school or get families into shops to even get clothes. The list is endless.

I raise these points because the people who are coming to me are extremely frustrated. I also am extremely frustrated because I am only taking the word of mouth of hotel owners, guest owners or people on the street and I need clarity. I need to be able to go back and say, for example, that from next week or the following week, a Department will have put in place a liaison officer that I, as a public representative and others can approach and raise these issues with and ask whether they have been addressed. I did not want to bring it up here; I do so out of pure frustration. We hear all of the great things that are happening outside of this House but when you go out and see the devil in the detail, many of these people are being mistreated. I cannot even get answers to or proof of what is actually happening to these families.

Finally, there are great volunteers and a fabulous community who have supplied everything from clothing to knitting needles, toiletries, as I mentioned, and pots and pans. Who is responsible for all of these? I find it ironic that people staying in a hotel have to look for soap to wash themselves. Is there a possibility of getting some liaison officer from the Department that others and I can work with in east Cork to get the answers for all the concerned people?

**Minister for Children, Equality, Disability, Integration and Youth (Deputy Roderic O'Gorman):** I thank the Deputy for raising these important issues. As he knows, of the more than 33,000 Ukrainian displaced persons - which is the term I use rather than "refugees", because it is my understanding that is the term they prefer - who have arrived in the country, more than 23,000 are being accommodated by my Department in short-term accommodation. Within my Department, International Protection Accommodation Services, IPAS, has contracted over

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18,000 beds across hotels, hostels, student accommodation, guest houses, bed and breakfast accommodation, commercial self-catering accommodation and other repurposed settings, as well, of course, as accommodation pledged by the public, student accommodation, holiday homes and State-owned or private properties that may be suitable for short-term accommodation. Given the continuing challenge of the numbers of people arriving, sourcing suitable accommodation can continue to be a challenge. In seeking to address the immediate accommodation needs, the safety and security of our displaced persons are the paramount consideration. In light of the continued significant numbers of people coming into the State and the additional numbers that may arrive, my Department is contracting all forms of suitable accommodation in all areas of the country, including in Cork. A dedicated team in my Department is focused on the provision of accommodation to Ukrainian refugees.

My Department is working very closely with the County and City Management Association, CCMA, to identify short-term options to meet the continued demands for accommodation. The CCMA has worked with local authorities to prepare emergency accommodation for use if there are sudden spikes in the numbers arriving. Refugees have been moved into this emergency accommodation at times when the number of arrivals is particularly high.

As of 29 May, my Department has contractual arrangements in place with about 350 accommodation providers. In most instances, these providers either provide in-house catering or sub-contract catering services, or vouchers for a local supermarket are provided where appropriate. My Department has a small number of facility management services in place with providers, which can include a catering element. Currently, the Department has secured four accommodation sites in east Cork for displaced persons from Ukraine. As the Deputy will appreciate, the scale of the influx people fleeing the crisis in Ukraine is unprecedented. Unfortunately, mass catering on this scale will not be to everybody's taste or standard. If individuals feel there are issues with the quality of the food provided, they should raise the matter in the first instance with the provider.

It is important to note much of the accommodation in the east Cork area is self-catering, where people may choose and cook their own food once they are in receipt of social protection payments that they can apply for from the Department of Social Protection. In one specific hotel in east Cork, I am assured a welcome pack is provided to all residents on arrival, including hygiene and sanitary products. Should residents require hygiene and sanitary products in advance of receiving their State payment, my Department has advised accommodation providers to provide the products and that the State will reimburse the costs on evidence of receipt.

From the beginning of the crisis, newly-arrived Ukrainians have been able to avail of free travel from their port of entry to their end destination on any public service obligation or Local Link service. In line with a whole-of-government approach, the Minister for Transport, Deputy Eamon Ryan, and officials in that Department have been looking at bespoke public transport solutions. There are three key elements to this. They are speeding up the rolling out of enhanced Local Link services in parts of the country, where new Local Link services were meant to go in. Some of that is happening earlier. They are also looking at the provision of bespoke public transport services to some of these centres for accommodating Ukrainians that are more isolated. There is also the community transport fund, which is available for people to draw down for specific events.

I advise that the best point of contacts are community fora, which are shared by the local authorities and bring together the statutory and community agencies. These are the fora where

specific matters are best raised in the first instance.

**Deputy Pat Buckley:** I thank the Minister for the reply. I welcome the fact we now know there is a point of contact. The Minister mentioned quality of food; my comment was not about quality but quantity. I know the matter has been resolved but there was an issue with a buffet-style system where it was kind of like “stretch or starve”. If the people were there in time, they got something to eat, but they did not if they came later. I know that has been dealt with, thanks be to God.

The crux of the problem is that many of these families are isolated from public transport routes etc. They are not totally isolated but there have been massive issues with getting into the local town, as I mentioned, and getting kids to school etc. At least I know now I can follow that up with the transport authority.

I will contact the local authority this week and I might touch base with the Minister again. As I said, this is not about pitting anybody against somebody else. These are isolated incidents but I do not want them to fester. The majority of people in all the communities have been exceptionally welcoming, as I noted. Some of these families have already got jobs, which is amazing, and many of them have very good English. We are a welcoming country. On this side of the House anyway we like to look after everyone, and it is not about colour, class, creed or religion when it comes to people living in this country.

I thank the Minister for his reply and I will follow up with him and his Department to let him know I get on with contacting the local authorities, specifically on the transport question. That seems to be a big issue. As I said, if I do not get a reasonable response from local authorities, I will be back to the Minister again.

**Deputy Roderic O’Gorman:** I thank the Deputy. He knows that the desire to look after everybody, irrespective of race, colour or creed, is shared by the Government as well. I am absolutely happy to engage with the Deputy and if there are difficulties, he knows where to find me. He can come have a word. As I stated, the community fora are up and running in counties all over the country and they are a good place to bring together the various statutory agencies.

The Deputy commented about this being all about money. We should remember that in the first instance, it is about providing security and shelter to Ukrainians. In this country we already have an undersupply of housing and we all acknowledge there is a housing crisis. In providing security and shelter to Ukrainians, we cannot rely on existing housing stock and we have had to go to short-term accommodation. We did that conscious that we did not want our response to Ukrainians to in any way interfere with the Government’s existing response to the housing crisis. There is a cost to that but we recognise that will be a short-term cost. It may be for a year or perhaps two or three years but it will not be an ongoing cost. It is the best way so we do not put sectors of the community in conflict with each other. It is the right way to go.

As a consequence of all of this, I have always said that our response here is imperfect. This is a wartime issue and we are in the very lucky position that the bombs and shells are not falling in our country. It is nonetheless a major war closer to us than any of us have ever expected in our lifetimes. It will have an impact on every European country, including on what this Government can do in its focus. We must respond because we can see how people are dying every day in Kharkiv and other major Ukrainian cities. Our response to this, imperfect as it is, is nevertheless a recognition that people still feel safer here than they do in their own country,

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which is a terrible tragedy. We must support Ukrainians in enduring this for as long as the position remains as it is.

### **Housing Provision**

**Deputy David Stanton:** I am happy the Ceann Comhairle's office selected this matter and the Minister of State is here to respond. I have been looking through the Housing for All local authority affordable housing delivery targets. The number is 189 for Cork County Council between 2022 and 2026, which does not seem very ambitious. In many other counties the number is higher and, for example, Fingal has a target of 981. Straight away, this begs the question as to how come there will be so few houses built in the Cork County Council area.

I also notice a number of applications have been made to the Department. There were four made in February. The most recent response I got from the Department, and the Minister of State might have something new to add today, is that the Department is still assessing these. As they cannot move on until that is done, why is it taking so long? It is quite frustrating when we see first a low number and then the amount of time it takes for something to go through the bureaucracy to get clearance to start work on the houses. One cannot just flick a switch with this and the parties involved need to get planning permission, go for tendering, appoint a builder and all that goes with it. In the middle of that there may be objections to the building.

This brings me to a second point. I know the Minister of State is familiar with the Midleton area, where I am from, for all kinds of reasons. It has the N25 between Carrigtohill and Midleton, which is supposed to be upgraded. It is an extraordinarily busy road, with 30,000 car movements per day. It is very dangerous and there are some crossings across the carriageway that are very dangerous. There have been some accidents. There are slip roads into the carriageway that are very short and I have seen very close misses and accidents around them. The former Amgen site is at one end of it, with 64 ha of prime IDA Ireland land that cannot be used because the road is not fit for purpose. We are supposed to build 6,000 houses at another end of it in time.

A number of applications were made recently to build houses at the location but Transport Infrastructure Ireland, TII, objected because the road is not up to standard. Two of the affordable housing proposals are in that area and they will not go ahead either because the road is not up to standard. The Minister for Transport, Deputy Eamon Ryan, has blocked work on the road, which means all this planned housing is at risk. That will be a huge challenge.

The water supply plant for Midleton is at capacity and we are waiting for Irish Water to put down pipes and do a job on that. We are told it will be done by the end of next year, maybe, but again nothing can happen and we cannot build a doghouse in the town. Mitchelstown is in the same position until this is done. That is another constraint.

There are many such worries and constraints but at the same time I have people contacting me every day wanting to know how to get or build a house. There is a local authority home loan scheme, and this was raised yesterday evening by Deputy Colm Burke during Question Time as well. I support him in doing that as it is an extraordinarily slow and bureaucratic scheme. It is very frustrating as well. I know people with good incomes who have been refused on that scheme. Other people want to do up properties over a shop and they have been refused and so on. They are not told the reasons for the refusal. That must be sorted out too.

There are many issues that can and should be tackled. I ask the Minister of State to ensure that will happen so we can get this process moving.

**Minister of State at the Department of Health (Deputy Mary Butler):** I thank Deputy Stanton for raising this matter, which I am taking on behalf of the Minister for Housing, Local Government and Heritage, Deputy Darragh O'Brien. He has asked me to pass on his apologies to the Deputy for being unavailable to take this matter himself. The Housing for All strategy delivers on the programme for Government commitment to step up housing supply and to put affordability at the heart of the housing system, with an ambitious target of 300,000 homes to be built over the next decade, including social, affordable and cost-rental, private rental and private ownership housing. In the Housing for All policy from 2022 to 2026, the Minister has targeted more than 28,000 affordable homes to be delivered by local authorities, approved housing bodies, AHBs, the Land Development Agency, LDA, and through a strategic partnership between the State and retail banks.

Local authorities have been asked to prepare housing delivery action plans. To address affordable housing needs in these plans, each local authority was asked to assess the level of housing demand with affordability constraints projected for their areas based on the housing need and demand assessment, HNDA, tool, and to plan their provision accordingly. Local authorities with a strong and identified affordable housing need, including Cork County Council, were asked to prepare specific affordable delivery action plans. An identified high-level housing need arises where the HNDA indicates that, of the total projected need for housing in the county, more than 5% of new households will not qualify for social housing and will also be constrained in assessing housing by their ability to afford to buy or rent.

Through the various delivery streams it has activated, the Government aims to provide over 28,000 affordable homes by the end of 2026. Five-year delivery targets for local authority-led or arranged delivery were issued to relevant local authorities, including Cork County Council, for 2022 to 2026, amounting to just over 7,500 homes. In addition to the targeted local authority delivery, further affordable housing will be delivered by AHB cost-rental schemes, LDA schemes on State lands and via Project Tosaigh and the first home affordable purchase equity scheme, which will be launched shortly and available nationwide until 2026.

The targets set for local authority delivery are aligned with the level of affordable housing need arising in these areas and as determined by the HNDA tool. Of course, where local authorities, including Cork County Council, have identified a demand and can secure delivery of a higher number of affordable housing units in an area, additional delivery supported by the affordable housing fund, AHF, is welcome. The funding to assist local authority and AHB delivery of affordable housing for purchase and rent is made available by the Government, through the AHF, previously known as the serviced sites fund, SSF, and the cost-rental equity loan, CREL, scheme.

The Minister's Department recently received four applications from Cork County Council, as Deputy Stanton said, for a subsidy to support housing schemes with affordable housing provision. Two of these applications are for sites situated in Clonakilty, and one each in Kinsale and Mallow. If approved, these projects will cumulatively assist in the delivery of 337 affordable houses, 277 of which will be for affordable purchase, while the remaining 60 will be cost-rental homes. The assessment process for these schemes is nearing completion and the Minister's Department will be writing to Cork County Council soon regarding these four applications.

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One of Deputy Stanton's questions was why this process was taking so long. Housing delivery action plans are now being revised and updated by local authorities in light of the targets set and other ongoing engagement and clarifications. I expect these will be ready for publication by the local authority shortly. Cork County Council's plan will provide a comprehensive overview of the assessed need for affordable housing and projected delivery across County Cork.

**Deputy David Stanton:** I thank the Minister of State for her response. I highlight again, however, that these applications were submitted in February, some four months ago now. I am told that some clarifications were required regarding the applications, but it is still strange that it is taking this long for approval to be given. This is another delay, and I hope the process will be completed soon. What does "shortly" mean? Does it refer to weeks, months or whatever? Perhaps the Minister of State might use her good offices to make this happen.

I will restate the other issues I raised that the Minister of State did not respond to. I refer to the Irish Water constraints. These are of great concern. Again, hopefully, the people in the Department of Housing, Local Government and Heritage will ensure that the work is done. It should be done much faster than it is being stated it will be. Anyway, it is supposed to be finished by the end of 2023, which will give people a target if they wish to build houses in the area.

The situation with the N25 concerns me a great deal. I spoke to people in the local authority and they are worried that all these ambitious targets the Minister talks about in the area, including the local infrastructure housing activation fund, LIHAF, etc., may not be realised because of the constraints impacting the N25 road infrastructure. It is already at capacity and under pressure, and dangerous as I said already. I was disappointed that the Department of the Minister, Deputy Eamon Ryan, decided to pull the plug on that project, having spent €1.2 million on feasibility studies and consultants etc., to come up with a preferred route option.

These are important issues. People are crying out for housing, as we know. It is the number one issue in all our constituencies and there is an opportunity to address the issue in my area. We have the rail network to Midleton, which is fantastic. When that was established, the agreement with the county council was that the land on all sides would be zoned to make it feasible to have the population density to make this rail line work. The track is soon going to be electrified and trains will be coming to east Cork every 15 minutes, which is fantastic. If we cannot build houses, though, because of these other constraints, then we are going to be in trouble. Therefore, I again ask the Minister of State to use her good offices to get this process moving.

**Deputy Mary Butler:** I thank the Deputy again for the points he raised. I will pick up on some of the aspects mentioned, starting with Irish Water. We hear about these challenges, and I hear about them in my constituency as well. In fairness to the Minister, Deputy Darragh O'Brien, significant funding was allocated to Irish Water. I think it is €1.5 billion annually for the next four years to enable the company to address these issues. We must have the correct infrastructure in place, whether that is for wastewater or water supply, to allow housing to be successful. The provision of water services is a key enabler to allow any housing development to go ahead and we agree completely on this point.

Turning to the other issue regarding the N25, I know the road well. Living in a neighbouring county, it is a road we use often. I take on board what the Deputy said in this regard, and concerning the importance of being able to provide affordable housing and cost-rental homes for people in all parts of the country, but specifically in east Cork as the Deputy stated. The Minister takes this issue very seriously. I take on board what Deputy Stanton said and I will



feed his points back to the Minister's office. Regarding the Deputy's question concerning why this process is taking so long, four proposals were made, as the Deputy said, in respect of sites in Clonakilty, Kinsale and Mallow, and, if approved, they will cumulatively assist in the delivery of 337 affordable homes, of which 277 will be for affordable purchase and the remaining 60 will be cost-rental homes. I thank the Deputy for his time.

### **Mental Health Services**

**Deputy Brian Stanley:** I welcome the opportunity to address this issue with the Minister of State. The news of the planned closure of Erkina House came as a bombshell to the 12 residents, the staff and the local community. The facility is entering its 26th year of successful operation. It has been accepted by the local community right from the outset. The facility has demonstrated a stand-out, best practice way of doing things. There was no consultation regarding this closure and no appraisal. I acknowledge the intervention of the Minister of State in this matter. She intervened quickly and wrote to me on 6 May, after I and the other two local Deputies raised this issue. The Minister of State acknowledged the importance of Erkina House and stated that the decision had been put on hold. This is good news. The Minister of State also stated that there needed to be a proper consultation and appraisal process in this regard. This is the way it should be done. I acknowledge the Minister of State's intervention.

Regarding the HSE's rationale for this action, it cited the facility's rural location, the issue of public transport and the building's amenities. It was stated that some bedrooms were "small and located upstairs" and some of the shower and toilet facilities were partially inadequate. Let us deal with the matter of the location first. Erkina House - and I ask the Minister of State to come down and visit the facility if she is ever in Laois - is in the dead centre of a town with a population of just under 1,000. It is in the town centre and a perfect location. The facilities at Erkina House are excellent. There are fantastic gardens at the rear of the house. It was the old house that belonged to the nuns and it is a fine structure. There is a great deal of space around it. The post office and the shop are across the road. The residents of Erkina House are vulnerable people and they use all these local facilities. They go to the lovely town square, where there is seating and where they can sit and meet and talk with each other and local people. The residents go to a local establishment for coffee most days. That freedom is there. The newsagent's shop is around the corner. The health centre at Mooreville is just around the back, which is another health facility used by the residents. The community hall, which is also the bingo hall, is just down the road. I met the residents at a meeting there recently. It is only 150 yd down the road. It is perfect.

Laois-Offaly mental health services are located in Laois, not Tullamore or Offaly, to where it is planned to move people. There is a Local Link bus for public transport but, let us be fair, the people in Erkina House do not travel too far or too often. Public transport has not been an issue. That is a bogus argument. The key point is that they have their freedom in order to mix and walk around the town. It is a small town. The locals know and look out for them. It is a plan of best practice.

Erkina House is a fine building. The whole back section was re-roofed within the past year. My information is that up to €150,000 could have been spent on it. I will not argue about that, but I will point it out to the Minister of State. There is considerable interior space. If one went around Erkina House with a building inspector, I am sure faults could be found. Every building

has faults, including the Minister of State's house and my own. I know health facilities have to tick all the boxes but there is considerable space in this building. It is a sound structure. The roof and other aspects are in good condition. Erkina House has the type of visiting rooms that Silver Lodge does not. Silver Lodge does not have the same space. Those are the facts.

With regard to upstairs in Erkina House, there is a lift in the Houses of the Oireachtas. All buildings have lifts now. We can fit a lift into Erkina House. In the context of some rooms not being en suite, one can buy en suite kit and fit them into those rooms. All of that can be done. This is not rocket science. It needs a little bit of refurbishment and some other work.

There is a plan to move residents 68 km to Arden Road in Tullamore where there are no facilities. It is on a busy road and does not have the same space. This is the key thing for these people's mental health. They will not have the same freedom. The Mental Health Commission looked at Silver Lodge. It found that there is no dedicated space for therapeutic activities in the centre, nor does it have a dedicated occupational therapist. In addition, not all bathrooms are ventilated. The commission also found other problems with it. Silver Lodge is not the silver bullet the Minister of State is talking about. Existing and new residents need kept at Erkina House.

**Minister of State at the Department of Health Deputy Mary Butler:** As the Deputy said, Erkina House is a high-support residence that provides a rehabilitation and recovery service for people with mental health difficulties. There are currently 12 residents in the house, which is situated in the village of Rathdowney, County Laois, in the Deputy's constituency. The first I heard of this matter was when Deputy Stanley, the Minister of State, Deputy Fleming, and Deputy Flanagan made contact with my office. The HSE was then in contact with my office on 19 April regarding the potential closure of the residence, a matter that was raised in local news. The HSE considers Erkina House to be unsuitable for modern mental health service provision.

As the residents care and treatment are my priority, I have engaged with the HSE on numerous occasions since regarding this matter. It has agreed to place on hold the decision to transfer services from Erkina House, Rathdowney, to allow for a full option appraisal to take place. I understand the HSE contacted Deputy Stanley and other local Deputies directly on the matter. I ask that the Deputy clarify the position in that regard. I also ask that he clarify some issues reported in local media.

Prior to Covid-19, residents lived in shared, dormitory-style bedrooms. At the onset of the pandemic, bed capacity was reduced from 17 to 11 and then increased to 12 in 2021. Emergency measures were put in place to ensure that there was only one bed per room. However, shower and toilet facilities are shared and are considered very unsuitable. Erkina House also has limited access to community services and public transport. At the same time, I take on board everything the Deputy said about the residents being part of the community.

My priority, as Minister of State, is to develop our mental health services in order that those using them are provided high-quality, fit-for-purpose service. This includes residences that are modern and up-to-date places that offer comfort and privacy for all residents. This is an important point but I also take on board what the Deputy said about part of the building being reroofed last year. That would have been a substantial spend.

Mental health continues to be a priority for the Government, which is fully committed to the delivery of high-quality, person-centred and recovery-oriented mental health services. The

long-term strategic aim is to provide a consistent, high-quality service. That is what we all aspire to. Community residences provide an important step-down service to enable rehabilitation and recovery of individuals and to assist them to move towards independent community living accommodation. This aim is supported by Sharing the Vision and Sláintecare.

The HSE recognises that Erkina House is an important service for Rathdowney and it met with the local community and politicians on 21 April to discuss the facility. The meeting provided all parties with the opportunity to express their concerns and present further options the HSE could consider in its appraisal process. I welcome that communication. The HSE has committed to the completion of a full option appraisal before a final decision is made on the future of Erkina House. It has assured me that all stakeholders, including residents and their families, will be consulted throughout the process. This appraisal is due to commence shortly.

I will continue to liaise with the HSE to ensure the care needs and preferences of the residents remain central during the appraisal process. However, I have to say that I, as Minister of State, was very disappointed that these issues were in the public domain before I, families, or local representatives had been informed. Only for the contact that local representatives such as the Deputy made to my office, I would not have been aware of it.

**Deputy Brian Stanley:** With regard to the information on Erkina House's closure, it had nearly happened without anyone knowing, including local Deputies and the Minister of State. I will deal with the line about Erkina House having limited access to community services and public transport. There is a Local Link bus. Residents do not go far. Normally, there is transport from within the facility. I outlined the local community services that the residents need. They need access to the local health centre and community hall. They need somewhere to go for a coffee, the town square, the post office where they get cigarettes, the shop and the Card Stand, which is the local newsagent.

I acknowledge the staff and the local community. The Minister of State knows that sometimes, when we go to put in a facility such as this in a locality, we meet opposition straight away. That did not happen in Rathdowney. I pay tribute to the people who were involved in setting this up, including the late Kieran Phelan. He was one of Fianna Fáil's Senators. It was a success story from the start. It is important that we acknowledge so.

The Minister of State is correct that residents have been accommodated in single occupancy rooms since the onset of Covid. Yes, there is an issue in that more en suite bathrooms are needed, but the Minister of State's office is dealing with disabled persons and housing adaptation grants every day through the local authority. This is not rocket science. We can do it. We are entering into a crucial period. I do not want to see somebody at a desk writing up bogus reasons as to why to close Erkina House. I want money spent well. I am with the Minister of State on that. I do not want money put into black holes. Erkina House is a good investment.

The HSE told us at the meeting that it wants four such ten- and 11-bed units in Laois and Offaly. This should be one of them. Erkina House should be and certainly is one of them. It is in the middle of south Laois. It is perfect and has close access to Portlaoise where all the mental health facilities are. The one thing the residents all say to me is that they feel safe in Erkina House.

**Deputy Mary Butler:** I thank the Deputy for his impassioned plea with regard to Erkina House. I will be keeping a very close eye on the developments. The Mental Health Commis-

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sion visited Erkina House on 15 January 2018. It made recommendations regarding the physical environment, policy development, multidisciplinary team access, individual care planning and medication management. I welcome the fact that the Mental Health Commission also has an interest in the premises.

The individual care needs of the residents of Erkina House remain at the centre of the decision-making process. That has to be remembered. The HSE has assured me that all stakeholders will be consulted in the appraisal process. We await the report and its outcome, but the Deputy should rest assured that I am keeping a very close eye on the situation in Erkina House in Rathdowney. I thank the Deputy for his continued interest.

*Cuireadh an Dáil ar fionraí ar 9.50 a.m. agus cuireadh tús leis arís ar 10 a.m.*

*Sitting suspended at 9.50 a.m. and resumed at 10 a.m.*

### **Adaption Grants for Older People and People with a Disability: Motion [Private Members]**

**Deputy Seán Canney:** I move:

That Dáil Éireann:

recognises:

— that Ireland is a signatory to the United Nations Convention on the Rights of Persons with Disabilities which places an onus on signatories to ensure the equal right of all persons with disabilities to live in the community, with choices equal to others, and the opportunity to choose their place of residence and where and with whom they live on an equal basis with others and are not obliged to live in a particular living arrangement;

— that the overarching goals of a housing policy should be affordability, sustainability, equality and social inclusion; and

— the importance of the Housing Aid for Older People Grant, the Mobility Aids Grant, and the Housing Adaptation Grant for People with a Disability to enable people to live independently in their own homes for longer;

notes that:

— the unprecedented increase in construction costs, rising costs of materials and the shortage of skilled labour in Ireland is putting the cost of these upgrades and essential works beyond the reach of most of the recipients of such grant assistance;

— there are significant waiting times for people awaiting grant approval;

— unacceptable delays exist for the adaptation of local authority homes to cater for the needs of older tenants and tenants with a disability and/or those people living in overcrowded conditions in local authority properties;

— many people are unable to live in their own homes until essential adaptation

works are completed;

— the fixed price grant is no longer effective in the grant applications process; and

— the income thresholds are outdated and need to be reviewed in line with the Consumer Price Index; and

calls on the Government to:

— ensure grants are linked to the cost of the specific works as a percentage of the cost;

— allow discretion for people with disabilities to ensure that the grants meet the individual needs of the disabled person to live independently;

— allocate additional resources to local authorities to manage these schemes and the investment required in local authority housing stock;

— increase the budget allocated by the Department of Housing, Local Government and Heritage to ensure that grant schemes can meet the demand and reflect the increase in construction costs;

— increase the upper limits of the grants to reflect the increase in the cost of construction;

— incentivise the development of clustered bungalow housing close to services for older people; and

— review the recently announced, yet unavailable, retrofitting grants to reflect the significant rise in construction and materials costs.

The Minister of State, Deputy Hildegard Naughton, is welcome to the Chamber. I thank Cáit Nic Amhlaoibh, our administrator, for helping us to put the motion together, and Anne Timoney of the Oireachtas Library and Research Service for her assistance in preparing it.

As regards the motion, every Deputy knows how the application process works. Ireland is a signatory to the UN Convention on the Rights of Persons with Disabilities, which places an onus on signatories to recognise “the equal right of all persons with disabilities to live in the community, with choices equal to others” and to ensure that persons with disabilities “have the opportunity to choose their place of residence and where and with whom they live on an equal basis with others and are not obliged to live in a particular living arrangement”. The housing adaptation grants are there to help people do that.

It is important to note there has been an unprecedented increase in construction costs, including those relating to materials, and that there is a shortage of skilled labour. That is putting the cost of these adaptations relating to housing assistance for older people and mobility aid grants out of the reach of many. There are significant waiting times for the grants to be approved. There are unacceptable delays in the adaptation of local authority homes to cater for the needs of older tenants, tenants with disabilities and those living in overcrowded conditions in local authority areas. In my constituency, children who have needed a wheelchair since birth are now going into third level education but their houses still have not been adapted to suit their

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needs. In some of the cases, after years of waiting, the local authority is now proposing to move the entire family into another house in a different location. That is wrong. Due care is not being given to the fact that these children and families need to have accommodation to suit their needs in their own homes.

The fixed price for the grant is no longer effective. The income thresholds are outdated and need to be reviewed in line with the consumer price index. I can state without fear or favour that the grant system has been very good to people through many years since it was first introduced. We have seen the improvements it has made to people's homes. It keeps people in their homes for longer. However, it is an indictment of us, as politicians, idea that the grant has not been changed for the past 12 years. We need to ensure the scheme is brought up to date in such a way that it allows people to live at home. There is a cap of €30,000 on grants. In many cases, that amount would have been sufficient until approximately two years ago. Costs have gone up since then, however, and homeowners now have to borrow to supplement the grant, yet many people with disabilities have no means of paying back such a loan. As I stated, it is a good and very popular scheme but we need to update it and make sure it is fit for purpose going forward.

Last week in my constituency, a headline on the front page of the *Tuam Herald* stated that Galway County Council had run out of funding for disability grants and mobility aid grants. When I questioned the director of services about that, he told me that by early May the council had administered more than 1,000 applications for this year alone. There are seven months of the year left to go. Where is that director of services going to get the money to fund these schemes? He told me there is a rolling amount of money. He gets a fixed sum of money but he is hoping some of the grants will not be carried out or will not have to be paid out until next year and that he will be able to take the money out of the budget for next year. He is already borrowing from next year to try to meet the demand this year. That type of financial arrangement is not sustainable. We need to ensure that the funding is increased so that the demand is met. The value of the grants needs to be increased to a level that will mean they will actually be relevant in today's market.

The staff of Galway County Council, which is the only local authority with which I deal constantly, are under extreme pressure in trying to deal with the volume that is coming in their door. There are delays in the application process, getting technicians to go out and do inspections and getting the processes approved. At the end of the day, it is the homeowners who are suffering. It is important to realise that the scheme is there to serve them. If an application submitted last September or October has still not been assessed, then there is something wrong with the running of the scheme. The problem is that the local authorities do not have the necessary resources. It is definitely the case that Galway County Council, the second largest local authority in the country, does not have the resources to deal with the volumes coming in its door. The volume is increasing year on year because we have an ageing population. There is a need to adapt the scheme to enable it to cope with the volume that is coming in.

As a former a county councillor and since I became a Deputy, I have seen the benefits the scheme gives to households. I have seen how people can live independently in their houses for longer and fulfil their life ambitions. Given the way the scheme is going right now, however, we will end up with the scheme failing, people losing interest and more people going into nursing homes, which is not what we want.

**Deputy Matt Shanahan:** I am happy to support this motion tabled by the Regional Group in respect of housing adaption grants. It is no harm to run through the three grants that are avail-

able generally for community and housing adaption. The housing aid for older people grant is essential to providing repairs to improve the condition of the homes of older persons, usually aged 66 or over, who are living in poor housing conditions, in order that they can continue to live in them.

The Government provides a mobility aids grant scheme. This is designed to address works in the home for people with mobility problems such as the purchase and installation of grab rails, access, shower access ramps, stairlifts, etc. Again, the scheme is primarily for older people but also for people with a disability.

The housing adaption grant for older people, and people with a disability, is designed for people who need to make physical adaptations to their home to accommodate injury, disability, trauma and, often times, a post medical procedure. The grant can be requested to accommodate persons with sensory or intellectual disability.

As the Minister of State will know, these schemes are means tested. Applications may need to be corroborated by an occupational therapist who can judge the levels of mobility and individual assistance required. These grants are vital for many people in communities, particularly for people as they age.

The whole idea of these adaption schemes is to ensure that people can remain in their homes as they get more infirm, and that they can continue to enjoy a quality of life in their communities. There is a significant social and economic dividend to the State in keeping people in their homes for as long as possible. They retain their family and community relationships for longer as they age. In general, people will also retain their mobility while they remain at home. Often times they have a wider circle of support in their community, which is what all of us want as we age. This assistance will be available to people as long as they remain in the community. Unfortunately, such assistance does not always translate when people go into managed accommodation or State-supported care.

It is a fact that many older houses in the country may require adaption to accommodate the creation of bedrooms and bathrooms downstairs. Often times there is a need to make wheelchair accessible areas in homes, so there is a very strong needs for these grants.

At present the grants scheme is available up to a ceiling of €30,000 with 20% of that funding coming from the local authority and the remaining 80% to be provided by the Department. The local authority, through approved contractors, provides the scheme generally. It is up to it to see that the works are managed. They are responsible for assessing the claims and, where appropriate, instigating works. This is where we have now run into a pretty significant problem, as the Minister of State will know. There has been a very marked increase in the cost of construction nationally. As she is well aware, a lot of public sector procurement is not being responded to at the moment simply because contractors are not entering into fixed-price agreements on works. That is one part of the problem. The second part of the problem is that the ceilings of the money available are not adequate any more to deal with the adaptations that are required.

We know that people are living longer. We also know that simple adaptations can do so much in houses, particularly to prevent elderly people from suffering from trips and falls, which are the most common cause of trauma that is suffered by older aged groups. As a result, older people often require significant hospitalisation and rehabilitation.

Unfortunately, the increasing trend in ageing is reflected in the increased funding that has

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been directed by the Department over the last ten years. Indeed, the level of funding has increased from €43 million in 2014 up to just over €80 million last year. Therefore, funding has doubled in the timeframe and reflects where funding is needed.

The individual grant ceilings have not changed in 12 years so my group of colleagues and I ask the Government to look at this matter. The ceilings are not adequate to provide the adaptations that are required and there has been an increase in construction costs.

Representatives of disability groups have engaged with the Minister of State and the Department. They have suggested that the ceiling must be increased to €60,000. Although the schemes are means tested, there is still a significant number of applications to each local authority and an increasing number waiting ever longer to be dealt with.

As the Minister of State will also know, the local authority has the discretion to see what funding that it can provide. As Deputy Canney has already highlighted, many local authorities are looking at the pot and realise that they are running out of money fast so they will not be able to cover the cost of providing 60%, 70% or 80% of the grant applications coming in.

In my opinion the Government needs to take a very strong look at the situation from a cost-benefit perspective. The delay in providing grants and thereby adapting houses means that people have no option other than to look for residential home care setting. As I am sure the Minister of State is aware, the average cost of residential care in the country, depending on where one lives, ranges from between €55,000 and €75,000 per annum. Even where the fair deal scheme is being utilised there is still a significant cost on the Exchequer in support of this type of activity. I am sure that any cost-benefit analysis would detail to the Minister of State that it is far better that we spend the money on adapting houses, particularly local authority houses as that housing stock may be used for further clients as time moved on.

There is a significant problem, of which we are all aware, with construction costs. We have a significant problem in the funding envelope that has been provided. We have also a significant cost in terms of the local authorities being able to support grants adequately. Therefore, our motion calls on the Government to ensure that adaptation grants are linked to the cost of the specific works as a percentage of the overall cost, which would be a pragmatic approach. Also, grants must allow the discretion for people with disabilities to ensure that they meet the individual needs of the disabled persons to live independently in communities.

In conclusion, we aspire to live in an equitable society and for that we all aspire to ensure that the funding provisions are adequate to meet the needs of our most vulnerable. Clearly, they are not at present and we call on the Government to significantly review funding provisions.

**Deputy Verona Murphy:** I am pleased to have the opportunity to speak in support of this motion. I thank Cáit Nic Amhlaoibh and my colleague, Deputy Seán Canney, for putting this motion together.

I want to focus on a particular section of the motion, which I know will be repeated a number of times. The motion states: “the unprecedented increase in construction costs, rising costs of materials and the shortage of skilled labour in Ireland is putting the cost of these upgrades and essential works beyond the reach of most of the recipients of such grant assistance”. Even the most partisan of Government supporters will surely recognise that there are major problems associated with the soaring costs of construction, upgrades and essential works. It is my view that many of the actions taken by successive Governments have been the catalyst for these



problems to worsen. On the one hand, Government made it more difficult for people to access credit and almost too difficult in many cases. On the other hand, Government made it more difficult for builders to build houses. This was done through a dysfunctional planning system and imposing onerous conditions on builders. When all of the associated ingredients are added into the mix the result has been the creation of a serious mess.

Often when the discussion is about the mess in housing, we focus on the plight of first-time buyers. This motion allows us the opportunity to highlight the plight faced by many others who are caught up in the housing debacle. There are many people across the country who rely on grant assistance to upgrade or repair their homes. These are usually targeted supports to assist those who, for a variety of valid reasons, may not be able to fund such work with their own income.

The first part of our motion mentions a number of examples such as the housing aid for older people grant, the mobility aids grant, and the housing adaptation grant for people with a disability to enable people to live independently in their own homes for longer. One of the main aims of this motion is to get the Government to review the level of grant funding for these schemes to bring them into line with the pace of cost increases. These grants were originally designed with thresholds which allowed the homeowner a reasonable hope of being able to complete the necessary works. The cost of works has increased by so much now that in many cases the grants are ineffective in enabling the homeowner to proceed with the work. Also, because the level of own funding required means these works have become an unrealistic goal and out of the reach of many.

In many cases we have significant wait times for people to get grant approval in much of the country. However, I am glad to report that is not an issue in my constituency of Wexford because the section of Wexford County Council that does this work is very much on top of the issue. It seems that unacceptable waiting times have become the norm for customer services among Departments in recent years. The HSE has waiting lists so long that it does not know the actual number.

I wish to mention young Leo Dixon, who is a 9-year-old wheelchair user from County Wicklow. His application for a wheelchair sat on a desk for nine weeks before being dealt with. The passport service should be renamed to reflect the slow speed of its “express service”. The local authority housing lists also make for grim reading. Finally, the queues last weekend in Dublin Airport are a further example of incompetence and lack of accountability in State or semi-State organisations.

Both the prohibitive costs and the length of waiting lists has many obvious consequences for those in need of housing supports. If the work does not get done in a timely fashion then this may result in more accidents in the home, more time in hospital, greater reliance on the already under pressure home care sector, and an earlier entry into nursing homes. All of these things are harmful to the person and their families but also place a higher burden on the resources of the State. Reviewing thresholds and increasing the amounts available under the grant schemes could very well be the stitch in time that saves nine for so many people. As stated in the motion Ireland is a signatory to the United Nations Convention on the Rights of Persons with Disabilities which places an onus on signatories to ensure the equal right of all persons with disabilities to live in the community with choices equal to others and the opportunity to choose their place of residence and where and with whom they live on an equal basis with others and are not obliged to live in a particular living arrangement.

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The other area of the motion I want to highlight is for the Government to allow discretion for people with disabilities to ensure that the grant meets the individual needs of the disabled person to live independently. Also, it is very important that a discretion in general be granted at the level of senior housing officer, director of services and senior staff officer at local level. All too often when dealing with State grants the criteria does not allow for the decision-makers to use their discretion. There are many hard-working skilled people working on the Governments' behalf, dealing with grant applications. We need to adjust the system to allow these officials more leeway in certain circumstances to use their judgment to best meet the needs of the applicant. An example of where this discretion could have been exercised, but was not allowed under the legislation, was in respect of an elderly couple in my constituency. They are in their mid-80s. Last December their boiler packed up. When applying for a grant they were told that the work or repairs could not commence until an inspection took place. At the time, because of Covid-19, the earliest inspection date was in six weeks' later. Clearly they could not wait as they had no heating in the house. Subsequently they did not qualify for the grant as the inspection took place post-works. The money had to be borrowed from the local credit union. This is not the aim of these grants. If we look at the discretion at that level it should cure ills such as this.

I am hopeful this will result in more people being able to remain and live in comfort and safety in their own homes and help achieve the greatest value for money possible. Overall, I believe the motion is brought about by the increase in costs and I hope it receives universal support across the House.

**Minister of State at the Department of the Environment, Climate and Communications(Deputy Hildegard Naughton):** I thank the Deputies for tabling this motion and for their valuable contributions. As set out in the programme for Government, Our Shared Future, the Government believes the State has a fundamental role in enabling older people and people with disabilities to remain living independently in their own homes. The opportunity to discuss and debate this very important issue this morning is welcome.

While the Department of Housing, Local Government and Heritage has some concerns about some elements of the motion, for example, to ensure grants are linked to the cost of the specific works as a percentage of the costs, given the uncontrolled nature of the financial commitment, the Government is not opposing the motion as its aim is to support properly and rightly the housing adaptation grants for older people and people with disability. Therefore, I will provide an update to the Dáil on progress to date as well as plans to address the issues raised.

The suite of housing adaptation grants for older people and people with disability are for private home owners and are 80% funded by the Exchequer with a 20% contribution from the resources of the local authorities. There are three distinct grant types being delivered through local authorities: the housing adaptation grant for people with a disability scheme provides grants of up to €30,000 to assist people with a disability to have necessary adaptations, repairs or improvement works carried out to their homes; the housing aids for older people scheme provides grants of up to €8,000 to assist older people living in poor housing conditions to have the necessary repairs or improvements carried out; the mobility aids grant scheme is available to fast-track grants of up to €6,000 to cover a basic suite of works to address the mobility problems of a member of a household. Demand for these grants has been consistently high since they were introduced in 2007. There is a programme for Government commitment to increase funding and make the grants more accessible.

In 2021 there were 10,283 grants delivered at a total cost of almost €71 million. More than €81 million is allocated for the grants in 2022. These figures include the 20% local authority contribution. Housing for All - a New Housing Plan for Ireland was launched in September 2021 and established a number of targets to increase the supply of private, social and affordable homes and increase overall affordability. In total 300,000 new homes are targeted by 2030 of which 90,000 will be social homes, 54,000 will be affordable, purchase or cost rental and the remaining 166,000 or so will be private market housing. The plan promotes compact, sustainable urban growth and will be supported by funding of €4 billion per year. In particular the housing needs of older people are addressed in the plan, the objective of which is to ensure that older people will be afforded increased housing options to allow them to remain living in their own homes for as long as possible, or to access age-friendly housing. Furthermore it commits to ensuring that affordable, quality housing with an appropriate mix of housing design types provided within social housing, including universally designed units is available to everyone in Irish society including those with disabilities and older people.

Housing for All commits to increasing the housing options available to older people to facilitate ageing in place with dignity and independence, delivering an appropriate range of housing and related supports services in an integrated sustainable manner which will promote equality of opportunity, individual choice and independent living for people with a disability. In January 2022, as signalled in the Housing for All, the National Housing Strategy for Disabled People 2022-2027 was launched. The new strategy sets out a vision for the co-operation and collaboration of Departments, State agencies and others in delivering housing and the related supports for disabled people over the next five years. This new strategy will operate within the framework of Housing for All and places a greater emphasis on independent living and community inclusion. Implementation of the plan will be based on the principles of the United Nations Convention on the Rights of Persons with Disabilities. The Housing for All policy objective to make more efficient use of existing housing stock includes the development of a national policy on right-sizing and to explore options to support and incentivise right-sizing on a voluntary basis. Work is under way through the Department of Housing, Local Government and Heritage to inform and progress the development of national policy on right-sizing this year.

There has also been increasing support for the adaptation of local authority homes with funding increasing year on year to help meet the needs of local authority tenants. Funding under the disabled persons grant scheme has increased from a level of more than €15 million in 2019 to almost €24 million in 2021 for which local authorities were approved funding for all works that they advised would be completed that year. This gave local authorities an opportunity to clear backlogs and carry out more costly works such as extensions. For 2022 allocations have been in excess of €23 million which is considered sufficient to meet the demands of all local authorities with a further contingency available to address any shortfall in commitments already in place or urgent cases which may arise.

In regard to the retrofitting scheme the Department of the Environment, Climate and Communications has in 2022 a total of €267 million allocated for the SEAI residential and community schemes this year. This is highest ever allocation for the schemes. The investment will support almost 27,000 home energy upgrades, including more than 8,600 home upgrades to a building energy rating, BER, of B2 which is a near doubling of B2 output over 2021. Since the launch of the new supports in February this year demand for the SEAI retrofit schemes has been exceptionally high with a very significant increase in the number of applications to date, when compared with the same period in 2021. This strong pipeline of projects is expected to translate

into delivery in the months to come.

I have outlined a flavour of the intensive work under way and planned, which will make an extraordinary difference to the lives both of older and disabled people, in particular the review under way on the suite of adaptation grants for older people and people with disability. The points raised in the motion before us today are welcome. This is a welcome contribution in addressing some of the issues affecting grant applicants. I believe this debate today will prove invaluable to that review. Careful consideration will be given to the views expressed here today, as part of that review.

**Deputy Peter Fitzpatrick:** A housing adaptation grant is for older people and people with disability. It is available from the local authorities for people who need to make changes to their homes to make them more suitable for those with a physical, sensory or intellectual disability or mental health difficulties. Not a day passes when there is not a queue in my office of people looking for help to fill in the application form to see what is available. The biggest problem we have at the moment is the increase in construction costs and materials and the shortage of skills and labour is putting the cost of these upgrades and essential works beyond reach of most of the recipients of the grants' approval. It is very hard at the moment to get value for money. As Minister of State herself said, it is nearly impossible to get people to give a hand even for small jobs.

Grants of up to €30,000 were available to assist people with a disability in carrying out necessary work to make a house more suitable for their needs. The grant is means-tested and an assessment needs to be carried out by an occupational therapist. The issue is value-for-money but trying to get an occupational therapist out to examine many of these houses in my local authority of County Louth is nearly impossible.

There are also significant waiting times for people getting grant approval and assistance is certainly needed for the retention of local authority homes to cater for the needs of older tenants, for those with a disability and for those people living in overcrowded conditions in local authority properties. The problem with the local authority properties is that it is all old stock and a very significant amount of work needs to be done on them.

As one of my colleagues said earlier, Ireland is a signatory to the UN Convention on the Rights of Persons with Disabilities which places an onus on the signatories to ensure the equal right of all people with disabilities: "to live in the community, with choices equal to others" and "to have the opportunity to choose their place of residence and where and with whom they live on an equal basis with others [who] are not obliged to live in a particular living arrangement."

The amount of money available for grants in 2022 is €81.25 million. That is made up of €65 million from Exchequer funding and €16.25 million from local authorities. That, to me, seems like a great amount of money but every time we contact our local authorities the first thing they say to me is that they have no money. Some €81 million seems a great deal of money to share among local authorities but I am pleading with the Minister of State for more money and I keep mentioning the phrase value-for-money.

The Disability Federation of Ireland says that the maximum amount payable has not changed in 12 years. There have been calls for the maximum level to be increased to €60,000. The maximum amount of yearly income up to €30,000 is eligible for 95% of the cost and the grant is equal to €30,000. Between an income of €30,000 to €35,000, 85% of the grant is payable, which is €25,000. An income of €35,000 to €40,000 gives an eligibility of 75% of the cost,

which is €22,500. Some €40,000 to €50,000 of an income gives an eligibility of 50% of the cost which is €15,000 and an income of €50,000 to €60,000 gives an eligibility of 30% of the grant payment which is €9,000.

We in the Regional Group of Deputies are calling on the Government to ensure that grants are linked to the costs of the specific works as a percentage of costs and to allow discretion for people with disabilities to ensure that the grants meet the individual needs of the disabled person to live independently. We are also asking that the Government allocate additional resources to local authorities to manage these schemes, to provide the investment required for local authority housing stock and to increase the budget allocation to the Department of Housing, Local Government and Heritage. The Government should also ensure that the grant scheme can meet the demand and reflect the increase in construction costs. The upper limit grants should reflect the increase in the cost of construction. The development of cluster bungalow housing should be incentivised with closer services for older people. There should also be a review of the recently announced but yet unavailable retrofitting grants to reflect the significant rise in construction costs.

As I have said to the Minister of State, these schemes are great. The people who call to my constituency office who have been living in these houses for 30 to 40 years, or whatever it is, just to do not have any money. They are looking for a little bit of help. The difference created by even replacing the windows, the doors or of putting a heating system in, is second to none. The €81 million that has been allocated seems like a great deal of money but it is divided between local authorities. I am only talking about a small constituency in my area of Louth and Dundalk. What happens is that when one person sees what is available, they tell somebody else and all of a sudden everybody is coming in looking for it. But these are pensioners, most of whom have a yearly income of less than €30,000, and they are really looking for help. We in the Regional Group sat down, studied and have worked very hard in putting everything together and most of the incentives we are looking for are all down to common sense. I hope the Minister of State will engage with our good selves and other Deputies and I hope we will get support on this.

I ask the Minister to look at the money.

**Deputy Seán Canney:** I want to return to a few things mentioned by the Minister of State. We accept that increases have been given for grants but it is important to say that the increases do not reflect the increases in the costs.

Second, the grant for housing adaptation is a maximum of €30,000. I have cases in my constituency where people have acquired injuries, whether they had an accident, a brain haemorrhage or tumour, and they are now confined to a wheelchair. There are trying to adapt their house to make it fit for independent living and €30,000 will not cut mustard in that situation. People have to borrow money in order to try to live in their own houses and live independently. We need to build discretion into the scheme at director of service level or at a higher engineering level within the local authorities so that in a case where the costs are much higher and where the works would ensure that a person could live independently in his or her house, that that discretion is left with the local authority to make a call on. It is very important that we have that flexibility. A €30,000 cap is very stringent.

Likewise, with housing aid for older people capped at €8,000 at the moment, it is important to recognise that to replace windows, which are probably single-glazed teal windows which are

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leaking air and heat by the new time, or the back door and front door of a house, there will be very little change from €8,000. That is the key message we are giving here.

Likewise, €3,000 for the mobility aid grants is a very small amount of money. It is important that is put into the equation of the scheme. This scheme does not need to be turned upside down. The basis and the fundamentals of it are right but we need to ensure that it is fit-for-purpose.

Similarly, if one takes the local authority housing stock where we have people with disabilities living in them, the local authorities are very slow to make the necessary adjustments be it, for example, an extension with a ground floor en suite bedroom to allow a child or person to sleep in his or her own house. I know of people who are sleeping on the couch in their sitting rooms because they cannot access upstairs and are waiting.

One particular young woman who is now entering third level education is waiting for a house extension so that she can have an en suite bedroom downstairs. This is a basic requirement and has not happened. Now, after about seven years of waiting, of surveys and of reports, including occupational therapist, OT, reports, pointing to what should be done, the talk now is of taking the entire family out of that house and relocating them into a bungalow. It is a disgrace that we have that kind of attitude at this time.

Basically, the local authorities' resources are not adequate to meet the increase in demand. This increase is coming because we have an ageing population. The entire programme for Government and policies we make are all about keeping people in their homes for longer. This scheme can and has been helping people to do that but we need to ensure that we do not let it fall by the wayside and become what I would call dysfunctional because we are not keeping pace with the changes that are happening in society and to our ageing population, together with the increases that are happening in the cost of doing the works.

We also need to ensure that we deal with this in a very humane way. We are doing that in the local authorities and I know the stress that the local authority staff are under in trying to cope with the onslaught or avalanche of applications which are coming in. The headline in the local newspapers last week that Galway County Council had run out of funding sent a shock-wave through many people who had applications on the system and who do not know if they are going to get money through the grants to do this work. It is important that we keep up the momentum and make sure this scheme remains fit for purpose.

**Acting Chairman (Deputy Pádraig O'Sullivan):** We move to Sinn Féin. I call Deputy Martin Browne, who is sharing time with colleagues.

**Deputy Martin Browne:** Much like the outdatedness of the housing assistance payment, which has no bearing on current rental costs, the upper limit on the housing adaptation grant has remained the same for 13 years. It no longer has any bearing on the actual costs that many people in my constituency of Tipperary face. The annual rate of construction inflation hit 13.4% from January to December 2021. In Tipperary, this has led to some people, who have been waiting years since applying, finding they now have to give it up because they cannot afford the extent of the contribution they have to pay. For someone who needs a downstairs bedroom and bathroom, €30,000 does not cover it any more. Those people are expected to come up with the remainder, which nowadays can run to tens of thousands of euro. These are the people with least. Those additional costs have also become so high that builders who have frequently tried

to be as accommodating as possible have reached the limit of their flexibility.

These are the people who I and my Sinn Féin colleagues hear from. They are left with no option but to give up on being able to adapt their homes to suit their needs. They are the people who have gone through the long application and approval process and are finally in a position to get work done. There are many others who continue to wait until their condition deteriorates, their mobility worsens and prices skyrocket. They are confining themselves to certain rooms and now have limited freedom, even within their own home. They are ill, they are cold and they are uncomfortable, and the longer they wait, the less likely the grant will go as far as it should.

This is where the difference between priority 1 and 2 begins to lose distinction. For years, Sinn Féin has been calling for increased grant funding in alternative budgets but the Minister has delayed and stalled and now finds himself in a situation where costs are spiralling and people's quality of life is failing. It has been said that the true measure of any society can be found in how it treats its most vulnerable members. The United Nations Convention on the Rights of Persons with Disabilities demands access for those living in situations of poverty to assistance from the state with disabilities-related expenses. What measures does the Minister intend to bring forward to do right by the people who are most in need? If he would prefer to talk in purely monetary terms rather than address people's realities, then let me put it this way. The Minister can quote figures all day long but if he was in touch with the local authorities, they will tell him it is not enough to deal with the work that has to be done. Some €81 million is a lot of money but it is not even enough to clear priority 1 cases and everyone knows there is a backlog with that too. Would the Minister not prefer to have the financial savings that come with adapting a person's home rather than the cost involved in leaving people with no alternative but to go into residential care?

On a final point, the application process is drawn out and beset with delays, and this needs to be addressed. The odds are stacked against those in need. We need to enable local authorities to meet the costs involved, address inflation and ensure that applications can be processed in a timely manner.

**Deputy Claire Kerrane:** I welcome this motion and thank the Regional Group for bringing it forward. It is an important debate to have in the House. Of course, we know the greatest challenge with these grants is the simple fact there is not enough funding for our local authorities to meet demand. Galway County Council is a prime example. Before the end of the first quarter of this year, it had over 1,000 applications, with some being progressed, some approved and some new applications that it was dealing with. We were told in March of this year that it was already significantly oversubscribed for the year in regard to applications received. I do not think it even had the funding from the Government at that point in time, which clearly shows this scheme and these grants are in demand but the funding is just not there to meet that demand.

There are a number of consequences. I am dealing with the case of an amputee who has been approved for an extension, which is welcome, but because construction costs have increased so much, he is not able to put up the amount required of him. The element of the motion in regard to discretion is very important and when it comes to persons with a disability in particular, the income thresholds are outdated. I know of a couple who are working and who need to put an extension on a house. The gentleman is a garda and the over-€60,000 rule meant they could not get anything in regard to building that extension for their child. This made things extremely difficult and they have not been able to progress. Those limits and income thresholds, as stated in the motion, are very important and need to be looked at.

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There is a difference in the grant payable depending on when the house was built, and it can be a big difference for a person with an income of €40,000 to €50,000. If the house has been built for more than 12 months, people will get a payment of €15,000, and if it has been built for less than 12 months, the payment is €7,250. I am not sure why that difference exists. If something happens or if there is an accident for somebody in the house, I do not see why that link with when the house was built needs to be there and it causes difficulties.

The grants that are available are very important. The point in the motion in regard to incentivising the development of cluster bungalow housing close to services is also important, particularly for those who are considering downsizing. I had a couple in my office just two weeks ago who have a four-bedroom, privately owned house and it is just the two of them now and they really want to downsize. However, they are not in a position to do so because the houses simply are not there. That downsizing element is very important to allow people to live in clusters. It is a nice way for older people to live, where they are near the shops, the church and other services.

This is a very important motion and it is welcome we are having this debate this morning. There are steps that can be taken, particularly around discretion, to make these grants more accessible to people who need them.

**Deputy Chris Andrews:** I acknowledge the motion and congratulate the Regional Group. These grants have a huge impact on the quality of life of many older people and individuals with disabilities. These grants are important in keeping people at home. It gives them a chance to live independently and it also keeps the pressure off the hospitals. It is a win-win for everybody. We only have to imagine what the hospitals would be like if it was not for this grant.

The number of people over the age of 65 is expected to reach 1.4 million by 2040, which will work out at approximately 23% of the population, whereas over-65s are currently 13.5% to 14% of the population. Therefore, these grants are going to be increasingly important for individuals but also for families and, again, to keep the pressure off the hospitals.

For many who contact me the process is challenging. Supports are needed for people who are struggling to make an application. In the current environment, costs are flying up and surpassing the grant, and individuals who apply cannot afford to do the work when they go to get it done. Funding is a huge issue. As was said previously, this is a very good scheme and it does not need to be overhauled, but it certainly needs to be funded and resourced, and supports need to be put in place for people who are struggling with the application process. If an older person gets a grant and they then have to carry out particular work, the quoted cost is often outdated by the time the work starts.

Delays are significant and that is often because, when someone applies, it comes back to needing more support and resources within the local authorities to process the applications. If someone applies and makes a mistake, as with the passports, they go back to the start of the queue whereas somebody in Dublin City Council should contact them to say they have left out A, B or C and they need to correct that. However, as it stands, the process can take months. The person will contact me or other Deputies, and we then contact the council, which says the person has not filled in the form properly, and it is then updated. That should not happen. The councils need to be more proactive and structures need to be put in place to ensure there are not such delays.



**Deputy Pa Daly:** I thank the Regional Group for bringing forward this important motion. I want to raise a particular issue in regard to ceiling hoists being excluded from the housing adaptation grant. This was a decision taken a number of years ago, which directed the local authorities to change their policy in order that ceiling track hoists are no longer funded by the housing adaptation grant. I am not sure what the thinking is within the Department. Is it because of insurance or for some other reason? I am not sure, although we have been asking for a number of years. The grant aid ceased two years ago. A decision was made not to provide grants for these devices that require trained operators. It was to be taken up by the HSE but there is still no decision. I have raised this through parliamentary questions. A process of negotiation is ongoing as far as I understand. The Minister of State with responsibility for heritage responded to a recent parliamentary question stating a solution will be reached as soon as possible.

In April last year this was raised by the O'Mahony family from Killarney. Last July they were told a decision would be made. They were told the same thing in September and March. They were told a consultation process is happening. I do not care who sorts it out so long as someone grasps the nettle and deals with it. I do not care whether it is someone from the Department dealing with health, housing, local government or disability. Whoever it is should make the decision because it is very important for the O'Mahony family. Their daughter Alexis has cerebral palsy quadriplegia with a high risk of aspiration. She is completely dependent on her family. She requires constant repositioning for washing to prevent injury. She requires two people to lift her, 24-hour care, regular repositioning and movement for her hygiene care. Her parents care for her. When her father is not present due to travelling for work it is very difficult for her mother to do this job. There is a risk of serious injury to Alexis. She has been waiting for the whole of the past year for a decision to be made so that she can get a grant for housing. I ask the Minister to make an exception and change the rule and do something about this so that her life can be made a little bit easier.

**Deputy Donnchadh Ó Laoghaire:** This is an area that affects the lives of countless families. I acknowledge that very often many local authority staff do the best they can to try to facilitate and support people in very challenging circumstances. With regard to rules, procedures and budgets there are obstacles to ensuring that people are properly supported. Some of them have been identified. One of the biggest issues I come across is timescales, given the bureaucracy that can sometimes go with trying to ensure an adaptation happens. This has been exacerbated in recent times because of the increase in the cost of building supplies and the fact that quotes expire quite quickly.

Sometimes occupational therapists will recommend something of a very high order. They try to imagine the absolute maximum solution. When this goes to the local authorities they ask whether all of it is entirely necessary. I am not sure whether it is the local authority or the occupational therapist who is to blame. Both are trying to do their best. It can create a difficulty. Then we end up with it going back and forth. Occupational therapists are reluctant to revise down the initial recommendation because they believe it to be clinically appropriate and necessary. This is an issue. Perhaps more direct communication between local authorities and occupational therapists might help. Sometimes there can be a reluctance to get into this type of direct dialogue.

Another measure that could resolve some of the issues is a more dynamic internal transfer and mutual transfer system. Instead of a stair lift a solution could be provided through a transfer to swap families in a bungalow and an upstairs two-bedroom flat. It might not be the full solution but it could be part of the solution to help. Some local authorities have more dynamic

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options whereby people can declare an interest in a mutual transfer and people can be matched up. Other local authorities could benefit from following this.

I support the point made by Deputy Daly on the hoist. It is very important that it is addressed. These adaptations make a huge impact to the lives of elderly and vulnerable people. In their absence the impact on the quality of life can be enormous. They usually happen eventually but it can take two years with significant hardship in the meantime. We do need to improve the systems.

**Deputy Ruairí Ó Murchú:** We have all been inundated in our constituency offices by people looking for adaptation grants and those on the waiting lists. I spoke to the council this week. Generally there has been a two-year backlog. It has probably reduced to a year and a half. In fairness the absolute majority of people on the lists are top priority and this is the reality. We all know we are dealing with spiralling prices and costs. There are supply chain issues that can create difficulties even where builders are on site. This will create wider difficulties with housing and even the targets that have been set. We are always constrained by the lack of housing, whether this is social housing or the wider housing supply.

I want to deal with the issue of severe disability. I have dealt with a number of cases but I am thinking of one specifically that related to a family offered a housing adaptation grant. I have spoken to the Minister of State, Deputy Rabbitte, about this. I believe she has been in contact with the office of the Minister on the issue to try to work out a solution. These people have been offered €30,000 and more to put in a hoist. The case involves a teenager who is severely disabled and getting older and bigger. This is causing increasing logistical issues for the family. I hope we can find a roadmap for the people in this case for more money to be released. If the State did not have the parents to look after this child and was solely responsible for the care it would involve a huge amount of money. It would also be societally wrong and all that goes with it.

In some cases we deal with houses that are not necessarily suited to these changes. We need a wider supply of a universal design. Beyond this there may be a wider need for the HSE to play a part. There may be a need for very specific funding. On some level an awful lot of these issues are thrown on the local authorities. There needs to be a wider solution. We need to look at how we do this.

**Deputy Mairéad Farrell:** Gabhaim buíochas leis an nGrúpa Réigiúnach as an rún seo a chur as comhair na Dála. It is very welcome we are having this discussion because we all know the benefit of these grants. I have to say in particular that I often come across the big difference the housing aid for older people grant makes in people's lives. In many cases it involves small simple things that need to be done but they make a massive difference to those people who are getting older. They need small little jobs done to be able to access their homes better. We know it is getting more difficult to get contractors to take on these very small jobs. This is one issue I have come across quite regularly in my clinics. Another issue, as has been said already, is with regard to the many requests being made but no availability in certain councils, such as Galway County Council, to do them.

Tá sé tábhachtach go bhfuil seo á phlé againn mar tuigimid cé chomh tábhachtach is atá na deontais seo. Tá brú aisteach ar chomhairlí áirithe agus tá a fhios agam go bhfuil brú ollmhór ar Chomhairle Chontae na Gaillimhe, i mo Dháilcheantar, mar gheall ar na deontais a rinne sí leis seo agus tá brú uirthi mar gheall nach bhfuil dóthain airgid aici ar aon chuma. Tuigimid cé

chomh tábhachtach is a bhfuil na deontais seo do na hathruithe beaga go bhféadfaí a dhéanamh i dtithe. Go háirithe táim ag smaoineamh ar na daoine atá níos sine. Ní theastaíonn uathu ach athrú beag bídeach agus déanann sin difríocht ollmhór. Tá sé go maith go bhfuil seo á phlé inniu ach caithimid a chinntiú go bhfuil na hacmhainní ar fad ag na comhairlí contae chun dul i ngleic leis seo.

**Deputy Paul Donnelly:** I thank the Regional Group for tabling the motion. We all recognise this is an extremely important grant to help older people and people with disabilities to remain in their own homes and ensure they have a better quality of life. I want to raise a number of issues which other speakers have already mentioned, particularly with regard to the maximum limit. This is way too low given the situation in the industry at present. Costs are spiralling through the roof. It is now 12 years since there has been an increase. This needs to be addressed.

I have a constituent who is in receipt of a disability payment. She will not work again. She owns her own home. She has applied for the housing adaptation grant and the grant for older people with disabilities. She is under 66 years of age but the criteria state there are exceptions for those aged under 66 who cite hardship. The person has been refused on the basis that she is not 66 years of age.

*11 o'clock*

Part of the council's response was that hardship cases can be considered where the person is under the age of 66 and regard given to the condition of the property to bring it up to standard to ensure that older persons can remain living in their home and do not have to transfer to a care centre. Unfortunately, the council does not specify what the lower end of the age under 66 is for hardship cases. It does not clearly define what it means by "hardship". It is difficult for people to appeal when they do not know what they are appealing against, they do not know what the age limit is, and they do not know what the definition of "hardship" is. I would appreciate if we could connect and maybe do something for this person.

**Deputy Ged Nash:** I thank the Regional Group for tabling this motion. It is an important debate and I am glad that we are having it. All of us, especially those who served on local authorities, are intimately familiar with the programme and the special housing adaptation grant scheme. It is a good, effective scheme. It was far-sighted of the Minister and local authorities that first introduced it. It is clear that issues face the scheme and its utility with the limits provided for. A sum of €30,000 will not get anyone far these days. The Minister will be able to acknowledge that. There is a strong argument in the motion that the level of the grant should reflect a percentage of the cost rather than being a set cash amount. I hope the Minister will reflect on that and consider the views that previous speakers have no doubt articulated about the cost. As I said, €30,000 will not get much these days, in a period of ever-rising and escalating inflation in construction costs. The Society of Chartered Surveyors Ireland reported in April that construction cost inflation was at 38%, which is very significant. We know the prices of building materials are going up and that there are labour shortages in the construction sector.

The Minister will be only too familiar with the challenges that we have in meeting his targets in Housing for All and the retrofitting targets, given the limited throughput of apprentices in the construction sector. We need to focus on it. It should be acknowledged, and I have no doubt that it has been acknowledged, by both Government representatives and Opposition Members that the amount the Department has allocated to this grant scheme has increased each

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year since 2014, which is very welcome. It is €81.25 million for this year, which is an 8% increase on last year, which is welcome. A contribution has to be made by local authorities, which are cash-strapped at the moment.

There is a strong argument for the HSE to make a contribution, especially for those who have health issues. There are underspends in the HSE capital budget. The Minister might tap his colleague, the Minister, Deputy Stephen Donnelly, on the shoulder, and ask if he will make a contribution to the more effective running of this scheme. We know, as public representatives, that hardly a week passes where we do not make a representation for somebody who is seeking to have works done under the housing adaptation grant scheme. The local authorities in my constituency, Louth County Council and Meath County Council, prioritise applications into categories 1, 2 and 3, as local authorities have to. Given the nature of these things, it is sometimes the case that by the time a grant is approved and prices have been obtained, people may be in difficult circumstances or may have passed on. That is no reflection on local authorities. The process then has to start all over again and somebody else will benefit from that resource. There is a strong argument for the HSE to consider contributing to the scheme, given the challenges that the scheme faces. It can never properly meet the full demand.

The ultimate aim of the scheme is to keep people in their homes for as long as possible in a comfortable way and dignified fashion. We know the expense for families and the State and the lack of independence that people have when they go into a nursing home or full-time residential care. It is important that we resource people to stay in the comfort of their own home, where everybody wants to be for as long as they can, with access to the kinds of services that they require. We have a perfect storm at the moment. There are big backlogs in local authorities with the housing adaptation grant scheme. We also have the HSE signing off on care packages when it cannot get the personnel to fulfil those packages. We have real problems. This requires a multi-departmental and cross-Government approach.

I thank the Regional Group for tabling this motion. It is an important debate that goes under the radar far too often. The principle of the scheme is good and it works effectively, but like all schemes of this nature, it needs to be kept under constant review, and I argue again for more of a cross-Government approach to how these schemes are resourced to meet their full potential and all of the needs.

**Deputy Holly Cairns:** I thank the Regional Group for the opportunity to discuss the importance of the housing aid for older persons grant, the mobility aid grant, and the housing adaptation grant for people with disabilities. The Social Democrats fully support the motion. Last week, the *Irish Examiner* reported on the case of a family with a child with spina bifida who had to raise €50,000 and get a credit union loan of €30,000 to pay for essential renovations to their home despite availing of the housing adaptation grant scheme. This case, highlighted by the Jack and Jill Foundation, illustrates the many issues with the adaptation grant. Crucially, it highlights how the scheme does not meet the needs of families and children with significant disabilities. The income threshold is low, which leaves many middle-income families with little or no support. It also calls for the application process and the granting of funds to be made much easier and more accessible for parent carers. This case and the insights from the Jack and Jill Foundation are not isolated.

In theory, the housing aid for older persons and the housing adaptation grant are exactly the type of support needed to help people to live in their own homes. However, in practice, the schemes need more funding, the grants are inadequate for the works required, the system is

too bureaucratic and there are major delays for local authority housing. Speaking at the Joint Committee on Disability Matters, representatives of Disabled Women Ireland outlined the considerable issues with the current adaptation grant. They described the horrific and restrictive application process and the fact that the grants are generally drawn down after the capital outlay and stated:

Even if people fulfil the criteria, this system disadvantages the people who need it the most and who do not have any money or any savings to pay upfront for the accessibility that they need. If a person does qualify, he or she is limited by what he or she can afford right that minute and the person is not able to get what is needed, because of the draw-down afterwards system.

The current system, in effect, excludes and disempowers disabled people and others. It needs to be reformed. When someone qualifies, the money should be made available upfront. Alone, which supports more than 24,000 older people, has pointed out that the current annual funding of the adaptation grant would be required to assist just older people. It also points out that while the grant covers 95% of the work, many elderly people on low incomes find it extreme difficult to even pay the 5%, with the extensive work that is required. Representatives of the Irish Thalidomide Association have highlighted how the people who need support can often feel disregarded and voiceless in the system. Applications and decisions need to respect lived experience and recognise that disabled people and others are the experts in what they require.

There are issues where assessments are made on a household basis and do not consider individuals' autonomy. The Joint Committee on Disability Matters recommended that a mechanism must be included in the housing adaptation grant process where individuals choosing to live with families can access the grant as an individual without the rest of the household's income being included as part of the means test. This will support individuals to live independent lives in housing that is appropriate to their needs. A lack of access to adaptation grants also contributes to disabled people being unable to access appropriate housing. People must wait for lengthy periods and either live in unsuitable accommodation, remain in a hospital or go into a nursing home while waiting for housing adaptation. Any measure that can help disabled people needs to be accelerated. The Irish Human Rights and Equality Commission has noted that people with disabilities are more than 1.6 times more likely to live in poor conditions and they are over-represented in the homeless population, with more than one in four homeless people being disabled. The Ombudsman also highlighted that his office had received complaints about access to the housing adaptation grants available from local authorities and that the lack of proper support is contributing to keeping people in congregated settings, especially the large number of individuals under 65 years of age who are still in nursing homes because the State is not providing suitable housing.

This also highlights the importance of universal design. The Joint Committee on Disability Matters strongly advocates that the principles of universal design are vital to meaningfully remove barriers and achieve inclusion. This approach ensures that products, services and environments are made accessible from the planning stage. When conducted in conjunction with persons with disabilities and others affected, homes and buildings can be future-proofed by using designs to meet current and potential needs. Current building regulations do not require full accessibility. This is not only exclusion; it is short-sighted. The same accessible feature for mobility aids also helps young families with buggies. All new housing should be designed with adaptivity in mind. These are proactive measures that can be taken now to alleviate the problems individuals are experiencing.

Ultimately, these grants relate to the additional cost of having a disability. The Department of Social Protection's report, *The Cost of Disability in Ireland*, revealed that people with disabilities face extra costs of up to €12,300 annually on transport, fuel, equipment, aids, medical expenses, etc. We all know it is far more than that in many cases. Unless these and other supports are tailored to adequately recognise these costs, inequalities will continue and even get worse. Ireland has one of the highest rates of poverty and social exclusion for people with disabilities in the EU.

Accessible homes would keep people in their communities and enable others to move to independent living. Better mobility aid grants can help people leave the house, socialise and gain employment. These schemes are some of the most basic supports necessary to enable many different groups to live with dignity and to participate in society. It is their right. The Government must face up to its responsibility.

This issue cuts across all of society, from older people to families with children with disabilities, people with disabilities who are living independently and Thalidomide survivors. In principle, it is exactly the type of support individuals and families need to facilitate independent living and keeping people in their homes. In practice, however, the system is complex, insufficient and exclusionary. Older people, those with disabilities and children with complex needs all have the right to appropriate supports. Schemes have to be designed properly. There needs to be sufficient discretion to allow people make the best choices for themselves and their families, the application process needs to be radically overhauled and applications need to be processed so much quicker.

**Deputy Paul Murphy:** I welcome and support the motion. As with pretty much every other public service in this country, there is a disgraceful lack of timely access to adequate home adaptation grants for older people and those with disabilities. As has been stated repeatedly, there are thousands of people in dire need of immediate home adaptations who have been waiting months, and even years, to have their applications processed. This is a misery for people. I deal with individuals who absolutely need these adaptations. They are unable to get them and are unable to live comfortably in their own homes as a result. When they have their applications processed, finding a contractor is often impossible. What grants are available for them are too little and too late.

We can see already the same story repeating itself in terms of the Government's retrofitting scheme. It is the same sort of approach and it results in the same sort of problems - onerous inefficient lengthy means-tested grant applications and then a total reliance on outsourcing to an already overloaded understaffed private sector. This means that in the sphere of retrofitting, meeting any targets for emissions reductions will be next to impossible.

What lies beneath this? Why does this happen in what is the fifth richest country in the world on the basis of GDP *per capita*? What are the root causes and what are the solutions? One obvious cause is the chronic underfunding of local authorities to carry out this work. When Government funding for a service is inadequate, it leads to a rationing of that service by State agencies in response. In other countries, that might happen only during wartime when there are genuine shortages and they must engage in rationing. In the neoliberal capitalist Ireland of Fianna Fáil and Fine Gael, with a Government supported by many of the Independents who signed this motion, wartime rationing is effectively a permanent fact of life. Rationing in response to an artificial shortage is what is happening with housing adaptation grants, just as it is happening with healthcare, public housing, third level education and all the other essential

services that we should have universal access to as a human right.

The Government now has two favourite methods of rationing. The first is the never-ending waiting list whereby thousands of people are forced to wait for months and years for vital public services in the hope that they either die first or give up and go private. These are two long-established and proven ways for the HSE to reduce waiting lists. The second is means testing to thin out the queue of people deemed eligible for a public service. It is a bit like going down a queue and saying to every second or third person that he or she is out of the queue. Providing inadequate grants does the same in a slightly different way by also rationing access according to income. There is not much point in applying for a grant one knows will not cover one's adaptation costs even if one eventually gets it.

The other side of the problem is outsourcing what should be public services to the private sector. In the case of housing adaptation grants, this means that the private sector sets the price based on what level of profit it wants to make. It happens at every single stage of the chain, from construction components down to contractors, so that a hefty and ever-increasing chunk of State grants meant to provide people with what they need to be able to live comfortably in their homes is swallowed up by profits.

Of course, the other way construction bosses make profits is by underpaying their workers and subjecting them to precarious unreliable working conditions. A few weeks ago, we were subjected to construction industry bosses claiming in *The Irish Times* that the skills shortage was due to "an awful lot of young people that don't like getting out of the bed for seven o'clock in the morning". There was nothing about the terrible working conditions in the sector and nothing about the bogus self-employment, the rates of barely over €7 a hour for many apprentices, and a lack of sick pay and holiday pay. There was no mention by the notoriously bad employer, J.J. Rhatigan, interviewed for the article, that the company was previously found to be paying workers less than €5 an hour to work on Government-funded contracts. If the Government was really serious about providing access to housing adaptations and housing generally for all who need it, then it would come down on the construction industry like the proverbial ton of bricks and enforce existing labour laws to end bogus self-employment. Instead, it is more concerned about funnelling money to the developers. More importantly, it would legislate for the right to trade union recognition and collective bargaining in order that workers could fight for better pay and conditions and to resolve labour shortages. The Government would also adequately fund local authorities to carry out these works with direct labour, set up a State construction company, finance a significant expansion in the number of apprenticeships and ensure that apprentices are paid well above the pittance they are currently being offered.

I will quote from a recently reply I received from South Dublin County Council. I will not go into the details and I will not name the person involved. This is someone who is a council tenant looking for adaptation that they absolutely need on foot of their disability. On the final line it is stated that, unfortunately, what is proposed is not feasible, that it would be cost prohibitive and that, therefore, the request cannot be facilitated. Normally, it gets kicked down the road in the hope that it goes away, but this time it is bluntly stated that the council will not do what is necessary for this person because it does not have the money for it. This is evidence of the underfunding of local authorities.

Of course, the Government and the right-wing Independents who back it will do none of the things to which I refer because they are committed to a capitalist model of public service rationing and are deeply embedded in the pocket of the construction industry. Older people and

those with disabilities deserve better.

**Deputy Mick Barry:** On housing adaptation grants, 13% of the people who live in County Cork have at least one disability. This is an important issue, nationally and locally. Last year, 228 households in Cork city were on the local authority's waiting list for adaptations to private houses. Of those households, 142 were of people with disabilities, 44 were of people with mobility issues and 42 were of elderly people. I am concerned that the increase in the grant that the council received will be wiped out, or more than wiped out, by construction inflation. The upper limit of the grant needs to be increased. If councils had their own building units in order that the work could be done on a public basis, at good quality and not-for-profit rates, it would be a big improvement.

On housing and disability, some people with disabilities are still being asked to bid on the choice-based letting system for social housing. If they refuse, they lose their place on the list for a year. That is a very tough policy overall but it is particularly unfair on people with disabilities. The council might say that it knows their needs and is only making offers that tally with those needs, but how can a council official say that? Surely it is the person with the disability who must have the final say. That rule should change for people with disabilities. It is not fair.

**Deputy Danny Healy-Rae:** I thank the Regional Group for giving us the opportunity to talk about this important matter. Housing adaptation grant aid for the elderly and mobility aids grants is the most important part of the housing programme in Kerry County Council. We have a very active group of people working in that department. They are doing great work for people who need adaptations and little things to make their houses more acceptable to live in and to ensure that they stay in their homes longer. I must mention people like Joanne, Josephine and Steffi. They are such great girls. I also mention Donal O'Regan and all the other men and women who are working in that department in Kerry County Council and who are doing great work. The Minister has to realise, however, that the cost of materials and labour has gone through the roof and that the grants are not meeting the cost of the jobs that need to be done. There has not been an increase for many years. We need such an increase now.

If an extension is required, there does not seem to be any money to do that. There might be enough for one or two in the whole country each year. Take the example of a farmer's house that has fallen into complete disrepair and cannot be refurbished. I have asked the Minister several times to give funding to the local authorities in order that they can get a demountable home - a mobile home - and finish their days on the farm where they have been all their lives.

**Deputy Michael Collins:** I thank the Regional Group for the opportunity to discuss this extremely important issue. I was doing clinics from Castletownbere right across to Kinsale last weekend. I do not know how many of these forms I filled out in respect of housing aid for the elderly, the mobility grant aid or those with disabilities. The issue is that the funding is no longer meeting the requirement. It is well out of date. Even if we only look at housing aid for the elderly, people get €8,000 to do a roof but you would not get a roof done for less than €20,000 now. That is a major issue for some.

For people with disabilities, the home adaptation grant is extremely important. There needs to be full grant aid in order that people who have serious disabilities can at least have the comfort of knowing that if they have to put an extension on to a home or adapt it, they will not have the burden or worry of looking for a loan. I am presented with this regularly. I thank the staff of Cork County Council in Clonakilty and Mallow and all those dealing with council grants for the



elderly and with mobility grants. Their work is second to none but, ultimately, their hands are tied because they are only able to give what is there to give. Then they find that people cannot carry out the necessary works. Some people end up in community hospitals or nursing homes because they cannot adapt their homes. It is a no-win situation and it makes matters worse. We are talking about the adaptation grants, but the grants for the elderly need to be looked at too. Prices have gone out of the control. People are applying for the grant but the grant goes near nowhere near covering the prices they are being quoted.

**Deputy Michael Healy-Rae:** When speaking to the Minister, I feel as if we are speaking to someone who has an understanding of and takes a practical, commonsense approach to the problems that are facing the people. As a result, I know that what we are saying is not falling on deaf ears. Keeping people in their own homes is the most important thing. Whether a person is getting old or their house is in disrepair, it is important to keep them living there for as long as possible. Their home is their castle and it is where they want to be. Adapting homes and making it more suitable is terribly important and an onerous responsibility. The whole way of assessing the grant aid allowable has to be looked at. If a younger person is living in the house with the older person who might want an essential repair grant or a disability grant, taking that younger person's income into account is unfair. They need their income to sustain themselves. Just because they live in the house should not go against the applicant. I would earnestly ask the Minister to look at that

While we appreciate every euro provided by our local authorities, the grants being allocated now are not enough because all the items used in construction have increased in price so much. When a person gets a grant of €5,000 they really should be getting €8,000 to keep up with what was there a couple of years ago. Those are the kinds of figures we are talking about. Whether it is our director of services for housing, Martin O'Donoghue, the contractors, subcontractors and people who work directly for Kerry County Council who go out and do repairs to houses, the engineers, the clerk of works or the girls in the office, I thank them all for the excellent work they do for the council on behalf of all of us.

**Deputy Richard O'Donoghue:** I welcome the adaptation grant in the context of the three areas it covers and the quality of life that it gives to people. I have seen first-hand the life-changing effects the grants can have. Unfortunately, the level of funding relating to the grant has major consequences for the most vulnerable in our society. Only €81 million was allocated in 2022. Rising costs, supply chain issues and the scarcity of builders and tradespeople is having a major impact.

I thank the county council office in Limerick city and the rural office for the hard work they are doing. They deliver a turnaround in three or four weeks to help our office to help other people. But what can we do to help with inflation for these grants? The square footage price in 2020 was €120. For every square foot of a house, the Government took €16.20 in VAT. It takes 23% VAT on materials. In order to counteract the impact of inflation in respect of the adaptation grants, could the Government remove both sets of VAT? If it did so, it would mean that people who are getting materials for their houses through the adaptation grant would not have to pay the VAT of 23% on materials or the 13% relating to labour. That would help stretch the money people get via the grants without the need to increase them. We could do something that way. The Minister would not have to go to Europe to remove the VAT relating to materials or labour. That would be at the Government's discretion.

**Deputy Thomas Pringle:** I thank the Regional Group for putting forward this motion. It is

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important that we talk about the disabled grants and the various grants that are available from local authorities. It has been striking that they have not been raised for discussion in the House in the form of Topical Issue matters and so on. They are vitally important. In my Donegal County Council days in the early 2000s, as a result of the reduced amount of money that it was getting for grants every year, the council introduced a limit on what could be available for different types of works and stuff such as that. It was trying to extend the amount of money and make it reach more people, which actually reduced the effectiveness of the grants. That is a problem. We have to try to find a way to make the grants do what they are supposed to do and make them worthwhile applying for.

Of course, that comes back to the Department and increased funding. While the Department may say that the council can come up with money, 80% of the council's funding comes from the Government in one way or another. As a result, there is very little room for councils to raise funding. There is the possibility of perhaps looking at some sort of a VAT rebate or something like that for people who apply for grants. Perhaps that could be a way of making it more effective and giving more to them. Something needs to be done. They are grants that are extremely important and that are needed right across the board. Only yesterday I was talking to a person in Letterkenny who got approval for a grant of €30,000, but the cost of the works had increased from €60,000 to €70,000 and is now approaching €80,000. That person who applied for the grant is on a disability allowance and cannot afford to make up the balance. How can they make up a €50,000 balance when they are on disability allowance? It is just not possible. That does not make it any easier for the Minister in terms of a set funding amount and trying to make that go as far as possible as well, but it is something that needs to be looked at and addressed.

There is also the matter of people who live in rental accommodation scheme, RAS, and similar housing. They are viewed as being dealt with by the local authorities. How can they access grants, etc.? That is important. In the context of its tenants, a council will pay the full amount. However, councils insist that people apply for the grants and go through the whole process themselves. That is despite the fact that the councils own the properties involved. I fail to see how that makes sense. It probably does in some bizarre way of accounting. A council can say that it is a matter for the tenant and that is how it goes about its business. However, it does not make sense and it is putting much of the onus on applicants to ensure that the grant is actually provided. That needs to be looked at. There are things that perhaps can be considered in terms of making the scheme more effective and workable for people. That is possible. I hope the Department will be looking at that to ensure that it goes further for people.

The Labour Party suggested that the HSE should be involved in the grant scheme. I would be loath to see that because it would be one way of making sure that nothing would happen, unless it is at a very high level where it would be carved off the HSE budget and handed over to the Department. That is the only way that I could see the HSE being involved. Donegal County Council involved the HSE and occupational therapists in order to look at the disabled persons grants and so on. That just stopped the grant scheme right away. The HSE did not see it as part of its core work, so it did not provide the staff. The council was insistent that it had to get staff from the HSE, however, and it just slowed the whole process down completely. I would be loath to involve the HSE.

The HSE is involved with disabled grants and disabled housing requirements at the moment. A great deal could be said for removing responsibility in that regard from the HSE and handing it over to the local authorities. The local authorities are geared up to look at housing and housing requirements for everybody. It should be part of the system. One aspect of the

problem is that the HSE looks at somebody living at home with their parents as being sorted, even though they might be 40 or 50 and their parents are going into their 80s. There are going to be difficulties in this regard because these people are not sorted.

There are many problems with the scheme. There is no doubt about that. Accessing the scheme is becoming increasingly difficult. That is a false economy because the Government is not meeting any need, but it is providing funding. That means the Government gets bad press and becomes annoyed about it. Staff get annoyed about it as well, and the people cannot find any way forward.

Years ago, it was a scheme that made a big difference to people and their lives as well. How a disabled person can live at home is vitally important. The Minister will not have an easy task in making it work for people. In reality, it has to be made to work. There are tweaks and changes that can be introduced that will make it more reflective and easier for people to deal with as well.

**Minister for Housing, Local Government and Heritage (Deputy Darragh O'Brien):** Ba mhaith liom míle buíochas a ghabháil leis an nGrúpa Réigiúnach as an rún a chuir siad os comhair na Dála inniu. Díospóireacht dearfach, tábhachtach agus cuiditheach is ea é. It has been a positive but constructive debate. I thank the Deputy for tabling the motion and I appreciate the contributions of the members of the Regional Group so far. As the Minister of State, Deputy Hildegard Naughton, stated at the outset, we will not be opposing the motion. The area of adaptation grants for our older people and, indeed, people with special needs and disabilities is a significant one in the context of housing. I will try to directly address some of the points that have been raised.

If I may, I wish to refer to the issue of ceiling hoists. This is something I want to see included. We have pretty much concluded our work in housing for some time now. We co-operated with the HSE in respect of training people to use the hoists. That work is close to being concluded. We have had good co-operation from the HSE. It would be a significant step forward for what is included. As people get older, particularly those who have no mobility at all, it puts much additional pressure on families. I visited homes in my constituency and across the country, and I want to see that done. I want to put that on the record of the House. We have had decent co-operation from the HSE heretofore, but we need to bring the matter to a conclusion now.

Deputies will know that in Housing for All we have committed to a review of housing adaptation grants for older people and those with disabilities. The review is under way right now, which is why the motion is very timely. The review continues to be informed by ongoing engagement with external stakeholders, which is also very important. Deputies Canney, Shanahan, Murphy and Denis Naughten mentioned - and it has been raised with us as well - that the people who are more positively affected by getting the grant are the ones who know what works and what does not. That is why we are engaging with the Disability Federation of Ireland, the Irish Wheelchair Association and the Jack and Jill Children's Foundation, to name but a few.

Formal submissions will be invited very shortly in relation to the review. When some people hear the word "review", they think it is only a review and wonder when things will be done. I want the review completed this year. It will contemplate areas such as income thresholds, which have not been looked at in ten or 11 years, the grant limits and the application and decision-making processes, including all of the supplementary documentation that is required from time to time. We also need to see consistency of approach across our local authorities. I

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will address that matter in a moment. The review will be completed by the end of the year. It is a priority for me and my colleagues to get that done. I am very focused on concrete action that can be taken to improve the process. When people get the grants, they work. Since this scheme was introduced, 110,000 families have been able to have their homes adapted. As Deputy Canney stated, people can live and stay in their homes with dignity. That is where people want to be. If they can, we will facilitate that.

I see Deputy Daly is back in the House. I just mentioned the inclusion of the hoist, work on which I am concluding. I need co-operation from the HSE, which we are getting. We are working through that and I want to see it done.

The majority of local authorities have adapted their approach as part of a streamlined application process to ensure that all available resources are targeted towards those who need it most, including prioritisation on the grounds of medical and financial needs. While that has improved across many local authorities, we need to ensure there is consistency. We need to look at those who are currently in hospital or in step-down care and how they can be prioritised to get the work done in order that they can get back home. That does not always happen in the application process. I should add that this is not just in the gift of the local authority and it requires co-operation from occupational therapists, who are also under pressure, to provide the reports indicating the necessary, appropriate or suitable adaptation. We have people in hospital, step-down or longer-term care and if their homes could be adapted, they would be back home. It is the type of process we will work through.

I am really conscious of the social benefit that accrues from the scheme. To be very fair, as I said at the outset, everybody who contributed to the debate did so in a very constructive way. People recognise the scheme is good and the principle is very good. As schemes evolve, they provide lessons, and that is why the review that will be under way really shortly is important. We will be able to say what works well, what does not and how we can change things.

I have already mentioned that 110,000 households have benefitted from this grant scheme, which is a lot of households. It is good and we want to do more. How will we do that? We will do more by improving the process and increasing funding as well. Looking back to 2013, we went from a base of €43 million to €81 million in 2022. As has been recognised as well, it is a very significant increase to be able to ensure we can do more work for more people. The same approach is being taken in supports for adaptations to local authority housing under the disabled person grant, which has increased from just over €15 million in 2019 to €24 million at the end of 2021. These exemplify real and substantial benefits accruing to people.

As well as increased funding, we are also working closely with local authorities to spend over the year and achieve full drawdown. That is to allow some discretion within local authorities. Many of them manage this very well and we give line budgets without micromanaging but I am nonetheless responsible for the scheme. However, some specific cases have been raised today and we expect the decision makers at local level to make appropriate and responsible decisions as well. There is, nonetheless, discretion provided. Grants for older people were mentioned earlier but some people under 66 can access them in certain cases. I have seen such a case in my constituency of Dublin Fingal. The discretion is used but we must tighten up the process to ensure there is consistency in approach.

We monitor the administration of the scheme across the board. If there are any issues noted by Teachtaí in their constituency work that they might raise with local authorities, they may also

feed examples to us and it will inform our review as well. Our ageing population policy statement also emphasises my Department's commitment to streamlining the application process. That must be done and it will be concluded as part of the review.

In the past six months, officials from my Department have completed virtual meetings with representatives of all 31 local authorities. The focus of this effort is identifying the inconsistencies. We have been doing that on a face-to-face basis, albeit virtually, to ensure grants are more accessible. There is no desire in any way, shape or form, for the Government to save money in this space.

The only two comments today I reject came from Deputies Paul Murphy and Mick Barry, and they did not speak to the reality. They did not recognise the fact that we cannot just set up a State building agency overnight and employ people or local authorities overnight to do all the work being done elsewhere. I should add that the work is done by small contractors, many of which are local to the job and know the people for whom they are working. They know the area and, in the main, such a process works very well. There has been pressure on labour and I am thankful that in the construction sector we have now increased the workforce by approximately 10,000 on pre-pandemic levels. We need more, however, as we are asking a lot of that sector and our local authorities.

On the broader front, under the national housing strategy for disabled people, which runs from 2022 to 2027 and which I launched earlier this year, work is currently being advanced in the first instance with the Housing Agency, including Mr. Bob Jordan and his team working on the implementation plan. We are not waiting for the review for that to be done. The plan will be based on the principles of the United Nations Convention on the Rights of Persons with Disabilities. I acknowledge and welcome the inclusion of that in the motion today. Consideration will be given to the principles of the convention as part of the review of the grant scheme itself.

On the budget of the Sustainable Energy Authority of Ireland, SEAI, it has been mentioned that just short of €120 million has been allocated to provide energy efficiency upgrades to households at risk of energy poverty. Some were saying earlier - not from the Regional Group benches I should add - that the budget was decreasing year-on-year but that is not true. We will deliver more than 5,100 free upgrades under the SEAI energy poverty schemes in 2022, up from 2,200 in 2021. It is a significant increase and it means the total Government retrofit budget of €203 million will be spent on dedicated energy poverty schemes and local authority retrofits.

I thank the Deputies for moving the motion and their ongoing engagement on this matter. As there is such interest in the topic, we should discuss the review in the Dáil after it is published and plot the next step forward on its implementation.

**Deputy Cathal Berry:** I am sharing the time with Deputy Naughten. I am delighted to be here to contribute to this very important debate on housing adaptation grants for older people and those with disabilities. I am very familiar with the motion and I fully endorse it. I am very happy to support it. I am also very grateful for the Minister's very positive engagement and interaction this morning, which is a very positive sign.

I support the motion for three primary reasons. The first is from a financial perspective. It is customary for people on this side of the House to always ask for more money to be spent by the Government on society but in the round with this we are seeking for less money to be spent. We are familiar with the cost of an overnight stay in an acute hospital bed and the cost of nurs-

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ing home beds. This is a much cheaper and more effective way of looking after people in need, whether it is from the perspective of older people or those with a disability; it is about keeping them in their own homes, where they want to be. It will save much money for the Exchequer over time.

I welcome the existence of these grants but, as my colleagues have pointed out, we must look at the fixed thresholds, including ceilings on the worth of grants and the income of applicants. Both of those are too low. I welcome the Minister's comments about the review in that regard.

The second reason I support the motion is from a legal and moral perspective. As the Minister quite rightly pointed out, we are signatories to the UN Convention on the Rights of Persons with Disabilities. They have a right to live where and with who they wish. The State has been 100% right in pointing out the Russian Federation's breaching of international law and we are also right in reminding our UK counterparts that they signed an international treaty by which they should abide. If we are the rule of law country we claim to be, we should be guided by the UN convention. I am very happy to hear the Minister's comments in that regard as well.

The third reason I support the motion is from the perspective of seeking a superior outcome. Whether people are patients or clients, they want to stay in their home. There are a number of reasons for this. For example, they may have an emotional connection with where they have grown up and lived. We do not know if the pandemic is finished or if there will be another pandemic and it is important to realise people are much safer in their homes than in congregated settings, so we should support them living at home.

I wholeheartedly welcome the discussion on the motion this morning and I am truly supportive of it from a financial, a legal and a moral perspective, and from the perspective of providing superior outcomes. Perhaps the most important reason I am backing it is that there is no place like home. It is up to the Government and every Deputy in the Chamber to ensure that phrase endures.

**Acting Chairman (Deputy Pádraig O'Sullivan):** Before Deputy Naughten speaks, I welcome the students of Gaelscoil an Bhradáin Feasa from Drogheda. Cuirim fáilte rompu go léir.

**Deputy Denis Naughten:** I also welcome the students, who are very welcome to Leinster House.

I acknowledge the work of Ms Cáit Nic Amhlaoibh, who worked on this motion with us. As Deputy Berry pointed out, we are signatories to the United Nations Convention on the Rights of Persons with Disabilities, UNCRPD. We are telling the Russian Federation and the British Government that international laws and international agreements are in place and, as a State, we are asking those countries to abide by them. It is only just and proper then that we, as a State, also comply with international law. One of the principles of the UNCRPD is that the people concerned should have the equal right to housing and to live within their own communities regardless of their disability. The housing aid for older people scheme, the mobility grant aid scheme and the housing adaptation grant for people with a disability are key to that. These schemes allow people to continue living independently in their own homes in their own communities for far longer. It is imperative that we facilitate this. The reality is that the grants rates have not increased in recent years. These rates today do not reflect current building costs. The income thresholds also need to be modernised and updated. I am glad the Minister has listened

to us, acknowledged this point and is determined to address this issue.

I will give one example of what we are talking about. A constituent of mine has applied for the housing adaptation grant. The person concerned is an amputee and resides in a two-storey house. The only income this person has is social welfare. An application was made for the award of the grant to Galway County Council, which was successful. The maximum rate for the housing adaptation grant was awarded, which is €30,000. This person was, believe it or not, lucky enough to get contractors to price the work. I say that because one of the biggest problems faced in respect of all these grant schemes, and especially in the context of the supports for older people and the grant for those with a disability, is trying to get a contractor to price the work required. It is nearly impossible because of the bureaucracy involved in the process. The low rate of the grant also means many contractors are not interested in this work anymore. The result is that there is a big problem in getting price estimates for this type of work in the first place. In the case I am speaking about, however, my constituent did secure estimated prices for the work. These varied from €48,000 to €60,000. This was more than three months ago and the likelihood, given the way the costs have increased, is that the price has probably risen since.

My constituent, who had a small amount of savings, went to the credit union in Ballinasloe, explained the predicament and the credit union was prepared to offer a loan of €8,000. The difficulty is that this person cannot make up the remaining balance of €10,000. Therefore, in the context of providing people with a grant of €30,000, it would be as well to refuse people's applications as to give them that amount of money. This applicant does not have, and cannot access, the resources to secure the outstanding €10,000 required to put a toilet and bathroom and a bedroom downstairs to allow continued residence. This situation is forcing this person onto the chaotic housing waiting lists, with 60,000 people already on them and that number is, sadly, rising. It makes no sense. We should be trying to facilitate people to remain in their own houses rather than putting additional pressure on our housing lists.

What is perverse about this situation is that those of us who are members of the Joint Committee on Social Protection, Community and Rural Development and the Islands heard evidence two weeks' ago that some local authorities are actually handing back money that has been provided for these grants annually. This is happening because it is a co-financing scheme, requiring a contribution to be made by the local authorities. Family Carers Ireland, FCI, would be interested in acting as a co-financing agent in this respect to ensure that money is not sent back from the local authorities annually. In fairness to the Government, it is providing resources. All those resources should be utilised. I ask the Minister to engage with the FCI in this regard.

I was speaking about the grant for people with a disability. I could spend all day giving the Minister other examples of similar situations in this regard. The Minister is well aware of the issues and this was reflected in his and the Government's response. Additionally, though, we have the housing aid for older people grant scheme. These grants are intended for those trying to adapt a house to meet the needs of an older person. The Minister knows we have a serious housing crisis and yet many of the adaptations being done to houses are being done under the disability grant scheme or the older person's grant scheme to make a family-type house suitable for an older person to live in. We are talking about three- and four-bedroom family-type homes close to schools and services and so forth being adapted with public money to make them suitable for people who may have mobility issues or for older people. These are houses that are too big and costly for people to heat. The people concerned could do with much smaller accommodation, but that is not available now. Particularly in the private sector, we must explore making one- and two-bedroom homes available in our villages, towns and cities. These homes

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should be close to existing services needed by older people and close as well to bus routes. These would be homes that would allow older people to downsize. The Minister is committed to downsizing, but this process will only work if older people have feasible alternative options to embrace. Such options are not there now. We must support the development of one- and two-bedroom cluster-type housing developments for older people to allow them to downsize their accommodation. That would, in turn, release family homes back onto the market and help the general housing situation.

In tandem with that approach, we must also address the issue of security of tenure. Older people selling their homes would then buy these one- or two-bedroom homes or, as would make far more sense, enter into a long-term lease. We must, however, bring in laws that will provide security of tenure, especially for older people in the cluster-type accommodation I referred to, to ensure residents are guaranteed a fixed rent for the time they require that accommodation. If these two measures could be implemented, some of the pressure could be removed from this grant scheme. Family homes that are desperately needed could also be released right across the country.

The final issue I raise with the Minister concerns the green agenda and local authority houses in this context. There are delays in carrying out these types of adaptations in local authority houses for those with disabilities and/or older people. In some local authorities, it is taking four years to have these adaptations completed. When these adaptations are being done, then, they are not being completed to the current environmental standards. Heating systems are being replaced with oil-fired central heating systems. This means we will have to go back and retrofit those homes with non-fossil fuel heating systems. We urgently need to retrofit our local authority housing stock.

On this issue of retrofitting, Project Ireland 2040 committed to retrofitting 45,000 homes annually from 2021 onwards. This year, the Government has committed to retrofitting just 22,000 homes, a target that falls significantly short of what has already been committed to and for which the funding is already in place. Only 4,500 of those homes are inhabited by people living in conditions of fuel poverty. Even those other homes are reliant on retrofitting grants which are not yet available. The grants were already announced by the Minister for the Environment, Climate and Communications, but they are not yet available. Therefore, while we are all talking about climate change now, talk is cheap. Retrofitting must be delivered, but it is not happening. The targets have been reduced by this Government and even those abysmal targets are not going to be achieved this year. This is an indictment of where we need to be going as a country and a society.

I commend the motion to the House and I thank the Government for its support.

*12 o'clock*

Question put and agreed to.

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

**Deputy Pearse Doherty:** Níl dabht ar bith ach go bhfuil an ghéarchéim sa chostas maireachtála ag tiomáint níos mó agus níos mó teaghlaigh go dtí pointe na bochtaineachta, agus nár oibrigh an méid atá déanta ag an Rialtas go dtí seo. Tá rudaí ag dul ó olc go holc agus tá



daoine ag streachailt chun íoc as earraí riachtanacha. Tá sé in am do cháinainéis éigeandála, a chuirfidh airgead ar ais i bpócaí gnáthdhaoine na tíre seo. The soaring cost of living now has many workers and families at breaking point. On radio this morning we heard testimonies from people who face heartbreaking choices to make it to the end of the week. We heard about families having to go without breakfast, children going without cereal. We heard of a mother talk of her child, saying he has a hole in his shoe and having to tell him he will have to wait for another pair. Parents spoke of the pressure they feel when their children come home and tell them they are going on a school tour. A child going on a school tour should not be a household crisis, but it is for too many. But this is now the hard experience of so many people. The cost of living crisis is pushing more and more people to the edge of poverty. Food poverty is now a feature of life for an ever-growing number of children. The growing need for foodbanks is a stark testament to this reality right across the State. A foodbank in the midlands is now feeding up to 5,000 people and it expects that figure to rise to 15,000 over the next period. Those who never thought they would need such help are now standing in queues waiting to be fed by charities. People are working long hours, and the soaring costs mean that they simply cannot get by. It is soul-destroying. As families keep an eye to every euro they spend, yesterday the Taoiseach told them to prepare for a rocky road ahead, to be ready for a new era of high fuel and energy costs. This is astonishing because workers and families have been walking the rocky road of extortionate fuel and energy costs for the best part of a year now. To tell people, as he did, who are already struggling to pay their bills that they will have to tighten their belts even further is painfully out of touch, while at the same time ruling out from him as Taoiseach further Government action until October at the very earliest. Does this Government understand the pressure that real families and workers are under right across the State? We are talking about households who have to deal with rip-off rents, food prices that are increasing sharply, big energy bills and childcare fees that cost a second mortgage for many. People cannot catch their breath. They cannot catch a break. Many are having to choose between having lunch or filling the car to go to work, and now prices at the pumps are shooting up once again.

The Government's approach to this crisis has failed. It has been piecemeal, slow and sluggish and its measures have not made a dent in the costs people face. So now is the time for a real and comprehensive plan of action. We need a mini budget right now aimed at getting costs down right across the board. There is room within the public finances for the Government to act, and it is not just me and Sinn Féin saying that. That is also the view of the Irish Fiscal Advisory Council and also the view of the Central Bank, so you need to listen. You need to listen to what families have been saying on "Morning Ireland" this morning, families who are coming to all our constituency offices. They are telling you loud and clear, they cannot hang on for another five months. The Taoiseach and his Government need to understand where people are at. They need to do what is necessary and to bring forward a mini budget to deal with this crisis.

**Pearse Doherty:** An rud is tábhachtaí, ar mo shon féin agus do gach éinne sa Teach seo, ná an fhírinne a thabhairt don tír go hiomlán agus a insint do mhuintir na tíre agus a bheith macánta leo. Is é sin a dheineas inné. It should not be astonishing, as he has said, to tell the truth. What I said yesterday was telling the truth about a new era of an increase in pricing around fossil fuels. The reason for that is that this week we will mark the grim milestone of 100 days since Russia's unjustified, illegal and immoral invasion of Ukraine. That invasion has brought untold misery, death and human suffering. Almost 6 million Ukrainian people, half of them children, have been put on the road, have had to flee their country, and forced to try to find sanctuary where they can get it, equivalent to the entire population of this country. That invasion has brought that suffering but it also has brought extraordinary economic cost and disruption with it. The

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Deputy did not refer to it at all in his contribution, which was wrong of him because we need to be honest with people. This war is having a terrible impact on the world, primarily in terms of the deaths of so many Ukrainians and the terrible trauma they are experiencing, but also bringing about huge economic cost and disruption, triggering a massive spike in the cost of energy, and with a huge increase in the cost of a vast range of other materials, affecting food and agriculture in terms of fertiliser and so on, which all input into our society and economic system, and also, most devastating of all, it is causing and will continue to cause a major food security crisis. Yesterday the European Union spoke to the President of the African Union, which is extremely concerned about the impacts of this war on famine or the prospects of creating a really significant famine. The Russian ambassador and the Russian President would have us all believe that this is the fault of western governments, and we need to be careful that we do not fall into the Putin trap of laying all the blame domestically because he wants western states to buckle under the pressure that he deliberately and premeditatedly created. Putin wanted to create an energy crisis, he wants to create a food crisis and he wanted to create a migration crisis, all part of the one immoral and unjustifiable war. That is why we have very significant manifestation of that in the form of high energy prices for our people, putting many people under pressure. I do not dispute that; people are under a lot of pressure because of this and because of the deliberate policies of the Putin regime. To be fair to the Irish people, they have responded magnificently in how they have brought in and worked, through communities and volunteerism, with Ukrainians across the country.

The Deputy said earlier that the Government has been slow, tardy. It has not, actually. It has allocated since last October €2.5 billion to cost of living issues in terms of cutting taxes and increasing welfare rates. We have increased the fuel allowance rate, for example, by about 55%, a €404 increase from 2021 to 2022. We have reduced excise duty on petrol, diesel and green diesel, about €9 and €12 each time people fill their tank-----

**The Taoiseach:** Tá an t-am istigh.

**An Ceann Comhairle:** -----and we have reduced VAT and so on. The Government has responded already to the cost-of-living crisis, more than it would in a normal budget, but it is very severe on people. We need to be-----

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

**The Taoiseach:** We will develop a collective response to deal with it.

**Deputy Pearse Doherty:** The Taoiseach is not a commentator. We all know the external factors that are pushing up prices. They have been referenced many times before, but that does not absolve him as Taoiseach or the Government from acting and doing everything in their power to protect households and families here. Households are struggling to make it to the end of the week and the Taoiseach is telling them that they have to tighten their belt and that as the leader of this Government, he is not going to intervene with any single further measure until at least October, at the very earliest. That is testament of a Taoiseach and a Government who are so far out of touch we could not make it up. Forget about what we are saying, the Government should listen to what ordinary people are saying. People are going in their thousands to food banks. Many households cannot put food on the table. They are making seriously difficult choices about going from A to B - getting to work, going for a hospital appointment or feeding their children with a bowl of cereal in the morning. The Taoiseach stands there and says he is not going to intervene for another five months at the earliest. We know the Government cannot

do everything but it needs to do more. It needs to bring forward a mini budget-----

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

**Deputy Pearse Doherty:** -----and at least to look at the proposals that we brought forward, and it needs to support workers and families in these extraordinary times.

**The Taoiseach:** Deputy Doherty did not once refer to the cause of the crisis in his original contribution to this House, which we all know, because his objective is to lay all of the blame on the Government, just like the Russian ambassador did yesterday. The aim is to blame the government of the day.

The key point is that we have taken a lot of measures, which Deputy Doherty has ignored and has decided not to acknowledge. I referenced some of them. We have cut public transport fares by 20%, and fares for young people by 50%. We have lowered the threshold for the drug payment scheme to €80 per month, benefitting more than 17,000 families. We have brought forward a working-family payment budget increase. We abolished inpatient hospital charges for children. We capped annual rent increases at 2%. We also introduced significant supports for the different sectors of the economy affected by the very significant prices. I refer to hauliers, grain farmers and pig farmers, among others, who are affected. In addition, we have launched a significant national retrofitting scheme.

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

**The Taoiseach:** The cutting of tax and the increases in social protection matter. We want to now explore with the social partners how we deal with this in a comprehensive, strategic way. The one thing we cannot do, which the Deputy wants to do-----

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

**The Taoiseach:** You cannot chase inflation away month after month by €1 billion or €2 billion a month. That is not a sustainable pathway.

**An Ceann Comhairle:** We are way over time.

**The Taoiseach:** What the Deputy is proposing is to create even further inflation over and above what is there-----

**Deputy Pearse Doherty:** What I am proposing is that the Taoiseach should sit down. He is embarrassing himself.

**An Ceann Comhairle:** Members should please not interrupt.

**The Taoiseach:** -----all with a view to pursuing electoral advantage over a crisis that has been caused by a brutal regime.

**An Ceann Comhairle:** Could we have order please?

**Deputy Pearse Doherty:** We support the people who are queuing at food banks. What about that for an idea?

**An Ceann Comhairle:** Deputy Doherty should please not interrupt. He has asked his question.

**Deputy Róisín Shortall:** Yesterday, the Taoiseach spoke about the importance of honesty, but does he not need to be honest with the people about the climate action plan? Clearly, that plan is failing, and spectacularly so, it must be said. According to the Environmental Protection Agency, EPA, even if every planned measure in the plan was implemented in full, our emissions would only be reduced by 28%. The legally binding target is 51%. With just eight years to go to reach this target, our emissions are going up not down. Last year, our emissions increased by 6%. The Taoiseach says all the right things when it comes to the climate crisis: that climate change is the single greatest threat facing humanity and that the time to act is now. We all agree with that but climate rhetoric is not climate action. There is a plan, but little or no implementation. Even if there were, the planned measures are not sufficient to allow us to reach our targets.

It is as if the Government is setting us up to fail. That failure will not just be felt by the current generation, but by future generations also. If our emissions keep rising over the course of the lifetime of the Government, we will have lost the opportunity to reach our climate targets by 2030. There would simply be too much ground to make up and not enough time. Of course there are changes that we all must make but there are certain changes that can only be made by the Government. The public cannot put restrictions on the development of data centres, for example, which now use more electricity than all of the rural homes in this country. Neither can the public ensure a coherent planning and regulatory system is in place to develop our offshore wind potential, incentivise farmers to diversify or introduce a retrofitting scheme that people can actually afford. That is the Taoiseach's job. The big, bold measures that are needed, such as massive public infrastructure and projects like the metro to get people out of their cars are simply not happening quickly enough. Meeting our climate targets will not be easy. We all know that, and nobody should pretend that they will be, but we need a fighting chance, and we are not getting it from the Government.

First, what immediate changes is the Government going to make in response to the EPA report? Second, is it going to make changes to the retrofit scheme to make it more affordable for ordinary people? Third, when does he expect to see our emissions actually reduce?

**The Taoiseach:** First, I disagree with the Deputy's analysis of the Government's commitment to climate change. This Government has introduced some of the most significant climate change legislation. The targets we have set are unprecedented. They create a legal obligation on the Government and future governments, which is the first requirement. For example, we introduced the carbon tax, which gives resources both now and in the future to deal with fuel poverty and retrofitting. It gives the funding to enable retrofitting to happen. That is provided for in legislation in the terms of the publication of the climate action plan, it will be very challenging. That is why we need everybody in the House on board in respect of the actions that have to be taken. I do not know whether Deputy Shortall continues to support the increases in carbon tax. I am not clear how she responded to the turf issue recently. She seemed to box in different directions and articulate against the Government on that.

**Deputy Róisín Shortall:** No, we have been very clear about that.

**The Taoiseach:** In my view, the plan that we have put forward is transformative. It details what we must do to meet this challenge in terms of reducing overall greenhouse gas emissions by 51% by 2030. I agree with the EPA that implementation is key, in terms of the urgent implementation of climate plans and policies. The sectoral emissions ceilings will be brought before the Cabinet shortly by the Minister for the Environment, Climate and Communications, Deputy Eamon Ryan. Without question, all sectors will have to play a role. Significant progress is

being made across the board. What we are doing now will set the foundations for transformative change in respect of our climate performance as a country in terms of reducing emissions. The legislation we passed, which met opposition from quite a number of Members, and the measures we have taken, give us a foundation and a base but each sector of the economy and society will have to step up in terms of its performance and in getting emissions reduced. That is the clear commitment of the Government in terms of behavioural change that we are bringing about through a range of instruments at our disposal - taxation, incentives, and various initiatives we have taken in agriculture, enterprise and in respect of the energy efficiency side. The retrofitting grants are the most extensive yet announced. The allocation of resources has been significant, but more important, we have given the industry in that area a clear timeline to the end of the decade, by virtue of the carbon tax. We have given it a clear indication that it can be certain about that revenue stream to enable us to retrofit thousands of houses.

**Deputy Róisín Shortall:** The Taoiseach cannot argue with the figures. The emissions are going up, not down, and they have increased by 6% in the past year. The strategy is not working. The Government needs to do an awful lot more. Just today, the EPA said a step up, both in the implementation of actions already set out in plans and policies and in the identification of new measures, is needed. What are those new measures? Will the Taoiseach tell us what they are?

He has been promising sectoral plans for a long time now. When exactly will we see them?

**The Taoiseach:** It will be very shortly. The Minister will bring it before Cabinet and we will then bring it to the Dáil. He is adhering to the timeline he has set.

**Deputy Róisín Shortall:** Will the Taoiseach put a date on it?

**The Taoiseach:** There is a whole range of targets in the climate action plan across the board-----

**Deputy Róisín Shortall:** Where are they?

**The Taoiseach:** -----including for electric vehicles, retrofitting, riparian schemes in agriculture, which we have developed and will shortly be announced by the Minister of State at the Department of Agriculture, Food and the Marine, Senator Hackett, in respect of the growing of trees adjacent to waterways and rivers and so on.

**Deputy Róisín Shortall:** When?

**The Taoiseach:** A lot of progress has been made.

**Deputy Róisín Shortall:** When will we see them?

**The Taoiseach:** A lot of hard work has gone into this in terms of the engagement, Department by Department, with the Department of the Environment in respect of the ceilings each sector will have to achieve.

**Deputy Róisín Shortall:** When will we see them?

**The Taoiseach:** I said it would be shortly. When we bring it before the Government, we will bring it before-----

**Deputy Róisín Shortall:** The Taoiseach has been saying that for a long time. When will

we see them?

**The Taoiseach:** I have not been saying it for a long time.

**Deputy Róisín Shortall:** You have.

**An Ceann Comhairle:** The Deputy should allow the Taoiseach to speak without interruption.

**The Taoiseach:** The Minister has been very clear in outlining the various steps that have to be taken from the publication of the plan onwards.

**Deputy Verona Murphy:** The whistleblower, Mr. Shane Corr, was suspended last week because he put information in the public domain that explained the dysfunctionality of the Department of Health and the HSE. His actions were admirable and without doubt in the public interest. He has done this State some service but it appears if someone does the State a service, they will get suspended.

The chief executive of Wexford County Council, Mr. Tom Enright, has had one of the most damaging findings from the Standards in Public Office Commission, SIPO, against him and, rather than suspend him pending an investigation, councillors in Wexford exonerated him, and gave him a round of applause and a standing ovation. These councillors were led by Fianna Fáil's chair, Councillor Barbara-Anne Murphy. SIPO found, among other things, that Mr. Enright was using the weight of the public purse to influence editorial content at the local radio station, South East Radio. Days after the finding, Wexford County Council wrote to South East Radio seeking to influence editorial content yet again. I previously raised this matter with the Taoiseach in the House and, quite rightly, he condemned this appalling behaviour. However, following his condemnation, Wexford County Council wrote to South East Radio for the third time seeking to negotiate editorial terms in exchange for advertising in the guise of a service level agreement. South East Radio has called for an independent investigation and, according to yesterday's *The Irish Times*, states it is supported in this call by Independent Broadcasters of Ireland.

The Taoiseach's colleague, Fianna Fáil chairperson Barbara-Anne Murphy, said she was considering how to move matters forward. In that regard, the chief executive, Mr. Enright, and Fianna Fáil Councillor Murphy, now want to mediate on the terms of the editorial output of the radio station. It appears they think it is appropriate to mediate on one of the most fundamental principles that underwrites our democracy and Constitution, namely, freedom of the press. It further appears Government councillors believe the only wrong caused in this controversy was that all the correspondence was in writing. The controversy is very damaging and dangerous, not just for Wexford but as a whole.

Does the Taoiseach think it is appropriate to mediate with a broadcaster on its editorial policy? I do not believe he does. When will he take action to give effect to his own words and suspend the chief executive, pending the outcome of an investigation conducted by an independent senior counsel to be appointed? Does he believe, as his actions to date suggest, that a damning finding from SIPO is so irrelevant that no action should be taken?

**The Taoiseach:** I do not know what the Deputy means by my "actions to date". I will park that for a moment. In the first instance, she raised an issue in respect of an individual she identified, Mr. Shane Corr. It is not appropriate for me to discuss human resource issues regarding

individuals. There are many aspects to that entire situation that merit an objective assessment. I will say no more than that on what appears to have transpired there, which some will have some misgivings about. I am talking about others who participated in meetings and were speaking freely, perhaps not realising that what they were saying was either being recorded or distributed. That is an issue that needs to be resolved and dealt with within the HR structures of the Department of Health. I will say no more than that, at this stage.

I have made my position very clear in respect of the Wexford county manager and the SIPO judgment and conclusion on that. I have also made it very clear that no county manager and no local authority should ever attempt to leverage any advertisements in any local station or any newsprint media, with a view to editorial control or to somehow influence the content of any programme or news programme, or in any way attempt to interfere in the editorial independence of a news outlet. That is not right. It is wrong and I have said that repeatedly. I stand by that.

There are various mechanisms and structures. We are not the local authority. We are the Dáil. The local authority has mechanisms available to it, if it so wishes, to deal with any issues that relate to a manager or whatever. That is a matter for the authority and it has to look at it in the round and make its judgments. That is why we have local authorities. Very often, Deputies in this House criticise the lack of independence and autonomy for local authorities but, when an issue arises in a local authority, they say the Minister or Taoiseach of the day must intervene straight away. We have democratically locally elected authorities and they need to get on with it.

I do not know why the Deputy is personalising it by mentioning the cathaoirleach, Councillor Barbara-Anne Murphy, because a cross-party approach seems to have been adopted on this matter. It was not any one particular party or individual. I happen to know the cathaoirleach and, down through the years, I have found her to be a very decent person and a person of integrity. I do not think it is fair that the Deputy would come to the Chamber and personalise it to the degree she has.

**Deputy Verona Murphy:** We have heard it all before. Every time the Taoiseach says it, it just gets ignored. When he talked about honesty being the order of the day, the key point is that when somebody does something right in the Civil Service to ensure the public is safeguarded, they get punished. When a person does something wrong, and the State watchdog is scathing in its delivery of a report on that wrongdoing, they get a round of applause and a standing ovation from a county council led by a Fianna Fáil chair, Ms Barbara-Anne Murphy. That is the point. If that is the picture the Taoiseach wants to paint, that is very damning in itself. We have a report that is damning to the core of standards in public office but that appears to be without consequence for the chief executive. As a result, the wrongdoings will be repeated and ongoing, causing a scandal for Wexford.

This no longer an issue for the councillors. It is now a political issue. As far as I am concerned, while all the parties supported the chief executive and ignored the report, the Taoiseach's party led the council through the chair, Barbara-Anne Murphy. If the Taoiseach cannot take charge of the matter, appoint an independent investigator and place the chief executive on garden leave pending an outcome, we do not have much regard for freedom of the press.

**The Taoiseach:** I do not have the powers to appoint an independent investigator to a local authority. There are established structures, first of all, within local authorities to deal with this. The Deputy should engage with the council and councillors herself, meet all the parties on the

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council, if that is her view, and hear what they are saying.

**Deputy Verona Murphy:** They are the Taoiseach's foot soldiers.

**The Taoiseach:** The Deputy admitted it was cross-party.

**Deputy Verona Murphy:** The Independents did not.

**The Taoiseach:** The Deputy admitted it was cross-party. I have made it very clear I do not support what transpired.

**Deputy Verona Murphy:** It does not really matter.

**An Ceann Comhairle:** Please.

**The Taoiseach:** It does matter.

**An Ceann Comhairle:** The Deputy should allow the Taoiseach to reply without interruption.

**The Taoiseach:** It does matter. If it does not, why is the Deputy raising it?

**Deputy Verona Murphy:** It matters to the people of Wexford.

**The Taoiseach:** I have responded to the Deputy on the principle of this.

**Deputy Verona Murphy:** Fianna Fáil does not care-----

**The Taoiseach:** When I went to Wexford, in the presence of the radio station, I made it very clear-----

**Deputy Verona Murphy:** Freedom of the press.

**The Taoiseach:** Again, the Deputy is interrupting. I made it very clear that it was absolutely unacceptable for any local authority to try to interfere or editorially control any radio station or any newspaper by dint of the fact that it invests in advertising. That is wrong. SIPO has called that out, and----

**Deputy Verona Murphy:** Was it wrong to give him a standing ovation?

**An Ceann Comhairle:** Time is up, please. I call Deputy Connolly.

**The Taoiseach:** -----I have made that very clear, but I do not know why the Deputy is trying to twist it and personalise it-----

**Deputy Verona Murphy:** There is no twisting. These are facts.

**The Taoiseach:** -----in the manner she has done today, which is not good either.

**An Ceann Comhairle:** Deputy Connolly, please.

**Deputy Catherine Connolly:** Ba mhaith liom filleadh ar an ábhar athrú aeráide, go háirid i gcomhthéacs na tuarascála damanta a d'fhoilsigh an áisíneacht EPA inniu agus an teachtaireacht láidir nach bhfuilimid chun ár spriocanna a chomhlíonadh. An teachtaireacht ba láidre ón tuarascáil sin ná go bhfuil sé thar am beart a dhéanamh de réir ár mbriathar.



I am returning to the issue of climate change in the context of Galway city and today's report from the EPA. The strong message from the EPA is that we need to stop talking and take action. This message comes after the UN Secretary-General stated:

Some Government and business leaders are saying one thing, but doing another. Simply put, they are lying. And the results will be catastrophic.

I am not interested in having a back and forth with smart comments. Let me pre-empt the Taoiseach's indignation and outrage by saying that I welcome the changes the Government has made to public transport. I say this in the context of Galway city. Táim ag díriú an spotsolas ar chathair na Gaillimhe, atá plúchta le truailliú tráchta, rud atá ag cur isteach ar mhuintir na cathrach, ar a gcuid sláinte agus ar ghnó na cathrach. I am asking the Taoiseach to stop the rhetoric and smart comments. I will not engage in them today; this is far too serious. We have a beautiful city, cathair dhátheangach ar thairseach na Gaeltachta is mó sa tír, smothered with traffic. We have a traffic plan that is not fit for purpose. Indeed, it was not fit for purpose in 2016.

I had the privilege of being mayor. With the co-operation of the councillors, we included park-and-ride facilities in the city development plan in 2005, but here we are however many years later and there are still no park-and-ride facilities in Galway. We have a National Transport Authority, NTA, without any sense of urgency or reality as regards climate change telling us that it is now looking at the eastern side of the city while utterly forgetting the western side.

I will speak about the positive changes that have occurred. There has been a reduction in transport fares, which begs the question as to why public transport has not been made completely free of charge, even on a pilot basis, given the astronomical climate challenges we are facing. Public transport works.

Regarding Galway, will the Taoiseach commit to having a feasibility study on light rail? The Minister for Transport has repeatedly stated, including no later than two or three weeks ago, that there is no problem with money. In 2018, 22,500 people signed a petition. I have repeatedly brought this matter to the attention of this and the previous Governments. I am simply asking for a feasibility study as one ingredient in the transformative change that Galway city needs.

**The Taoiseach:** Go bunúsach, aontaím leis an Teachta go bhfuil géarghá ann i bhfad níos mó a dhéanamh chomh tapa agus is féidir linn, agus é a dhéanamh níos tapúla, chun déileáil leis an ngéarchéim aeráide atá againn. Tá an dúshlán atá amach romhainn práinneach agus caithfidimid i bhfad níos mó a dhéanamh níos tapúla.

I agree with the Deputy that we have to move faster and we have to do an awful lot more in terms of climate change. I recently heard Mr. John Kerry, the US envoy, pointing out that world experts were saying that even if we took action now, it would not stop a crisis caused by climate change. It would just stop the worst consequences of the crisis. Already, we are experiencing a crisis brought about by climate change. The challenge ahead of us now is to move fast as a world to prevent the worst consequences. We have a lot of drought in the Horn of Africa, for example. We have desertification and so on. We have got to move quickly. That is why we have taken measures. I appreciate that the Deputy has acknowledged that in terms of some of the public transport measures in particular. She has referenced those in terms of the experience in Galway.

I will talk to the Minister, Deputy Eamon Ryan. My view is that he is committed to the idea of light rail in all of our cities. In terms of commissioning a feasibility study in respect of that,

I will talk to him.

I know that in the recovery and resilience plan, significant funding was allocated, for example, in the Cork area for the Mallow-Midleton commuter line through Kent Station, with a view to creating proper commuter lines that would encourage development, including residential development, compact growth and so on in the cities and towns. Likewise in terms of fare reductions, we will continue to look at that issue in the context of the next budget in terms of that strategy and encouraging people to use public transport.

I did not get a chance in the earlier exchange to discuss active travel. Fairly transformative work has already been done on active travel and we are only two years in government. The budget for active travel will transform the country in terms of cycling routes, walking routes and access to cities as a result.

There has been a significant improvement in solar. Offshore wind is key for this country. Again, the European Union will be bringing in a regulation - this will cause challenges - with a view to creating an overriding public interest in terms of getting wind farms established, which local governments can then take into account when trying to fast-track offshore wind projects, which we need to do.

**Deputy Catherine Connolly:** There comes a point when language has to mean something. I appreciate the Taoiseach's positive comments. Galway city is a golden opportunity for the Government to make its commitment to climate change a reality. The park-and-ride element of the 2005 development plan has not been acted on. Something is wrong. The National Transport Authority, NTA, has no sense of urgency. There are no park-and-ride facilities. There is no comprehensive programme to lift traffic for schools. There is no feasibility study even though 22,500 people asked for one in 2018. If the Taoiseach is today committing to a basic feasibility study, I welcome it. According to IBEC, that lovely organisation that the Taoiseach so respects, the Government needs to address quality of life and sustainability issues in the west, including Galway city, if Galway is to progress. Mr. Conor Faughnan, then with the AA, stated that traffic in Galway was embarrassingly bad for the city's modest size. He has come out in favour of light rail.

I appeal to the Taoiseach to make words mean something. When the cross-party committee on climate change sat, there was a strong suggestion that Galway would be picked as a pilot project for sustainable development and traffic. Here is the golden opportunity. Déan beart de réir do bhriathar.

**The Taoiseach:** Every city and town in the country has to be a model of sustainability, especially Galway. I know there has been a fairly divisive row in Galway in respect of the ring road that has gone on for a long, long time. By the way, light rail and a proper road system are not mutually exclusive either. I do not know why park and ride has not happened in Galway. That is fundamentally a matter for the local authority.

**Deputy Catherine Connolly:** No. The NTA.

**The Taoiseach:** Other cities have had them for a long, long time.

**Deputy Catherine Connolly:** The NTA-----

**The Taoiseach:** Yes, but there has to be a liaison with local authorities, sites have to be

identified and routes have to be organised.

**Deputy Catherine Connolly:** Seventeen years.

**The Taoiseach:** I do not understand why it has not happened in Galway. We will follow that up-----

**Deputy Catherine Connolly:** Good. I thank the Taoiseach.

**The Taoiseach:** -----with the local authority and the NTA. There should be a park-and-ride facility in a city like Galway. Other cities have park-and-ride facilities. They are not the full answer, but they are important. Above all, other cities have moved faster in terms of pedestrianisation and changing the nature of cities. We need to do that far faster.

### **Ceisteanna ar Pholasaí nó ar Reachtaíocht - Questions on Policy or Legislation**

**An Ceann Comhairle:** Members should take one minute maximum for asking questions and one minute maximum for responding.

**Deputy Pearse Doherty:** I am raising this issue once again because families living in crumbling homes in my constituency in Donegal, but also in Mayo, Sligo and Clare, are waiting for a fit-for-purpose scheme to rebuild their homes and lives. They have been given promises and they have seen missed deadlines, and the defective concrete block grant scheme is not fit for purpose. Thousands came onto the streets nearly a year ago this month to shout that loud and clear to the Government. These families in Donegal and across the west expected this scheme to go to Cabinet this week. It is another deadline missed and another delay so I am asking the Taoiseach when we will see the scheme published and if there will be full pre-legislative scrutiny on this legislation.

**Minister for Housing, Local Government and Heritage(Deputy Darragh O'Brien):** Deputy Doherty knows well that we are in constant engagement with families. It is a detailed piece of work that is nearing conclusion. We intend to get this legislation through the Dáil by the summer recess. The Deputy knows how important it is that we do that and I expect that, as the main Opposition party, Sinn Féin will support Government and the legislation so that it is passed before the summer recess. We have asked for Sinn Féin's input to the scheme and we wrote a detailed letter to it. Sinn Féin's housing spokesperson said he would respond in detail and he never did.

**Deputy Pádraig Mac Lochlainn:** We support the homeowners.

**Deputy Darragh O'Brien:** We are proceeding with the scheme-----

**Deputy Pearse Doherty:** When will it be published?

**Deputy Darragh O'Brien:** -----in consultation with the homeowners imminently and I expect and hope we will get the co-operation of the Deputy and his party colleagues to ensure the legislation is passed by the summer recess.

**Deputy Pearse Doherty:** When will it be published?

**Deputy Ivana Bacik:** Today's report from the Environmental Protection Agency, EPA,

makes for truly alarming reading. Even in the unlikely event that we meet all of our goals in the climate action plan and see those policies fully implemented on time, we know our greenhouse gas emissions would only fall by 28% by 2030, just half of what is legally required in accordance with the Government's own laws. Labour has offered constructive engagement with the Government, we support the ambitious climate targets and along with most of our colleagues in the Opposition we have worked with the Government to ensure we will meet the targets. This report is alarming and I want to hear from the Taoiseach what the Government proposes to do about it in the short-term. In particular we want to see that those sectoral emissions ceilings will be brought before us in the lifetime of this term of the Oireachtas. The Taoiseach said earlier that the sectoral emissions ceilings would be brought to Cabinet and the Dáil in the short term but we only have five sitting weeks left before the summer recess. We do not want to see this done at the eleventh hour; we want to have time as an Opposition to debate these issues.

**The Taoiseach:** I have made it clear that there is an enormous challenge ahead of us in climate change, which the EPA report identifies. We always made it clear as well that it would be the latter half of the decade before some of the decisions we have taken will bear fruit, including investments in a range of areas such as retrofitting, electric vehicles, EVs, and agricultural investments. The carbon tax revenue is building up very strongly, for example, and that is important to enable us to do the retrofitting, to implement fuel poverty protection measures and to do environmentally friendly farming. The carbon ceilings will be brought to Government shortly and I will come back to the Deputy on the timelines following discussions with the Minister.

**Deputy Mick Barry:** More than 300 jobs were axed in Blanchardstown and Dundalk last week by PayPal, which plans to outsource work and relocate positions to low-wage economies. Did the Taoiseach know that the workers who participated in the redundancy negotiations were those who volunteered themselves but whose names were then picked from a laundry basket by a representative of company management? While PayPal gets to pick those who are best placed to represent it in the negotiations, the employee representatives are left to chance. Does the Taoiseach think this is in line with employment law? Why did the Tánaiste state publicly that the company would aim to make all redundancies voluntary? This is disputed by PayPal workers. The Tánaiste mentioned that he had spoken to representatives of the company. Will the Taoiseach agree with me that it is incumbent on the Tánaiste to meet these workers and hear what they have to say on this and other matters?

**The Taoiseach:** This is a matter of enormous difficulty and challenges for the people concerned and my empathy is with the workers who have been identified as being laid off, which is very tough on the workers concerned. Every effort has to be made and this is a huge shock to the staff. I am not familiar with the details the Deputy has announced about the selection methodology but if the Deputy wants to send me the detailed background information-----

**Deputy Mick Barry:** If the Tánaiste met the workers he could easily see the detail.

**The Taoiseach:** I invite the Deputy to send me a detailed background note to me on it because sometimes things are said here and when I go back and check it is not always the case. I would welcome it if the Deputy could do that. What is important is that we do everything we possibly can for the workers who will be laid off. The State must immediately work with the workers to find alternative employment if possible. Given the fact that we have over 30,000 vacancies, hopefully we will be able to help the workers to get alternative employment.

**Deputy Seán Canney:** I want to raise the issue of the rural social schemes, RSSs, and the

Tús programmes that are running. Last Monday night in Athenry we had over 400 people present at a meeting, comprising of community groups, sporting organisations and RSS and Tús participants and supervisors. At the meeting the main issues of concern were that the RSS participant numbers are declining and will decline rapidly next year as the six-year rule will kick in for new participants in the scheme, leaving us short of a huge amount of people in the communities where the RSSs are the fabric of society in delivering much-needed services that the local authorities do not provide now. It is not a job activation scheme but an income support scheme for farmers and fishermen. It was introduced by a Fianna Fáil Government under Deputy Ó Cuív. It was and it is a great scheme but with the way it is structured at the moment it will die a death in a short number of months.

**The Taoiseach:** I am glad that the Deputy acknowledged the work of Deputy Ó Cuív when he was Minister and when he brought in that scheme. He brought in a number of imaginative and creative schemes for rural Ireland. I was responsible for bringing in the six-year rule in its first form when I was Minister for Enterprise, Trade and Employment to deal with people of a certain age who were coming off schemes and to exempt them from coming off schemes. That said, I understand that the Minister is looking at the six-year rule because I can understand why numbers and participation rates are probably problematic, given the fact that the economic recovery plan, which was published by the Government, has been successful to the extent that over 2.5 million people are working. Notwithstanding all the challenges we face, that has been a significant development, much earlier than we thought it would happen according to the recovery plan, and there are a lot of vacancies so there must be pressure on the schemes.

**Deputy Danny Healy-Rae:** One of the saddest parts of the coronavirus was when people, mostly elderly people, died alone in hospitals where they were not allowed visits. It was very sad and very bad that many people who worked hard, reared their families and brought this country to where it is were denied visits and died alone. Almost every aspect of society is open but in the area I represent, most hospitals and nursing homes are only allowing two visits per week for family members. This is not acceptable. Where is this rule coming from? Is it from the HSE, the Government or the Chief Medical Officer? It does not make sense at all. When the patient is close to death and it is clear that he or she will die the whole family is let in to visit. Where did this direction come from? I ask the Taoiseach to lift it right away.

**Minister for Health(Deputy Stephen Donnelly):** Decisions like this are made locally and they are based on a variety of factors. Some involve local outbreaks among healthcare workers or residents and some will factor in the prevalence of the virus at the time so different hospitals in different regions adjust accordingly. We have to try to get the balance right between infection prevention and control, and compassion, particularly when people are sick or near the end of life. If the Deputy has specific areas or nursing homes that his constituents are making him aware of----

**Deputy Danny Healy-Rae:** It is practically the whole lot and it is not acceptable.

**Deputy Stephen Donnelly:** If the Deputy wants to talk me about it further I will get him a note on it.

**Deputy Catherine Connolly:** Significantly, this day a year ago, I was obliged, along with my colleagues, to bring a motion to implement the national maternity strategy, which the Government accepted on the day. That motion arose from the concerns of the Health Information and Quality Authority, HIQA, at the failure to implement the national maternity strategy, not-

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withstanding that we were halfway through the strategy. Imagine my horror when learning this week that in the local maternity hospital in Galway city, St. Monica's ward is closed and appears to be closed for three weeks. The major gynaecology ward in the hospital is closed for three weeks without explanation. That ward deals with patients with cervical cancer and all the other gynaecological problems. I am bringing it to the Minister's attention that I have not had an answer to my queries on this issue. I would appreciate if he could find out why the ward was closed, what is happening with it and when it will be reopened.

**Deputy Stephen Donnelly:** I will, of course, get the Deputy a detailed note on this matter. I can tell her that the national maternity strategy has been fully implemented last year and this year. The full €9 million required for new development was allocated in 2021 and this year. I have met the maternity team in University Hospital Galway. There are several things going on. The maternity strategy in Galway is being implemented and there is more midwifery-led care. I will get the Deputy a note on that.

**Deputy Catherine Connolly:** Did the maternity team bring the ward closure to the Minister's attention?

**Deputy Stephen Donnelly:** It did not. However, I saw during my visit that one of the new ambulatory gynaecology clinics has been set up and, as the Deputy will be aware, a new regional fertility clinic has opened in Galway. The new perinatal mental health team is also in place. There has been a very significant expansion in women's health services, including maternity services, in Galway in the past two years. I will get the Deputy a note on the ward she referenced.

**Deputy Pádraig O'Sullivan:** I raise the ongoing issue of price inflation and the energy crisis we are in the middle of at this time. I noted comments the Taoiseach made in an interview in Brussels yesterday on the need to accelerate offshore wind energy provision. What did he mean by that and how does he plan to do it? The wind energy guidelines have been in place since 2005 and still have not been updated by the Minister. I ask the Taoiseach for an update on what is planned to be done in terms of that legislation.

**The Taoiseach:** What I said related to offshore wind generation permitting systems. A recent analysis by the European Union estimated that it can take eight years from concept to get an offshore wind farm installed. The European Commission, in its REPowerEU plan, which was presented to the European Council yesterday, and in its communication to the Council, has said it is looking at introducing a regulation or framework that would enable national governments, with their local authorities, to fast-track their permitting systems, instruments or mechanisms to enable wind farms to happen more quickly. There is a bit of work to be done on this yet by the Commission but the concept of overriding public interest will prevail. There invariably are objections and tensions around some of the environmental concerns relating to wind farms. However, the overwhelming need to construct them in order to deal with climate issues will take precedence.

**An Ceann Comhairle:** Thank you, Taoiseach. The time is up.

**The Taoiseach:** That is the thinking of the Commission, which I agree with, in order to get things moving much faster. The guidelines to which the Deputy referred relate to onshore wind energy.

**Deputy Kieran O'Donnell:** The Minister for Health, together with the HSE, appointed

an expert team to look at the urgent situation at University Hospital Limerick. That review started on Friday, 13 May and will conclude on Friday, 10 June. We are more than two weeks into the process this week. Yet, when I look at the figures since the review commenced, the numbers for the emergency department have gone up. The number was 62 on 13 May and it is 98 now. The average over the past week has been above 104. Where is the review at and what additional measures will be put in to address the issues? We have a serious situation in terms of overcrowding at the hospital even during the review period. I pay tribute to the staff, who have put in a huge amount of hard work. Will the Taoiseach or the Minister for Health give an update on the current position?

**Deputy Stephen Donnelly:** I agree the situation in University Hospital Limerick is not acceptable in terms of both the number of people waiting on trolleys and the patient experience times for those who may or may not be admitted. There is a very significant job of work going on. An expert team has gone in for four weeks, as the Deputy said, and it is expecting to finish its work towards the end of next week. I will then be engaging directly with the HSE on the matter. I have asked for very specific actions that can be taken to reduce the numbers coming into the hospital. We want to make sure the hospital has the resources it needs, not just in the emergency department but also in diagnostics and further up the hospital in terms of beds for people. Critically, one of the big pressures right now is delayed discharge. The latest advice I have for the region is that up to two in every three nursing homes are still not accessible for discharge because of the 14-day period that has to elapse after a Covid outbreak. I will revert to colleagues in the Dáil generally and to the Deputy when that work is completed.

**Deputy Martin Browne:** In April this year, 63 adults were confirmed to be homeless in County Tipperary, which is up 32 since April of last year. The number does not include children. The monthly figures have been increasing steadily over the past year and local authorities are coming under increased pressure to assist those individuals and families. For the entirety of last year, Tipperary County Council stated it spent €390,804 on emergency accommodation. To date in 2022, that bill is already at €279,394. In just over 18 months, the council has spent €670,000 on emergency accommodation. Demand and costs are increasing while supply is running dry. Yet, in the same period of time, not a single affordable house was constructed in Tipperary and the county was not included in the funding to 2026. Hundreds of thousands are being spent on emergency accommodation while the council must focus its time on determining whether it can identify the existence of a 5% affordability constraint. Surely it is time urgently to review or revise the affordable purchase scheme with local authorities.

**Deputy Darragh O'Brien:** I was in Tipperary last week and met with the chief executive, director of services, the cathaoirleach and mayors. I confirmed to them again very clearly, as I did to the Deputy two weeks ago, that the affordable housing fund is open to every local authority, including Tipperary County Council. It might be of information to him that the council is working on some proposals right now. I was in Clonmel and Thurles and I met with the chief executive, as I said. The council is preparing affordable schemes. The scheme is not closed to it. I was very impressed by the council's pipeline for social housing delivery, which means it will exceed its five-year target. It has a very strong pipeline. I commend the councillors and the team in Tipperary on the work they have done. I had the pleasure of visiting a number of social housing estates while I was there last week. The Deputy should be assured that the affordable housing fund is open to all counties in Ireland and we are looking forward to receiving proposals from local authorities. The Deputy's local council is working on its proposal at the moment.

**Deputy Christopher O'Sullivan:** The Taoiseach will be very familiar with Cancer Con-

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nect, which is a free transport service for people who need to travel to Cork city for chemotherapy or radiotherapy. On average, it takes 160 passengers per week up to Cork. It relies on the generosity of 300 volunteers drivers. The administrative and management staff are paid, which relies heavily on fundraising. Unfortunately, as we know, donations are harder to come by in this day and age. The organisation is asking that the shortfall be made up. It needs about €100,000 to run this incredible service, which is unbelievable value for money. I will raise the issue with the CEO of the Cork area community healthcare organisation but I am also asking the Taoiseach and the Minister for Health to support the service into the future.

**The Taoiseach:** I met with people from Cancer Connect recently at the opening of the Cork ARC cancer support house. They are providing a fantastic service in the rural parts of Cork - west Cork, in particular - in terms of bringing people to services like the Cork ARC facility, with which the service has a strong connection. The Minister has heard the Deputy's eloquent plea. Additional resources have been allocated to the national cancer strategy. Within that overall fund and through the HSE locally, we will see whether we can give some funding to this fantastic organisation.

**Deputy Ruairí Ó Murchú:** We have now had sight of the four-point plan by the Dublin Airport Authority, DAA, to ensure we do not again see the absolutely scandalous sights that took place in Dublin Airport over the weekend. Upwards of 1,400 people may have missed flights and it was an utterly desperate situation for them. We hope the plan will offer some element of security that we will not have these problems again. Do we have those assurances? Have the Government and, in particular, the Minister for Transport looked at the possibility of using security staff or other personnel with the relevant skill sets within State services at the airport, as required? We need to make sure we do not see sights like those of last weekend in the future. We must ensure Dublin Airport is operating as it should be and that we are not an international laughing stock.

**The Taoiseach:** I agree with the Deputy on the need to make sure the scenes that happened last weekend do not happen again. There is an onus on the DAA, as a semi-State company, to organise its human resources and to develop the capacities required to ensure what took place does not happen in the future. That certainly must be done in advance of next weekend.

*1 o'clock*

I know that the Minister for Transport, Deputy Eamon Ryan, and the Minister of State, Deputy Hildegard Naughton, have been in discussions with the company, and will be every day, with a view to doing everything possible to avoid a recurrence. It is unacceptable for passengers, including families, to have what should be for the majority of people an enjoyable experience turned into what it is.

**Deputy Joe Carey:** Kaftrio is a miracle drug used for the treatment of cystic fibrosis patients. It was approved by the European Medicines Agency, EMA, in January. Thankfully, 140 children in Ireland are now using it. A further cohort of 35 children have been locked out of the scheme relating to the drug and are anxiously trying to gain admission. Cystic Fibrosis Ireland has sought a meeting with the Minister for Health. I hope he will agree to that meeting to explain the delay and outline what will be done to ensure that this cohort of 35 children get access to Kaftrio.

**Deputy Stephen Donnelly:** I am very familiar with this issue. We need to get our language



right here. There has been no delay and no one has been locked out of anything. It is a new use for the drug. It was approved by the EMA in January. An application came in for the first group of children some time ago. That was processed and approved very quickly by the HSE. The application in respect of the new group of children the Deputy mentioned only came into the HSE six weeks ago. It is going through exactly the same process. The HSE needs to look at the health technology assessment and other things. It did the first assessment very quickly. I have no reason to think it will be otherwise for this one. We are now waiting to hear what recommendation comes from the HSE. The Deputy can rest assured that it is being watched very carefully by the Department.

**Deputy Joe Carey:** Will the Minister meet representatives of Cystic Fibrosis Ireland?

**Deputy Stephen Donnelly:** I met them quite recently in other contexts.

**Deputy Joe Carey:** Will he meet them on this please?

**Deputy Donnchadh Ó Laoghaire:** It has been a rather depressing week for special education. Yesterday's absolutely last-minute announcement of special needs assistant, SNA, allocations has continued years of disrespect to those crucial education staff. I read with interest an article in *The Irish Times* two days ago where a Government source described the plan of the Minister of State, Deputy Madigan, in respect of proposed centres of education as dead in the water. I know that the Minister for Education, Deputy Foley, has misgivings about that matter. Will the Government confirm that it is putting every effort into finding appropriate school placements in school communities? Can the Taoiseach confirm that the Government will no longer pursue this totally unsuitable plan which would have seen autistic children segregated and isolated?

**The Taoiseach:** I assure the Deputy that the Government is doing everything it possibly can with the National Council for Special Education to find additional places and additional capacity in schools. We are looking at simplifying and clarifying the legislation in order to oblige all schools in the country to be inclusive and to make sure that their doors are open for applications from children with special needs. In tandem with that, Government will provide the requisite resources of both teachers and physical accommodation to meet what should be a fundamental principle in education. All schools, including private schools, are funded to some degree by the State. There needs to be full inclusion for children with special educational needs.

**Deputy Jennifer Murnane O'Connor:** I have been working many constituents who have loved ones who are either returning from hospital or moving home and who desperately need home care packages. Many people need home care, whether it is a few hours home help or whether it is 24-7 care. We need to ensure we deliver for these vulnerable people. I have been working with older couples in circumstances where, for example, an older person returns home from hospital and their husband or wife is not in a position to take care of them. They also do not have any family who can offer to help. The Minister of State, Deputy Butler, has been working on this matter, and I want to give credit where credit is due. I understand that we are short-staffed in the context of home care. People are contacting me in frustration and panic that they have nobody to help them take care of their loved ones. How do we recruit and retain qualified home care staff?

**Minister of State at the Department of Health (Deputy Mary Butler):** I thank the Deputy for her very important question. I am in a unique situation in that I have a budget that can

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fund every home care package in the country. My budget for the delivery of home care across the country is €672 million. Every day, 55,000 people receive home care. The problem is that we currently have approximately 5,300 people awaiting home care. The packages are funded but we have a shortage of staff. I have put in place a strategic workforce planning group working with the stakeholders in order to deliver this. We will be making recommendations very quickly. We are looking at everything, including people from outside the EU coming here to provide home care. We are also looking at targeted supports, such as people who are in a position to work 12, 15 or 18 hours a week to try to provide home support. I want to make home care a viable career option and to support people who choose to go into home care to progress the whole way through.

**Deputy Jennifer Carroll MacNeill:** Yesterday, members of the Traveller community held a protest outside Leinster House to highlight mental health issues facing the community. As Fine Gael spokesperson for equality, I apologise to them for not being present. I was at a special school with members of the new Joint Committee on Autism at the same time as the protest. In response to a parliamentary question on 25 May, the Minister for Health stated the exact publication and implementation of the Traveller health action plan is a priority for his Department in 2022. Will the Minister confirm the exact timeline for the publication of the Traveller health action plan, which is one of the many things that were called for yesterday outside Leinster House?

**Deputy Mary Butler:** I also was not in a position to attend as I was in the Seanad taking Commencement Matters at noon yesterday. I expect to publish the Traveller health action plan before the summer recess. It does not just relate to mental health; it also covers a suite of measures for Travellers relating to social protection, housing, access to education and access to apprenticeships. Considerable work has been done on the mental health aspect. In December, I allocated €365,000 to the HSE for equipment to support Travellers to work in a blended approach for delivery of recovery and engagement. In addition, €302,000 was allocated through the National Office for Suicide Prevention last year to support Traveller specific mental health and suicide-prevention services. Hopefully, the action plan will be published before the summer recess.

**Deputy Michael Collins:** On 23 December 1996, one of Ireland's most horrific murders took place at Kealfadda, which is near Goleen, when the body of Sophie Toscan du Plantier was found near her holiday home in my parish a couple of miles west of my home. At the time, the murder was the cause of real horror among local people. When the identity of the person who died became public, however, it sent shock waves across the world. It is now 26 years later and nobody has been brought to justice for the murder of an innocent woman - a much-loved daughter, wife and mother. What has followed with this case in these 26 years is like a roller coaster going round in a circle but getting nowhere. There are contradictory reports in newspapers as to whether there is a live investigation. The people of west Cork are tired of the posturing that is going on locally. They, like the rest of the world, want to see justice for Sophie almost 26 years on. Will a new file be submitted in time to the Director of Public Prosecutions, DPP, on foot of investigations that are taking place?

**The Taoiseach:** Could the Deputy repeat the last part?

**Deputy Michael Collins:** Will a new file be submitted in time to the DPP on foot of investigations that are now taking place?

**The Taoiseach:** This murder is a stain on Irish society. That someone who loved west Cork was murdered in such a brutal manner was greeted by shock and horror by the people of the country. It is not like a roller coaster in the sense that I believe the Garda takes the matter very seriously. We know that his case has attracted enormous attention. I do not get involved in prosecutions with the criminal justice system or with sending files to the DPP. That is a matter for the Garda. It is then a matter for the DPP to make an assessment of whatever it is sent to him or her by An Garda Síochána. I have no doubt that as new leads emerge, if the prospect or capacity for prosecution exists, the Garda will do everything it possibly can to bring the person responsible for the murder of Sophie Toscan du Plantier to justice.

**An Ceann Comhairle:** We have three remaining Deputies and we are out of time. We have 30 seconds per question.

**Deputy Pa Daly:** The Taoiseach is probably aware of what has been described variously as panic and chaos in the District Court yesterday as a result of the Davitt decision. If the current situation continues, there will be fewer gardaí on the streets and more delays in prosecutions. What steps will the Government be taking in order to address the situation? Will there be emergency legislation? Will there be a stay or an appeal?

**Deputy Joan Collins:** The Joint Committee on Social Protection met this morning to discuss pensions and social protection-related issues with representatives of Foster Care Ireland and the Irish Foster Care Association, along with foster parents. We discussed many aspects of the fostering system. The committee will write a report and submit recommendations to the Minister. One issue I think should be raised here is that of the foster allowance, the weekly rate of which has not been increased for nine years. The Government should be looking at that area considering the 9% increase in the cost of living.

**Deputy Martin Kenny:** During an earlier exchange, the Taoiseach mentioned there is a cap on rent across the country of 2%. A landlord shocked his tenants in Tubbercurry a number of weeks ago. Anna Gallagher, who came to me about this issue, has been renting a three-bedroom semi-detached property in Knockanashee, Tubbercurry, with her husband and small child at the rate of €800 per month for the past two years. Her landlord, a man called Hugh Adams of Ballymote Construction, came to her and told her it was time for a rent review. He told her the rent was being increased to €1,400. That is a 75% increase.

**An Ceann Comhairle:** It is not appropriate for the Deputy to be naming people in these circumstances.

**Deputy Martin Kenny:** Okay. An increase to €1,400 is a 75% increase in the rent. We all know of situations where tenants can have problems and can be in arrears. That is not the situation. There are five other tenants in the same estate with the same problem. It is happening across the country where unscrupulous landlords are pushing rents through the roof and it is destroying people's lives.

**The Taoiseach:** In response to Deputy Pa Daly, that matter will be examined. I will come back to the Deputy on the implications of that decision.

We will examine the point Deputy Joan Collins has made about the foster care allowance. Between the Ministers for Health, Social Protection, Public Expenditure and Reform, and Children, Equality, Disability, Integration and Youth, we can examine a range of measures for children more generally. We will consider the specific point the Deputy has raised in the fullness

of the budgetary examination.

What Deputy Kenny has outlined is not acceptable. The area is not in a rent pressure zone. The Minister for Housing, Local Government and Heritage is looking at legislation with a view to extending rent pressure zones. Nonetheless, the Residential Tenancies Board, RTB, avenue is also open to complaints.

**Deputy Martin Kenny:** The RTB is under-resourced.

**The Taoiseach:** It can deal with complaints. The scale of what the Deputy has told me is involved in this case might merit examination by the RTB.

**Deputy Joan Collins:** The foster care allowance is an urgent issue and cannot wait for the budget. Other areas can wait but the allowances cannot.

**An Ceann Comhairle:** The Deputy has made the point.

### **Planning and Development (Ministerial Guidelines) Bill 2022: First Stage**

**Deputy Róisín Shortall:** I move:

That leave be granted to introduce a Bill entitled an Act to amend the Planning and Development Acts 2000 to 2021 and for that purpose to amend section 28 of the Planning and Development Act 2000 in relation to ministerial guidelines and to provide for related matters.

As Deputies will know, our planning laws have been significantly weakened in recent years, too often at the behest of powerful lobbyists. One of the most egregious changes was slipped in with very little fanfare in 2015 by the then Minister with responsibility for housing, Deputy Alan Kelly. What appeared to many a rather technical and inconsequential Bill amended section 28 of the Planning and Development Act 2000, thus making planning guidelines issued by the Minister mandatory. Pre-2015, section 28 planning guidelines were issued to planning authorities to guide them in the performance of their duties. Planning authorities were expected to have regard to these guidelines but they did not override local development controls on apartment sizes or building heights, which were set out in the development plans.

However, since 2015, the Minister with responsibility for housing has had the ability unilaterally to introduce mandatory planning guidelines and specific planning policy requirements with which planning authorities must comply. This change paved the way for substandard build-to-rent developments, greatly reduced apartment sizes, poor unit mix and the removal of building height caps.

Areas in my constituency, such as Santry, Whitehall, Finglas, Beaumont and many others, have been negatively impacted by these mandatory and regressive guidelines, as have many urban areas around the country. These communities have seen the character of their local areas quickly and dramatically change while their children and ordinary workers get priced out of the places in which they grew up. This phenomenon is repeated throughout the cities.

To put it simply, these guidelines are a blunt instrument which show no regard for local communities or local need. We have seen an influx of high-rise and low-quality apartment

developments throughout our communities, not for the benefit of locals but to line the pockets of developers and institutional investors. This is completely unsustainable and is a hopeless approach to planning. It is not fixing our housing crisis either. Indeed, it is fuelling it. How could anyone have ever thought that slashing apartment standards or undermining local authorities would achieve anything but greater dysfunction in the housing market? Expensive, low-standard, shoebox apartments in high-rise blocks are not the solution to our housing crisis. Affordable and liveable apartments in mid-rise developments are certainly part of that solution but such developments will continue to be in short supply if this Government continues its over-reliance on the market and allows it to dictate policy.

It is time for radical action on housing, not shortcuts or solutions dreamt up by construction lobbyists and developers. Mandatory section 28 guidelines have failed. All they have delivered is the wrong housing in the wrong places at the wrong price. Furthermore, they have greatly reduced our local authorities' role in determining development plans and planning applications which suit their local areas. After all, this is their statutory responsibility and democratic entitlement. It should be utterly abhorrent to us all that the Minister of the day can circumvent local authorities' powers and introduce major changes to planning laws at the stroke of a pen without any Dáil scrutiny whatsoever. A democratic deficit, along with inferior apartment standards and unsustainable building heights, should not be the cornerstone of this Government's urban planning policy. At what point will the Minister admit that mandatory planning guidelines have failed? Instead of blaming the Opposition for his failures, he should be correcting them. Supporting this Private Members' Bill would be a good start for the Minister. It seeks to undo the damage caused in recent years by removing the obligation on planning authorities to comply with section 28 guidelines, thus reverting to a more democratic and sustainable planning framework. On that basis, I commend the Bill to the House.

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

**Minister of State at the Department of the Taoiseach (Deputy Jack Chambers):** No.

Question put and agreed to.

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

**Deputy Róisín Shortall:** I move: "That the Bill be taken in Private Members' time."

Question put and agreed to.

## **Ceisteanna - Questions**

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

1. **Deputy Neale Richmond** asked the Taoiseach if he will report on his recent conversation with the British Prime Minister. [24532/22]

2. **Deputy Ivana Bacik** asked the Taoiseach if he has spoken to the leaders of the parties in Northern Ireland following the Stormont elections. [24223/22]

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3. **Deputy Sorca Clarke** asked the Taoiseach the engagement that he or his Department have had with the British Government and Prime Minister since the Assembly elections in Northern Ireland on 5 May 2022. [24925/22]

4. **Deputy Sorca Clarke** asked the Taoiseach the engagement that he or his Department have had with the political leaders in Northern Ireland following the Assembly elections. [24924/22]

5. **Deputy Mary Lou McDonald** asked the Taoiseach if he will report on his engagement with the British Prime Minister following the recent Stormont election. [25801/22]

6. **Deputy Richard Boyd Barrett** asked the Taoiseach if he will report on his recent conversation with the British Prime Minister. [26000/22]

7. **Deputy Paul Murphy** asked the Taoiseach if he will report on his recent conversation with the British Prime Minister. [26003/22]

8. **Deputy Brendan Smith** asked the Taoiseach if he will report on his engagement with the leaders of the parties in Northern Ireland following the Stormont elections. [26028/22]

9. **Deputy Paul McAuliffe** asked the Taoiseach if he will report on his discussions with the leaders of the parties in Northern Ireland following the Stormont elections. [26194/22]

10. **Deputy Gary Gannon** asked the Taoiseach if he has spoken to the leaders of the political parties in Northern Ireland following the Stormont elections. [26206/22]

**The Taoiseach:** I propose to take Questions Nos. 1 to 10 together. I have had a number of discussions with each of the leaders of the main parties in Northern Ireland since the election. Most recently, I travelled to Belfast on Friday, 20 May for a day of meetings. In all of these engagements, I reiterated the importance of early formation of the Northern Ireland Executive and a functioning assembly. The people of Northern Ireland want their elected representatives to address the pressing issues facing them, including the cost of living and healthcare waiting lists. The onus now is on the leaders of the political parties to work together in the time ahead to agree a basis for forming a new Executive to serve the interests of all the people of Northern Ireland.

As co-guarantor of the Good Friday Agreement, the Government will continue to work with the political parties in Northern Ireland and with the British Government to support the formation of the Executive and the operation of all the institutions of the Good Friday Agreement. The protocol was, of course, discussed extensively at these meetings. We recognise that there are genuine concerns about aspects of its implementation but these can only be addressed in a sustainable manner through intensified EU-UK discussions and agreed solutions. Work on the formation of the Executive and on issues around the Northern Ireland protocol should proceed in parallel. One should not be a precondition for the other. We also spoke about the United Kingdom's legacy Bill and I shared my concerns regarding this unilateral move and its implications for victims.

I spoke to Prime Minister Johnson by phone on 10 May. We agreed on the importance of having a strong functioning Executive in place to deliver for the people of Northern Ireland. During our call, I urged the Prime Minister to engage in intensified EU-UK discussions to address issues relating to the implementation of the protocol. I set out clearly my serious concerns at any unilateral action at this time, which would be destabilising in Northern Ireland and would

erode trust. Unilateral action is wrong and is not the correct approach. I strongly pointed out that the EU has engaged constructively in the protocol discussions, addressing the issues of medicines and last October putting forward a substantial package of flexibilities and mitigations on customs and sanitary and phytosanitary, SPS, arrangements. I stressed to the Prime Minister that the way forward should be through agreed EU-UK solutions that address the practical issues arising around the implementation of the protocol. I subsequently wrote to the Prime Minister to outline my views in detail on this matter. The British Government's indication that it will bring forward unilateral legislation to override parts of the protocol is deeply concerning. Such a step would be a serious breach of the withdrawal agreement and of international law. I sincerely believe that with intensified engagement and political commitment, the EU-UK process can deliver outcomes that respond to the genuine concerns of people in Northern Ireland.

**Deputy Neale Richmond:** I thank the Taoiseach for his reply. It is accepted by everyone in this House, or at least I hope it is, that the Taoiseach's personal and political commitment to relations North and South, east and west is absolutely exemplary. As a Government backbencher I take pride when I hear him speaking on these issues and genuinely engaging. However, to be quite frank I do not believe that level of commitment is shared by his counterpart in London. It is extremely worrying that we are repeatedly seeing the livelihoods of people across this island being used as a political plaything by a Government in London that dials in and dials out. How is the Taoiseach ensuring that this British Prime Minister actually meets the responsibilities he holds in office for his entire country?

**Deputy Ivana Bacik:** Following the recent Stormont election, as the Taoiseach has said, the approach of both the British Government and the Democratic Unionist Party, DUP, to the protocol has been deeply unhelpful and the people of Northern Ireland will suffer from the lack of a functioning Executive. We support the Taoiseach and all those engaged in trying to ensure that the Executive will be up and running again. We are conscious that there are very serious issues facing communities in Northern Ireland that require a functioning Executive to deal with, notably the waiting lists in hospitals in the North, which have been the subject of a good deal of concern because they are so extensive.

Waiting lists have also been a major problem in our own health service. In that context I have been asked to raise the case of Jeanie May Moylan, an 11-month old baby born in Portlaoise hospital who is in urgent need of medical treatment. Her parents have been waiting ten months for an appointment for their daughter at Crumlin hospital and are on the brink of borrowing to pay for specialist medical care. Her case was reported on by Alison O'Reilly in the *Sunday Mirror* on 22 May and is just one example of a serious waiting list issue in our own health system. I am conscious, as we all are, that a functioning Executive in Northern Ireland is required in order to ensure that issues around budgeting to deal the extensive waiting lists in the healthcare system there will be dealt with and that the real day-to-day concerns of the people of Northern Ireland around the cost of living, increases in the cost of fuel and food and the sorts of issues facing all of us on this island can be addressed.

**Deputy Aengus Ó Snodaigh:** I do not know whether the Taoiseach gleaned from his engagement with the Prime Minister that he had any understanding of the need for a functioning Executive, of the scale of the cost-of-living crisis in the North or of the fact that his not being properly assertive with his friends in the DUP is holding up funding which could be given to help those who are in dire need of investment. Regarding the so-called Tory legacy Bill, which has been described by the Northern Ireland Human Rights Commission as fatally flawed and incompatible with Article 2 of the European Convention on Human Rights, was there any aware-

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ness on the part of the Prime Minister that if he enacts that Bill that will be totally contrary to the Good Friday Agreement and international law?

**Deputy Richard Boyd Barrett:** In my book, there is not a lot to recommend Mr. Boris Johnson but he has, under pressure, done one positive thing recently, which was to introduce a windfall tax on the super-profits being made by energy companies. Companies like BP, Shell and others have seen their profits triple while ordinary people are being crucified by the cost of heating and energy. Under pressure, Mr. Johnson was forced to introduce a 25% windfall tax on energy companies. However, this Government resists such a windfall tax even though our energy companies also recorded spectacular and record profits while simultaneously increasing the price of energy by 46% over the past year. Between May 2021 and May 2022, energy costs have gone up 46% for ordinary people. This means that huge numbers are literally struggling to feed their children and pay their bills. The Government continues to resist the call we have repeatedly made for the imposition of a windfall tax, as has been done in the UK, on the profits of energy companies and to use that money to protect ordinary working people and low income households from the ravages of the cost-of-living crisis.

**Deputy Paul Murphy:** Earlier the Taoiseach appeared to suggest that saying that the Government should do more to protect families from the cost-of-living crisis was repeating Russian propaganda. That was quite incredible cynicism, to be honest.

**The Taoiseach:** I did not say that.

**Deputy Paul Murphy:** It was strongly suggested that saying that the Government should do more-----

**The Taoiseach:** No, it was not. The Deputy cannot mislead the House. That is not true.

**Deputy Paul Murphy:** People can go back and read the transcript-----

**The Taoiseach:** That is classic spin by the Deputy.

**Deputy Paul Murphy:** That is fine-----

**The Taoiseach:** That is classic politicking by the Deputy.

**Deputy Paul Murphy:** People can go back and read the transcripts of the exchanges between the Taoiseach and Deputy Doherty.

**The Taoiseach:** Yes.

**Deputy Paul Murphy:** Can I ask a question? Is it Russian propaganda to point out the fact that the top oil and gas companies in the world made total profits of almost \$100 billion in the first quarter of 2022? How does that compare with last year? It is almost a doubling of profits. Is it Russian propaganda to point out the fact, as Deputy Boyd Barrett has done, that in this country they are taking advantage of supply shortages to jack up prices and make record profits from the pain of ordinary people?

**The Taoiseach:** Who are?

**Deputy Paul Murphy:** The energy companies and the electricity companies in this country.

**The Taoiseach:** Name them.



**Deputy Paul Murphy:** They are BP, Shell-----

**The Taoiseach:** They are not drilling here.

**Deputy Paul Murphy:** Look at their profits; they have doubled.

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

**Deputy Paul Murphy:** As Deputy Boyd Barrett said, even-----

**The Taoiseach:** Is the Deputy referring to the ESB?

**Deputy Paul Murphy:** -----the Tory Government-----

**The Taoiseach:** Is he saying that the ESB is involved?

**Deputy Paul Murphy:** The ESB, Energia, Airtricity - every single electricity company in this country has increased its prices and its profits. In response to a parliamentary question we were told that a 50% windfall tax would raise €300 million. If the Tory Government can do it, even with some horrific loopholes, why can we not have a windfall tax on these super profits?

**The Taoiseach:** Deputy Richmond raised the issue of the level of my commitment to Northern Ireland. I appreciate his kind comments. In respect of the UK Prime Minister, both of us agree on the necessity to convene the assembly and the Executive and get them formed. That said, the intention of the UK Government to introduce unilateral legislation to circumvent the protocol is undermining political stability in Northern Ireland and is not conducive to getting a resolution of issues around the operation of the protocol. There aspects of the operation of the protocol that the European Union has signalled its interest in discussing with the UK Government. One gets the sense that domestic considerations are uppermost in terms of EU governments' assessment of all of this. It is very difficult to get a clear landing zone from the UK Government or, indeed, for the UK to involve itself with the EU in order to get an outcome. These issues can be resolved, just like the medicines issue was resolved last year. The initiatives that Maroš Šefčovič put forward last October, in my view, formed the basis for decent and rounded negotiations to follow. What we got from Lord Frost was an attempt to torpedo that by invoking the European Court of Justice. This was not of concern to unionism at the time at all, if the truth be told. Unionism is concerned about the movement and transit of goods from the UK to Northern Ireland. Those issues are important and I believe they can be resolved. For the information of the other Deputies also, I met the Brexit business working group. It has done a lot of research. Manufacturing is doing very well in Northern Ireland and the protocol benefits manufacturing. The protocol benefits the dairy industry. The protocol benefits the meat industry. In its most recent survey, 65% of companies were managing the protocol well. Some 8% in the survey said they were experiencing significant difficulties. These are mainly consumer-facing companies or goods. We need to work on that 8% and make it more operable. I believe we can do that. We need to get the technocrats and the business people into the room as well because they know what works and what does not work, and what is practical and what is not practical. I picked this up from my meeting with the Brexit business working group.

Deputy Bacik raised similar issues to Deputy Richmond. I will follow up on the case with regard to the baby and Crumlin. I will certainly follow that up with the Minister. We must do everything we possibly can so that children are not waiting. They should not have to wait that long for treatment, attention, and intervention.

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The Deputy was correct to say that bread-and-butter issues are what dominated the election in the North. The people in Northern Ireland will be very frustrated at the failure to convene an Assembly. When I visited the parties I said it is a very basic truth that in the democratic world when people vote through the ballot box and elect their representatives, they expect a parliament to be formed. It is the natural way in a democracy. The voice of the people in Northern Ireland must be heard. The Assembly should be convened forthwith and a speaker should be appointed. Subsequently, the Executive should be established.

On Deputy Ó Snodaigh's point, the British Prime Minister is, to be fair, very well apprised of the need for a functioning Executive and is committed to that. On the legacy issue, we have had a long-standing disagreement with the British Government around its initiative on that front. The Minister for Foreign Affairs, Deputy Coveney, in terms of the British-Irish Intergovernmental Conference, with the political parties in Northern Ireland have been arguing that. We do not accept the proposition that has been put forward by the British Government. In our view it is fundamentally against the wishes of the victims' families. It would, essentially, give many perpetrators of the most horrendous atrocities and crimes an amnesty. I am not just talking about those within state forces but also those in paramilitary groupings and other people who committed terrible atrocities. They could avoid any accountability or prospect of prosecution.

On the windfall tax, in the first instance I will make the point to the Deputies opposite that I take strong exception to what Deputy Murphy said. I said this morning that the Russian ambassador is blaming western governments. The Putin operation is in full operation propagandawise in blaming western governments for the 40% increase in energy costs that Deputy Boyd Barrett referred to. Russia is responsible for what is going on in the energy crisis. Russia is fundamentally responsible. Its war in Ukraine needs to be called out again and again. I note that the two Deputies did not call it out in respect of the issue.

**Deputy Richard Boyd Barrett:** The energy prices were going up before the war started.

**The Taoiseach:** It is without question a key factor. On the windfall tax, the ESB is a State company. We already get a dividend from the ESB. We do not want to tax wind energy companies because we want to move as fast as we possibly can to secure our independence in that regard and to secure energy security.

**An Ceann Comhairle:** I thank the Taoiseach. We must move on. I am sorry but we are out of time.

**The Taoiseach:** We need the energy companies to invest and have a total focus on other areas that can be looked at in the fullness of time. In Ireland we are not similar to the UK.

**An Ceann Comhairle:** We are out of time. We need to move on to Questions Nos. 11 and 12.

**The Taoiseach:** We do not have too many native fossil fuel companies in this country, as the Deputy knows well. I do not believe that we should tax Bord na Móna and I do not believe we should tax the ESB, as the Deputy has advocated. We get a dividend every year and that makes sense.

*Dáil Éireann*  
**An Teanga Gaeilge**

11. **Deputy Mary Lou McDonald** asked the Taoiseach if he will report on the preparation of the language scheme of his Department. [22877/22]

12. D'fhiafraigh **Deputy Aindrias Moynihan** den Taoiseach cuntas a thabhairt ar an tslí ar a bhfuil Acht na dTeangacha Oifigiúla, 2003 ag feidhmiú ina Roinn. [26027/22]

**The Taoiseach:** Tá sé i gceist agam Ceisteanna Uimh. 11 agus 12 a fhreagairt le chéile.

Foilsíodh scéim teanga reatha mo Roinne don tréimhse 2019 go 2022 in 2019 ar *gov.ie*. Áirítear sa scéim raon gealltanais seirbhíse atá leagtha amach chun a chinntiú go mbeidh custaiméir ar bith de chuid Roinn an Taoisigh atá ag iarraidh a gcuid gnó a dhéanamh trí Ghaeilge ábalta é sin a dhéanamh.

Áirítear leis sin: seirbhísí ar an bhfón, ar an láthair agus cáipéisí ina leagtar amach tograí beartais phoiblí a fhoilsiú. Aithnítear an tábhacht a bhaineann le baill foirne a bheith againn atá líofa sa Ghaeilge agus a bhfuil sé ar a gcumas seirbhísí a chur ar fáil i nGaeilge agus leanfar ar aghaidh á dhéanamh. Tá Acht na dTeangacha Oifigiúla (Leasú), 2021 leagtha amach chun forálacha reachtaíocht 2003 a neartú trí chaighdeáin teanga a thabhairt isteach do chomhlachtaí poiblí a thioctfaidh in áit chóras reatha na scéimeanna teanga. Tá scéim reatha na Roinne i bhfeidhm go fóill agus leanfar de bheith ag cloí léi go dtí cibé am a mbeidh na caighdeáin nua sainithe agus á gcur i bhfeidhm.

Is í an uaillmhian atá leis an Acht nua ná caighdeáin na seirbhísí a chuireann comhlachtaí Stáit ar fáil don phobal a fheabhsú le réimse bearta nua a bheidh le tabhairt isteach de réir a chéile. Áirítear ar na bearta sin baill foirne a earcú sa tseirbhís phoiblí atá inniúil sa Ghaeilge, níos mó fógraíochta i nGaeilge agus na seirbhísí poiblí go léir sa Ghaeltacht a chur ar fáil i nGaeilge.

**Deputy Aengus Ó Snodaigh:** Gabhaim buíochas leis an Taoiseach agus aithním go bhfuil an scéim reatha ann ach beidh deireadh leis an scéim sin i mbliana. Níl a fhios agam an bhfuil sé i gceist ag an Taoiseach síneadh ama a chur léi, scéim nua a chur ar siúl dá Roinn, nó cén bealach atá i gceist aige chun déileáil léi má leantar go bhfuil moill ar thosú Acht na dTeangacha Oifigiúla (Leasú), a ritheamar anseo níos luaithe i mbliana. Is léir go bhfuil an mhoill sin ag cur as do roinnt nithe agus tíoctfaidh mé ar ais chucu sin ar ball.

Níl an coiste comhairleach bunaithe, níl caighdeáin leagtha síos go fóill agus níl a fhios againn fós cén uair a thosóidh éifeacht ceart a bheith ag an Acht sin. Deirim é sin mar go raibh coiste ar siúl an tseachtain seo caite, agus aréir freisin. Bhíomar ag déileáil leis an mBille fá Choimisiún um Cheapacháin Bhreithiúnacha, áit a deir an tAire Dlí agus Cirt, an Teachta McEntee nach raibh uirthi cloí le forálacha an Achta sa choimisiún sin toisc nach raibh Acht na dTeangacha Oifigiúla (Leasú), 2021 tosaithe.

Aréir dúirt an tAire Stáit, an Teachta Noonan, go raibh sé sásta moill a chur agus féachaint an athuair ar an Bille um Athchóiriú Toghcháin maidir leis na forálacha sin ó thaobh earcaithe agus aon rud eile de a thagann anuas as Acht na dTeangacha Oifigiúla (Leasú) a ritheamar anseo. An féidir leis an Taoiseach treoir a thabhairt do na hAirí uile gur gá dóibh gníomhú in aon Acht atá idir lámha acu fad is atáimid ag fanacht ar Acht na dTeangacha Oifigiúla (Leasú) a bheith tosaithe, amhail is go bhfuil an tAcht sin féin tosaithe?

Maidir le Roinn an Taoisigh, an gá nó an féidir síneadh ama a chur leis an scéim sin chun

a dhéanamh cinnte de go leanfaidh sé agus nach mbeidh folús ann nuair a thiocfaidh deireadh leis in 2022?

**Deputy Aindrias Moynihan:** Gabhaim buíochas leis an gCeann Comhairle. Táim ag fiosrú mar gheall ar an tslí a bhfuil an scéim teanga ag feidhmiú ina Roinn féin. Mar a luamar, tá Acht na dTeangacha Oifigiúla (Leasú) nua le teacht i bhfeidhm sa tréimhse amach romhainn. Tá spriocanna dúshlánacha ann maidir le 20% den earcaíocht nua agus tá go leor nithe eile ag baint leis. Cad iad na hullmhúcháin atá á ndéanamh chuige sin? Glacaim go bhfuil an scéim reatha chun leanúint go dtí go mbeidh an córas nua i bhfeidhm. Roimhe sin, shamhlófá go mbeadh ullmhúcháin ann chuige. An bhfuil aon treoir ann maidir leis na hullmhúcháin sin a bheith á gcur i bhfeidhm? Ag an am céanna, tá an t-aonad shared island mar chuid de Roinn an Taoisigh agus tá Bille nua ag teacht chun cinn ó Thuaidh. Tá an-chuid oibre déanta ag go leor eagraíochtaí, ar nós An Dream Dearg, Conradh na Gaeilge agus go leor eile, chun é sin a thabhairt ar aghaidh. Tá cearta teanga an-tábhachtach. An mbeidh plé mar gheall air seo ann mar chuid d'obair an shared island unit?

**The Taoiseach:** Tháinig an scéim i bhfeidhm ar an 1 Iúil 2019 agus beidh sí i bhfeidhm go dtí go gcuirfear na caighdeáin nua i bhfeidhm faoin reachtaíocht nua. Ós rud é go ndéanann an reachtaíocht nua foráil do chaighdeáin nua a thiocfaidh in áit córas na scéimeanna teanga, thug an Roinn fhreagrach comhairle do mo Roinn gan scéim nua a ullmhú in 2022. Baineann formhór d'obair mo Roinne le hidirghníomhaíocht idir na Ranna agus gníomhaireachtaí Rialtais eile. Mar thoradh air sin, ní bhíonn aon éileamh mór ag an bpobal ar sheirbhísí i nGaeilge ó mo Roinn. Tá curtha in iúl ag roinnt baill fhoirne atá ag obair i mo Roinn go bhfuil siad inniúil i nGaeilge agus go bhfuil siad in ann leibhéil éagsúla seirbhísí a chur ar fáil do chustaiméirí trí Ghaeilge. Astu sin, tá beirt fhostaí a bhfuil leibhéal ard inniúlachta sa Ghaeilge acu roghnaithe chun seirbhísí a chur ar fáil don phobal trí Ghaeilge de réir scéim teanga oifigiúil mo Roinne. Is leor na daoine sin chun freastal ar an éileamh atá ann. Tá teacht go héasca ag gach ball foirne de chuid na Roinne ar chúrsaí Gaeilge tríd aonad acmhainní daonna na Roinne.

Ó thaobh an aonaid shared island, bhuail mé féin agus an t-aonad leis na húdaráis sa Tuaisceart, go háirithe i gcomhthéacs na Gaeilge agus Ulster Scots. Dúramar le gach éinne go bhfuilimid sásta, tríd an aonad, gach aon tacaíocht gur féidir linn a chur ar fáil agus infheistíocht a chur isteach ó thaobh aon chomhoibriú idir an Deisceart agus an Tuaisceart. Táimid ag lorg tograí agus smaointe nua chun é sin a dhéanamh. Tá an doras oscailte agus beidh an t-aonad sásta aon tacaíocht gur féidir linn a thabhairt do na heagraíochtaí éagsúla atá ag comhoibriú ar fud an oileáin chun na teangacha seo a chur chun cinn. Beidh muid an-sásta é sin a dhéanamh. Tá an-chuid eolais agam anseo ó thaobh conas atá an scéim ag obair i mo Roinn agus is féidir liom é a thabhairt do na Teachtaí.

### Programme for Government

13. **Deputy Ivana Bacik** asked the Taoiseach the mechanism by which his Department will review progress made in implementing the programme for Government [24220/22]

14. **Deputy Richard Boyd Barrett** asked the Taoiseach if he will report on the progress of the programme for Government. [24773/22]

15. **Deputy Paul Murphy** asked the Taoiseach if he will report on the progress of the programme for Government. [24776/22]

16. **Deputy Cian O’Callaghan** asked the Taoiseach the mechanism by which his Department will review progress made in implementing the programme for Government. [24809/22]

17. **Deputy Mick Barry** asked the Taoiseach the mechanism by which his Department will review progress made in implementing the programme for Government. [24936/22]

18. **Deputy Paul McAuliffe** asked the Taoiseach the mechanism by which his Department will review progress made in implementing the programme for Government. [26195/22]

19. **Deputy Niamh Smyth** asked the Taoiseach if he will report on the progress of the programme for Government. [26196/22]

20. **Deputy Cormac Devlin** asked the Taoiseach if he will report on the progress of the programme for Government. [26197/22]

21. **Deputy Cian O’Callaghan** asked the Taoiseach if he will report on the progress of the programme for Government. [26646/22]

**The Taoiseach:** I propose to take Questions Nos. 13 to 21, inclusive, together.

The Government has been working hard to implement the commitments in the programme for Government across a wide range of issues in all Departments. The ten Cabinet committees established by this Government reflect a broad range of policy areas that it will work on during its lifetime, as set out in the programme for Government. Cabinet committees meet regularly to continue this work. Strategy statements prepared by Departments reflect the key national priorities as outlined in the programme for Government. My Department has been involved in progressing some key programme for Government commitments in recent months, including ongoing monitoring and management of the impact of Covid-19 on the provision of both Covid and non-Covid healthcare; driving delivery of our commitments to a shared island on a whole-of-government basis through the shared island unit in my Department; the establishment of a unit in my Department to help support social dialogue; implementation of the Housing for All strategy, which is driving delivery of key housing-related commitments; the delivery of the economic recovery plan 2021, which focused on driving a sustainable jobs-rich recovery and under which significant milestones and progress have been achieved, including in the transition towards a decarbonised and digital economy.

The number of persons in employment is now over 2.5 million, which is in excess of the Government target contained in the economic recovery plan. In 2022, we will spend a record €21 billion on our health and social care services. This will allow us to reduce waiting lists, increase capacity, protect our most vulnerable, address inequalities and deliver the right care in the right place at the right time. Work is continuing to advance a number of priority programmes of work identified in the Sláintecare Implementation Strategy and Action Plan 2021-2023, including progressing six new regional health areas, waiting list reduction and taking steps towards the establishment of elective care centres in Dublin, Cork and Galway.

Significant progress has been made in education, including plans for a reimagined senior cycle of education; a €32 million increase in Department of Education expenditure on the Delivering Equality of Opportunity in Schools, DEIS, programme to benefit 347 schools, which is the largest ever increase and expansion of DEIS; a commitment to a reformed multi-funding model for third level education; and measures to reduce the cost of education for students and families through changes to the student grant scheme.

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The Government will publish a second report on Ireland's well-being framework imminently, entitled *Understanding Life in Ireland: A Well-being Framework*. This report outlines the longer-term approach for embedding the well-being framework into the Irish policymaking system over time. This includes the development of an analysis of the well-being dashboard, which will be published alongside the report and which is to be reflected in the annual budget process. In February, we published *Harnessing Digital - The Digital Ireland Framework*, which seeks to position Ireland as a digital leader at the heart of European and global digital developments. It sets out a framework to drive and enable the digital transition across the economy and society.

We signed into law the *Climate Action and Low Carbon Development (Amendment) Act 2021*, the marine planning framework and the *Maritime Area Planning Act*, as well as publishing the climate action plan 2021 and adopting the carbon budget programme. Engagement is ongoing with EU leaders to advance a range of high-level objectives in the programme for Government, in particular in relation to Brexit, Covid, the European Union budget and the European Union green agenda, as well as pursuing a strong, collective response to Russia's illegal invasion of Ukraine.

Other commitments in the programme for Government being progressed include the implementation of *Global Ireland 2025*; supporting the work of the United Nations through our membership of the UN Security Council; progressing work on the Government's response to the *Future of Media Commission* report; the establishment of a transitional team in my Department to progress the administrative elements of the establishment of the electoral reform commission, anticipated later this year; completion of the work of the *Citizens' Assembly on Gender Equality* and the establishment of two further citizens' assemblies, one dealing with the issue of biodiversity loss and the other with the type of directly-elected mayor and local government structures best suited for Dublin. There is also ongoing oversight of the implementation of *A Policing Service for our Future*, the Government's plan to implement the report of the *Commission on the Future of Policing in Ireland*. Ensuring progress on implementation of the programme for Government will continue to be a priority across all Departments, as well as through the work of Cabinet committees.

**Deputy Richard Boyd Barrett:** The issue that dominated the general election that brought this Government to office was the housing crisis. In the programme for Government, the Government promised action to address that crisis, particularly in the area of homelessness. It reads:

Reducing and preventing homelessness is a major priority for the Government. We recognise the particular challenges of homelessness [facing] families.

I am just off the phone from speaking to a young, vulnerable and very frightened woman. It could be somebody else on another day because I get such phone calls virtually every day. This is a woman with three children. Her landlord is evicting her on the grounds that a relative is coming to live in the house. She will be made homeless on 30 June, as will her children. Teachers report that her children are now crying in school because of this. One of them now requires counselling while the woman herself is being seen by a psychiatrist. She has been told all she will get is homeless emergency accommodation in Dublin city centre, approximately 15 km away from where she lives and where her children go to school. It is absolutely shameful. I wonder what "preventing homelessness" in the programme for Government means to her. I would like to be able to tell her this Government has a priority to stop her going into homelessness with her children.

I am also struck by another case I have mentioned a few times of a mother who is now three and a half years in homelessness emergency accommodation. She works with vulnerable children as an agency worker for Tusla. Because the Government has refused to raise the income thresholds, she is now not entitled, even though she is in emergency accommodation, to even the housing assistance payment or social housing. She is wondering where the priority is to get her and her child, who is now also getting counselling, out of homelessness accommodation, where they have been stuck for three and a half years. She has been told she is not entitled even to any housing support.

Will the Taoiseach tell me what the Government is going to do for those two people in order that I can pass back the message? They are just two examples. I am telling them at this stage that I am in such despair that the only thing they can do is get out on the streets and march on 18 June as part of the cost of living coalition because the Government is not listening. If that is not true, will the Taoiseach give me advice I can give to them about how they can get out of being homeless?

**Deputy Paul Murphy:** At this stage I have run out of fingers and toes to count the scandals about An Bord Pleanála that have been revealed by The Ditch. There have been multiple incidents of what certainly look like clear conflicts of interest not being declared. There is a pattern of inspectors' reports being disregarded to favour the wishes of developers. There have been reports of at least three incidents of inspectors being pressurised to change their reports to bring them into line with the interests of developers. The director of planning is reported to have participated in a meeting of institutional landlords, giving them advice in regard to applications to An Bord Pleanála. There are question marks over the appointment of two members of the board, including a sister of a Fianna Fáil Deputy nominated by the Irish Creamery Milk Suppliers Association and the deputy chairperson of the board, who was nominated by the Irish Rural Dwellers Association at a time when it was defunct and did not exist as an organisation and could not have had any nominating rights for more than a year. The very latest is a story published yesterday on The Ditch about the director of planning having an issue in terms of ruling on applications that relate to her husband.

What is the Government going to do about this? It has announced a review, but it is a review into the actions of one member of the board in respect of just three specifics. That is simply not good enough. Does the Taoiseach not accept that, at the very least, the review needs to be expanded to include all the operations of the board, including the role of these so-called nominating bodies?

**Deputy Cian O'Callaghan:** I want to ask about the commitment in the programme for Government regarding the divestment of schools. The programme for Government commits to ensuring plurality in regard to choice in education and progress on this has been extremely slow. Survey after survey shows the majority of parents want to send their children to secular, co-educational schools but the places are not there to meet the demand. In my constituency, a survey of parents in one area showed just 5% of the respondents wanted single-sex, religious secondary schools, yet five of the seven secondary schools in the area surveyed are single-sex, church-run schools.

What is the Government doing to accelerate the process of divestment? Will it commit to prioritising funding in order that new, secular, co-educational secondary schools will be provided?

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**Deputy Mick Barry:** Approximately 50 households have been or are being evicted from the Shannon Arms apartment complex in Limerick city centre. The notices to quit were issued to households that include a woman who is eight months pregnant, a person with terminal cancer and a family with five kids. Several landlords are involved in issuing the totality of these notices to quit. One of them is the Supermac's boss, Pat McDonagh. Many of these families face eviction into homelessness. On average, just six homes are available to rent in Limerick city each month. I congratulate the tenants on choosing to organise and fight back and the Community Action Tenants Union on the help it has given them.

Does the Taoiseach agree these landlords should meet face to face with these tenants and their representatives to discuss the issues at hand? Does he accept that his decision and that of his Government to end the ban on evictions is directly responsible not merely for the fact more than 10,000 people are now forced to live in emergency accommodation but also for the very particular nightmare these people in Limerick are being forced to live through?

**An Ceann Comhairle:** The Taoiseach has just three and a half minutes for a response.

**The Taoiseach:** I have been very clear, and have repeatedly said in this House, that housing is the single most urgent and important social issue facing our country at this time. Through Housing for All, we have provided action with a wide range of initiatives relating to social housing, homelessness and affordable housing. Access to housing is fundamental to our security, stability, health and progress as a nation; there is no doubt about that. The Government has been in office for two years. We had two lockdowns, unfortunately, which impacted on construction, although we managed to keep quite a number of social housing projects on the go. This year will see - I hope, and we are heading there - a record number of social houses built everywhere in the country, but we need to keep that rate going every year. I cannot comment on individual cases whose detail I am not familiar with but supply is the vital part of this. We need to build more houses of all types as quickly as we possibly can. That is the key intervention.

We have provided the resources. A total of €4 billion per annum will now be provided to enable the construction of social and affordable homes. We have also taken significant action on, for example, voids and on making sure local authority houses bring their voids and empty houses back as quickly as possible.

**Deputy Richard Boyd Barrett:** What do I say to these people?

**The Taoiseach:** More than 6,000 voids have been brought back into use in the past two years as a result of the initiative of the Minister for Housing, Local Government and Heritage on that. We want to get to at least 33,000 a year. I think the target this year is about 24,000 and last year, about 20,000 was achieved, given Covid had an impact on that. Interestingly, from March last year to March this year, we had the highest ever number of commencements, at about 35,000. The war on Ukraine, the cost of materials and commodities and inflation are having an impact, but the recent co-operative framework for tenders announced by the Minister for Public Expenditure and Reform will give some capacity to try to finish projects and enable people to tender for new ones.

Homelessness is a very key issue for us. Again, the Minister has taken a lot of initiatives, particularly working with the sector and with all the non-governmental organisations in respect of homelessness and the approved housing bodies, to do what we can to provide homes for the homeless and to prioritise them through Housing First and so forth. The current level of family



homelessness is too high at 1,308. It is 26% below the peak figure recorded in July 2018, but it is increasing and a range of factors are behind that. It is not as simple or straightforward as is sometimes articulated. Our priority will always be to do what we can, working with the non-governmental organisations, to increase the supply.

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

**The Taoiseach:** Deputy Cian O’Callaghan raised the issue of the divestment of schools. We operate a pluralist model and plebiscites are held in different locations regarding new schools, for example. Certainly, we want to see more divestment, greater plurality and greater access. Significant investment has been allocated to Educate Together, for example, and that will continue.

**Deputy Paul Murphy:** An Bord Pleanála?

**The Taoiseach:** I apologise. The Minister, Deputy Darragh O’Brien, has appointed a senior counsel to investigate the issues raised in respect of An Bord Pleanála and one individual on the board. It is important we allow that report to be completed without further comment until the senior counsel brings it to finalisation.

*Is féidir teacht ar Cheisteanna Scríofa ar [www.oireachtas.ie](http://www.oireachtas.ie).*

*Written Answers are published on the Oireachtas website.*

*Cuireadh an Dáil ar fionraí ar 1.59 p.m. agus cuireadh tús leis arís ar 2.58 p.m.*

*Sitting suspended at 1.59 p.m. and resumed at 2.58 p.m.*

### **Messages from Select Committees**

**Acting Chairman (Deputy Verona Murphy):** The Select Committee on Enterprise, Trade and Employment has completed its consideration of the Consumer Rights Bill 2022, and has made amendments thereto. The Select Committee on Housing, Local Government and Heritage has completed its consideration of the Electoral Reform Bill 2022, and has made amendments thereto.

### **Assisted Decision-Making (Capacity) (Amendment) Bill 2022: Second Stage**

**Minister of State at the Department of Health (Deputy Anne Rabbitte):** I move:

“That the Bill be now read a second time.”

I think my speech is coming.

I welcome the opportunity to introduce the Assisted Decision-Making (Capacity) (Amendment) Bill 2022 to the House. I look forward to this afternoon’s debate and hearing the contributions of Deputies on this important legislation. I thank all those who have engaged with the preparation of the Bill, especially my colleagues on the Oireachtas Joint committee who gave their time to pre-legislative scrutiny for the general scheme. The committee’s report was carefully considered in the final preparations of the Bill. The purpose of this Bill is to amend

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the Assisted Decision-Making (Capacity) 2015 and to allow for its commencement. This will bring to an end to wardship in Ireland and usher in a new era where capacity will no longer be approached from the out-of-date and archaic status approach but instead be assessed on a functional basis. By the status approach to capacity I mean the current approach under wardship where once a person is found to lack legal capacity in one context he or she is deemed to lack capacity in all contexts. When I say the proposed legislation will move us towards a functional approach, I refer to an approach where capacity is presumed and where the burden of proof rests on rebutting that presumption. Our decision-making laws are over 100 years old. Ultimately, wardship is a disempowering system that places a third party's assessment of a person's best interests above the person's own will and preference.

The proposed legislation will give people experiencing diminished capacity the opportunity to participate more equally and meaningfully in our society and have greater power to direct the course of their own lives in an independent and dignified manner. It will replace wardship with a series of tiered decision-making supports that will provide the level of assistance and support a person requires with regard to particular decisions at particular points in time and grounded in respect for the will and preferences of the person being supported. Given the impact the legislation will have on people's lives, I cannot overstate the importance of the enactment of this legislation. We have been waiting a long time to commence the 2015 Act. Now is the time to make these critical decision-making supports available for people who need them. We have a clear obligation under the United Nations Convention on the Rights of Persons with Disability and we have a clear commitment in the programme for Government to abolish wardship. Beyond that, passing this legislation is the right thing to do for our citizens and I believe this House knows that and agrees with me when I say that.

The enactment of this Bill and commencement of the 2015 Act will allow for the decision support services, DSS, which is the organisation that will operate the progressive provisions of the Act, to become operational. The DSS will play a critical role in ensuring the different tiers of support under the act are available to those who need them and will have a supervisory and safeguarding role in relation to those arrangements. It is also vital people who want to avail of this decision support have the right information and systems available to them and the decision support services will play a key role in this regard too.

Before I move on to providing an overview of the Bill's provisions, I will provide a short overview of some of the key changes foreseen under the Bill. The general focus of the Bill is to streamline processes and improve safeguards for those who will rely on the provisions of the 2015 Act. In that sense the Bill does not depart from the broad policy of the 2015 Act itself; rather it will enable the better functioning of the Act once it is commenced. The Bill intends to ensure the bureaucracy and administrative burden of the new system is kept to a minimum. Newly-included provisions will allow for the DSS to draw up its own forms and administrative procedures, as well as to resolve certain complaints informally without the need for automatic referral to the courts. The decision support service will also provide for the remuneration of decision-making representatives who will be made available to those who might not be able to afford to pay for a decision supporter. This is an important change in terms of equality of access to decision supports.

The Bill provides for persons with capacity difficulties to participate in health research, which is an important entitlement for all persons, and will allow for the circumstances and lived experience of people with diminished capacity to inform research and policy. Significantly, a new system for enduring powers of attorney, EPA, is being introduced. It will create a two-

stage process for creating an EPA. This will see a person being able to register the EPA instrument with the decision support services when he or she has the capacity so that any questions on the operation of the power or the intent of the donor can be clarified when the relevant person still has capacity. When a donor subsequently loses capacity his or her attorney will be able to notify the DSS, which will examine the notification and supporting documentation to ensure the relevant person has in fact lost capacity, along with other matters of a safeguarding nature. Provisions will allow persons to make changes to their enduring power of attorney before it comes into force or to revoke if they no longer wish to have it activated. The enactment of the Bill will see the removal of restraint provision in private settings and will bring about the strengthening of, and protections for, the rights of wards when being discharged from wardship.

I now move to the structure of the Bill itself. The Bill is divided into three Parts. Part 1 sets out the Title of the Bill and provides for commencement orders for the coming into force of the Bill once enacted. Sections 66 and 67, relating to Part 8 of 2015 Act, will be commenced by my colleague, the Minister, Deputy Stephen Donnelly. This reflects the fact Part 8 of the 2015 Act remains the responsibility of the Minister for Health.

Part 1 sets out key functions and provides for the repeal of certain sections of 2015 Act. Among these deletions is the removal of the requirement for the director of the decision support services to exercise functions in respect of existing wards, chiefly regarding the director's role under the 2015 Act regarding the management of estates and assets of relevant persons. Further repeals under this Part remove provisions permitting the use of restraint in private settings. These had been included in the 2015 Act to give guidance for exceptional circumstances but are being removed in the amendment Bill. Part 1 of the amendment Bill will also remove provisions that are no longer required following a change to a two-step enduring power of attorney process and remove an amendment to Mental Health Act 2001 which the Department of Health will now address as part of wider review of that Act.

Part 2 deals with amendments to the 2015 Act. These amendments include providing for a person with capacity to participate in healthcare research. This excludes clinical trials, which are separately regulated. Attorneys appointed under an EPA will be prohibited from making treatment decisions, which will give clarity to medical professionals that a designated healthcare representative is the appropriate decision supporter for medical issues. While a recommendation in pre-legislative scrutiny advised against this, it is important that there be absolute legal clarity for medical professionals who need to have one person with the authority to make what can be very sensitive decisions.

Part 2 introduces a range of amendments that deal with streamlining the processes of the DSS, allowing for it to have greater control of its own administrative procedures in relation to the appointment of decision supporters under the Act. This includes allowing the DSS to develop its own forms and procedures regarding a range of different processes. This will lead to better efficiency and responsiveness by the DSS in the interests of persons relying on decision support arrangements. The DSS will also maintain a register of decision support agreements, which can be accessed by certain persons and bodies under the Act and which will ensure well maintained and secure retention of records and agreements.

As stated earlier, the Bill introduces a new two-stage EPA process whereby the donor creating the EPA will first register it with the DSS while he or she has capacity. When the donor loses capacity, his or her attorney will notify the DSS. The EPA will come into force following the acceptance of that notification by the Director of the DSS, once it has been reviewed. Provi-

sion is made for the donor to make changes to the EPA at any stage prior to notification, including revoking the agreement, while also providing for additional safeguards within the overall process. This change requires a number of technical amendments across a range of provisions amending the 2015 Act.

Part 2 introduces additional and improved safeguards. The guiding principles provided for in the 2015 Act have been expanded to apply to all decision supporters equally, which is an important safeguard of the expression of the relevant person's will and preference.

In line with recommendations from the pre-legislative scrutiny process, proceedings under the Act will revert to being held *in camera*, which better protects the rights of the relevant parties. This is not a departure from the 2015 Act but, rather, from what was in the general scheme of the Bill. Changes to the Bill will disqualify persons convicted of any offence against the relevant persons or their child from acting as a decision supporter under the Act.

The decision-making assistant role has been clarified so that a decision supporter of that category will assist rather than advise a relevant person, while a new section is introduced to create an offence where fraud or coercion is used in respect of a decision-making assistance agreement. The DSS will draw up procedures and set out conditions where a trust corporation is acting as an attorney for a donor creating an EPA. Temporary prohibition orders and offences for the neglect or ill-treatment of a relevant person by a decision supporter are also being introduced. The director of the DSS will be given additional powers to investigate and informally resolve complaints while still allowing for a referral to be made to the courts for formal legal resolution. This change should ensure that complaints can be dealt with more efficiently while easing the burden on the courts system. A desire for informal resolution of the complaints is a recommendation of the pre-legislative scrutiny process and I am happy to have been able to include it in the Bill.

The Bill will remove the reference to cognitive ability in the 2015 Act because such language is inappropriate in the context of the Act. Part 2 provides for the removal of provisions in the 2015 Act which had provided for the use of restraint in private settings. A number of amendments provide for improved protections for current wards of court exiting the wardship regime. Where the exiting ward may only require a co-decision maker but none is available, an appointed decision-making representative will now endeavour to jointly make decisions with the person, insofar as is practicable. Wards will no longer have to seek leave of the court to apply for a review of their case, and they will be afforded the same procedures and entitlements under the Act as a person who is not a ward. Review periods for wards will also be aligned with reviews of other relevant persons under the Act and wards will be present in court for their reviews, ensuring parity.

Part 3 concerns amendments to other Acts made by the Bill and is chiefly concerned with Ireland's important obligations under the United Nations Convention on the Rights of Persons with Disabilities, UNCRPD. The provisions in this part of the Bill are chiefly taken from elements of the Disability (Miscellaneous Provisions) Bill 2016, which lapsed with the previous Dáil. Ireland ratified the convention in 2018 and, as Minister of State with responsibility for disabilities, progressing our realisation of the convention has been an absolute priority of mine. I am therefore particularly pleased to be able to bring some of the provisions from the 2016 Bill forward again today.

The Assisted Decision-Making (Capacity) (Amendment) Bill will amend the Juries Act

1976 to allow persons with hearing impairments to sit on juries. Part 3 will amend the Electoral Act 1992 by removing the prohibition relating to persons of unsound mind from standing for election to the Dáil. Amendments to the establishing legislation for the National Disability Authority are made which allow for staff of that body to become civil servants of the State. Amendments to the Irish Human Rights and Equality Act will see the Irish Human Rights and Equality Commission, IHREC, become Ireland's dedicated UNCRPD monitoring body. It will be supported by the National Disability Authority in that role. The Bill will provide for the gradual doubling of the minimum statutory target for the employment of persons with disabilities in the public sector, which will double from 3% to 6% on a phased basis by 2025. Amendments are made to allow a partial freedom of information, FOI, exemption relating to investigations undertaken by the DSS. This is not a UNCRPD measure but is in this Part of the Bill as it relates to changes to the Freedom of Information Act 2014. Records of the DSS not relating to investigations will fall under the scope of that Act.

I will now address the pre-legislative scrutiny report, and I thank the committee for its consideration of the general scheme of the Bill. The pre-legislative scrutiny report highlighted the need to ensure that UNCRPD obligations are acknowledged and adhered to by the DSS and by my Department regarding consultation, terminology and accessibility. I am very aware of these concerns and the importance of these issues for day-to-day integration and participation of persons with disabilities. It is important to recognise that these obligations already rest on the State following Ireland's ratification of the UNCRPD. To be clear, there is an existing obligation on the DSS, on Departments and on public bodies to abide by the convention and to ensure that obligations in international law are met. I can assure the House that my Department and the DSS are keenly aware of their obligations under the convention, and I will ensure that all the levers in the corporate governance relationship between my Department and bodies under its aegis and in receipt of funding will be used to ensure we meet those obligations.

The pre-legislative scrutiny report recommended that the interaction between the 2015 Act and persons whose involuntary treatment is regulated under Part 4 of the Mental Health Act 2001 should be examined. The Government agrees with the committee that there should be parity here and there is no question of not addressing these concerns. Following the passage of the original 2015 Act, it was decided that the necessary provisions should be included as part of extensive amendment to the 2001 Act. I am aware that pre-legislative scrutiny is now ongoing in respect of legislation to amend the 2001 Act, and I will work with my colleague, the Minister of Health, to implement the pre-legislative scrutiny recommendation.

Pre-legislative scrutiny highlighted the need for amendments to section 85(6), which concerns the applicability of advance healthcare directives for pregnant women. I can commit to a Government amendment on Committee Stage or Report Stage that will repeal that provision of the 2015 Act and ensure parity in this regard is delivered in the amendment Bill. Pre-legislative scrutiny also highlighted the provision of legal aid and assistance throughout the Act. With the assistance of my colleague, the Minister for Justice, I can commit to an amendment on Committee Stage or Report Stage that will extend the provision of legal aid to persons exiting wardship under Part 6.

As we approach the commencement date of the 2015 Act and the operationalisation of the DSS in earnest, I am aware of a number of practitioner concerns regarding transitional arrangements and the interim care arrangements and frameworks for persons experiencing capacity difficulties now and how they may need support. In light of the need for continuity of care, Government amendments will be brought forward to allow for wardship applications that are

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submitted prior to the commencement of the 2015 Act to be processed to completion. The amendments proposed will take account of how such persons will subsequently transition out of wardship at the earliest juncture and in line with the overall three-year timeline for the abolition of wardship, which will not be affected.

The Bill will allow for the commencement of the Assisted Decision-Making (Capacity) Act 2015, which will bring wardship in Ireland to an end. The decision support service will become operational and will be in a position to operate more efficiently and with more streamlined processes. Persons exiting wardship will have improved protections, safeguards and procedures. As a country, we will further meet our obligations under the UNCRPD. We will end wardship and move away from a disempowering best-interests approach in favour of identifying and respecting the will and preference of persons experiencing capacity difficulty.

I commend the Bill to the House.

**Deputy Mark Ward:** Sinn Féin supports the need to reform how wardships of court are legislated for in the State, but the Government has missed the opportunity to make Ireland a leader in capacity legislation and to fulfil our obligations under the UNCRPD. Sinn Féin will table a number of amendments to make this legislation inclusive, equal and more human rights compliant. The fact that this Bill also repeals the Marriage of Lunatics Act 1811 and the Lunacy Regulation (Ireland) Act 1871 says enough to show that updating the legislation is long overdue.

I am in a unique position when it comes to this Bill because I am a member of both the Joint Committee on Children, Equality, Disability, Integration and Youth and the Joint Sub-Committee on Mental Health. We have the Assisted Decision-Making (Capacity) (Amendment) Bill on the agenda of the Committee on Children, Equality, Disability, Integration and Youth, and the mental health sub-committee is undertaking a review of the Mental Health Act 2001. Both are extremely important and complicated pieces of legislation. We have a chance to make Ireland a leader in legal capacity reform, but I am afraid the legislation before us is, as I said, a missed opportunity. The Assisted Decision-Making (Capacity) (Amendment) Bill the Government proposes is not compliant with Article 12 of the UNCRPD because it allows for an individual's legal capacity to be denied based on an assessment of his or her mental capacity. This exclusion is discriminatory towards people with severe and enduring mental health difficulties or psychosocial disabilities. Deputy Rabbitte is the Minister of State with responsibility for disabilities, yet this Bill excludes people with psychosocial disabilities. The Minister of State is also responsible for equality. Where is the equality in this? The argument that the Government expects that the reform of the Mental Health Act 2001 will deal with this simply does not wash. The Mental Health Act has not been reformed since 2001. The principal Act we are dealing with is from 2015, seven years ago.

In the meantime, people who come under the Mental Health Act do not have the same rights as other people with disabilities when it comes to advance healthcare directives. The use of advance healthcare directives must be awarded to those who come under the Mental Health Act. If that does not happen, it could mean, in layman's terms, that if a person who comes under the Mental Health Act goes to the trouble of doing an advance healthcare directive, it will not be worth the paper it is written on. For example, if a person states in their advance healthcare directive that they do not consent to electroconvulsive therapy, ECT, also known as electric shock treatment, and they are subsequently detained under the Mental Health Act, their wishes may not be followed. That could happen very easily. It is already happening. In 2020, 20%

of all ECTs administered in this State were done without consent, with 442 patients subjected to this treatment without their consent. As the legislation stands, people who are involuntarily detained do not have the right to have their advance wishes about treatment respected, even though they had the capacity to make decisions about their mental healthcare and treatment at the time of making the directive. No other group of individuals is specifically excluded from this legal right.

Another issue we have, which we mentioned during pre-legislative scrutiny, is the rushed process for this legislation. No one wants to delay this legislation, but we must get it right. We must also ensure that everyone, particularly those affected, namely people with a disability, has a right to fully understand the legislation. During pre-legislative scrutiny, members of the committee were asked to submit their questions early to members of disability organisations who were appearing as witnesses before the committee. I was one of those who took part in that process. The early submission of questions allowed the people with disabilities the time to understand the questions and to prepare their answers. That gave us a really telling insight into how this legislation will affect people with disabilities. I thank Peter Kearns from Independent Living Movement Ireland and Joe McGrath from the National Platform of Self Advocates for telling their stories. As Mr. McGrath said, however, they are allowed to participate only in storytelling and not in decision-making.

I am a Deputy, I have two staff members, I do not have an intellectual disability and I have found this legislation extremely complex and very difficult to understand. The quick timeframe has made this even more difficult. I ask Members to imagine for one minute they are a person with a disability who wants to be able to understand and to partake in this legislation that will ultimately affect their lives. I ask them to imagine how that feels.

The committee report recommends that we must ensure accessible and inclusive processes of consultation and that every effort should be made by Departments, in compliance with the public sector equality and human rights duty, to carry out meaningful engagement with those directly affected by legislation prior to publication. In the case of legislation impacting disabled people, it should be developed in line with the UNCRPD. In my opinion, and in the opinion of the people in disability organisations to whom I have spoken, that simply did not happen. We are back to patting disabled people on the head and saying, “Thanks for your story, but we will take over from here.”

I spoke to Joe McGrath again on Tuesday, and one thing he said to me made more sense than anything else I am after hearing. The reason we are amending this legislation now and the reason we have a constitutional challenge is that the 2015 legislation was flawed. Let us therefore take our time and get it right this time. The Bill does not recognise the need for meaningful engagement with people directly affected by this law. Another example of this is that it requires IHREC to engage with the National Disability Authority in carrying out its monitoring role under the UN Convention, rather than IHREC engaging with organisations in which the likes of Joe and Peter are involved. I support the need to reform this legislation but I feel that the Government has missed the opportunity to have the voices of disabled people and people with psychosocial disabilities at the heart of this legislation. The Minister of State had a 20-minute speech and I did not hear one voice of a disabled person in that speech, which is very telling. As Joe McGrath has said, and I would say he has said it to the Minister of State as well, “There should be nothing about us without us.” They need to be included.

I welcome that the committee’s recommendation on pregnant women and advance health-

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care directive has been taken on board. That is very welcome, but we need more. This Bill is like having an open goal and turning it into an own goal: it is very close but not close enough.

**Deputy Donnchadh Ó Laoghaire:** This area of legislation has been talked about for many years. The 2015 Act was imperfect, but even it had a long and winding history to get that far. Our history - and I include our very recent history when I say that - is, unfortunately, blighted with stories of people with disabilities, including intellectual disabilities, who have been institutionalised, locked away and hidden away from the rest of society. At times, the wishes of their families were not respected. More often than not, their own wishes were not respected and they were effectively considered to be incapable of expressing or having their own wishes or of being in a position to consent to anything. That led to mass institutionalisation. Sometimes in the Dáil reference is made to the percentage of our GDP we spend on mental health and how much higher the percentage was once upon a time. In some ways that reflects the fact that we do not spend enough today - and there are issues with recruitment, and I know all that - but it also reflects the fact that a huge amount of the budget once upon a time was for mass institutionalisation of people with intellectual disabilities. It was the Irish State's response to so many things, including unmarried mothers and children. We lived in a State that was carceral, where the solution to many things was institutionalisation.

We have moved away from that, but it is still not very long ago that there were issues around consent and electromagnetic treatment. It is within only the past decade that the latter has been dealt with, and even right up to this day there are issues in that regard. It is very important we address that.

There are steps forward in this legislation but, as Deputy Ward and Mental Health Reform have identified, there are flaws in it. I hope we can address them through Committee Stage and the remaining Stages of the legislation.

Of particular concern is the fact Deputy Ward and Mental Health Reform have flagged, that is, that in respect of people who are involuntarily detained under the Mental Health Act 2001, sections 85(7) and 136 of the 2015 Act have not been amended and those people are not being given the right to have their advance wishes about treatment respected, even though they may have had the capacity at the time to make decisions. That is an important consideration. Advance care directives are very important and valuable. If somebody had the capacity previously and, at the time of having that capacity, expressed those wishes, of course those wishes should be respected. As the legislation stands, however, they are not being respected. That is discriminatory. I urge the Government to address the position of people detained under the 2001 Act in that context. I echo the point made by Deputy Ward that we support the need to inform how wardships of court are legislated for and that this legislation could have been stronger in making Ireland a world leader in capacity legislation and to fulfil our obligations under the UNCRPD. Accordingly, amendments will be tabled by this side of the House to strengthen the legislation.

I will flag once again the concerns on wardship that have been raised by organisations such as the Justice for Wards group led by Mary Farrell. It has raised concerns about how the funds for supporting wards of court are managed. It is primarily a Department of Justice and Courts Service issue, but I would flag again that there were concerns about how the funds are managed. I will finish on that point.

An enormous amount of travel has been done but, as yet we are still not anywhere near where we need to be. We must respect the wishes of a person who is affected by treatments, or



any decision made in regard to him or her, to the maximum extent possible. Where possible, the person's voice should be the ultimate and the legislation we draft and pass should reflect that.

**Deputy Patricia Ryan:** I welcome the opportunity to speak on the Bill and I sincerely hope that it fares better than the 2015 Act, where significant sections were left uncommenced.

This Bill repeals the Marriage of Lunatics Act 1811 and the Lunacy Regulation (Ireland) Act 1871. These Victorian Acts and their phrases have no place in our health service. The reforms in this Bill are long overdue. The current wardship system is not fit for purpose. This Bill will make significant progress in terms of our responsibilities under the UN Convention on the Rights of Persons with Disabilities. Ireland must immediately ratify the optional protocol.

The hit-and-miss consultation with stakeholders during the development of this legislation is something that needs to change. Deputy Ward made a similar point to mine. We are all familiar with the phrase, nothing about us, without us. Unfortunately, those who are not invited to dinner often find themselves on the menu. Stakeholders must be consulted in further reviews of this legislation and in the development of complementary legislation. The Government can bring forward as much legislation as it wants, but if this is not backed up with resources, it is set up to fail.

The health, social care and disability sectors that are the focus of this Bill have a long history of being under-resourced. Staff working in these sectors and family carers are struggling and need our support. They are saving the State a fortune and it is high time that the Government reinvested in them.

The Joint Committee on Children, Equality, Disability, Integration and Youth has made more than 60 recommendations on how this Bill can be improved. While we in Sinn Féin are generally supportive of the Bill, we see it as a missed opportunity to position Ireland as a world leader in legal capacity law reform. As the Minister of State already heard, we will be tabling a number of amendments to deal with the concerns outlined to us by advocacy groups and to make the legislation inclusive, equal, and human-rights compliant. People with mental health disabilities are excluded from this Bill, which is wrong.

Advance healthcare directives should be extended to people in all healthcare settings, including those detained in hospital for mental health treatment and all pregnant people. If we are serious about reform, arrangements must be made for those in prison and other institutions to access the Bill's provisions. Accessibility and ease of use must be central to the Bill's provisions. This must include the provision of non-digital routes and the removal of the requirement to have a MyGovID to register with and use the decision support service.

**Deputy Pat Buckley:** I thank the Minister of State, Deputy Rabbitte, for her comments on the Bill. I echo what the other speakers have said. I wish to touch on a few additional points in the short time I have. In her opening remarks, the Minister of State mentioned that we ratified the convention in 2018. Back in 2016 and 2017, I remember the then disability spokesperson, former Deputy Caoimhghín Ó Caoláin fought very hard for the optional protocol to be included in the Bill. It is one of the most important parts of any Bill when it comes to rights for people with disabilities.

I listened to what was said by other speakers. While nothing is perfect and people can work together, there will be amendments, but as other speakers have mentioned, the reform of wardship is necessary, as there is a currently a significant problem in that regard. I am not 100% sure

how things will transition from there.

It would be remiss of me if I did not thank the Oireachtas Joint Committee on Children, Equality, Disability, Integration and Youth for its work on pre-legislative scrutiny and also the Joint Sub-Committee on Mental Health. I also thank the stakeholders that were included, although obviously some were not.

It is a very complicated piece of legislation, but we are moving forward. With the Assisted Decision-Making (Capacity) (Amendment) Bill and the decision support services that should be in place show how our archaic mental health laws have been so damaged and tangled that, as it stands, we are not helping people. The Minister of State will have heard me speak in the Chamber about the current state of the Owenacurra mental health centre in Midleton. The patients there did not get the options outlined in the Bill, despite what the Ministers of State and the Minister have been told about it. I feel very passionately about mental health and mental health legislation.

I welcome elements of the Bill too: it is not all negative. The committees had a very short timeframe for pre-legislative scrutiny. There were already approximately 87 amendments to this Bill. There are stakeholders outside and inside this House who will probably table more amendments to the Bill.

When I come in here, I often say, let us do something that is right, but is different and makes us become world leaders. We have a reputation in this country for being the best people, the friendliest people and whatever else, but we should have the same empathy and compassion when we go through legislation and come out the other end. It might not be us who are here in two, five or ten years' time, but please God we will be alive, and we will say to ourselves that we are glad that we stuck together, that we all worked on this and made this country a better place. We legislated for the people that we are supposed to represent in this House.

The Minister of State said: "I welcome the opportunity to introduce the Assisted Decision-Making (Capacity) (Amendment) Bill 2022 to the House. I look forward to our debate this afternoon". It is a debate, but the points have to be made also. We do not want to rush the legislation because we want to get it right. We want to get it spot-on. As I speak about the Bill in the House, I am conscious that as legislators we have let people down in the past. We have legacy issues in this country whereby the most vulnerable have been treated deplorably. The word "disability" is a label and a tag that is given to people because of a condition they have, but the condition is not their fault. It is about rights. While society labels people with a disability, the problem is that they are being cast aside and mistreated because we are not legislating for their rights. It could be as simple as not providing a ramp on a footpath for a wheelchair user to improve access and help people to cross roads. We are the failures, because we have not supplied those people with everything that they need to live the fullest life they can. I could talk for hours on the Bill but I am running out of time. This side of the House will table amendments, not to fight but to provide clarity and in order to get this right.

**Deputy Sean Sherlock:** There is a certain conflict going on in my mind in respect of this Bill because while one is minded to support it, the fact is that so much appears to be left out or has not come under greater scrutiny prior to its publication and promulgation here within the House. Members feel they are being rushed into supporting legislation they believe may not adequately address the entirety of the issues, as articulated by previous speakers. We feel as if we are being rushed into a process. While recognising the importance of the legislation,

we believe it is being rushed for reasons of political expediency at this stage. We are asking ourselves, why the rush now? Why not take a little more time to consider the issues therein so we can be sure we can all support the Bill and have a very clear and clean conscience when doing so?

There is a paper that is a very useful and objective critique of the Bill before us. It is from the Centre for Disability Law and Policy at the National University of Ireland, NUI, Galway. I will quote directly from it because it exactly summarises the concerns I have. I will openly admit to not having the ability to interrogate this Bill properly, and not fully having the skill set required of me as a Member to be able to interrogate every dot and every line of this legislation. I wish for more time to learn more about what it is we are expected to pass. I openly admit I am no specialist in this area of law. I would have liked more time. Notwithstanding that, there is paper, Respecting Human Rights in the Assisted Decision-Making (Capacity) (Amendment) Bill, which is a briefing note drafted by the Centre for Disability Law and Policy at NUI Galway as of 30 May.

The Bill does not redress some major flaws in the original Assisted Decision-Making (Capacity) Act. [It] does not extend Advance Healthcare Directives fully to those under the Mental Health Act; [it] does not extend any of the Act's advantages to young people aged 16 and 17; [it] does not remove the deleterious effect on the unborn language despite the Repeal of the 8th amendment to the Constitution; [it] has not removed the functional test of mental capacity which has been deemed a human rights violation by the UN Committee on the Rights of Persons with Disabilities; [and] The Assisted Decision-Making (Capacity) Act 2015 is as it stands, is not compliant with Article 12 of the UN Convention on the Rights of Persons with Disabilities because it allows for an individual's legal capacity to be denied based on an assessment of their mental capacity. The Amendment Bill is a missed opportunity to address this, and position Ireland as a world leader in legal capacity law reform.

The Bill makes it more difficult for people to access and use the supports they would like. [The Bill] does not allow donors to grant health decision-making powers in enduring powers of attorney, makes them create a separate advance healthcare directive instead; Additional criminal offence is unnecessary and will deter potential decision-making assistants [and] the Bill does not respect core human rights. [It] does not contain an explicit prohibition on all physical and chemical restraint; [and the Bill] continues to exclude many disabled people from jury service in a discriminatory manner.

The Bill does not recognise the need for meaningful engagement with people directly affected by this law. [It] delegates powers to Decision Support Service without mandating the office to engage meaningfully with disabled people, older people, and people with experience of mental health services in exercising these powers. [Please bear in mind, from a syntax and grammatical point of view, that I am quoting directly]. [It] requires [the] IHREC to engage with the NDA in carrying out its monitoring role under the UN Convention, rather than mandating IHREC to engage with disabled people's organisations, [and the] Department did not conduct any public consultation on this Amendment Bill

There are a plethora of issues here that require further interrogation. I have no doubt that will occur on Committee Stage. It will be anticipated there will be many amendments to this legislation. That is the first part of the Bill I wanted to speak to.

I will also speak to correspondence I received from Ms Mary Farrell, who is the spokes-

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person for Justice for Wards. Deputy Ó Laoghaire referred to her earlier. She is somebody who has been in contact with many of us down through the years and whose perspective we all inherently appreciate and understand. We have all tried to advocate on her behalf and that of the organisation she represents. Ms Farrell and her group have also expressed serious concerns about this Bill. I will read into the record some correspondence I have received from her dated 25 May 2022:

Dear Sean

We met on 27th April last when Justice for Wards held a meeting outside the Dáil to highlight our concerns related to Wards of Court matters. I have since written to you concerning our request to meet with the Minister for Justice [I know the Minister of State will tell us this does not come under the Department of Justice but the Department of Health, which we accept] to discuss those concerns with a view to having them resolved prior to the commencement of the Decision Support Service and discharge of Wards. There are people from all parts of the country involved, including your own area and because of their unique circumstances many cannot go public with this so as not to identify Wards.

We would be grateful for a response.

This is the other side of the coin, so to speak. We are engaged on two fronts - ensuring that the legislation underpinning the DSS and related areas is appropriate and ensuring that the DSS is fit for purpose. There has been no engagement with Justice for Wards, Wards of Court or their families by either the Office of Wards of Court or the Decision Support Service. Many families have no idea what is happening and if the online joint presentation directed at Wards and their families yesterday is any indication of the type of communication, engagement and information we are going to get, it demonstrates how out of touch they are with these people and their concerns, needs and understanding of these changes. Many do not have Internet or resources to engage.

That is also a point worth bearing in mind and is a genuine perspective. Ms Mary Farrell further corresponded with me on 25 May, when she sent me a copy of correspondence she sent to the Minister for Children, Equality, Disability, Integration and Youth, Deputy O’Gorman, dated 25 May. Again, it is an outlining of her concerns that I will read into the record:

Dear Minister O’Gorman

I am writing to you as Spokesperson for Justice for Wards, to express our concern ... [that] the Draft Codes of Practice on the Assisted Decision-Making (Capacity) Act 2015 which have been presented for your approval by the Decision Support Service. In short, we believe the Draft Codes are not fit for purpose and should not be published in their current form, and we urge you not to approve these Drafts for publication until significant changes have been made.

Members of Justice for Wards have been campaigning for changes to the archaic Wardship system for many years – since the State signed the UNCRPD in 2007 to the eventual signing of the Assisted Decision-Making (Capacity) Act 2015. We now know that the finish line was to be a long way off for those who were locked into the Wardship system for their lifetime with no route out. This matter has rumbled on for ... too long, with delays at every turn, and now, after 7 years, the Decision Support Service’s Codes of Practice are of concern. [I am merely reading into the record the perspective of somebody who is directly

involved with this. I will appreciate the Minister of State's response.]

The consultation process for the Draft Codes was not fully accessible to, or meaningfully inclusive of, people directly affected by this law – including and particularly the current main stakeholders, Wards of Court, their Committees and families; disabled people; people with intellectual disabilities; people with experience of mental health services; neurodivergent people and older people. The periods for which the Draft Codes were open for public consultation was too short, submissions were only permitted in written formats, and the questionnaires were not made available in alternative formats such as Easy to Read. This inaccessible consultation has been criticised by the Oireachtas Committee on Children, Equality, Disability, Integration and Youth in its Pre-Legislative Scrutiny report on the Assisted Decision-Making (Capacity) Amendment Bill. There has been no engagement by the Office of Wards of Court or the Decision Support Service with Wards, their families or committees. This is very concerning. It does not bode well for future communications.

The content of the Draft Codes is not compatible with Ireland's obligations under human rights law, specifically the UN Convention on the Rights of Persons with Disabilities. In our view, the Draft Codes do not accurately represent the spirit and letter of the Assisted Decision-Making (Capacity) Act, which was intended to give people more choice and control over their decision-making, not less. In a number of places the Draft Codes give the impression that a wide range of individuals (including legal professionals, financial professionals and healthcare professionals) can assess a person's capacity under the Act, when in fact the Act makes clear that only the court is empowered to declare a person to lack capacity. The core human rights value of respect for the will and preferences of the person, which was hard-fought for in the 2015 Act [and to which the Minister of State has already referred], is not sufficiently prioritised across the Draft Codes, and there is little to no guidance to those acting in roles under the Act on how to discover, interpret, and act upon, the person's will and preferences.

We have tried to engage with the Decision Support Service but our efforts have not been well received.

The Decision Support Service has not produced any document as a result of the public consultation outlining the key messages received and proposed actions as a result.

We know that people have been waiting a long time for reform of Ireland's capacity laws, especially Wards and their families but to press ahead with the publication of these Codes without meaningful engagement with people directly affected by this law, will ultimately be counterproductive for everyone involved. We once again urge you not to approve these Draft Codes when presented to you, and to request the Decision Support Service at a minimum:

- Publish the key findings from the public consultation and actions to be taken as a result
- Undertake meaningful engagement with people directly affected by the Act with a view to making further changes to the Draft Codes to bring them into greater compliance with Ireland's human rights obligations, in a transparent and open process

We are happy to provide you with further information, should you need it, to support our concerns, or to discuss this issue further with you and your officials if appropriate by phone, email or virtual meeting.

1 June 2022

Yours sincerely

Mary Farrell

Spokesperson

Justice for Wards of Court

Arising from the intervention I have just made, could some form of communication be opened up with Justice for Wards of Court? If only to intervene or engage with the group on its concerns, that would be a good day's work. That is my only request.

**Deputy Anne Rabbitte:** I am open to that and I will do it.

**Deputy Sean Sherlock:** I thank the Minister of State and am grateful for her intercession in that regard. I am genuinely delighted that she has undertaken to do that. She knows the group - its members are reasonable and decent people. If they could just get some qualitative engagement with the process, it would be a first step. Although I have a few minutes left, I do not want to tarry for too long except to say that the members of Justice for Wards of Court feel that they have been jettisoned by the process and do not feel a part of it. If we ensured that they were included, it would be a good day's work.

**Deputy Cathal Crowe:** I thank the Minister of State for being in the Chamber. I have been watching the debate from my office and, as always, she has been engaging and has not just been sitting on the front benches playing on a phone. She is taking notes. She is surrounded by a great team, including Mr. Noel Byrne, and its members are always good in taking on issues when I contact them.

The topic of special needs is close to my heart. When I come home from the Dáil, there is someone at home close to me who has special needs. It is a part of my life and is why I went into teaching. It is probably why I entered politics in 2004, fighting for and championing the underdog. It is a cause that the Minister of State shares.

This is positive legislation, the genesis of which is the 2015 Act, which was also positive legislation. I watched that legislation's passage from outside Leinster House many years ago. This amending Bill gives it new effect, ties up certain elements and is more moderate and reflective.

The Bill contains a number of critical provisions, one being the ending of the outdated wardship system, which I believe dates back to the late 1800s. It is great to see it being dismantled in 2022 and replaced with a far more modern framework, one that helps vulnerable people like my family member and others to make assisted decisions, with the correct supports in place. This legislation recognises them for the adults they are. Sometimes, people cast them aside and dismiss them as being "childlike", a term that I hate. These are people who are adults in mind and body even if how they function from day to day is a little different and more challenging than it is for the rest of us, and they need their rights enshrined in legislation if their futures are to be protected. Some 200,000 people have issues relating to capacity. They are the ones far beyond these walls who will benefit from the legislation when it is tweaked, finely tuned and enacted.

I wish to pay tribute to an amazing advocacy group in County Clare. The Minister of State has met it several times, namely, the Clare Leader Forum. All of us have had lobby groups at our doors, but this is a group that calls politicians every few weeks and hauls us in. If we have

anything else scheduled, we must scratch it off our agenda and meet this group. It keeps us razor sharp on all of the relevant issues. I wish to name some of its members on the record – Ms Anne-Marie Flanagan, Mr. Martin Tobin, Mr. Dermot Hayes, Ms Jennifer Hynes and Mr. Liam Mulcahy. There are many others. They looked the Minister of State in the white of her eyes a few months ago and told her that they wanted the UNCRPD, up to and including Article 12, to be fully enacted and provided for within Irish legislation. This Bill does that.

I am happy to see the doubling in the number of people with disabilities working in the public sector. I have worn a path to EmployAbility Clare. It is an amazing and fantastic body, but we need to focus on what happens beyond its office. I do not know whether many employers listen to Dáil debates – I am sure they have better things to be doing at 3.55 p.m. on a Wednesday than listening to what we say in the Chamber – but if a message were to come out of this debate, it would be that they should look at employing people with disabilities. A disability or limited capacity is only one aspect of a person's being. The people I know, and the people I taught in my classrooms for many years, have strengths and would be an asset to any workplace. We should not need laws to require people to take on such persons.

The Leas-Cheann Comhairle is present. She always gives a little bit of latitude in these discussions. I need to mention the Education for Persons with Special Educational Needs Act 2004, or EPSEN Act, which is relevant to the Minister of State's Ministry to some degree even though it is in the realm of education. It was critical legislation. When I was at Mary Immaculate College preparing to be a teacher, the Act was hammered home to us time and again. Its backbone is the premise that a child with special educational needs would be schooled in his or her home mainstream environment. It might not have mattered too much to the teacher – it was just another person in the class and we had to change how we taught a little by differentiating – but it made such a difference when the school bell rang in the evening because that child would be invited to a local party or go on a play date. These children were growing up with their peer groups, not being sent to special needs schools far removed from them. I am not saying that there is anything wrong with special needs schools. I have a family member who attended one and thrived. Instead, I am saying that too many children in the 1980s and 1990s when I was growing up got to seven or eight years of age and their needs could not be appropriately provided for in their local mainstream schools, so they went to fabulous special needs schools. The EPSEN Act transformed everything. It may be 18 years old, but it is still current and is still empowering for people, particularly youngsters who are struggling in school.

I was dismayed to hear that there were talks of providing clustered centres for children with special educational needs in Dublin. Dublin is far removed from me - it is 120 miles away and getting here takes me two and a half hours - but the spirit of what has been suggested for Dublin is all wrong. The EPSEN Act might be 18 years old, but it provides for youngsters to be educated in their local schools with their local peers and to be invited to birthday parties and play dates. That is what we want. That is where children thrive. Not everything is learned in a textbook. Not everything is learned by the teacher explaining for the 20th time how the number is carried when subtracting. Not everything is learned in that environment. Most learning is done in the schoolyard with a peer group. If we start shipping youngsters with special educational needs back out to clustered centres of education, we will lose everything that the EPSEN Act gave us. I know that this is not directly under the Minister of State's remit, but she is the Minister of State with responsibility for disability. She is a champion for people with disabilities and capacity issues. There is a realm of politically correct terms, and they are all such good terms. I ask the Minister of State to fight in government to ensure that we do not return

to clustered environments.

*4 o'clock*

If we have specialised schools they are there for a reason. They are there because they are bespoke and meet needs but let us not get back into clustered settings. A youngster in Meelick National School or Parteen National School starting off primary education, with whatever challenges and difficulties they have, should be able to progress in that pathway right the way through primary and secondary level. Let us not regress. Overall this is fantastic legislation. I know there will be amendments, some of which I have read. They are made with good spirit and are guided by the right principles. Let us enact this legislation and give people the power to make their own decisions.

**Deputy Ruairí Ó Murchú:** I add my voice to what many of my colleagues have spoken about and we are glad that we are getting to grips with an issue we have failed miserably with in this State over many years. However, I cannot help but think that this Bill is somewhat too rushed. We have heard Members say already that questions remain on its workability and on whether it is failing. That is on either side of the argument on assisted decision-making and dealing with the wider issue of capacity. Like I said, we have a history in this State of failing to deal with these issues. We literally hid people away in big institutions and we definitely did not look after their needs. We all know we are trying to move to a better place.

I would reiterate an awful lot of what Deputy Cathal Crowe said about special needs education and the fact that there have been mass improvements but that we still have a planning deficit in seeing the needs that are there, including education or anything else. The Minister of State and I have dealt with a number of disability issues that cross housing and that are somewhat complicated. If there is a difficulty, I imagine the interaction between the Minister of State and Louth County Council will not be perfect but hopefully we will bring that to a conclusion in this Bill. It shows the fact that we have not allowed for dealing with issues of disability. I know some people have brought up with me the issue of ensuring we have workability in decision support services. There may be people who lack capacity and unfortunately we may end up in a court setting before we can trigger what is needed. I am always afraid of anything that relates to courts from the point of view that they are backlogged. These are situations where people are trying to facilitate those people with their financial matters and all the rest of it. That is accepting that we are also coming from a place where we want to protect people who have been manipulated and have found themselves in difficult circumstances over the years.

We support the fact that we need reform and legislation on wards of court and we need to make sure we have a better process in play. We also need to fulfil our obligations under the UNCRPD in that regard. Many of my colleagues have mentioned that we will be putting amendments and we hope these will be taken as they are intended from the point of view of us getting to a better situation. The Minister of State alluded earlier to the fact that there is still a need for a greater amount of interaction with the stakeholders, namely, the disability groups and the people who will fall under this bracket. We need to ensure we allow enough time for all this to happen.

**Deputy Holly Cairns:** I am deeply worried about this Bill. When I was driving up from west Cork this week I was trying to think about how I could convey my profound concern for what the Government is doing. This Bill will have far-reaching consequences for disabled people, older people and individuals experiencing mental health difficulties. It affects how they



can make decisions about their lives. This Bill should have been developed in partnership with disabled people. Instead it is being rammed through, ignoring their calls for a transparent and collaborative approach. Not only is this morally wrong but it is also in obvious breach of the UN Convention on the Rights of People with Disabilities.

This Bill should be about structures that presume individuals have capacity and empowers them. Instead, disabled people and human rights experts are warning that it is establishing a system that enables discrimination, exclusion and abuse. Crucially, the Government is allowing a process where a large number of unqualified people can make assessments of an individual's capacity. For example, a bank teller could decide that a disabled person or an older person cannot have access to their own money. This is a terrifying prospect that not only breaches rights but pushes disability rights back about 20 years in this country. There are numerous other issues with the Bill, including a clause relating to medical procedures that goes against the repeal of the eighth amendment, continues to exclude many disabled people from jury service in a discriminatory manner and retains an assessment called the functional test of mental capacity, which has been deemed a human rights violation by the UN Committee on the Rights of Persons with Disabilities.

The Bill is being rushed through without inputs from those it affects. This Bill breaches the rights of disabled people and will create further discrimination. This Bill will be the subject of suffering, litigation, and dispute for years to come. On each occasion people will look back and ask how this was allowed to happen. The Minister of State needs to stop this now and she needs to listen to disabled people and human rights experts. The most glaring issue in this Bill is the disregard for the perspectives of people with disabilities. Article 4(3) of the UNCRPD states, "In the development and implementation of legislation and policies to implement the present Convention ... State Parties shall closely consult with and actively involve persons with disabilities". The Government and the Department of Children, Equality, Disability, Integration and Youth have knowingly, and therefore intentionally, breached this article. In the development of the Bill and in the determination to ram it through this House, the Government is violating an international human rights convention. The report of the Committee on Children, Equality, Disability, Integration and Youth highlighted that "A significant number of stakeholders highlighted that there was no public process organised by the Department to engage with DPOs, family carers or other relevant persons and that there is no plain English or easy-to-read version of the Bill." These are not only significant barriers, but they are representative of institutional discrimination. Joe McGrath, a committee member of the National Platform of Self Advocates, articulated this issue well when he said:

This law is very important for us but we have not been given enough information about it. Since the law was passed seven years ago, no one from Government has told us what we need to do to get ready for it. ... This is not good enough. Everyone has the right to know what the law means for his or her life. There should be an easy-to-read version of the law so that we can understand it for ourselves.

In essence this Bill has been developed, designed, and written with no meaningful input from disabled people, disabled persons organisations, and others affected.

The Justice for Wards group has also highlighted a lack of engagement. During pre-legislative scrutiny, officials from the Department revealed that they were using a decade-old consultation. Not only is the Minister obliged to engage with these groups, but they are enthusiastic to be heard. They have been proactive in attempting to engage with the Department but have been

ignored. Disabled persons organisations, older people's groups and Mental Health Reform are all eager and available to help and work with the Department and the Decision Support Service. Intentionally disregarding their wealth of lived experience and shared knowledge is disgraceful, as well as violating the UNCRPD.

The speed at which the Bill is being rushed through compounds the harm being done. The 70-page Bill was published on Friday evening and it is being discussed today and tomorrow, with amendments due next week. I will be honest in saying I do not understand half of the Bill. It is written in extremely dense language which can only be understood in conjunction with the original Bill. In such a short timeframe, I do not have the capacity to engage with it all and to draft proper amendments and it is my job to do that. I am relying on the expertise of others to help me understand this, in particular the centre for disability law and policy in National University of Ireland, Galway. What chance is there then for those directly affected by the Bill? Campaigners have asked for time to engage with the Bill and for an easy-to-read version. What is the Minister of State's response? It cannot just be to ignore them and move on. This is so wrong and it is bad lawmaking. It is something we should not even be talking about in 2022.

The Committee on Children, Equality, Disability, Integration and Youth is also part of the problem here and we acknowledge that our pre-legislative scrutiny process was less than exemplary given the short timeframe we were given. As such, it cannot be considered to represent meaningful and inclusive consultation on the Bill. Reflecting its development without enough input from disabled people, the legislation does not recognise the need for meaningful engagement with people directly affected by this law.

The Bill delegates powers to the Decision Support Service without mandating that office to engage meaningfully with disabled people, older people and people with experience of mental health services in exercising those powers. During pre-legislative scrutiny, it became clear the Decision Support Service had not been meaningfully inclusive of disabled people in the drafting of its codes of conduct. This is worrying for two reasons. First, the practical implementation of this Bill will be through these codes of practice for assisted decision-making, which have had no real input from those affected. This is a blatant example of a paternalistic understanding of disability that ignores the agency and rights of disabled people and older people. Second, it reveals that a paternalistic and non-inclusive culture already exists in this new office. It is essential that the Bill compels the Decision Support Service to work in conjunction with those affected.

The pre-legislative scrutiny report recommended that the Decision Support Service must progress and intensify meaningful engagement with disabled persons organisations and other stakeholders in the development of guidance resources and that it must assign the necessary resources to achieve this in a timely manner. If the new office is to have any credibility, this requirement must be added to the law to ensure the service complies with the Convention on the Rights of Persons with Disabilities and respects disabled people, older people and people with experience of mental health services. All of this comes down to having the decency to engage with those affected and following the State's obligations under the convention. Mr. Joe McGrath of the National Platform of Self Advocates told the Oireachtas committee:

We want the Government, the Minister, the Department and the Decision Support Service to listen to and work with us. Nothing about us, without us.

There are several issues within the law, and some that are absent from the law, that need

addressing. The first issue is fundamental to the whole framework. It is that the Bill does not go far enough to guarantee presumption of capacity, which is the purpose of the legislation. The law should operate from the position that all individuals have capacity unless it is proven otherwise, similar to the presumption of innocence in our legal system. The Bill, while designed to support people, also gives the right to remove or restrict a person's decision-making capacity. This is an incredibly serious power that needs to be very tightly controlled and limited. Only the courts should have that power. A court has the capacity to listen to medical, legal and other experts, as well as to family members, and to make an impartial decision on that basis. This can and should be the only means by which decision-making capability is removed from an individual.

The Oireachtas committee heard wide-ranging concerns from witnesses regarding the need to strengthen this principle in the Bill. At all stages, relevant persons should be presumed to have capacity unless a court decides otherwise. The obligation must be on other parties to establish a lack of capacity rather than the relevant person having to prove his or her capacity. In its submission to the committee, Independent Living Movement Ireland was very clear on the need for the Bill to provide for "the presumption of capacity and the protection and promotion of a person's will and preferences". It called for specific reference in the legislation to the need to "ensure the autonomy of disabled people to live the lives of their choosing".

During the pre-legislative scrutiny process, stakeholders raised issues with the Decision Support Service's draft codes. They pointed out that a wide range of actors, including legal practitioners, financial professionals and healthcare professionals, can carry out assessments of capacity as they see fit. These individuals can then make decisions about whether to respect the relevant person's decision based on their own assessments, without any recourse to or oversight by the courts. This simply cannot be allowed. It is a highly problematic and dangerous proposal that gives a whole range of people, albeit possibly well-intentioned, the power to remove or limit an individual's decision-making capacity. This is incredibly worrying and irresponsible. I gave the example earlier of a bank teller being given the power to stop a person with a disability or an older person from withdrawing money from his or her account. The standard must be a presumption of capacity and it is up to the State and others to prove otherwise in court. This principle must be embedded in the legislation. At the moment, it is not sufficiently articulated, as evidenced by the Decision Support Service's own draft codes.

The second issue concerns what is referred to as the functional test of mental capacity. This practice has been deemed incompatible with Article 12 of the Convention on the Rights of Persons with Disabilities. The functional assessment of capacity typically focuses on whether a person is able to understand information and use and weigh the information that is relevant to a decision. General comment No. 1 of the UN Committee on the Rights of Persons with Disabilities clearly states that the test should not be used to deny someone's rights. The committee recognises it as an unreliable method of assessing the inner workings of the human mind. The test discriminates on the basis of disability and has been recognised as a subjective method of assessment, with individuals receiving different results depending on the person conducting the test. It is truly shocking that the Bill does not make provision for the ending of this practice. The Oireachtas committee's recommendation in this regard was very clear, stating that the Bill should remove the functional test of capacity and replace it with an obligation to acknowledge, interpret and act upon the relevant person's will and preferences, in line with the Convention on the Rights of Persons with Disabilities.

Third, the Bill does not remove a section of the Assisted Decision-Making (Capacity) Act

2015 that reflects the situation prior to the repeal of the eighth amendment. An advance healthcare directive is a statement people can make on the types of medical or surgical treatments they want or do not want to receive if they are unable to make such decisions in the future. However, under section 85(6) of the 2015 Act, an advance healthcare directive is not valid or applicable if it includes a refusal of treatment where such refusal “would have a deleterious effect on the unborn”. Parts of an individual’s advance healthcare directive may be disregarded if refusal of a treatment would have such an effect. This means a person’s will to receive or refuse a required treatment is restricted if she is pregnant. This section reflects the language of the eighth amendment and it has no place in post-repeal Ireland. Professor Eilionóir Flynn of NUI Galway stated at the Oireachtas committee: “These sections are simply unnecessary and can be deleted from the legislation.” It is welcome that there appears to be a willingness on the part of the Minister of State to do that. However, the question remains as to why this provision was included in the draft we received last Friday. It is evidence of how rushed this legislation has been.

The fourth issue is that the Bill continues to exclude many disabled people from jury service in a discriminatory manner. Section 82 is highly problematic and discriminatory in this regard. While it recognises the right of deaf people to sit on juries, it goes on to exclude whole cohorts of people from doing so. It introduces the paternalistic language of “sufficient mental or intellectual capacity”. Furthermore, there is a typographical error in the Bill in its reference to “incapacity”, which does not make sense in the context. This language is inconsistent with the 2015 Act, which deliberately does not include any reference to specific cognitive impairments. Disabled Women Ireland has pointed out that this type of language focuses on the person’s impairment and how it may make it difficult for him or her to participate in jury service. It does not recognise or place any onus on the State or the Courts Service to reasonably accommodate such persons to participate.

This paternalistic and medicalised model of disability, focusing on incapacities rather than putting forward progressive laws and associated supports to assist disabled people to participate in juries, must go. Serving on a jury is a civic responsibility in our Republic but this Bill will exclude whole cohorts of people from doing so. As stated at yesterday’s briefing, many people try to get out of jury duty but there are many disabled people who want to serve. Instead of empowering these individuals, the Bill intentionally excludes them. Back in 2013, the Law Reform Commission report suggested that much more inclusive and progressive language should be used. That is the type of approach we should be pursuing.

Another point in respect of section 82 concerns its implications with regard to mental health, which are disgusting. It makes provision to exclude:

A person who suffers or has suffered from mental illness or mental disability and on account of that condition either—

- (a) is resident in a hospital or other similar institution, or
- (b) regularly attends for treatment by a medical practitioner.

This is highly stigmatising language. Anyone who has or has had a mental illness and who has seen a doctor several times about it could be excluded from jury duty. On what basis should that be done? Why are we even talking about such a thing and how can it be considered in 2022?

There are several other issues that need attention but which I can only mention briefly in the

time remaining. The removal of information on treatment decisions from enduring powers of attorney, and forcing people to create a separate advance healthcare directive instead, creates additional complications and barriers. Disabled persons organisations, legal experts, advocacy organisations and others argued that this would be less accessible, more complex and inefficient.

Mental Health Reform has highlighted outstanding issues regarding involuntary detention. As the legislation stands, people who are involuntarily detained do not have the right to have their advance wishes about treatment respected, even though they had the capacity to make decisions about their mental health care and treatment at the time of making their directive. No other group of individuals is specifically excluded from this legal right. This exclusion is contrary to international human rights standards.

As highlighted in pre-legislative scrutiny, family carers are being treated differently from decision-making representatives appointed by the court. Those appointed will receive expenses and remuneration, but this provision has not been extended to carers. This is another case of the State taking family carers for granted. The committee heard the challenges carers face with how little support is offered by carer's allowance and the conditions for qualifying.

There is the bizarre requirement for the Irish Human Rights and Equality Commission to engage with the National Disability Authority in carrying out its monitoring role under the UN convention, rather than mandating the Irish Human Rights and Equality Commission to engage with disabled people's organisations. The National Disability Authority is not an disabled person's organisation. The Bill specifically requires IHREC to engage with organisations other than those representing disabled people.

I have touched on some of the major issues with this legislation, but even more significant are the unknown issues. Because the Department and the Decision Support Service have not meaningfully engaged disabled people, older people and people with experience of mental health services, there are potentially significant matters we are unaware of. The practical purpose of Article 4 of the Convention on the Rights of Persons with Disabilities is to make laws informed by those they will affect most. Instead, this breaches the rights of disabled people. The people it will affect most have been excluded. There is still time for the Minister to do the right thing and halt the process until adequate consultation has occurred. This legislation will have far-reaching consequences for whole communities of people. It will be the subject of litigation and human rights challenges, all of which could be prevented if the Government adhered to its human rights obligations by respecting and engaging with the people affected.

I again quote Joe McGrath of the National Platform of Self Advocates. Not only does he have a better understanding of the convention than the Government, but he sums up the issue very well, "Let's get this legislation right so we don't have any constitutional challenges ... We're the ones who are going to have to live with it". I cannot implore the Minister enough to halt this deeply flawed and potentially dangerous situation and to listen to those whose lives will be shaped and limited by this legislation - nothing about us, without us.

**Deputy Jennifer Murnane O'Connor:** I welcome the Bill. I particularly welcome the role of the amendment in ending the wardship system and the introduction of a statutory modern framework of supported decision-making for adults based on a functional assessment of capacity. We cannot underestimate the importance of this Bill. We must ensure that the technical procedural amendments allowing the commencement of the 2015 Act are provided for. We must now provide for a functional model of capacity assessment following the 2015 Bill and

bring an end to wardship in Ireland.

The Bill will provide an important new system for enduring powers of attorney with a two-stage process. I welcome that the Bill amends definitions of personal welfare and treatment decisions, which will allow for participation by persons with capacity difficulties in health research. It is crucial that people are supported and able to have their voice heard.

Section 59 of the Bill will remove the capacity of an attorney to make treatment decisions for a relevant person. This will avoid any confusion for healthcare professionals as only a decision-making representative or healthcare representative will have the authority to take these decisions. I welcome the provision for expanded decision support services, which will play a vital role in ensuring implementation. This Bill will allow for remuneration of decision-making representatives. It will strengthen the protections for the rights of the wards when their wardship is reviewed and they are discharged from same or migrated to the structures of the Act of 2015.

The Bill also makes provision for the implementation of requirements under the UN Convention on the Rights of Persons with Disabilities along with measures from the 2016 disability Bill. The removal of the reference to cognitive ability from section 52 of the 2015 Act is important as it goes against the broader ethos of the Act and the UN Convention on the Rights of Persons with Disabilities.

The Bill also provides for the Irish Human Rights and Equality Commission to become Ireland's dedicated UN Convention on the Rights of Persons with Disabilities monitoring body. The Bill will provide for a percentage of people with disabilities in the public service to be doubled along with the repeal of certain statutory provisions which will facilitate greater participation in public and civil life for people with disabilities. We know that it is essential to increase the participation of people with disabilities in these services. I welcome that. It is important to listen to the concerns of people with disabilities. I know the Minister of State, Deputy Rabbitte, is very aware of this because I have spoken to her about it recently.

While I am very supportive of the Bill, I have been contacted by some interested bodies who have outlined certain issues they believe need to be addressed. There is an issue of inclusion of persons detained for mental health treatment in this Act. Unless we look at including these persons, they will be specifically excluded from legally binding advanced healthcare directives. They will have no legal rights to have their advance wishes respected, even though they might have had the capacity to make these decisions. This group has been excluded and their legal rights in this regard have been forgotten. We cannot leave any group behind in commencing this important legislation.

I welcome that the Bill makes significant strides in commencing the 2015 Act. We need to look at the exclusion for those who are detained in hospital for mental health treatment who may be excluded from legally binding advance healthcare directives and having their wishes respected. I welcome the Bill. It is important to speak to all stakeholders and listen to their views.

**Deputy Denise Mitchell:** I welcome the opportunity to speak on this legislation. I commend all stakeholders and advocates who kept it on the Government's agenda. I hope it finally ensures that basic human rights are upheld and respected by the legal systems and institutions that support it. Advocates have raised concerns with this Bill as it stands. Many are worried that the Bill is being rushed. It is important legislation which needs to be done right. The Gov-

ernment runs the risk of not properly considering all aspects of the Bill if it closes its ears and ploughs ahead.

People who are involuntarily detained are being excluded from their legal right to have their advance wishes about treatment respected, even though they had the capacity to make decisions about their mental health care and treatment at the time of making their directive. This is contrary to the UN Convention on the Rights of Persons with Disabilities and international rights standards. The Government needs to amend the Bill to ensure that people detained under Part 4 of the 2001 Act have their rights upheld. This was highlighted at pre-legislative scrutiny of the Bill and was addressed by recommendation 40 of the pre-legislative scrutiny report. I am not sure why the Government has chosen to ignore it.

My colleague, Deputy Ward, intends to submit a number of amendments to the Bill on Committee Stage in order to make it inclusive, equal and most importantly to ensure it is human rights compliant. Sinn Féin supports the long-overdue need to reform how wardships are legislated for in this State.

The Bill provides an opportunity to make Ireland a leader in capacity legislation and to fulfil our obligations under the UN Convention on the Rights of Persons with Disabilities. As it is currently drafted, the Government is set to miss this opportunity by passing a Bill which has obvious flaws. I hope the Ministers can take on board the observations of Sinn Féin and the stakeholders and seize that opportunity on Committee Stage.

**Deputy Gino Kenny:** People Before Profit largely welcome this legislation. There will be amendments and changes made on Committee Stage and, hopefully, at the end of that process, the legislation will be fit for purpose. This has been seven years or more in the making. Some references, for example, those relating to the lunacy laws, date back 140 years, which shows how antiquated this legislation is.

The more I read the Bill, the more I realise how complicated it is. Legal, moral and ethical questions arise and must be answered. At the heart of the debate is the fact that we need to get away from a paternal approach to healthcare, particularly the aspect of it relating to mental health, and to instead have a person-centred health system where the person is at the centre of decisions that are made.

I welcome the decision around wards of court. Those are complicated situations but taking that decision away from the criminal justice system and moving to a support service is welcome. It will oversee the implementation of this legislation.

I listened intently to the concerns outlined by Deputy Cairns. Those concerns should be taken into account. Some campaigners have said there are serious concerns around persons who are involuntarily detained under the Mental Health Act. Those situations must be taken into account when this legislation is finalised.

There is still a long way to go when we consider where this Bill will end up. My understanding is that the deliberations on it must be finished in the next four weeks. On Committee Stage, there will be many amendments to address some of the issues that have been raised.

I hope that future legislation deals with the issue of voluntary assisted dying. If implemented, it would have consequences with regard to advance health decisions and would allow control and choice to those in that situation. I hope that legislation will be introduced and

implemented in this country in the near future.

This is a complicated area of law. I am the first person to say that some of the stuff involved is probably beyond my remit. I am probably not qualified to address some of the issues, but I am a legislator, after all, and have been elected by the people of Dublin Mid-West to have an input and a say. I am a voice for campaigners on this issue. We are a conduit for those people to say there are certain matters about which we have concerns but we hope those concerns can be addressed on Committee Stage. We hope that at the end of that process, the legislation will be fit for purpose.

**Deputy Richard Boyd Barrett:** I rushed to the Chamber to speak. I was not planning to do so because Deputy Gino Kenny is our spokesperson in this area. However, I received an email this week that connects to the issues at stake in this Bill. I heard the Justice for Wards group referred to in previous contributions. I recently met representatives of the group outside Leinster House. I had a meeting with a Minister of the previous Government, though I cannot remember who, on the issue. The issue of wards of court is complicated. That meeting with whichever Minister took place quite a number of years ago and was prompted by two people in my area who were in the ward system. It was a young woman who was in the ward system and her guardian. Their particular concern, which was echoed during the protest outside Leinster House and in the email I received, related to the lack of proper oversight of the ward's funds. Commitments had been made over a number of years that the Comptroller and Auditor General would oversee how those funds were being managed but that never happened. Those commitments were made at committee meetings. Various taoisigh said this was going to be done but it never happened.

My first engagement with the issue was in the aftermath of the financial crash when significant losses were made by some of these funds. The point made by the Justice for Wards group and the friends of mine who first drew my attention to the issue was that they were completely in the dark in that regard. The wards had no real say in any of this. Decisions were being taken above their heads by the registrar of the Office of Wards of Court. Those decisions were taken over the heads of the people concerned without any proper consultation. I hear they are also concerned that they have not been properly consulted about this legislation. I do not know the extent to which this Bill impacts on the issues I have raised. I understand that we are doing away with the ward system. What happens with those funds and the properties that are supposed to be managed? How will all that work?

I will say, with my limited understanding of the matter, that those people who emailed me and my friends were very unhappy about their experiences. They felt they were ignored or plámásed. They were told things were going to happen but nothing ever happened. They were always on the outside. In fact, my friends exited the ward system because they were so frustrated and angry at the whole situation.

An email I received concluded by stating it is unconscionable that the State would abandon these vulnerable people for whom it has responsibility and that elderly parents would have to take to the streets to be heard. My correspondent referred to people in this situation who are struggling on disability allowance and who have insufficient means for their needs, which leaves them dependent on elderly parents for financial support, in danger of losing their homes and going into residential care. These are vulnerable people in very difficult circumstances who feel abandoned. They concluded that email by asking for engagement with the Minister. I appeal to the Minister to respond to the representatives of the Justice for Wards group. They know



how to present their case far better than I do. I am clear from the conversations, the emails I have received and from my previous discussions with my friends in Dún Laoghaire who have experienced all this that there are big issues to be addressed. Insofar as that may impact on this legislation, I am also aware that the Justice for Wards group feels it should be better consulted about this legislation, more generally.

I reiterate the point that has already been made about concerns relating to mental health reform. People who have been incarcerated under the Mental Health Act are excluded from this legislation. The Bill appears to be doing the right thing in terms of trying to assist people to make their own decisions, which is important.

I like the idea of the DSS. It seems like a good idea. Indeed, some people came to my clinic in the past few weeks who were having extraordinary difficulties because their loved one and family member had fairly advanced Alzheimer's disease. They did not have an enduring power of attorney set up and have had to go through a lot of rigmarole as a result. I found it hard, as did the people in my office, to get answers as to what one has to do and what hoops one has to jump through in order to deal with that situation. We were phoning all sorts of people and the family had been at it for months. In fact, following this debate, I had better check in and see where they are at but it was a pretty complicated, convoluted and difficult process. I hope this legislation will help people in such situations.

The fact that quite a lot of the advocacy groups representing those with disabilities are concerned that this is rushed and that they have not been properly consulted is very worrying. We are going to get things wrong if we do not listen to the people affected, especially in the area of disabilities. We cannot really know all of the difficulties, pitfalls, problems and inadequacies unless we really listen to the people who have to live this. If they are expressing the view that they have not been properly consulted on this legislation and that it is being rushed, then the Government needs to listen to that. It is better to get it right than rush it through. We cannot have a situation where, as is being suggested, a particular cohort of people may be completely excluded from the supports that this Bill is supposed to be providing and be denied their rights under the UNCRPD. I hope that is not what the Government intends to do here, and those concerns need to be addressed.

That is all I have to say. I hope the Minister and Ministers of State are listening to those affected. I am really just acting as a conduit for the experience and concerns expressed by others. The Government has heard those concerns expressed by quite a few Deputies today and I sincerely hope the Minister and Ministers of State are listening.

**Deputy Éamon Ó Cuív:** It is extraordinary that we are dealing in part with 19th century legislation and with the fact that only part of the 2015 Act was implemented. It is frustrating that our ability to update legislation in good time seems to be very limited. Approximately ten years ago, the current Attorney General undertook a massive amount of work in trying to eliminate all pre-1922 legislation from the Statute Book. It is absolutely amazing that there is still legislation from that era. I do not know if there is any left but he had certainly been driving forward the efforts to eliminate it completely. As we see here, we still have a bit left. The writ for pre-Independence legislation, passed by the Parliament in Westminster, still runs in this country. It is not wrong because it was done then but it is dated. When we get to 1922, we need to do another round and look at all of the older legislation to see if it is fit for purpose. When one looks at the terminology, one sees how dated it is.

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I remember my first direct experience of assisted decision making. A person came into my office and was very upset that their daughter, who is intellectually disabled, was not able to make decisions for herself even though she very much had her own mind because the 2015 legislation had not been implemented. I utterly agreed with her. It was at that point that I started taking a real interest, albeit not a very detailed interest in the issue. One of the problems with this House is that the hours of the day do not allow one to be totally engaged in every issue that comes in but I am pleased that a Bill is before the Dáil that deals with a lot of the issues here. Maybe it does not deal with all of the issues but at least a Bill is now before the Dáil that will make the 2015 legislation fully effective. We will then be in line with the UNCRPD. It is great that we are putting an end to the wards of court system. I do not think this is something to be decided in court, except *in extremis*. The day-to-day operation is much better with the DSS.

We must talk about legislation as a dynamic. If in two or three years unforeseen consequences have arisen in the context of this Bill or provisions that are not working, I cannot see why we cannot expedite introducing amending legislation. It is very hard to get it perfect all of the time. Until we actually operate something, it is sometimes impossible to know if there will be unforeseen consequences. It is the actual operation and how it really works for real people on the ground that counts with me. It is not the theory of the law but whether it is good legislation that serves well in practice. I remember reading that the Brehon laws might look very strange but they had one great value, namely, they were respected by the people. The people of those times followed Brehon law because it was their law and was reasonable to them. We need to consider law as a dynamic and not as something that will be in place forever or that has no flaws.

A very valid point was made about decision making for people who are confined under the Mental Health Act. I am sure the Minister or Minister of State will explain the details of why this is not included. This is why we have two Chambers here and why it is good that we did not abolish the Senate. It is good to go through Bills twice in the Houses and tease out issues. Sometimes concerns people raise, because of the intricacies of the law, are found not to be so concerning as originally thought. In other cases, there are real concerns and Bills can be amended. I expect a very robust debate on that issue. I expect that the Committee Stage debate will be quite detailed.

A Minister might decide that there are issues to be dealt with which have much wider ramifications and that we need a third Bill do to that. He or she might determine it is best to get this amount, 80% or 90%, of the issue covered. These are issues that we will all have to listen to in the coming weeks because one thing is certain, this is 100 years too late. In the shorter term, it is seven years too late. There comes a time when one has to get on with what is there while not closing the door to further change. One must consolidate the progress and move forward. Many of us had the experience in this House, including the Leas-Ceann Comhairle, of debating the Official Languages (Amendment) Bill and not being 100% happy with the progress we made. However, we were a lot happier than we would have been had there been no progress. We saw it as a work in progress and not as the final destination. I see this legislation in the same terms. This is a work in progress. We need to keep building on this and building on people's rights. We need to get the balance right. All of us in our constituency work have seen the tricky balances involved in human relationships, in issues of capacity and so on.

I was very impressed when I listened to the director of the DSS on the radio yesterday. She gave a very good explanation of the intricacies of this process. There can be assisted decision making in certain facilities and in other parts of people's lives, they make their own decisions

totally. Parts of this are quite subtle. No doubt those who will have the privilege of attending all of the committee meetings - unfortunately, given my schedule, I will not be able to do so - will be able to tease out all of these issues in detail.

I welcome the Bill and I hope it is passed. More importantly, I hope it is fully implemented in an expeditious manner. I also hope that the Minister, Deputy O’Gorman, and Minister of State, Deputy Rabbitte, will give a firm undertaking that if there are further issues to be dealt with, it will not be another seven years before we are back in the House to deal with them.

**Deputy Thomas Gould:** As the Minister and the Minister of State will be aware, this Bill has the potential to be really transformative and make Ireland a leader in supporting those who need assisted decision-making. Unfortunately, I do not believe the Bill goes far enough in that regard. We need to do more. I have dealt with major issues in my constituency and nationally in the context of the existing process and how it has failed. We know that there is a need for this Bill, and we want to support it. My colleague, Deputy Ward, will bring forward amendments on Committee Stage. As Deputy Ó Cuív stated, this is something we have waited generations to fix. We all appreciate that.

I acknowledge that is very a complicated area and that a great deal needed to be done to get the Bill to this point. However, an opportunity has been missed. We could have gone further. We need to listen to the stakeholders, we need to take on board what they say and we need to include them. These are the people on the front line. They are dealing with the issues and they have a better understanding of what legal changes we need to bring into being with the Bill.

My colleague, Deputy Ward, and Sinn Féin, will bring forward amendments to improve the Bill and will work constructively with the Government. We will do our very best. Having listened to previous speakers, the tone is that we want to get the Bill right. People want to work together to try to achieve that.

Unfortunately, successive Governments have failed those with disabilities. We have seen that with children not being able to access therapies. We have seen it when people with disabilities have not been able to access suitable housing. We have seen it - in the discussions only yesterday and today - with people not able to afford adaptation work because the grants are not sufficient. People with disabilities need to be listened to.

We also need the Government to implement fully the UNCRPD, which would see vital infrastructure put in place to protect those with disabilities and improve their quality of life. There is so much we can do and that we need to do, to ensure that every citizen has the entitlements they deserve. Sinn Féin believes that we need to build a society of equals and diversity: a society where disabled people are supported within our communities where possible, and where everyone is given a fair chance.

This Bill can be a step forward. We want it to be a massive step forward in creating a society where, instead of missing opportunities, people will get a chance if we support them. I urge the Government to listen to what has been said today by Deputies, listen to the advocacy groups and approve this Bill. We know that we can do better, but we also know this Bill is needed.

**Deputy Cathal Berry:** I thank the Minister for his detailed opening statement, which was very helpful. I thank the Minister, the Minister of State and their staff for the detailed briefing we received yesterday, which was very useful. I only wish that the opposition spokespeople would get more such briefings on other topics. Perhaps the Minister and Minister of State could

raise this with their Government and Cabinet colleagues. We found yesterday very helpful.

I welcome the Bill and I am happy to support it. I recognise the very tight timelines under which we are operating. I appreciate that if the Bill is not passed by the end of June, it could cause complications and challenges downstream as well. I fully recognise that.

I echo some of the comments that have already been made regarding an actual or perceived lack of engagement with advocacy groups. While the timelines are tight, it would be very helpful if the Minister or Minister of State could indicate that they are happy to engage further with advocacy groups, if that would possibly spirit this process along.

My second reason for supporting the Bill is because I recognise its special significance. This is an historic Bill. I am glad other Deputies have also said that. The Bill will abolish and overturn law that is more than 150 years old, which predates even the establishment of the State. It will completely outlaw the ward of court practice and confine it to the history books, which is exactly where it belongs. It is probably worth mentioning that when the ward of court system came in, it was probably well intentioned at the time based on standards at the time. Obviously, it has no place in modern Ireland and is no longer fit for purpose. It is good that we are finally getting rid of it.

The third reason for my support of the Bill is a point about the Bill that I like: not only is it repealing an unnecessary law, it is actually replacing it with something better, which is good. I absolutely agree that the functional assessment approach is much better than a black and white all-or-nothing approach. I agree with the two-step power of attorney. This is international best practice. It is a good process. If a person is likely to lose capacity he or she can be registered with the DSS in the first instance and can then be further referred if capacity is diminished or lost. This is a good way to go.

The Bill will help in the implementation of the UNCRPD. The Minister and the Minister of State will be aware that we are not there yet and that there is a lot more work to do. The Bill does indicate progress. As a famous person once said that it is better to be moving very slowly in the right direction than very quickly in the wrong one. At least we are moving in the right direction, but a lot more work is required from that perspective.

I agree with the principle that the legislation moves us away from the best-interests model, which is very patriarchal, and towards a model that respects the preferences and the will of the patient. That is a very solid principle and model on which to approach it. I have one question, however, and perhaps the Minister or Minister of State would kindly answer. I am not sure whether this was covered yesterday during the briefing. Could the Minister or Minister of State indicate how many wards of court there are in Ireland? This would just give us a sense of the scale of the issue. It may be a couple of hundred, but it may be more. Perhaps we could get an approximate figure on that so it would help in our understanding.

**Deputy Roderic O’Gorman:** There are 2,000.

**Deputy Cathal Berry:** I welcome the Bill. We all appreciate that it is long overdue. I look forward to its very swift implementation. I am very grateful for the opportunity to play a very small part in ending a practice that no longer has a role in modern Ireland. It is a practice that should be confined to the history books where it certainly belongs.

**Deputy Matt Shanahan:** The Assisted Decision-Making (Capacity) (Amendment) Bill

2022 is complex legislation designed to amend the Assisted Decision-Making (Capacity) Act 2015. Essentially, the Bill proposes to bring an end to wardship in Ireland, which is most welcome. Many of us will be aware of the historic, and perhaps also the contemporary, nature of wards of court, where young adults were incarcerated in institutions oftentimes for a large duration of their lives and without any assessment of their own thoughts or feelings, or their ability to function or act independently in wider society. Anything that sets this aside is to be welcomed.

The Bill also appears to propose replacing that system with an assessment system based on a functional approach, that being where capacity is presumed and where the burden of proof legally rests on rebutting that assumption. This must be teased out through the course of it. I know that the Minister hopes the legislation will give people experiencing diminished capacity the opportunity to participate more equally and meaningfully in our society and ensure that they have greater power to direct their own lives in an independent and dignified manner. It would be very hard for any of us to say we would not be supportive of legislation that could deliver that. In order to achieve this, the Minister and the Minister of State are proposing a series of tiered decision-making supports that will assist in arriving at best outcomes for the clients involved. Indeed, reference was made to Ireland's clear obligation under the UNCRPD, and that we must abolish wardship. Enacting this Bill will allow for the DSS to operate. The DSS will oversee the different tiers of support under the legislation.

*5 o'clock*

The Minister said it will be its responsibility to make these supports available to those who need them and is proposing to give it a supervisory and safeguarding role in such arrangements. It seems this DSS will have significant powers. It will be allowed to draw up its own administrative procedures involving informal complaints procedures without the requirement of going to the courts. In addition, it will have a reporting function. These are heavy statutory provisions and the Government has gone to extreme lengths to ensure these will be safeguarded and operationalised.

The Bill also proposes to deliver a new system for creating enduring power of attorney. The Government is proposing a two-tier system where a person may register their wish to create a power of attorney with the DSS while they have full use of their mental faculties. If and when an individual loses mental capacity, their legal representatives will be able to contact the DSS to enact such power of attorney status, subject to the usual medical and legal safeguards. This is to be welcomed. Does it also extend to people who are not disabled? Can this provision be widened to apply to the public at large? I also welcome the additional effort to improve employee participation in the public sector by increasing public sector employment of people with disabilities to 6%. This is a very progressive move.

On balance, the Government is trying to deliver progressive legislation but I have to add my concerns to those that have been voiced already. They largely relate to the amount of communication and interaction with disability groups to understand their fears and sensitivities and to ensure the schemes proposed meet with their approval. In advance of amendments to this legislation being tabled, I urge the Minister to reach out to such representative groups and bodies and deal with their concerns before any legislation is passed or enacted. The purpose of this legislation, as the Minister has outlined, is to significantly improve the equality situation for those with some degree of disability. How can it hurt to listen to and deal with these groups' concerns? Doing so could and should make for better legislation. Nobody in this House wishes

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to be dealing with the effects of bad law. We have had many examples of that over the past decades. I acknowledge what the Government is trying to achieve with this Bill, which is to be welcomed, but my concerns relate to those for whom this legislation is being proposed. They must feel they have been fully engaged regarding it.

**Deputy Jim O’Callaghan:** I commend the Minister and Minister of State on bringing forward this very important legislation. I am sure they would agree it is embarrassing that in Ireland today, people still have to make applications under the Lunacy Regulation (Ireland) Act 1871. As Deputy Berry indicated a few moments ago, that legislation is 150 years old. Notwithstanding the archaic language within that legislation, if people find themselves in a situation where a loved one or close family member requires protection, they still have to make an application under the wardship system. Every person who is aware of or interested in this issue should have it at the forefront of their mind. As we now live in a much healthier society and people are living longer, it is important that we prepare for the lengthier lives of those close to us.

The most important thing to do is ensure those individuals, before they lose capacity or get too elderly, put in place a power of attorney. That way, if they lose their capacity, persons close to them or persons they trust will be in a position to make important decisions on their behalf for the remaining years of their lives. Unfortunately, on many occasions, that is not done. As a result, family members find themselves in a situation where they cannot gain access to a mother’s or grandmother’s bank account in order to pay for the upkeep of that mother or grandmother, and they cannot make any decisions in respect of the care or medical treatment of that elderly person because they do not have the appropriate legal responsibility for them. If they find themselves in that unfortunate position, the only option available to them is to go through the lengthy, costly and unfortunately necessary process of making an application to the High Court seeking to have the person lacking capacity made a ward of court. This legislation is very welcome as it will take us away from that old and archaic system.

Under the legislation that was enacted in 2015 - some seven years ago - but has not been commenced, there will have to be a large number of applications made to the court in respect of people who are at present under the wardship system. Under section 54 of the 2015 Act, which has not yet been commenced, there is a requirement that the wardship court shall, within three years of the date of commencement of that part of the Act, make a declaration under section 55(1) in respect of a ward who is 18 years or older by that date. As I am sure the Minister is aware, that will give rise to a significant amount of work in the courts, predominately within the High Court. I do not have exact numbers for how many wardships there are at present but I know from work I did on the justice committee of the previous Dáil that as of 2015 there were approximately 2,000 wards in Ireland and since then we have added more than 2,000 more. Of course, some of those individuals will have died and so the numbers will not be at that full level but a very large number of applications will certainly have to be made under section 54 of the 2015 Act when it comes into operation. The Minister needs to take into account how to deal with that.

The courts need resources in order to ensure these important applications, which require very significant evidence to be put before the court, are considered carefully by it. I ask the Minister to engage with the Attorney General to determine how those lists will be dealt with because they will take up a huge amount of court time. However, that is not the primary issue. The primary issue is that the people whose applications are being made, or on whose behalf applications are being made, need to have those applications dealt with promptly. The last thing

we want is for them to be delayed because of delays in the court system. At present people still have to go through an unusual application. They have to get affidavit evidence and the application is made to the president of the High Court. It is a very confusing system for the families making the application because it is alien to them and they do not feel they have an understanding of it.

One of the trends of modern legislation is that we delegate away from the courts issues in respect of decision-making matters that the courts previously held responsibility for. It is welcome that we are going to have this statutory body that will make important decisions on behalf of people who lack capacity. I also welcome the other aspects of the legislation which ensure the rights of people with disabilities are fully recognised. The Minister has added on to this legislation a provision for the selection of jurors under the Juries Act 1976. People will be able to play their role on juries notwithstanding the fact that they are deaf. If they are able to comprehend evidence with the assistance of a person proficient in sign language, there is no reason they should not be entitled to serve their civic function by being a member of a jury. The legislation also seeks to repeal section 41(i) of the Electoral Act 1992 to remove the bar on a person of unsound mind being a Member of Dáil Éireann. This is important as it takes away language which, although not as archaic as the 19th century language of the lunatic, is still not appropriate to have on our Statute Book. We have to move ourselves away from such judgment-heavy language.

I commend both the Minister and Minister of State on the legislation. We need to bring to this legislation the energy they have brought to date. It is unacceptable not only that section 15 of the 1871 legislation is still in place but that the Houses of the Oireachtas passed legislation in 2015 that has still not been commenced. We should not have to wait seven years before legislation is commenced. Due to that delay, there is now a requirement to amend parts of that legislation. I urge the Minister to ensure he can get the Bill before committee as quickly as possible and, at the same time, try to ensure that when we get it enacted and commenced, we will have an efficient system of having those applications dealt with by the court.

**Deputy Martin Browne:** Sinn Féin realises that the way in which wardships of court operate needs to be reformed, but the manner in which the Bill is being brought forward, with particularly tight timeframes, goes against the spirit of the UN Convention on the Rights of Persons with Disabilities. Under Article 4.3 of the convention, disabled people have a right to be consulted on policy and on the laws that affect them, yet the amending Bill was published just the day before yesterday for debate today and tomorrow on Second Stage, with amendments due by 8 June. That is hardly an acceptable way of ensuring the Bill will be analysed properly, with suitable amendments thought through and submitted. Even the committee had very tight timeframes for producing its pre-legislative scrutiny report. For legislation as important and far-reaching as this, the Department's rushed approach is an affront to those who will be directly affected by the measures contained within. There are also issues with accessibility in terms of how relevant material has not been produced in easy-to-read or accessible formats. It is not a good start to realising the ambitions of this legislation and our obligations under the UN convention. Furthermore, the decision support service is expected to be operational on 20 June despite these delays. I just do not see how that date will be met.

Advocates do not want to delay the commencement of the Bill but important amendments are needed. Many stakeholders have highlighted how people involuntarily detained under the Mental Health Act 2001 will be excluded from the provisions of this legislation. No other group of individuals are specifically excluded from this legal right. This conflicts with interna-

tional human rights standards, including the UN convention. That people with mental health disabilities will be excluded from the Bill must be dealt with and Sinn Féin intends to bring forward amendments to deal with this omission. It is also very concerning that the Bill will not extend any of the Act's advantages to people aged 16 and 17.

As a party, we are very supportive of reform of the exclusionary nature of wardships of court but a number of matters, some of which I have referred to, need amending. While very little time is being given to us to do this, we will submit amendments to ensure the Act will fulfil our obligations under the UN convention, and that it will be inclusive and human rights compliant and will live up to our commitment to equality. Article 12 of the UN convention provides that “[s]tates Parties shall recognize that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life.” Providing little to no time to analyse and address the deficiencies in the Bill is not in the spirit of those obligations.

**Deputy Michael Collins:** The original Assisted Decision-Making (Capacity) Act 2015 was signed into law on 30 December 2015. The Act applies to everyone and is relevant to all health and social care services. It relates to supporting decision-making and maximising a person's capacity to make decisions. However, it will not be commenced until June 2022, almost seven years after it was signed into law, because the systems required to implement it were not put in place.

We all know people who have had an accident, a stroke or a heart attack. They may have had no plan in place for a decision to be made on their behalf and have had no one appointed to make decisions for them in case they became unable to communicate. If they do have someone appointed, that person will know the person's wishes and what he or she would have liked to be carried out after having been struck down with some serious illness. In some cases, however, families do not want the hassle of having to help take care of the family member. Moreover, there can be financial reasons the family would not like the relative to be kept alive, and they might not want any of their relative's money going to waste. Instead, in some cases, the family would prefer to make the decision to end the relative's life. That does not bode well for the member who has been incapacitated. Sometimes it falls on friends to advise the family of the person who has been incapacitated, which in itself can cause friction and unnecessary bitterness.

Another issue arises where a will has been made and the incapacitated person has been coerced into signing one that is, in fact, at odds with what the person wants. If an incapacitated person would rather be in a certain hospital, nursing home or community hospital, that too should be taken into consideration. People who have been left in an incapacitated state are extremely vulnerable to the immediate people around them, and they must at all times be protected and their wishes must always be the priority. Over the years, I have heard of and seen many elderly people being coerced into making wills and then, once everything has been signed over, no one remains to take care of them. I have heard of people taking farms and land from incapacitated people and also of families wishing their incapacitated family member were dead because the cost was too much. It was not that the family were using any of their own money but that they did not want the incapacitated person's money to be spent on any medical care such as a nursing home or a community hospital.

Today, if a person loses capacity, such as by acquiring a brain injury, the HSE could apply to have that person made a ward of court. Two committees would then be appointed, one to look after the person and the other to look after his or her property, which will often contain a



compensation award. Thankfully, under the Bill, it will be possible for a person to specify what decisions he or she would like to be made about his or her person, property or both in the event of losing capacity via an enduring power of attorney, EPA, and an advance healthcare directive, AHD. In the event a person does not have an EPA or an AHD and loses the capacity to make decisions, supports can be put in place, depending on the severity of the capacity loss and the degree of support needed. A decision-making assistant, a co-decision maker or a decision-making representative could be appointed. That person may be, but does not have to be, a next of kin. It will be done via a court application to be made a decision-making representative, or by signing an agreement with the appointer to be made a decision-making assistant or co-decision maker, and then registering that agreement with the decision support service, DSS. If the relevant person does not have anyone who could or would step in to one of these roles, the courts can make a decision for the relevant person or choose a decision-making representative from persons nominated by the director of the DSS.

**Deputy Richard O'Donoghue:** The Bill is very welcome in order that vulnerable adults can be cared for in their decision-making process. The original Act was very difficult for families to navigate to support their vulnerable family members. The Bill will ensure vulnerable adults are protected from coercion and abuse when making important decisions. I welcome, in particular, that a person's previous preferences will be considered, while the views of individuals named by the person will also be taken into account. This is designed to support them. I welcome also the appointment of a decision-making assistant agreement, which will allow someone to designate a trusted person as his or her assistant.

In the past month, I have been contacted by the owners of a number of long-term care facilities who are very upset that their service users are being put in undue distress due to the banking protocol. People in an intellectual disability setting who are in the care of the State have received letters from the Department of Social Protection. The letters stated their payments were at the time being made into an Ulster Bank account and that they were required to open an account with another bank. They currently have bank accounts with which they bank compliantly. These service users now must get passports and proof of address even if they have never left the country. They are entitled to income benefits as citizens of the State. They now need someone to accompany them to get a passport, which removes their autonomy and requires them to sign forms they know nothing about. The banks have got away with so much as they say goodbye to the vulnerable.

A number of my constituents recently visited bank branches, in line with their fathers' and mothers' wishes, as appointed signatories on their accounts and were told they would have to make their parents wards of court. This led to great distress for the families, and I am glad the Bill will address such scenarios happening in the future.

I welcome the Bill. For far too long, the banks have caused an awful lot of problems in this context. I have been contacted by people who for years have been looking after their parents' accounts after their parents started to show early signs of dementia. They went in and asked the bank's advice on what to do. They were told they were a co-signatory, that that was all they had to do and that they could work away. Now with the banking protocol we have people apologising and saying the person is now a ward of court. There was misinformation given to people by the banks. I do not blame the bank staff. I blame the top shelf in the banking sector for not informing staff about how to deal with this, making sure they were compliant and giving proper advice to people who were caring for a person. That is where the buck lies here. It is true the Government is doing something now to try to protect this going forward but how many

thousands of people went to the banks asking what they should do with people in a vulnerable state? They knew themselves they needed a person they could trust. How many families went as a unit and asked the same thing and awarded somebody within their family to care for the person? They might have lived in a different part of the country and so asked a brother, sister, aunt or somebody to look after the person. They went to the bank with them and asked what they needed to do. Those in the bank told them all they needed to do was to be a signatory. It is the banks that are wrong here and, as I have stated, not their staff. They should have got the proper information to give to people but they did not. It is another issue this Dáil and Government must clean up to help people, which I welcome. However, we must ensure the banks are also held accountable because there is no accountability on the top shelf. They seem to push the blame down the line in their different branches.

I hope the Government holds banks to account and holds to account the high levels of the banking sector for the misinformation it gave to a lot of people throughout this country. We bailed out the banks once and it is now time the banks were accountable for the misinformation they have given the people.

**Deputy Michael Healy-Rae:** I am grateful for the opportunity to speak on this strong and weighty legislation that is set to modernise a whole area of law for a very vulnerable sector of our society.

When I talk about people who might be affected by this I like to refer to them as vulnerable or special people who deserve every protection from the State and assistance to their families in protecting them. We heard earlier a very eminent barrister talking about antiquated legislation, which goes back 156 years, that legal people must still refer to when dealing with people's business. That is outrageous. What was right and proper language and terminology to use - I put a question mark on that - 156 years ago could not be said by anybody to be appropriate for use by people going into court today to deal with legal situations. Surely, 156 years later, it is time we as legislators got ourselves in gear and put things in order.

This legislation places the person at the centre with a move from the "best interests" to the "will and preference". It provides for a tiered approach that will move to assisting from making decisions on a person's behalf. Ultimately, the associated Assisted Decision-Making (Capacity) Act is very significant capacity legislation that addresses the long-outdated area of law called wardship. We are all well aware of wards of court and what that means but updating that, modernising it and ensuring it is fit for purpose is a very important role in which we must all play our part and support the Government in doing.

The Act sets out in detail how this whole process of inclusion should unfold and recognises the situations where a person can make decisions for him or herself but may also require support from family members or other trusted individuals who ultimately would be best charged to take care of that special person's needs. A person in this situation can enter a decision-making assistance agreement. This allows individuals to appoint a trusted person as an assistant, be that a family member or a friend. The assistant would help by giving advice and support to the appointer when making decisions about his or her welfare. These decisions would be seen as the appointer's decisions. Assistants would help in expressing the interests of the appointer and would ensure the decisions were implemented. The autonomy of the appointer is paramount.

There is another aspect to this. It is easy for us to be smart when the horse has bolted. I refer to the issue of people giving power to others when they are making wills and dealing with the

ultimate decisions everyone must make at some stage in their lives. Again, Government should be always encouraging people. We see public advertisements being taken out and there is the Law Society and people like that. Rightly, these encourage people to make a will. People put an awful lot of effort into living but they do not think much about the ultimate act every one of us is going to do in this world, and that is the act of dying. We want to ensure people at that stage have things in order. Having given a person the power of attorney in situations like that would help with limited capacity, etc. Every one of us in our role as public representatives and through our clinics has seen what I call the horror stories. Those are where a perfectly healthy man, woman or younger person becomes incapacitated through accident or illness and, to be blunt about it, everything is in an absolute and complete mess because no systems are put in place. It might be the simplest thing in the world like paying a bill but it may be that bill cannot be paid because there is a bank account with one person's name on it and nothing can be done about the very basics of running the house or running the show because the money is locked up and no systems were put in place. I strongly advise, therefore, as would any person who is thinking straight about these matters, that when a person is making a will and dealing with the future, he or she should also think seriously about giving power of attorney to one or two persons who would work in his or her best interests.

The 2015 Act aimed to introduce a new protection regime and new legal framework for supported decision-making for vulnerable adults with a rights-based approach to decision-making capacity. We know what is going to happen with the current regime. Wardship will remain in place until the Bill is enacted into law and will continue to exist for a further period of three years. We must ensure we have everything done right on this and that we all support each other in this very important matter.

**Deputy Danny Healy-Rae:** I am glad to get the opportunity to talk about the important Bill before us. My only worry is the length of time allowed to put in amendments. Even though the Bill has been discussed for many years it is now upon us and we must deal with it. We will do so but it is only as the Bill progresses through these Houses and when we see the amendments that we will make the ultimate decisions about what the Bill will look like when the work is completed.

As I said, the changes the Bill proposes to bring about have been discussed for many years. The Assisted Decision-Making (Capacity) 2015 Act aimed to introduce a new protection regime and new legal framework for supported decision-making for vulnerable adults with a rights-based approach to decision-making capacity. We all know people, even young people, for whom something goes wrong with the most important part of them, which is the top shelf. Some may have an accident, elderly people may have a stroke and there is also those who have dementia. I know of one case where dementia set in within the space of two weeks. Everything was left up in a heap for that family. Deputy Michael Healy-Rae referred to the power of attorney, but who thinks of doing that? People do not think of giving somebody the power of attorney when they go to make a will. There is much talk about making wills and we have been getting advice about that for years, but seldom have we heard of people being advised to give power of attorney to a family member or a friend in case some of these life-changing illnesses occur.

There are instances where, due to stroke or dementia, a farmer is in a nursing home. He does not know where he is, and he could live there for four, six, eight or even in some cases 11 years. The farm payments to keep the farm going are jeopardised, as are the grants and so forth that are depended on to put food on the table. The cattle cannot be sold. The herd number and

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the whole lot are up in a heap. It is very important that this Bill emphasises that the power of attorney should be availed of by people of all ages, but especially after mid-life. We all know there are accidents of every type on the road. The soundest people end up in a very bad way and they leave things for the family in a bad way too.

Under this amendment Bill, the current substituted decision-making under wardship will be replaced by assisted decision-making and will be based on an adult's ability to make a specific decision at a specific time. Then there are cases where people get better. As the saying goes, they come back from a very bad state, so we must cater for that as well and ensure that people can take back control of their own business if they recover. I know of somebody who was unconscious and given over for dead for more than 12 months. That person has woken up. He is a young fellow of 21 or 22 years of age who was hit by a car. He woke up the other day and his first words were: "I love you, Mam". We must cater for those types of decisions as well to ensure that those people get their rights.

We will all play our part and table amendments if we see they are needed. We will support or oppose amendments as they are dealt with. We propose to work with the Minister of State.

**Deputy Fergus O'Dowd:** This is a very important debate. I welcome the Minister of State, Deputy Rabbitte. I support much of what she says and does, particularly regarding the Brandon report which will be discussed by the committee tomorrow. We need more change. We are not getting enough of it. We need more Ministers like the Minister of State in the Government, and I laud her for what she is doing. That is a fact.

It is also a fact that from 2016 to 2020 almost 16,000 people aged over 65 years were abused, and it was reported to the HSE. The numbers are appalling, disgraceful and shameful. I challenge anybody to deny the truth of what I am going to say. If they were children who had been abused, there would be tribunals and prosecutions. The Minister would leave office and there would be absolute war about it. What we do not have in this country is enough concern about things that concern the Minister of State, me and other Members of the House. We need legislative change and we need Ministers with guts who will act on the truth of a statement that I gave to the Minister for Health not so long ago. I told him that one of two medical people told me that what happened in a nursing home in Dundalk was something that he never believed could happen, not only in Ireland but in this century. What has happened? I have heard nothing from the Minister for Health since. What is happening with the inquiry into the deaths of those who died in places such as Dealgan House Nursing Home in Drumcar? What about the Care Champions standing up for people in nursing homes where appalling care and treatment has been given to those people? What about Kilbrew Nursing Home where an elderly man was found with an infected wound on his face? It was infected with maggots because it had not been cleaned. What did the HSE and HIQA do? They said the nursing home could continue to run for another year or so.

These issues are not acceptable; they are not good enough. I accept this legislation is about protecting people, and I support that. It is about giving them rights, but what about when their rights are taken away from them and the Minister will not act on it? This Government has refused to look at the deaths in nursing homes that are of serious concern for many people in our community. These families need closure and they are not getting it.

What is happening in the HSE? A whistleblower made an allegation in 2020 about the care of patients in St. Mary's Hospital, Phoenix Park. I had to table a parliamentary question about

it. The answer from the interim national director is as follows:

The Health Service Executive (HSE) has been requested to reply directly to you in the context of the above parliamentary question, which you submitted to the Minister for response.

The investigation team for this protected disclosure have now submitted a draft report to me as the commissioner of the investigation. The draft report is sizable and complex and I am now taking due time to consider it before accepting it as finalised. ... I will seek to balance the need for expediency and assurance as to the quality of the report.

What the hell is going on? This is a report commissioned by the HSE. It remains unpublished. It appears to me, and I hope I can be contradicted on this, to be challenged by the HSE in respect of the veracity of it, the quality of it and the people who suffered as a result of what the whistleblower thought was going on there.

There is a massive need for change. The campaign is led by many good people in our society. I praise Patricia Rickard Clarke for her eminent clarity in her work and commitment to bring about change, and to force us in this House to ensure that this legislation passes but is also made stronger. The responsibility is broader. It is much broader than this legislation ensures. What is going on in the care of older people is shameful. It is shameful that we do not hold them in same esteem in this country.

I am an older person but I do not have any particular evidence of discrimination against me, apart from the fact that a lot of people do not vote for me, although some people do. However, there is ageism in our society and I believe there is ageism in the Department of Health. I believe it is ageism that is saying “No” to an inquiry into these deaths, saying “No” to an inquiry into Dealgan House Nursing Home, saying “No” to the Care Champions and now saying “No” to publishing this report, which is of great seriousness and concern for all of us. The Minister of State stuck her neck out on the Brandon report. She made statements that are true, and she must be supported on this. I return to my point: where are the champions in this House? Why do I have to speak like this at this time of the day? A Minister for Health should be at the front of this, should be fighting for change and should be vindicating the rights of people. Clearly, that is not now going to happen. However, I hope my contribution today will prompt a response from the Minister for Health to this issue.

Why do we need this change? We need it because people are living longer and they need greater care. The Minister of State at the Department of Health, Deputy Butler, and I discussed last week the care of people in their homes, the integrity of keeping people in their homes where they have lived all their lives and supporting them. I acknowledge the work she is doing on behalf of older people in terms of bringing forward new supports and extra additional home care hours to look after those vulnerable people. However, we are still not doing enough. My office is in contact with the HSE every day trying to get care for people who cannot get it. It is not that the money is not there; it is that the work carers do is not valued or paid enough. It should be a rewarding career. I have no problem with privatisation of lots of things, but this sector is being privatised. I know from my experience in public life that for many years the home care assistant, the healthcare employee and the HSE employee, who had a lifetime of dedication to his or her work, would always be available and willing to help. That system changed and is now gone. In many cases older people and people with disabilities are left on their own to suffer in silence and in pain, while we Deputies bang our heads against the wall of the system to try

to get carers into these settings.

We need root-and-branch reform for the credibility of our society. We should judge our society by how we treat the young and the old, as we come into this world and as we leave it. As we come into the world, we have tremendously improved health services; as we get older, however, the services are not good enough and are not acceptable. We need change. I stand for change. I will not put up with this any longer because I am fed up of raising it with people and of talking about Dealgan House and what will happen there. Nothing is happening and that is not acceptable. There is clear evidence that an inquiry into it is needed. It is crystal clear to me. Let us have that inquiry.

**Deputy Catherine Connolly:** I welcome the opportunity to speak on the Bill and welcome the fact that I have time to do so. It is the first time there has been time to consider the Bill. It was published on Monday and we are discussing it today. The note we got from the Oireachtas Library today points out that its staff did not have enough time to devote to the Bill. Let us place this in perspective. The 2015 Bill represented a seismic change, in theory. We are talking about two Acts from the 19th century. One is the Marriage of Lunatics Act 1811, which, the Minister tells us in the note we got, was repealed in February 2021, I think. It took 210 years to repeal that legislation. The other legislation is the 1871 Act, which was done away with by the 2015 Act after 144 years - but not really, because that Act was never brought into operation. Now, therefore, 151 years later, we are repealing the 1871 Act. I say that to put this in context.

Then a Bill is published on Monday and we are supposed to work through it. My background is becoming increasingly more distant to me because I packed it in in 2016. Even then I was no expert on statutory interpretation; I had a different area of expertise. We are now presented with almost 70 pages of an amending Bill, in three Parts and 87 sections, to amend an Act that never came into operation. We are talking about vulnerable people who may lack capacity, but the real question that is raised is where the lack of capacity is. I have often said to the Minister of State, Deputy Rabbitte, that she has inherited a situation. I pay respect to her bona fides, but here we are now rushing through something after, I think, 210 years and 151 years, and suddenly we have to pass this Bill very quickly without really any discussion. That is an impossibility. I simply cannot do that job as a parliamentarian, with the best will in the world. Even with my background, I still do not understand quite a lot of this because I need the Act we never enacted or implemented before me as well as this Bill, going between the two.

The system that has been set up to do this is the cross-party committee. It produced a report, which I took the trouble to read. Like the Library & Research Service, the committee said it did not have enough time. It makes its recommendations with that caveat. Its consultation process happened over Christmas, and the meaningful consultations it should have had did not really happen. Then it makes 64 recommendations and identifies eight issues. I pay tribute to the committee. I look to see if the recommendations and the eight issues are being implemented and have been taken on board. I turn to the Library and consult its Bill digest and I look to see which of the recommendations have been implemented. Again, I pay tribute to the Library & Research Service. In short, the digest tells us that, of the 64 recommendations, 34 have not been accepted or implemented in the Bill at this point. In respect of 18 of them, the impact of a key issue is not clear within the Bill or insufficient information is available to the Library & Research Service to make an assessment and, therefore, it cannot help us. In respect of seven of the recommendations, the Bill may be described as adopting an approach consistent with the key issue. In respect of four, a key issue has clearly been accepted. Therefore, out of 64 recommendations, the Bill digest tells us that four have been clearly accepted. Over half the

cross-party committee's recommendations have been ignored and only four have been incorporated into the Bill.

I do not wish to be negative. I realise the seismic change the 2015 Act represented. I pay tribute to the officials involved. This is a complex matter. I have no hesitation in saying that. My difficulty arises from the ramming through of the Bill at this point, after all these years, without proper consultation. It is not just me saying that; the committee that did the pre-legislative scrutiny of the heads of the Bill tells us that it did not have enough time and has serious concerns.

We are dealing with wards of court here; it is unclear how many. Áine Flynn, director of the Decision Support Service, DSS, said in December 2021 that almost 2,000 persons have been declared wards of court since the 2015 Act was enacted. We have the 2015 Act with its seismic change and clear recognition that the treatment of wards of court, under terrible 19th-century lunacy legislation, was totally inappropriate and was not allowing this country to comply with our legal obligations under any of the international instruments. We then brought in the Act but did not implement it. Between that time and the time of the heads of the Bill, we did not interact with any disability group on the ground either to find out what the inadequacies of the 2015 Bill were or why it was not enacted. I repeatedly asked questions through my colleagues who work with me in my office, such as when this would be enacted, when the DSS was set up and so on. We kept up the pressure as best we could.

Now we come to this Bill. I thank the Minister of State for the briefing yesterday, which was somewhat helpful. She also gave us a briefing note stating that the urgency was a constitutional challenge. I asked about the nature of the challenge, not about its details. I realise the sensitivity of this. I did, however, ask where the urgency came from. Was the case due to be heard? When were the proceedings initiated? The Minister of State gave me a note stating that in December 2019 a constitutional challenge was taken by an individual against the Government in respect of both the Marriage of Lunatics Act 1811 and the Lunacy Regulation (Ireland) Act 1871, which underpins wardship in the State. I take from that note that the proceedings were initiated in 2019 against the 19th-century legislation, which is completely unacceptable on every level. I get an inkling of where the impetus to change came from. The Department of Justice of the time was not a proactive one, but there was a legal challenge. The Minister of State can correct me if I am wrong, but the Government has conceded, I understand, that it will have no chance of defending this case. It has conceded.

The Minister of State has given a commitment to counsel for the plaintiff - she can correct me if I am wrong - in regard to this legislation being enacted in June. What I do not understand is why it is June, without proper consultation. Was the case due to be heard in June or July? Why is there secrecy surrounding this? At the very least, we need openness and accountability. It is interesting that there is no mention in the speech of the Minister of State, Deputy Rabbitte, today of that case being the impetus for the change in legislation. Parallel to that, she tells us that a lot of the organisations have put in huge work, which I appreciate - the Health Service Executive, the banks and the various organisations that will be impacted by it. They were led to believe it would be June so, therefore, magically, it has to be June. I do not diminish the work that has been done, but what really concerns me is that the same effort and recognition has not gone in to the people on the ground who know best about this area. I am no expert on this but I am able to identify problems and concerns and I have a lot of them. I have no idea why extra emphasis is put on the amount of preparation that the banks, credit unions or housing officials have put in, as opposed to the people on the ground. Could the Minister of State tell us what is

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the urgency for June, after we have waited 347 years combined, when we put the two together? I am being disingenuous. We have waited from 1811 to 2021 and from 1871 onwards. How do we get this right in terms of what has happened?

In the meantime, I am told that other countries have moved on. This is courtesy of NUI Galway, which tells us that the centre for disability law and policy - I tend to listen to an organisation like that, as well as the other organisations that represent people with the spectrum of disabilities - have serious concerns in regard to the Bill. It also raises the constitutional challenge and the significance of that being tied in with an arbitrary date in June. It tells us that the Bill does not address the problem. I tried my best but I would be misleading the Minister of State if I said I discovered these concerns. I just did not have the time. It took me ages to read all of this, and I went back and read a document from 2017 produced by the Oireachtas Library & Research service, which asked how the Assisted Decision-Making (Capacity) Act would work. It will never work, because we are never going to enact it. That was May 2017, two years after the Bill was enacted. We were told it was a seismic change, a paradigm shift, a cultural shift and so on but the provisions were never enacted. The question must be asked: in God's name why was it not enacted? What happened between 2015 and 2022, when we are now faced with an arbitrary decision regarding June? The centre for disability law and policy has set out its concerns. I have numbered them and there seems to be at least 11 or 12 genuinely serious concerns.

The Bill does not address some major flaws in the original Assisted Decision-Making (Capacity) Act, although we have been told that this is the opportunity to do so. It was understood that they were to be addressed. It was pointed out that if someone makes an advance healthcare directive under the 2015 Act, stating that he or she does not want medical treatment, that will not be binding for a person detained under the Mental Health Act. In fairness to the Minister of State, she said yesterday that she accepts that, but it will not be in this Bill, as it must be under the reforming mental health legislation. I am not sure, but I accept what she says to me in that regard. It is a glaring gap, however.

Another glaring gap is that the Bill does not extend the advantage to people aged 16 and 17. A further glaring gap is that it does not remove the reference to the deleterious effect on the unborn, despite the repeal of the eighth amendment. I note that the Minister of State will bring forward an amendment, which I welcome, but it begs the question as to why that was in the Bill, given that we are talking about 2015 and 2022.

The functional test of mental capacity, which has been deemed a human rights violation by the UN Committee on the Rights of Persons with Disabilities, still remains in the Bill. We are told that the Act as it stands is not compliant with Article 12 of the UN Convention on the Rights of Persons with Disabilities, because it allows an individual's legal capacity to be based on an assessment of his or her mental capacity. It still has the substituted decision-making process, which as I understand is against the UN and what was set out in its explanatory memorandum and direction. It makes it difficult for people to access a new support they would like. I welcome the two-tier system in regard to the enduring powers of attorney. What I do not welcome is that there is now a parallel process where a person must make an advance healthcare directive entirely separate to the enduring powers of attorney. The system has been made more difficult and more bureaucratic. There has been a call for that to be deleted, which I fully support. The centre has problems with the additional offences. It says they are not necessary. When we spoke about this yesterday, the Minister of State talked about the silence in relation to the restraint as being a positive thing, or at least her advisers did. The centre for disability law and policy does not think it is such a positive thing, and it is asking for it to be specifically



stated that restraint is not acceptable.

There are difficulties in relation to juries, although the Minister of State is telling us that it is an improvement. I have not had a chance to check it. At this point, I am simply parroting the concerns of the NUIG centre for disability law and policy. From what I have read, I have the greatest difficulty with the way assessments are to be carried out. However, I welcome the three-tier approach and I welcome the tenor of the Bill in terms of enabling and empowering. We will help somebody to assist him or her to make a decision, then there is a co-decision and the top one is where a decision is made for a person. That should be rare if we are going to go with the spirit of the Bill.

I am not sure about legal aid. It is not clear how that will be available. It is entirely unclear to me how we are going to deal with the number of people who have been declared wards of court. I will outline the total confusion that has been created. I have said on other occasions that we might get a clue from the date - 1 April. A notice in relation to applications for wardship was sent to barristers and solicitors.

In preparation for the commencement of the Assisted Decision Making (Capacity) Act 2015, the President of the High Court has directed that the Office of Wards of Court will stop accepting wardship applications...from the 22nd April 2022.

A direction was given to that effect. If we fast-forward to 12 May, the exact same language was used except it was to say that “the Office of Wards of Court will re-commence taking applications”. We can imagine the utter confusion. One direction on 1 April says there will be no more wards of court and on 12 May applications for wards of court are to recommence. We try to be positive and work with the Minister of State and then we see all of this without any adequate explanation. What is the total number of wards of court? It seems that 2,200 have been created unnecessarily since 2015 when the Act was supposedly, in theory, to stop the wards of court system. Deputy Jim O’Callaghan was trying to clarify this as well. Is it 3,000 wards of court or 4,000? How are the courts going to manage that? The Minister of State mentioned something yesterday in passing to the effect that there would be a panel of judges over a three-year period. How are they going to manage that? What resources will be put into place? Who is going to pay for that? When medical evidence is required by the courts, will more and more come out of the estates of those who have been declared wards of court? While we are talking about this, I understand that there are funds in court of €1.46 billion.

*6 o’clock*

Correct me if I am wrong, but this should all be set out for us. What is the total amount of funds currently under the wardship system that is presided over by the President of the High Court? What will happen to those funds? We know now that the director of the DSS, who happens to be female, will not deal with that because that competence has been taken from her. Where is the information on what will happen to those funds? Nobody has said. This is crucial, given what Deputy Boyd Barrett alluded to and what I have raised in the past. There are serious concerns.

I sat on the Committee of Public Accounts when a report came before it stating that the investments were made, not wisely, but that there was no question regarding them. The group has highlighted that no assessment was independently done of the decision-making and risk-taking around the investment of funds. There are questions relating to that. We ignore them at our

peril, but that is what we are doing. We have no clarification on that. Will the Minister tell us what are the total funds being held by the High Court? Where will they go? Who will manage them? Will we outsource each one as a ward of court is transferred to the new system? What will happen in respect of all that?

I really want to work with the Government, but it is impossible to do so without proper explanations and without getting rid of the arbitrary date in June, given that we have waited 200 years or 170 years and, in particular, that other countries have done it better. We should have learned in the meantime that empowering and enabling is exactly what they mean. That is what we should be doing. The best people to educate us on that are those with disabilities or the organisations that represent them, and we have utterly ignored them. The Irish Human Rights and Equality Commission Act obliges us to consult with the disability organisations but not with other organisations. That is also unacceptable.

**Deputy Michael Moynihan:** I welcome the opportunity to discuss the Bill. I also welcome the Minister and the Minister of State. We are talking about the basis of the decision-making capacity Act. On the 2015 Act and its non-enactment, we are talking about very complex legal issues. Previous speakers referenced Acts that have been there for almost 200 years. The Assisted Decision-Making (Capacity) (Amendment) Bill is very fundamental to the rights of individuals. While I welcome it, the Bill is also unearthing many challenges because, as public representatives, we have all from time to time dealt with families in situations where the law and trying to navigate it is very complex, especially for people who have lost the capacity to make decisions. The perception in the wider world may be that this just relates to elderly people, but it does not. It affects young people and people who, for one reason or another, including accidents or ill health, have reached a point in their lives when decisions have to be made.

The Bill will replace a system that is very outdated and that has been very challenging. We have seen people made wards of courts, where settlements or funding has been put in place, and how that has worked. It takes significant legal expertise and advice for families to navigate through that, when they look for to draw down funding for the needs of a person. I have seen families get completely frustrated by having to go back to the courts to make a case and so on. We have to be very mindful that we are talking about very vulnerable people at a very vulnerable time for families and everybody else. The least we might have is a very sensible pathway in order for them to navigate and get through the system.

We have to reflect very carefully on the legislation before us. It is the right thing to do at this time. It comes up week in and week out in all the discussions of the Joint Committee on Disability Matters. Two members of that committee are in the Chamber; Deputy Murnane O'Connor and the Vice Chair, Deputy Tully. We have discussions on the decision-making capacity Bill and they constantly look to get it through as its enactment will remove one of the major blockages to ratification of the UNCRPD optional protocol. It is very important that we do not delay that any further. The optional protocol is very important for everybody who has a disability. We need it ratified so the State can stand over the decisions it is making, and is seen to be at the coalface and seen to be embracing the UNCRPD, which is a very fine document. It is very important to have that as our foundation.

Any further delays in the ratification of the optional protocol are absolutely unacceptable. I expect and ask, if not demand at this point, that the Government, on the completion of the passage of this Bill through the Houses, does not delay the optional protocol by one iota. Feedback has come to me that various channels have to be gone through, and that the Attorney General's

office and others are going through the optional protocol. We have ratified the UN convention for some time and the optional protocol has been a commitment. We now need to make sure that all Departments are up for ratification of it and that it is there as a mechanism and foundation for us, or an insight for people who are dealing with disabilities and trying to get answers, if the State is not providing proper services.

This leads me to the services in place for people with disabilities and people with intellectual disabilities. The Minister of State has been at the forefront in challenging the system. I commend her on the work she is doing. She is well able to take on the system but there is a major challenge regarding disabilities and services. It was highlighted in the past couple of weeks in respect of school places but that is really only the tip of the iceberg of what is there. On Thursday mornings, those of us privileged enough to sit on the Joint Committee on Disability Matters hear stories of the lived experiences of people with disabilities and the challenges they face in their daily lives. As a society, we need to open up to those challenges and ensure we are tearing down those barriers. The disability portfolio is moving into the Minister's Department. It is refreshing to see the Minister and the Minister of State side by side in the Chamber to listen to the debate and to take on board the concerns of Deputies, who are relaying the concerns of their constituents and those they meet at Oireachtas committees and elsewhere. It is very important that we look at the challenges out there.

We had a debate last week on the July provision and the money that was allocated to it, and the fear that the money might not be spent at this stage and the provision might not be provided in the way it could be. We need to be imaginative in how we look at it and in how we recruit people, including those going through college, such as occupational therapists, speech and language therapists and physiotherapists. Before they have completed their courses, they should be able to work under the July provision and gain very valuable experience for their degree courses in the work they are doing that will also allow them into the system. We need to ensure we are able to keep those people working in our country because our society needs it so badly. I ask the Minister and the Minister of State to ensure everything is done. I know the July provision comes under a different Department. There is also the issue of teachers who have completed two or three years of training who could be brought under it. We need to think outside the box.

The provision of care for people with disabilities has come to my attention over the past few days. There comes a point in every family's life when there is a crisis. For example, when parents get older and one of them gets sick or passes away, a crisis arises in terms of providing respite or care for a person who needs it.

Evidence has come to me about some people who should be offered full-time contracts within the services not being offered any. Full-time contracts mean that people can depend on those contracts to go to their credit unions, banks or other lending institutions. These people have considerable experience of providing care for people with disabilities. We cannot afford to lose their expertise. We should be examining this matter from top to bottom. There are fantastic people providing a service that is second to none. We should hold onto all of them within our services and no one should be lost because of not being offered a full-time contract. As we enter June, it is wholly inappropriate that there are some people within the State's services who are not getting full-time contracts.

We are told that ample funding is available. If money is returned unspent to the Exchequer at the end of the year, it will be unforgivable because the services are in a shambles. When

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the Government was faced with unprecedented challenges over the past two years because of Covid, the whole of the Government worked together to meet those challenges head on. We do not see the same urgency being shown towards people with disabilities or meeting the challenges involved.

Down the years, many services were built on community initiatives under section 39 organisations. Good, well-intentioned people formed organisations built on community initiatives the length and breadth of the country. I could name some of them. The HIQA regulations, as well as other regulations, are important for ensuring that we can have confidence in the services being provided, but this situation has moved on a further stage.

I am straying from the topic of disability and capacity, but I wish to make a point. Ample funding is available for home care but there are no staff available. The problem is that good people are being lost everywhere in the services. Staff in section 39 organisations do not have pay parity, yet they are providing the exact same care as staff in section 38 organisations. They need to be kept within their organisations, but people are leaving them for the HSE or leaving the HSE for private practice. We must ensure that everyone is on board because we cannot afford to lose people. We should be looking at recruitment. If a multinational company came to Kiskeam – it might happen some day – there would be a recruitment drive across the continents. Why is there not the same urgency in the HSE's recruitment of people?

Deputy Tully, our committee's Vice Chair, and Deputy Carroll MacNeill, who has just left the Chamber, are used to listening to the information provided at our meetings – we regularly meet on Thursday mornings – about occupational therapists leaving, about services, including occupational therapy, not being available in the public sector, and about people having to go private, skipping mortgage and personal loan repayments in an attempt to provide the best for their kids. I applaud them for doing that, but it should not have to be the case.

We are debating this legislation to ensure a proper legal foundation for dealing with incapacity. When I was made Chairman of the Joint Committee on Disability Matters, I said that a future Taoiseach would apologise in this Chamber for the way that people with disabilities had been treated. That has already happened.

We must ensure that we are challenging the system at every level. I have great confidence in the Minister of State, Deputy Rabbitte, and the Minister, Deputy O'Gorman, doing that as a team, but we need to examine where the logjam is and make enough resources available to ensure that the maximum number of staff are kept on. These are people who have built up considerable expertise. We have seen families in crisis not getting the care they need. Some people who have been eight, ten, 12 or 15 years with an organisation cannot get full-time contracts. That is not acceptable.

I welcome the Bill, but I ask that we keep it under review. It follows on from legislation that is more than 200 years old and, while it needs to be enacted, we need to see where the challenges in its operation are. There will be challenges because this is complex legislation that deals with families going through complex periods involving incapacity. We must ensure that there is a constant review. Will the Minister of State and the Minister commit to reviewing it in 12 months' time to see whether amendments are needed to ensure it is working properly?

The minute the Bill is passed by the Houses, the State needs to ratify the optional protocol. Then, if people do not believe they are getting proper services, they could go to the UN, which

would be able to put pressure on the State and Government to ensure that proper services are available. There should be no delay in ratifying the UNCRPD optional protocol. That would not be acceptable. We have been told that this Bill must be enacted first. Now that it will be, there should be no further delay. In this way, we as a society will give the most vulnerable people – those who do not have capacity – the best possible chance and the State will work in their best interests in the simplest legal way.

A point was made about free legal aid. I would like it clarified. I assume that free legal aid would be available under this legislation, but we should clarify the position.

I thank the Ceann Comhairle for the opportunity to contribute to the debate on this Bill. We need to underwrite the legislation in the best possible way for people with disabilities and incapacity by pushing the system and challenging the blockages therein. The Government and the HSE must challenge these blockages and ensure that we do not lose expertise. Brain drains were mentioned as regards other sectors. We are losing valuable people from the disability sector because the State has not ponied up, for want of a better term, and ensured that their contracts are renewed and there is pay parity between staff in section 38 and 39 organisations who are doing the exact same jobs. This disparity should not be countenanced any longer.

I look forward to the conclusion of this debate and the enactment of the UNCRPD optional protocol.

**An Ceann Comhairle:** It is always valuable to have the view from Kiskeam. Our next contributor is Deputy Tully. At 6.30 p.m., I will have to interrupt her to ask her to propose the adjournment of this debate.

**Deputy Pauline Tully:** This is important legislation that aims to abolish the wards of court system for adults with reduced decision-making capacity and introduce a graduated supported decision-making framework that is intended to support a range of people who may have capacity issues. This is critical legislation for disabled people, their families and carers, as well as many others. While I am generally supportive of the Bill, I am extremely critical of the lack of meaningful consultation that has been afforded to relevant stakeholders who will be affected by it, especially disabled persons organisations. I am also enormously disappointed at the limited time that has been given over to scrutiny and to us submitting amendments.

The UNCRPD and best practice in the area of disability mandate a shift in culture and policy away from the medical model of disability and its focus on best interests and duty of care concepts to using a human rights-based approach and a social model for disability. The UNCRPD conceptualisation of disability is in line with the social and human rights models of disability and, therefore, should be adopted as the understanding of disability within the Act. The presumption of capacity and the importance of will and preference are central to this legislation. The focus on supporting relevant persons to make decisions based on their will and preference is welcome but the Bill needs to be strong in embedding the presumption of capacity and the importance of will and preference into law. A number of concerns have been expressed on how these aspects of the Bill need strengthening. If a relevant person has been declared to lack capacity, then the Bill permits substitute decision-making. Substitute decision-making diverges from article 12, as interpreted by the UNCRPD, and, therefore, should be removed. Capacity building and significant supports and resources will be key to enabling decision-making, prioritising will and preference, and alleviating the pressures on family carers.

Although this Bill is progressive in that it centres on the presumption of capacity, the legislation still relies on a functional assessment of mental capacity, which contrasts with article 12 of the UNCRPD. This should be removed and replaced with an obligation to acknowledge, interpret and act upon the relevant person's will and preferences, in line with the UNCRPD. Parts of the Bill give discretion to waive the relevant person's privacy or consent in certain circumstances. This is seen to contrast with the emphasis that both the Act and the UNCRPD place on the presumption of capacity and the importance of will and preference. While the intention here is to safeguard relevant persons, the Bill should include an explicit commitment to take all relevant steps to obtain informed consent before information is shared or privacy compromised. On this issue, Disabled Women Ireland state:

While we want to ensure that there are protections within these systems to avoid abuse, it should be done in a manner which centres the person, their will and preferences and rights... Nothing in the act should grant anybody the power to negate the consent of the person without oversight from the court.

The safeguards contained within this Bill, especially those concerning the relevant person's will and preference, including accountability, appeals and complaints mechanisms, should be strengthened. Explicit provision should be made within the Bill for the Irish Human Rights and Equality Commission to keep the adequacy and effectiveness of law and practice in the State relation to the protection of persons with disabilities under review. This provision was removed from an earlier amendment. This Bill should also oblige the Irish Human Rights and Equality Commission to engage with disabled persons and DPOs in its monitoring role of the UNCRPD, rather than with the National Disability Authority exclusively.

Under article 4 of the UNCRPD the State has an obligation to proactively engage with disabled people and their representative organisations. However, there was no public process organised by the Department to engage with DPOs, family carers or other relevant persons. While commitments were made by the Department and the DSS during pre-legislative scrutiny to provide more accessible resources going forward, it was too late for many that would have wished to engage with the relevant submissions processes. Legislation of this kind requires a collaborative approach to succeed that involves relevant persons, families, carers, service providers and any other groups in wider society as needed. This must include the use of alternative modes of communication to take account of the diverse and complex situations that those affected by the legislation may encounter. Independent advocates also have an important capacity building and safeguarding role to play. There is a need, therefore, to include within the Bill a definition of advocacy and a provision establishing a general right of relevant persons to an independent advocate.

My colleague, Deputy Ward, has comprehensively dealt with the mental health issues in this Bill, so I will be brief. Mental Health Reform, along with many other stakeholders, highlighted the need for alignment between this Bill and the Mental Health Acts to ensure there are no contradictions between the two and that access to the supports available under the 2015 Act cannot be withheld from persons in mental health settings. A person's liberty must never be denied on the basis of an assessment of their capacity. The Bill should clarify that nothing in this Act shall permit interveners to use either chemical or mechanical restraint. Sufficient resources need to be made available so that this right can be meaningfully realised while ensuring the safety of the relevant person, their family and their carer.

The transformational potential of the Bill will only be fully realised if it is sufficiently re-

sourced. An impact assessment needs to be carried out at the outset to ascertain the resources that will be required to build awareness of the legislation, build a relevant person's capacity to engage in decision-making and make their choices a reality on the ground. As Dr. Alison Harnett said at the committee:

The funding and resourcing of the required supports to meaningfully address the rights-based approach to providing choice to people with disabilities across living, education, employment and other areas must be considered in the planning for the implementation of this Act, as this will be a key driver of access to will and preference for people with intellectual disabilities.

It is also important that family carers do not get left behind. Tailored supports for family carers, financial and otherwise, should be made available.

The financial challenges faced by many stakeholders in this field are well-known. It is vital that costs and fees for those operating under the Bill are kept to a minimum. While I am generally supportive of the Bill, I am extremely critical of the lack of meaningful consultation that is being afforded to relevant stakeholders who will be affected, especially disabled persons organisations. I am also enormously disappointed at the limited time that has been given to scrutinise and submit amendments. I cannot cover all the issues with this Bill today. The committee report included 64 recommendations to improve this Bill and these need to be taken on board. Unfortunately, it seems that the Government may have missed an opportunity to make Ireland a leader in capacity legislation and to fulfil our obligations under the UNCRPD. Sinn Féin will, therefore, be submitting numerous amendments to make this Act inclusive, equal and human rights compliant.

I note that Deputy Michael Moynihan referenced the optional protocol and the fact that it has not been ratified yet. We are often told that this depends on the passing of this Bill but others have said the opposite and that it is not dependent on this Bill. I am hope there will be no excuse at that point anyway and that the optional protocol will be ratified and implemented after the passage of this Bill.

**An Ceann Comhairle:** I call Deputy Pringle but I will ask him to adjourn the debate after two minutes.

**Deputy Thomas Pringle:** That is no bother at all. It has been a while since I have had to propose the adjournment of a debate, whereas at one stage, it was nearly every time I spoke that I had to do so.

I am grateful for the opportunity to speak on this extremely important Bill. For such an important Bill I have to say I am appalled at the last minute publication and the general lack of consultation that was allowed for this. We were told at the Business Committee last week that the Bill would be published before the weekend. That timeframe was nowhere near sufficient. However, at least we were being given the weekend to read and consider this massive and complicated Bill. Despite this, the Bill ended up not being published until Monday. This is unacceptable and has created a sense of frenzy and panic among politicians and organisations to ensure proper scrutiny and consideration of the legislation. I would like to take this opportunity to acknowledge the Bills Office, which does great work despite the intense pressure it is under due to rushed legislation such as this, and the Oireachtas Library and Research Service, which managed to publish a Bill digest last night despite such a last minute publication.

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In her contribution, Deputy Connolly devastatingly outlined and critiqued, from the Government point of view, what is happening with this legislation. That is a sad reflection and I have been trying to figure out what it means. The legislation was published and pushed through in 2015 and then we discovered it was not suitable or fit to do its job. This was in 2017 and it is now 2022 and we are coming up with legislation on foot of a Supreme Court judgment that is due to happen. We were told that a Supreme Court judgment was due to happen and then at the briefing on Monday, we were told it was because other bodies were ready to make this work and that the Banking and Payments Federation Ireland and organisations like that had been ready to make it work. Then we were sent a note on a constitutional case. Maybe that is the reason this is a problem. It points to something badly wrong in the system and how it is working that legislation could be enacted in this way. None of the provisions of previous legislation that would have made the changes that are required was enacted. I wonder how many other Acts on the Statute Book are only part-enacted or have had only a couple of sections enacted. Everything is rushed through the House. We must ask whether everything contained in this Bill will be enacted once it is passed. It is a shocking situation. We are here in the midst of it, being told legislation needs to be put through in a mad rush, only to find later, on looking into the detail of it, that there really was no need for such a rush. My belief is that this rushed process is a result of inertia within the Civil Service and the Government when it comes to doing what they should be doing.

**An Ceann Comhairle:** The time is up. The Deputy will have a second bite of the cherry tomorrow.

Debate adjourned.

### **Circular Economy, Waste Management (Amendment) and Minerals Development (Amendment) Bill 2022: Report and Final Stages**

**An Ceann Comhairle:** Amendment No. 1, in the name of Deputy Whitmore, arises out of committee proceedings. Amendments Nos. 1, 17 and 30 are related and will be discussed together.

**Deputy Holly Cairns:** I move amendment No. 1:

In page 6, between lines 21 and 22, to insert the following:

“‘Just transition’ means a transition that ensures the economic, environmental and social consequences of the ecological transformation of economies and societies are managed in ways that maximise opportunities of decent work for all, reduce inequalities, promote social justice, and support industries, workers and communities negatively affected, in accordance with nationally defined priorities, and based on effective social dialogue;”.

Amendment No. 1, in the name of my party colleague, Deputy Whitmore, provides a much-needed definition of just transition. Amendment No. 17 proposes a requirement “to facilitate and support initiatives undertaken by communities or organisations which promote the principles of a just transition and climate justice”.

It is regrettable that we do not yet have a definition of just transition in our legislation.



Without a legal definition, it is difficult to see how we can achieve a fair and just transition as we move towards a zero-carbon economy, or how we can hold the Government of the day to account for its climate actions. To put it simply, a just transition is a movement towards a new, greener, sustainable economy that is achieved in as fair and inclusive a way as possible for everyone concerned, particularly those most vulnerable to the transition to a zero-carbon economy and those most vulnerable to climate change itself.

The idea of a circular economy in the current economic context is positive, but we must be cognisant of, and focused on, how this new economy will treat people, particularly the most vulnerable in our society. It is a question of whether we include them or view them as passive actors during the course of the transition. We have a chance to adopt a more holistic transitional approach for people in poverty or with a disability, recognising the opportunity to drive social change along with climate action.

Deputy Whitmore attempted to secure a legal definition of just transition throughout the course of the debate on the Climate Action and Low Carbon Development (Amendment) Act 2021 and by way of her own legislation, which she introduced last year. She also proposed to include the definition on Committee Stage of this Bill but, again, it was rejected by the Government. We can no longer separate the environment from how we live. We cannot separate it from every single element that impacts us, including food costs, fuel costs and travel. Our response must be cross-cutting and the legislation and policies we develop must take into account all of those other aspects.

**Deputy Darren O'Rourke:** I thank Deputies Whitmore and Cairns for bringing forward these amendments, which I support. They are consistent with attempts made by the Opposition at various stages, including in the debate on the Climate Action and Low Carbon Development (Amendment) Act 2021 and on earlier Stages of this Bill, to enshrine the principles of just transition in legislation in Ireland. We look towards other jurisdictions - Scotland, for example - where this has been done. It makes a difference because it enshrines a commitment in this regard in law. It means that all of the policy that stems from the important legislation in this area must be in line with those principles.

In recent weeks, we had statements in the House on a just transition. One can see there is a really narrow focus from the Government on particular geographical areas and particular cohorts. In fact, a commitment to just transition needs to permeate absolutely everything we do in terms of climate change. Today's report from the Environmental Protection Agency, EPA, refers specifically to the need for implementation and action. Much of the resistance to climate action is because of the unjust and unfair way in which it is being imposed and delivered. People are not being given the opportunity to see the benefits of, and everything that is positive about, essential climate action.

It speaks volumes that there is such resistance to amendments like these linked ones that have been put forward by Deputy Cairns. I hope the Minister will support them. However, if past performance is any indication, there will be opposition to them. I question where that opposition comes from. If we are serious about delivering on the targets that have been set and agreed on so widely, then the definition of the principles of just transition, in the broadest possible sense, is fundamental to the real-world delivery of those targets. We must ensure people on the front line, in such sectors as the fossil fuel industry, are protected. However, it is necessary for everybody to make a transition. For every decision we make, we need to think in terms of just transition, equity and ensuring the policy decisions that are made do not drive

people into poverty, including fuel poverty, or further into poverty. It is fair enough if measures taken reduce some people's wealth but they should not drive people into poverty or further into poverty. Unfortunately, that is what is happening with some of the measures we have seen from the Government. I support these amendments.

**Deputy Bríd Smith:** I speak in favour of Deputy Whitmore's amendments. The Minister will verbally agree that the idea of a just transition is not an optional extra but must be central to everything we do on climate action and the environment. On Committee Stage, however, he stated that a definition of just transition was not agreed for the Climate Action and Low Carbon Development (Amendment) Act 2021 and it would not be appropriate to include it in this Bill either. That is a mistake and it speaks to a fundamental misunderstanding of the central role of a just transition in achieving the changes we need. If a measure to achieve a circular economy or a policy aimed at cutting emissions does not fit a clear description of a just transition, then it simply will not succeed. We cannot say to workers or to communities that rely on work or rely on services in aviation, plastics, agriculture, energy or any of the many sectors that must change radically that this is what we are going to do without giving them a clear vision of how this future will be better for everyone. I feel we have failed the Bord na Móna workers in this regard and we are failing households currently in energy poverty. Unless just transition is embedded into the very core of the policies and the laws of the State, these plans will fail. I urge the Minister to accept Deputy Whitmore's amendments.

**Deputy Sean Sherlock:** I anticipate that the Minister will reject the amendment, but I do not understand why. When the Minister was in opposition, he and I served on the joint committee arising from the Citizens' Assembly in respect of climate action. The Minister was very strong in his rhetoric on the whole issue of just transition. If I recall correctly, the Green Party produced a Bill on the principle of the just transition. We are all broadly in agreement and we need to insert the principles in legislation. The amendment before us is a sound amendment in what it seeks to achieve. Deputy O'Rourke already referred to the Scottish example which has been well signalled. I do not see why we could not follow suit or at least seek to have this principle inserted across a plethora of legislation which is going through this House. It should be embedded firmly across legislation in a way that ensures we are acting appropriately in respect of climate action. I see no reason the House should reject an amendment of this nature. It seems to be eminently sensible.

**Minister for the Environment, Climate and Communications (Deputy Eamon Ryan):** I am very glad to be here for Report Stage of the Circular Economy, Waste Management (Amendment) and Minerals Development (Amendment) Bill. I commend the Members, the Minister of State, Deputy Ossian Smyth, and the officials on the processing of the Bill to date. There has been a lot of listening and amending. Today I will be introducing a series of amendments based on many of the suggestions coming from the Opposition. I can give examples of that good collaboration. Deputy Whitmore raised the need for consultation in the drafting of a circular economy strategy, particularly relating to people with disability and stitching poverty impact assessment into everything we do with circular economy legislation. I regard that as a very good and pertinent example of amending legislation to take a social justice perspective into account.

I will not be accepting the amendment. I do not believe that this is the place for us to focus on or set the definition of a just transition. We had this discussion at length in the development of the climate law and we will do so again later this year. We are working on the introduction of a statutory just transition commission office. I had meetings this week with the Just Transi-

tion Alliance and with a range of different actors asking very detailed questions as to how we define that word “fair”. That is the right place to define a just transition commission or a just transition approach in its own right. I do not believe this is the appropriate place and I do not think it would strengthen or add to the legislation. On this occasion, I am afraid I cannot accept the amendments.

**Deputy Sean Sherlock:** Forgive me if I misunderstood the Minister. I would have thought that this is the most appropriate place in which to promulgate ideas such as our proposed amendment. All too often we do not give ourselves enough credit for discussing deeply issues such as this. Many of us, including the Minister, have sought to embed this in legislation. We now have a golden opportunity in this legislation to do that. While I accept it is important to coalesce with those who are outside this House, it is also important to take the views of people within this House seriously.

**Deputy Eamon Ryan:** I think the right place for that is in the legislative vehicle, which is the statutory just transition commission office. That is where we will really do that properly, effectively and well. I look forward to that later in the year.

Amendment put:

| <i>The Dáil divided: Tá, 52; Níl, 66; Staon, 0.</i> |                                    |              |
|---|------------------------------------|--------------|
| <i>Tá</i>   | <i>Níl</i>                         | <i>Stاون</i> |
| <i>Bacik, Ivana.</i>                                | <i>Brophy, Colm.</i>               |              |
| <i>Boyd Barrett, Richard.</i>                       | <i>Bruton, Richard.</i>            |              |
| <i>Browne, Martin.</i>                              | <i>Burke, Colm.</i>                |              |
| <i>Buckley, Pat.</i>                                | <i>Butler, Mary.</i>               |              |
| <i>Cairns, Holly.</i>                               | <i>Cahill, Jackie.</i>             |              |
| <i>Canney, Seán.</i>                                | <i>Calleary, Dara.</i>             |              |
| <i>Carthy, Matt.</i>                                | <i>Cannon, Ciarán.</i>             |              |
| <i>Clarke, Sorca.</i>                               | <i>Carey, Joe.</i>                 |              |
| <i>Connolly, Catherine.</i>                         | <i>Carroll MacNeill, Jennifer.</i> |              |
| <i>Conway-Walsh, Rose.</i>                          | <i>Chambers, Jack.</i>             |              |
| <i>Cronin, Réada.</i>                               | <i>Collins, Niall.</i>             |              |
| <i>Crowe, Seán.</i>                                 | <i>Cowen, Barry.</i>               |              |
| <i>Cullinane, David.</i>                            | <i>Creed, Michael.</i>             |              |
| <i>Daly, Pa.</i>                                    | <i>Crowe, Cathal.</i>              |              |
| <i>Doherty, Pearse.</i>                             | <i>Devlin, Cormac.</i>             |              |
| <i>Donnelly, Paul.</i>                              | <i>Dillon, Alan.</i>               |              |
| <i>Ellis, Dessie.</i>                               | <i>Donnelly, Stephen.</i>          |              |
| <i>Farrell, Mairéad.</i>                            | <i>Duffy, Francis Noel.</i>        |              |
| <i>Funchion, Kathleen.</i>                          | <i>Durkan, Bernard J.</i>          |              |
| <i>Gannon, Gary.</i>                                | <i>Farrell, Alan.</i>              |              |
| <i>Gould, Thomas.</i>                               | <i>Feighan, Frankie.</i>           |              |
| <i>Healy-Rae, Michael.</i>                          | <i>Flaherty, Joe.</i>              |              |
| <i>Howlin, Brendan.</i>                             | <i>Flanagan, Charles.</i>          |              |
| <i>Kelly, Alan.</i>                                 | <i>Fleming, Sean.</i>              |              |

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|                                |                                    |  |
|--------------------------------|------------------------------------|--|
| <i>Kenny, Martin.</i>          | <i>Foley, Norma.</i>               |  |
| <i>Kerrane, Claire.</i>        | <i>Griffin, Brendan.</i>           |  |
| <i>Mac Lochlainn, Pádraig.</i> | <i>Haughey, Seán.</i>              |  |
| <i>Mitchell, Denise.</i>       | <i>Heydon, Martin.</i>             |  |
| <i>Munster, Imelda.</i>        | <i>Higgins, Emer.</i>              |  |
| <i>Murphy, Catherine.</i>      | <i>Humphreys, Heather.</i>         |  |
| <i>Murphy, Paul.</i>           | <i>Kehoe, Paul.</i>                |  |
| <i>Mythen, Johnny.</i>         | <i>Lawless, James.</i>             |  |
| <i>Nash, Ged.</i>              | <i>Leddin, Brian.</i>              |  |
| <i>O'Callaghan, Cian.</i>      | <i>Madigan, Josepha.</i>           |  |
| <i>O'Donoghue, Richard.</i>    | <i>Martin, Catherine.</i>          |  |
| <i>O'Reilly, Louise.</i>       | <i>Martin, Micheál.</i>            |  |
| <i>O'Rourke, Darren.</i>       | <i>Matthews, Steven.</i>           |  |
| <i>Ó Broin, Eoin.</i>          | <i>McAuliffe, Paul.</i>            |  |
| <i>Ó Laoghaire, Donnchadh.</i> | <i>McGrath, Michael.</i>           |  |
| <i>Ó Murchú, Ruairí.</i>       | <i>McGuinness, John.</i>           |  |
| <i>Ó Ríordáin, Aodhán.</i>     | <i>McHugh, Joe.</i>                |  |
| <i>Ó Snodaigh, Aengus.</i>     | <i>Moynihan, Aindrias.</i>         |  |
| <i>Quinlivan, Maurice.</i>     | <i>Moynihan, Michael.</i>          |  |
| <i>Ryan, Patricia.</i>         | <i>Murnane O'Connor, Jennifer.</i> |  |
| <i>Shanahan, Matt.</i>         | <i>Naughton, Hildegarde.</i>       |  |
| <i>Sherlock, Sean.</i>         | <i>Noonan, Malcolm.</i>            |  |
| <i>Shortall, Róisín.</i>       | <i>O'Brien, Darragh.</i>           |  |
| <i>Smith, Bríd.</i>            | <i>O'Brien, Joe.</i>               |  |
| <i>Smith, Duncan.</i>          | <i>O'Callaghan, Jim.</i>           |  |
| <i>Stanley, Brian.</i>         | <i>O'Dea, Willie.</i>              |  |
| <i>Tully, Pauline.</i>         | <i>O'Donnell, Kieran.</i>          |  |
| <i>Ward, Mark.</i>             | <i>O'Dowd, Fergus.</i>             |  |
|                                | <i>O'Gorman, Roderic.</i>          |  |
|                                | <i>O'Sullivan, Christopher.</i>    |  |
|                                | <i>O'Sullivan, Pádraig.</i>        |  |
|                                | <i>Ó Cathasaigh, Marc.</i>         |  |
|                                | <i>Ó Cuív, Éamon.</i>              |  |
|                                | <i>Phelan, John Paul.</i>          |  |
|                                | <i>Rabbitte, Anne.</i>             |  |
|                                | <i>Richmond, Neale.</i>            |  |
|                                | <i>Ring, Michael.</i>              |  |
|                                | <i>Ryan, Eamon.</i>                |  |
|                                | <i>Smith, Brendan.</i>             |  |
|                                | <i>Smyth, Niamh.</i>               |  |
|                                | <i>Stanton, David.</i>             |  |
|                                | <i>Troy, Robert.</i>               |  |

Tellers: Tá, Deputies Holly Cairns and Róisín Shortall; Níl, Deputies Jack Chambers and Brendan Griffin.

Amendment declared lost.

*7 o'clock*

**An Ceann Comhairle:** We will resume on amendment No. 2 in the name of the Minister. Amendments Nos. 2 to 4, inclusive and No. 9 are related and may be discussed together. Amendment No. 3 is a physical alternative to amendment No.2.

**Deputy Eamon Ryan:** I move amendment No. 2:

In page 7, to delete lines 19 to 27 and substitute the following:

““circular economy” means an economic model and the policies and practices which give effect to that model in which—

(a) production and distribution processes in respect of goods, products and materials are designed so as to minimise the consumption of raw materials associated with the production and use of those goods, products and materials,(b) the delivery of services is designed so as to reduce the consumption of raw materials,(c) goods, products and materials are kept in use for as long as possible thereby further reducing the consumption of raw materials and impacts harmful to the environment,(d) the maximum economic value is extracted from goods, products, and materials by the persons using them, and

(e) goods, products and materials are recovered and regenerated at the end of their useful life;”.

This is an example of what I referred to earlier whereby we have introduced amendments that take into account some of the views and ideas of Members opposite and Government back-bench Members who had some very useful suggestions on how we could strengthen the Bill. Amendments Nos. 2 and 9 significantly strengthen the definition of a “circular economy” to broaden the concept to include design and the role of design in both production and distribution processes and in the delivery of services, not just manufactured goods, in a circular economy. Amendment No. 2 provides that in a circular economy the production and distribution processes and the delivery of services are designed to minimise and reduce the consumption of raw materials.

Regarding amendment No. 3, I am of the view that amendment No. 2 better gives effect to the intention of Deputy Bríd Smith’s amendment so I cannot accept it. Amendment No. 4 would further amend the definition and while I understand the intention behind it and fully agree with the concept of producer responsibility, that is better achieved by the extension of producer responsibility schemes than by the proposed amendment to the definition, and, therefore, I cannot accept amendment No. 4.

1 June 2022

Amendment No. 9 expands the definition of “single-use packaging”. Currently the definition relates to packaging conceived, designed or placed on the market in respect of the holding of food products. With the simple deletion of the three words “to hold food”, we are taking the views expressed during the Committee Stage debate and expanding the definition. That is a very useful and welcome extension that came out of the Committee Stage debate and I thank Deputy Bruton, in particular, for his work on that.

I hope the House agrees with my proposals.

**Deputy Richard Bruton:** I acknowledge the changes the Minister is making. In committee we did quite a bit of work on the circular economy and there is no doubt that a lot of the gains of the circular economy will be achieved by rethinking the design of markets, products and services. It is very important that the Minister has acknowledged that. I might have gone a bit further to acknowledge the way we need to look at things differently. I will give a brief example in the motoring area. There is no doubt that if we moved gradually from selling vehicles as products, to be idle 95% of the time, towards seeing them more as services, there would be huge reductions in our use of materials and in our need for parking spaces. It would really transform, in a circular way, the environmental impact of our travel. I know that is a long way down the track but it is concepts like these that the circular economy needs to trigger.

As the Minister rolls this out, I do not believe that the EPA, as a fairly specialist agency, has the bandwidth to develop the programmes across a range of sectors that will realise the full potential of the circular economy. It is a great agency. It is very good at data collection and research but we need much wider political reach if we are to drive the sort of change that is necessary. The Minister needs to reflect on whether the agency is sufficient to develop the programmes necessary. It needs a wider political remit. In my view, it should be integrated into climate action planning, which has a much broader approach in the way it develops actions to be executed.

**Deputy Bríd Smith:** We would like to acknowledge that the Minister has made significant changes and we welcome that. It is a stronger and wider definition than the first draft. However, we still have concerns and would like to see the actual responsibility placed on manufacturers and producers. The current wording seems to suggest that the same practices, that is, the unsustainable use of materials and so on, can continue, with an emphasis solely on efficiency and usage. We think it needs to be wider and to signal the end of the possibility that anyone can continue to make profits from the old way of doing business, which has been, to use the economic jargon, an externality of costs to society. We welcome the changes but we still think the language remains vague and open to get-out clauses.

I ask the Minister to explain again why he has removed the words “to hold food”. What is the logic in removing this? Is this a sop to the lobbying that we have had from the industry? It is absolutely essential to specifically identify what single-use plastic products are overwhelmingly used for here. If the Minister’s aim is to widen the scope of the definition, why not add to the uses as opposed to removing the specific use of “to hold food”? I ask him to explain his thinking on that.

**Deputy Darren O’Rourke:** I also acknowledge the changes the Minister and the Minister of State have made on foot of the Committee Stage debate. They have taken on board some of what the Opposition and some Government Members said during that debate. That said, there is an opportunity to go further and I share concerns that it does not adequately capture

the potential of the circular economy. At the moment, perversely, the limited plastics recycling facilities that we have on the island cannot source plastics from this State because it is more profitable to export them elsewhere. We must consider also the carbon footprint associated with that. It is ludicrous that it is circular but far from the spirit of what circular could mean and should mean. This needs to be addressed. I do not believe this captures it sufficiently.

**Deputy Eamon Ryan:** With regard to Deputy Bruton's points, I was talking to the officials in advance of coming into the Chamber and we agreed we are probably going to have a series of legislative moves on the circular economy. This would just be a first piece of legislation. The legislation is so significant and wide in its scope that it will require further iterations, as we learn by doing and, as later amendments will show when we see how they are being delivered, we can start to measure and set targets to give real further precision, further legal enforcement powers or regulatory powers to support the development.

The example picked by the Deputy is a very good one. I absolutely agree with him. Even in the past year or two there has been an evolution of thinking, for example, on the motor vehicles issue and the recognition it is not just about decarbonisation. If we all switched to just electric vehicles, there are real supply limits in cobalt, lithium, rare earths, steel and all of the other metal and rare earth metals that are required in cars. I absolutely agree with Deputy Bruton and I do not believe it would be that far distant, and it is already happening, when we will really need to accelerate that sort of shared-use economy in travel and transport as a service. I absolutely accept that as an example of wider and other further products. I believe, however, that we are right to get this legislation through. This amendment significantly broadens and steers us towards systems thinking, design thinking, and concept around how we provide services, as well as the manufacturing of goods. I take the Deputy's point.

The EPA is one actor in the circular economy but we see this as a whole-of-government strategy. It cannot just be the EPA. In my mind one could include, for example, a number of different agencies, including Enterprise Ireland, IDA Ireland and others.

On the removal of "to hold food", I wish to reassure Deputy Bríd Smith that it is with a view to expanding. If I was to try to list every single potential product, it would be impossible and might not be fully inclusive. By removing the words "to hold food" and leaving it open, it is widening as much as possible the definition of products, where it applies.

Amendment put and declared carried.

Amendment No. 3 not moved.

**Deputy Bríd Smith:** I move amendment No. 4:

In page 7, between lines 27 and 28, to insert the following:

"(d) and where the manufacturer or producer of the goods, products and materials concerned is held accountable and financially liable for the costs associated with their recovery and regeneration;"

Amendment put and declared lost.

**An Ceann Comhairle:** Amendments Nos. 5 to 8, inclusive, and amendments Nos. 10 and 11 are related and may be discussed together. Is that agreed? Agreed.

1 June 2022

**Deputy Eamon Ryan:** I move amendment No. 5:

In page 8, between lines 4 and 5, to insert the following:

“ “National Biodiversity Action Plan” means the National Biodiversity Action Plan 2017-2021 published by the Government on 5 October 2017 or any document published by the Government which amends or replaces that plan;”.

We are introducing this series of amendments to take into account the views of the Members across the Oireachtas Select Committee on Environment and Climate Action on Committee Stage. We committed to consider the issues raised around a consultation on the strategy, and these amendments arise as a result of that consideration.

Amendments were also accepted on Committee Stage from Deputy Whitmore, adding the national biodiversity action plan, the national disability inclusion strategy and the roadmap for social inclusion, which I mentioned earlier as an example of how this Bill is being amended.

Amendments Nos. 5, 6 and 8 are consequential amendments and provide for definitions of these documents in section 6. Amendment No. 6 inserts the national biodiversity action plan into the list of documents that must be taken into account in the drafting of the strategy. Deputy Christopher O’Sullivan asked for that on Committee Stage and I thank him for raising the issue. We are fully committed to the greater delivery of anaerobic digestion across all sectors and this amendment will help this to play a part in our future economy. Amendment No. 7 is a consequential amendment that provides for the definition of the national biodiversity action plan in section 6.

Amendment No. 10 arises out of contributions by Deputy Whitmore on Committee Stage, which were further examined in advance of Report Stage. It places a mandatory obligation on the Minister to consult bodies representing “economically or socially disadvantaged persons or persons who have a disability” in relation to the proposed circular economy strategy. It also places a statutory obligation on the Minister to ensure a poverty impact assessment has been carried out by the Minister in the context of the strategy. This is a very important addition. It ensures communities will be fully considered during the drafting of the circular economy strategy. It gives effect to the objectives of the amendments introduced by Deputy Whitmore on Committee Stage, having been through the legislative wringer to make sure the drafting office is happy they integrate into the Bill. I thank Deputy Whitmore for her contribution in this regard, which has strengthened the Bill again.

**Deputy Holly Cairns:** On amendments Nos. 5, 6 and 8, I am delighted to see the Minister has accepted some of Deputy Whitmore’s amendments, including reference to various important national strategies such as the national biodiversity strategy, the national disability inclusion strategy, and the roadmap for social inclusion. This will help ensure the Bill is poverty-proofed and conscious of disability matters.

It is further welcome to see the inclusion of the Government amendment No. 10, which will ensure the Minister will engage with individuals representing economically or socially disadvantaged persons or persons who have a disability. It also refers to a poverty impact assessment that must be carried out by the Minister in respect of the circular economy strategy.

People at risk of poverty or people with disabilities must be treated as active participants in the new economy rather than being relegated to inactive participants, as they currently are



with the linear economic model we have today. Without proper consultation on climate action policies, we risk increasing poverty and further disadvantaging people with disabilities. It is important their voices and concerns should feed into policy processes at initial stages. Consultation should be active, early and thorough to make people feel they have been involved, to give the best possible results and to make the best possible policies.

With regard to food poverty, we must be cognisant of affordability in the context of the rising cost of living. It is important we bring along everyone in line with just transition principles as we transition to a zero-carbon economy and that those most vulnerable to that transition would be included, consulted and, where possible, protected.

**Deputy Sean Sherlock:** I welcome the bona fides of the Minister in bringing forward these amendments as a genuine attempt to deal with the issues therein.

On the issue of persons who are seeking to reduce their waste, especially people who have particular needs, for instance, with incontinence, in 2017 there was a Government decision on the need to introduce a waste waiver in that regard. We have not seen this yet. It was the subject of an amendment here. If we are serious about ensuring we include everybody, I believe it would be appropriate for this Bill to deal with that issue also.

In bringing forward further legislation, which the Minister said he intends to do as things change, I ask that we would give due recognition to people who require waivers and who have no way of reducing their waste because of medical issues. I ask that we recognise those people and that consideration be given to the introduction of the waste waiver. It was a Government decision of 2017. I should know whether Government decisions fall when the mandate falls. I do not think they do but I will be guided by the Ceann Comhairle. It was a Government decision regardless of who was in government. I hope this could be revisited. I am certainly trying to put it into the mind of the Minister. There are people who would have reasonably expected a scheme for waiving fees for some household waste collection services for the benefit of households where, by reason of medical illness or disability, including an illness or disability that gives rise to the need for incontinence wear, a disproportionate amount of household waste is presented for collection. The purpose of such a waiver would be to give recognition to those people and transpose the Government decision into legislation.

**Deputy Bríd Smith:** I support Deputy Sherlock's attempt to get a waiver for vulnerable people. Once upon a time, there was a waiver for vulnerable and elderly people and people who lived on the poverty incomes of social protection. Those who remember the days of opposition to bin charges will recall that they were opposed precisely on this basis. If charges were brought in and the private sector was competing for this service, these were the exact sorts of measures, aimed at helping the vulnerable and poorest in our society, that would be removed by private companies. That is what happened. The companies abandoned those sorts of measures when they could in order to enhance their profits. I fully support Deputy Sherlock's proposal.

**Deputy Darren O'Rourke:** I acknowledge the Minister and the Minister of State, Deputy Ossian Smyth, for their inclusion of these amendments, which were discussed on Committee Stage. This is a long-standing issue with regard to supports for people with medical-associated additional waste needs. It is very unfair and is one of those things that frustrates people. It affects a small number of people, is cruel and needs to be resolved. Looking at parliamentary questions, this issue comes up across the political spectrum. Everybody seems to agree on it but nothing changes. Now is an opportune time to do something about it and I support Deputy

Sherlock's call in that regard.

**Deputy Eamon Ryan:** In June 2017, the previous Government introduced an intended waiver from the flat-rate charges for waste collection. The Department of Social Protection and a range of agencies, including the National Waste Collection Permit Office, the Office of the Data Protection Commission and others, have been looking at how it could be implemented but they have run into difficulties. I am told there are issues due to the absence of a detailed list of persons in receipt of free incontinence wear from the HSE and GDPR, because it involves the gathering and sharing of information. There are other complications around that. We all know the introduction of GDPR legislation has had unintended consequences for the targeting, identifying or sharing of information about particular categories. We will not stop looking for this measure. I hear what Deputy O'Rourke and others are saying. There is broad agreement that we would like this to happen. In a similar area, we are trying to identify houses with high electricity use because they use a lot of medical devices in order to target them for particular supports. This cannot be impossible. We will use this debate to further things. I do not have an amendment before me and I will not amend the legislation but we will redouble efforts to implement that 2017 decision.

Amendment agreed to.

**Deputy Eamon Ryan:** I move amendment No. 6:

In page 8, between lines 7 and 8, to insert the following:

““National Disability Inclusion Strategy” means the National Disability Inclusion Strategy 2017-2021 published by the Government on 14 July 2017 or any document published by the Government which amends or replaces that strategy;”.

Amendment agreed to.

**Deputy Eamon Ryan:** I move amendment No. 7:

In page 8, between lines 12 and 13, to insert the following:

““National Policy Statement on the Bioeconomy” means the National Policy Statement on the Bioeconomy published by the Government on 12 March 2018 or any document published by the Government which amends or replaces that statement;”.

Amendment agreed to.

**Deputy Eamon Ryan:** I move amendment No. 8:

In page 8, after line 40, to insert the following:

““Roadmap for Social Inclusion” means the Roadmap for Social Inclusion 2020-2025 published by the Government on 14 January 2020 or any document published by the Government which amends or replaces that roadmap;”.

Amendment agreed to.

**Deputy Eamon Ryan:** I move amendment No. 9:

In page 9, line 17, to delete “to hold food”.

Amendment agreed to.

**Deputy Eamon Ryan:** I move amendment No. 10:

In page 10, to delete lines 9 to 11 and substitute the following:

“(3) Before the Minister submits a circular economy strategy to the Government for their approval under this section, he or she shall—

(a) consult with—

(i) members of the public in such manner as he or she considers appropriate,

(ii) such bodies, as he or she considers appropriate, representing economically or socially disadvantaged persons or persons who have a disability, and

(iii) such other persons, if any, as he or she considers appropriate,

in relation to the proposed strategy, and

(b) ensure that a poverty impact assessment has been carried out by the Minister in respect of the strategy.”.

Amendment agreed to.

**Deputy Eamon Ryan:** I move amendment No. 11:

In page 10, between lines 19 and 20, to insert the following:

“(d) the National Policy Statement on the Bioeconomy, including as it relates to technologies such as anaerobic digestion;”.

Amendment agreed to.

**An Ceann Comhairle:** Amendments Nos. 12 to 14, inclusive, are related and may be discussed together. Amendment No. 13 is a physical alternative to amendment No. 12.

**Deputy Eamon Ryan:** I move amendment No. 12:

In page 10, to delete lines 28 to 33 and substitute the following:

“(6) (a) For the purposes of the development of the circular economy, the circular economy strategy—

(i) shall set out targets, in accordance with *paragraph (b)*, in respect of each of the following sectors of the economy:

(I) construction;

(II) agriculture;

(III) retail;

(IV) packaging;

(V) textiles;

(VI) electronic equipment,

(ii) may set out targets, in accordance with *paragraph (b)*, in relation to such sectors of the economy other than those referred to in subparagraph (i), if any, as the Minister considers appropriate, and

(iii) shall promote the use of criteria relating to the circular economy in public procurement.

(b) The targets to be set out in respect of a sector of the economy under *paragraph (a)(i)* or *(ii)* shall include any or all of the following as the Minister considers appropriate for the sector concerned:

(i) reductions in material resource consumption and the use of non-recyclable materials;

(ii) increases in the use of re-usable products and materials;

(iii) increased levels of repair and re-use of products and materials;

(iv) improved maintenance and optimised use of goods, products and materials.

(c) The Minister shall consult with such other Minister of the Government, if any, as he or she considers appropriate in relation to the targets to be set out in the strategy.

(d) The Minister shall, in relation to those sectors of the economy in respect of which targets have been set out in the strategy in accordance with this subsection, promote the entering into by participants in those sectors, on a voluntary basis, of sectoral agreements in respect of those targets.”

I thank Deputy Bruton. These amendments come out of some of the proposals he made on Committee Stage. They will place a mandatory obligation on the Minister to set targets in the circular economy strategy. The word used is “shall” not “may”, meaning it is mandatory. It is appropriate to specify individual sectors in respect of which mandatory reporting targets should be set with regard to public procurement and promoting voluntary sectoral agreements for the targets set under the strategy. This strengthens and broadens the Bill in a way that is appropriate.

Amendment No. 12 amends section 7 to provide that the Minister must set sector-specific targets in the strategy, must promote the use of circular economy criteria in public procurement and must promote voluntary sectoral agreements for targets. I thank Deputy Bruton for his contribution to these amendments, as well as the other Deputies who contributed to the debate on the issue.

Amendment No. 14 provides for a consequential amendment to section 7(7) as a result of the changes outlined to section 7(6). As amendment No. 12 already provides for mandatory targets, amendment No. 13 is not necessary and therefore I will not be accepting it.

**Deputy Richard Bruton:** I warmly welcome these changes. The Minister has been very responsive to the discussions we had on Committee Stage. It is important that we recognise that every sector is different and each one needs to start to think fundamentally about the way it does its business. In order to achieve prosperous and competitive enterprises in ten, 15 or 20

years, sectors must start to meet targets. They may do so voluntarily in the first place, as the Minister recognises would be valuable, but over time there will be greater pressure on them to meet targets. It is important that we start to do this. I urge, and have urged, the Minister for Enterprise, Trade and Employment to play a role in identifying the sectors within his remit where there are opportunities to make our sectors more competitive, prosperous and environmentally sustainable. The same is true of housing and the construction sector. I welcome the approach the Minister is taking. I hope there will be whole-of-government support for that approach and that sectoral leaders will recognise that this is giving them the opportunity to get their house in order, with the support of the Government and with targets they can help shape.

**Deputy Sean Sherlock:** I too welcome this amendment. It sets out a very clear strategy. I will speak very briefly about electronic equipment. The Minister will be aware of the “right to repair” movement, which is gathering a head of steam globally. This applies to all of us and our personal consumption, particularly of electronic goods and white goods such as smartphones. The concept of built-in obsolescence is becoming quite painful for consumers. It is annoying that we cannot have recourse to repair for a product we have purchased. The Minister will say we do not want to move ahead of EU law in relation to harmonisation rules. I anticipate his reply and I appreciate that dynamic but we should take due cognisance of this movement around the right to repair.

On this small little island, we are sitting on mountains of electronic detritus. It is the same detritus that 20 years ago we would have sought to repair, for example, a toaster, dishwasher or phone. People are sick to the back teeth of this built-in obsolescence and having to replace goods annually or biannually. It is just not good enough. If we can be the first country in the world to move head of the European Union, we should be that radical and ambitious. If we can instil within circular economy legislation this concept of the right to repair, allowing independent businesses to repair products made by the likes of Apple, Samsung and so on, we should seek to embrace that. I hope that concept will be instilled within the subsection that deals specifically with electronic equipment.

**Deputy Eamon Ryan:** I think that relates to amendment No. 24, tabled by Deputy Bacik, which effectively makes the same point. When we come to that amendment, I will say the same thing as I am saying now, which the Deputy predicted I would say. This is a European competence. I do not disagree on the issue but we have to work within a European context and the wider and larger mechanism by which we can set standards. That is where we need that legislation. I do not think it fits into this Bill.

Amendment agreed to.

**An Ceann Comhairle:** Amendment No. 12 having been agreed to, amendment No. 13, in the name of Deputy Bríd Smith, cannot be moved.

Amendment No. 13 not moved.

**Deputy Eamon Ryan:** I move amendment No. 14:

In page 11, to delete lines 1 and 2 and substitute the following:

“(b) actions necessary to meet the targets set out in the strategy.”.

Amendment agreed to.

**An Ceann Comhairle:** Amendments Nos. 15 and 16 are related and will be discussed together. The latter amendment is a physical alternative to the former.

**Deputy Eamon Ryan:** I move amendment No. 15:

In page 11, to delete lines 3 to 5 and substitute the following:

“(8) The Minister shall publish, on a website maintained by or on behalf of the Minister or the Government—

(a) the circular economy strategy approved by the Government under this section, and

(b) on an annual basis, a report prepared by or on behalf of the Minister on the implementation of the strategy and the progress made in relation to—

(i) reaching the targets set out in the strategy in accordance with *subsection (6)*, and

(ii) the taking of the actions set out in the strategy in accordance with *subsection (7)*.”.

This too will be a significant strengthening of the legislation to allow for an annual review and for the publication thereof, which was not provided for in the Bill as drafted. The amendment arises from amendments tabled on Committee Stage. It is a fairly simple provision whereby the Minister will have to prepare a report annually on the implementation of the strategy, the progress made to reaching the targets and the taking of the actions set out in the strategy. The strategy will have to be updated fully at least every three years, so it will be important that excessive resources do not get caught up in an ongoing cycle of reviews at the expense of making progress on the actions. It provides for proportionate reviews of progress on the strategy.

Amendment No. 16 seeks to achieve the same objective. I will press my amendment, inspired by the debate on Committee Stage.

**Deputy Bríd Smith:** I tabled amendment No. 16. Again, in general terms, I welcome the Government’s amendment and will withdraw my amendment. We sought an annual review as a way of evaluating the outcomes and progress and we hope the Minister’s wording will achieve this.

**Deputy Richard Bruton:** I welcome the amendment, given the review will be integral if we are to have a successful programme. I again urge that the reporting under this be integrated with the climate reporting, which is overseen by the Department of the Taoiseach. This would give an additional impetus to not only the reporting process but also meeting the targets set out for the reporting.

I refer the Minister back to the approach in section 10, whereby the measures to be adopted under the circular economy are to be developed by the EPA. The sole element of force in the EPA’s armoury seems to be the furnishing of a copy of its programme to other public bodies, but I think there is a weakness there. If the EPA comes up with good actions and it is merely furnishing a copy of its programme outlining them, that could involve just sending an email. The agency does not have sufficient bandwidth, nor is that a sufficiently effective tool even if it did. If the Government is coming back with legislation, we need to find a better way of devel-

oping the actions that will achieve these targets, using a broader range of expertise and putting obligations on Departments and Ministers, as the Government has done in developing some of these targets. We should be forcing the process of adopting circular thinking into every Department of State and not have it hived off in the EPA sending emails, perhaps forlornly, to other public bodies.

**Deputy Eamon Ryan:** I suppose I will have to defend the EPA given, if no more than anything else, I have just come from a national dialogue public event with the agency. It was a hybrid event with hundreds of people from throughout the country. Nevertheless, I take the Deputy's point. Public consultation, with openness and transparency, has to be the watchword for all our agencies and we will look to strengthen that further.

Amendment agreed to.

**Deputy Bríd Smith:** I move amendment No. 16:

In page 11, to delete lines 3 to 5 and substitute the following:

“(8) The Minister shall prepare a review on an annual basis, to evaluate outcomes against stated deliverables of the circular economy strategy, including any relevant data on progress, barriers to progress and recommendations on adjustment of the circular economy strategy or other measures, including financial measures, to address any such barriers or shortfalls as may be identified by the review.

(9) The circular economy strategy approved by the Government, and annual reviews referred to in *subsection (8)*, shall be made available to the public by publication on a website maintained by or on behalf of the Minister or the Government.”

Amendment, by leave, withdrawn.

**Deputy Holly Cairns:** I move amendment No. 17:

In page 13, between lines 6 and 7, to insert the following:

“(o) to facilitate and support initiatives undertaken by communities or organisations which promote the principles of a just transition and climate justice;”

Amendment put and declared lost.

**An Ceann Comhairle:** Amendments Nos. 18 and 19 are related and will be discussed together.

**Deputy Bríd Smith:** I move amendment No. 18:

In page 20, after line 41, to insert the following:

“(e) food contact materials in which perfluoroalkyl and polyfluoroalkyl substances (PFAS) have been used;”

We wanted there to be included in this section a specific ban on a range of products such as single-use cups, plastic bags and so on because recent research, particularly from the US, has shown that food contact with the chemical substances used in these products is very dangerous. Perfluoroalkyl and polyfluoroalkyl substances, PFAS, are a class of man-made chemicals

widely used in products ranging from non-stick pans to make-up and firefighting foams, and they have come under increased scrutiny globally in response to science linking PFAS exposure to health problems including liver damage, cancer and birth development disorder. They have been dubbed “forever chemicals” because they are not broken down in the environment. We think it is important in the Bill to take account of the health implications, rather than just the climate implications, of a circular economy.

**Deputy Darren O’Rourke:** I will support both amendments regarding PFAS for the reasons outlined by Deputy Smith. I welcome the fact the Minister has brought forward amendment No. 19 on foot of discussions on Committee Stage. We raised previously the prospect of taking an initiative such as that which was taken in France. The Department indicated there were considerations in the Irish market that differed from those in the French market, such as longer supply chains, but I welcome the commitment to preparing a report and assessing the prospect and how such a change might be implemented in an Irish context.

**Deputy Richard Bruton:** I share the concern in this area and recognise that under any regulatory impact assessment approach, there has to be a reasonable consultation, an assessment of the facts and an opportunity for people to plan and change their method of production. Even so, it seems we have a problem with certain materials being used routinely in the Irish supply chain. Some of them are simply not recyclable, while PFAS have more toxic elements to them. We should be able to move fairly swiftly to removing such elements and that is an important part of this process.

One issue raised since the discussion of our Committee Stage amendment related to the fear that when we bring in a levy on disposable cups, we will see the outcrop of pretend-disposable cups that, in fact, will be thrown away but that masquerade under the guise of being reusable. It would be interesting to hear from the Minister how an approach is going to be taken to ensure we will not fall victim to the law of unintended consequences, whereby when we identify certain categories of disposable cup and impose a levy, we will find a phoney alternative masquerading as reusable that will cause even greater environmental damage should it come into widespread use.

**Deputy Eamon Ryan:** I agree with the concerns regarding PFAS materials but that is something we have to regulate and legislate for at a European level. We are actively involved in that and should be progressive and rigorous in directing the use of those materials away from potentially adverse environmental or health impacts. It is a matter for European regulations legislation, not national, so I cannot accept amendment No. 18.

I welcome the contributions of Deputies O’Rourke and Cronin on Committee Stage that inspired amendment No. 19. It is sensible and, again, strengthening. I think the Minister of State, Deputy Ossian Smyth, said on Committee Stage that a report would make a significant contribution so I welcome that Government amendment which came from a suggestion by Sinn Féin Deputies.

Turning to Deputy Bruton, there will obviously be complex details. The end of this year is the rough timeline for the latte levy and the change of the use, as well as the deposit refund scheme and those sort of measures, to come into place. On reviewing that, monitoring it and ensuring there are not abuses, one of the benefits of the approach we are taking was initiated by the Deputy when he was Minister, namely that there was a stakeholder approach behind the waste plan that involved industry, environmental organisations and other civil society elements



as well as the Department. That is the best check against there being abuses or use of materials to try to get around this. That stakeholder approach and the ongoing work between industry, retailers, the Department and environmental NGOs is the best safeguard. It is hard to predict exactly what the Deputy is predicting but that stakeholder approach is the best way to address it.

Amendment put and declared lost.

**Deputy Eamon Ryan:** I move amendment No. 19:

In page 21, between lines 19 and 20, to insert the following:

“(7) The Minister shall, not later than 12 months after the coming into operation of this subsection, publish, on a website maintained by or on behalf of the Minister or the Government, a report prepared by or on behalf of the Minister examining how single-use packaging used in the sale of fruit and vegetables can be reduced.”.

Amendment agreed to.

**An Ceann Comhairle:** Amendment Nos. 20 to 22, inclusive, are related and may be taken together.

**Deputy Bríd Smith:** I move amendment No. 20:

In page 21, between lines 26 and 27, to insert the following:

“(2) Within the first national food waste prevention strategy, the Minister shall set annual food waste reduction targets, sector by sector, to reach the 50 per cent food waste reduction target by 2030, based on 2020 food waste figures.”.

**An Ceann Comhairle:** The Deputy does not wish to speak to the grouping. I ask the Minister to reply.

**Deputy Eamon Ryan:** This is similar to the amendments we have just made in section 6. In this case it provides for the national biodiversity action plan and the national disability inclusion strategy such that when it comes to the drafting of the national food waste prevention strategy, the consultation requirements under that are brought into line with those in the circular economy strategy. Again, they were tabled on Committee Stage by Deputy Whitmore and I thank her for that. It was indicated then we would accept it and reintroduce on Report Stage.

Amendment No. 23 provides for the publication of an annual report on the implementation of the national food waste prevention strategy. It is a slight redrafting of the position accepted at committee, the purpose of which is to provide for the publication of that report on a website. As this amendment provides for annual review and is in line with what was indicated would be accepted on Committee Stage, I do not accept it. However, amendment No. 22 gives effect to the intention of Deputy Bríd Smith’s amendment.

I cannot accept amendment No. 20. The process is under way at EU level on setting targets to reduce food waste across Europe. These will take into account data to be reported from member states by the middle of this year for the reference year 2020. Subject to EU developments, it is expected the baseline year that links to the 2030 50% reduction target will be the reference year of 2020. Ireland’s food waste dataset for 2020 will be reported by the EPA this summer and adoption of the legislative proposal on EU food waste reduction targets is foreseen

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in the second quarter of next year. The draft national food waste prevention roadmap recently made available for public consultation commits to setting interim targets following the establishment of the baseline and these will take into account developments at EU level. We must await the outcome from Europe to know what that baseline is and on that basis I cannot accept the amendment.

Amendment, by leave, withdrawn.

**Deputy Eamon Ryan:** I move amendment No. 21:

In page 21, between lines 36 and 37, to insert the following:

- “(c) the National Biodiversity Action Plan;
- (d) the National Policy Statement on the Bioeconomy;
- (e) the National Disability Inclusion Strategy;
- (f) the Roadmap for Social Inclusion;”.

Amendment agreed to.

**Deputy Bríd Smith:** I move amendment No. 22:

In page 22, between lines 1 and 2, to insert the following:

“(4) The Minister shall prepare a review on an annual basis, to evaluate outcomes against stated deliverables of the national food waste prevention strategy, based on data collected from all food sectors and waste industry, and provide recommendations on the adjustment of the national food waste prevention strategy or other measures, including financial measures, to address any barriers or shortfalls as may be identified by the review.”.

Amendment, by leave, withdrawn.

**Deputy Eamon Ryan:** I move amendment No. 23:

In page 22, line 4, to delete “and the Minister will report annually on the progress of the strategy.” and substitute the following:

“and the Minister shall, on an annual basis, publish on that website a report prepared by or on behalf of the Minister on the implementation of the strategy.”.

Amendment agreed to.

**An Ceann Comhairle:** Amendment No. 24 is the name of Deputy Bacik but is being moved by Deputy Sherlock.

**Deputy Sean Sherlock:** I move amendment No. 24:

In page 22, between lines 13 and 14, to insert the following:

**“Requirements in relation to diagnosis, maintenance and repair of electronic equipment**

16. (1) In relation to digital electronic equipment sold in the State, a manufacturer shall make available, for the purposes of diagnosis, maintenance or repair of the equipment—

- (a) to independent repair providers, and
- (b) to owners of the equipment,

in a timely manner and on fair and reasonable terms, relevant documents, parts and tools, including any updates to information or embedded software.

(2) Where a manufacturer has made an express warranty with respect to digital electronic equipment and the wholesale price of the equipment is €100 or more, the manufacturer shall provide such parts, tools, and documents as enable the repair of the equipment during the warranty period at an equitable price, with due regard to—

- (a) the actual cost to the manufacturer of preparing and distributing the parts, tools or documents, exclusive of any research and development costs incurred,
- (b) the ability of owners and independent repair providers to afford the parts, tools or documents, and
- (c) the means by which the parts, tools or documents are distributed.

(3) In relation to equipment with an electronic security lock or other security-related function, the manufacturer shall make available to the owner and to independent repair providers, on fair and reasonable terms and through secure data release systems where appropriate, any special documents, tools or parts needed to disable the lock or function, and to reset it, for the purposes of diagnosis, maintenance or repair of the equipment.

(4) Both an owner and an independent repair provider may maintain an action against a manufacturer who contravenes subsection (1), (2) or (3), and the court may order the manufacturer to take such action as may be necessary to observe the requirements of the subsection concerned, or to pay damages.

(5) (a) Nothing in this section requires a manufacturer to disclose a trade secret, save as and to the extent necessary to provide documents, parts and tools on fair and reasonable terms.

(b) Subject to paragraph (c), nothing in this section alters the terms of any agreement between a manufacturer and an authorised repair provider.

(c) A provision of an agreement referred to in paragraph (b), or any other agreement, is void insofar as it purports to waive, avoid, restrict or limit a manufacturer's obligations under this section.

(6) In this section—

“authorised repair provider”, in relation to a manufacturer, means a person who is not a connected person and who has an agreement with the manufacturer—

(a) pursuant to a license to use a trade name, service mark or other proprietary identifier, to offer the services of diagnosis, maintenance or repair of digital electronic equipment under the name of the manufacturer, or

(b) otherwise to provide such services on behalf of the manufacturer,

provided that a manufacturer who offers the services of diagnosis, maintenance or repair of digital electronic equipment manufactured by it or on its behalf, and who does not have an agreement with a connected person for the provision of such services, is an authorised repair provider with respect to that equipment;

“connected person” has the meaning assigned to it by section 10 of the Taxes Consolidation Act 1997;

“digital electronic equipment”—

(a) subject to paragraph (b), means any product that depends for its functioning, in whole or in part, on digital electronics embedded in or attached to the product,

(b) does not include—

(i) mechanically propelled vehicles designed and constructed to be suitable for use on roads, or

(ii) medical devices within the meaning of the Health (Pricing and Supply of Medical Goods) Act 2013;

“document” includes any manual, diagram, reporting output, service code description, schematic, or other guidance or other information used in effecting the services of diagnosis, maintenance, or repair of digital electronic equipment;

“embedded software” means any programmable instructions provided on firmware delivered with digital electronic equipment, or with a part for such equipment, for the purposes of operating the equipment, including all relevant patches and fixes made by the manufacturer of such equipment or part for this purpose;

“firmware” means a software program or set of instructions programmed on digital electronic equipment, or on a part for such equipment, to allow the equipment or part to communicate within itself or with other computer hardware;

“independent repair provider” means a person who—

(a) in relation to a manufacturer and any authorised repair provider of the manufacturer, is not a connected person, and

(b) is engaged in the diagnosis, maintenance, or repair of digital electronic equipment,

provided that a manufacturer or an authorised provider of a manufacturer is, when engaged in the diagnosis, service, maintenance or repair of digital equipment that is not manufactured by or sold under the name of the manufacturer, an

independent repair provider;

“manufacturer” means a person engaged in the business of selling, leasing, or otherwise supplying new digital electronic equipment, or parts of such equipment, that has been made by or on behalf of the manufacturer;

“owner” means a person who owns or leases digital electronic equipment;

“part” means any replacement part, whether new or used, made available by a manufacturer for purposes of maintenance or repair of digital electronic equipment manufactured by or on behalf of, sold or otherwise supplied by the manufacturer;

“tools” includes any software program, hardware implement or other apparatus used for diagnosis, maintenance, or repair of digital electronic equipment, including software or other mechanisms that provision, program or pair a new part, calibrate functionality, or perform any other function required to bring the equipment back to fully functional condition.

(7) A reference in this section to making a document or thing available on fair and reasonable terms means making the document or thing available on terms that are equivalent to the most favourable terms under which a manufacturer makes the document or thing available to an authorised repair provider—

(a) regard being had to any discount, rebate, convenient means of delivery, means of enabling fully restored and updated functionality, rights of use, or other incentive or preference the manufacturer offers to an authorised repair provider, or any additional cost, burden, or impediment the manufacturer imposes on an independent repair provider, and

(b) not conditioned on or imposing a substantial obligation or restriction that is not reasonably necessary for enabling the owner or independent repair provider to engage in the diagnosis, maintenance, or repair of digital electronic equipment made by or on behalf of the manufacturer.”.

I spoke to the amendment.

**Deputy Eamon Ryan:** I also spoke to it.

Amendment put and declared lost.

**An Ceann Comhairle:** Amendments Nos. 25 to 29, inclusive, are out of order.

**Deputy Sean Sherlock:** What is the status of amendment No. 25? Is it not in good order?

**An Ceann Comhairle:** Amendment No. 25 does not arise out of committee proceedings. Therefore it cannot be taken on Report Stage. It was not considered on Committee Stage.

**Deputy Bríd Smith:** I ask the Ceann Comhairle to list the amendments he is calling out there.

**An Ceann Comhairle:** I will. Amendment No. 25 is out of order. Amendment No. 26 is out of order. Amendment No. 27 is out of order. These do not arise out of committee proceed-

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ings. Amendment No. 28 is out of order because it does not arise out of committee proceedings. Amendment No. 29 is out of order for the same reason.

Amendments Nos. 25 to 29, inclusive, not moved.

**Deputy Holly Cairns:** I move amendment No. 30:

In page 52, after line 28, to insert the following:

“PART 6

AMENDMENT OF CLIMATE ACTION AND LOW CARBON DEVELOPMENT ACT  
2015

**Amendment of section 1 of Climate Action and Low Carbon Development Act  
2015**

41. Section 1 of the Climate Action and Low Carbon Development Act 2015 is amended by the insertion of the following definition after the definition of “joint committee”:

“ ‘Just transition’ means a transition that ensures the economic, environmental and social consequences of the ecological transformation of economies and societies are managed in ways that maximise opportunities of decent work for all, reduce inequalities, promote social justice, and support industries, workers and communities negatively affected, in accordance with nationally defined priorities, and based on effective social dialogue.”.”.

Amendment put and declared lost.

**Deputy Bríd Smith:** Is it possible to comment on that whole section? We have a bit of time now.

**An Ceann Comhairle:** The Deputy may comment on the section.

**Deputy Bríd Smith:** As it happens, I was very ill the day the committee discussed it but it is extraordinary that such a large portion of a Bill on the circular economy is given over to CCTV, drone footage and the issue of illegal dumping. I am aware it is a huge problem but it is also one that needs to be targeted at businesses and corporate transgressions. The nuts and bolts of setting up surveillance itself may lead to the mushrooming of a surveillance industry. Ironically, this could see sophisticated digital machinery manufacturing, which often leaves us needing rare earth materials. The proliferation of that is severely at odds with the ambition of any kind of circular economy.

This morning I was talking to the lads who run the park where I live in Ballyfermot. They are constantly picking up bags from illegal dumping. The council picks up the waste. The private bin collectors do not contribute anything to it. Millions are spent every year by local authorities to deal with the consequences of very high bin charges. Having just one answer, that is, surveillance, surveillance, surveillance does two things - it does not address the root of the problem and it creates another poisonous and toxic industrial practice around the surveillance industry. It leaves the State picking up the pieces again and does not deal with the climate impact of these issues.

**Deputy Darren O'Rourke:** I welcome the discussion and debate on each Stage of this legislation and acknowledge the Minister has taken on board some of the recommendations. There will be further discussion in the Seanad and colleagues of mine will bring forward amendments, as I am sure others will as well.

I am disappointed there were not amendments on CCTV and the need for caution with it. Significantly more needs to be done in the area of product obsolescence. I would, given the opportunity, have supported the amendment from the Labour Party. We need to see action on that. On Committee Stage, the Government pointed to the need to act at a European level. We need to see more on that. We need to see the deposit return scheme. I share the concerns of other Deputies about the possible unintended consequences of the latte levy and the implications there. I think we will bring forward amendments on that in the Seanad. There is a crazy anomaly with the recycling of polyethylene terephthalate, PET, plastics in Ireland. Due to the configuration of levies and incentives here, it makes more sense to export it to I do not where - certainly the four corners of Europe, if not of the world - than it does to run it up the road to County Monaghan so it can be done here. The Minister has been contacted by Shabra Plastics and Recycling Limited and I know there are ongoing discussions. It makes no sense at all. State agencies such as Repak and others are a part of that mix and it has to be resolved.

**Deputy Sean Sherlock:** I welcome this debate and I welcome the engagement of the Minister. Although I am coming to the Bill at a late stage, I appreciate that the Minister has sought to engage seriously with the deliberations that took place on Committee Stage and reflected them on this Stage.

The issue I wish to repeat is built-in obsolescence, particularly in electronic goods. If the Minister takes away one thing tonight to bring to the Council of Ministers meetings he attends, it is that we must have some form of critique of the capitalist model that takes away from the consumer the right to repair something such as an iPhone. Equally, consumers must not be bound into contracts in a way that gives the whip hand to Apple, Samsung or any of these big global conglomerates. Arguably, given the current model we have in Europe, they have greater traction with the European Commission than perhaps a Council of Ministers might have. If strong Ministers at the Council push back against these big conglomerates in a way that protects the citizens and consumers of Europe, so that citizens have that right to repair built in as a principle, they would be doing a very good day's work.

**Minister for the Environment, Climate and Communications Deputy Eamon Ryan:** I intend to bring forward additional amendments on Committee Stage of this Bill in the Seanad. The proposed amendments, which align the licensing aspects of the Environmental Protection Agency Act 1992 and the Waste Management Act 1996 with the revised emergency planning provisions under section 181 of the Planning Acts, are critical in terms of progressing the State's response to the energy emergency. Those amendments will be brought back to the Dáil for consideration in due course.

I accept the points made about the care that has to be taken regarding surveillance and any use of CCTV. At the same time, it is one of the tools that every local authority in the country was looking for to help to deal with illegal dumping. It is only one, and there are very significant safety provisions relating to CCTV provided for in the Bill.

Bill, as amended, received for final consideration.

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**Minister for the Environment, Climate and Communications (Deputy Eamon Ryan):** I move: “That the Bill do now pass.”

**Deputy Bríd Smith:** Can we have a quick discussion in the few minutes that are left on the last section of the Bill?

**An Ceann Comhairle:** No. We have gone through the process and there is no time for any further discussion. The Minister has proposed that the Bill do now pass, so it either does or does not. The Bill will then be sent to the Seanad and the Minister has indicated that he will table further amendments there. Those amendments will have to come back before the Dáil and there will be another debate on the Bill at that point.

**Deputy Eamon Ryan:** A Cheann Comhairle, I wish to thank the officials for their work on this legislation. It was exemplary and is really appreciated.

**An Ceann Comhairle:** We are always grateful to our officials for the hard work they do.

Question put and agreed to.

### **Insurance (Miscellaneous Provisions) Bill 2022: Report and Final Stages**

**Minister of State at the Department of Finance (Deputy Sean Fleming):** I move amendment No. 1:

In page 6, line 31, to delete “or in relation to”.

It might help if I give an explanation. It is a simple amendment. I will only take a few moments and then give Members of the Opposition an opportunity to speak. It is a very simple four-word amendment.

On Committee Stage I indicated that the Department was considering a technical drafting amendment to the new section 16A, which is being inserted into the Consumer Insurance Contracts Act 2019 by section 8 of this Bill, and that I might return with such an amendment on Report Stage. This is a minor, non-substantial amendment intended to align the text of the new section 16A with the original wording of section 16(10) of the Consumer Insurance Contracts Act. As the Deputies may recall, the purpose of this provision, which is already in force under section 16(10) of the Consumer Insurance Contracts Act, is to place mutual obligations on the insurer and the policyholders to disclose reports from experts relevant to the essence of any claim. The Bill before the House clarifies that this obligation in the Consumer Insurance Contracts Act does not infringe on the established principle of professional legal privilege and also specifies the types of reports to be shared.

Following the drafting process, the Department became aware of a non-substantial issue regarding the definition of the word “claim” for the purposes of section 16A. Section 8 of this Bill defines a claim as “a claim made under or in relation to a contract of insurance”. This wording is not consistent with the original drafting of section 16(10) of the Consumer Insurance Contracts Act, which just refers to claims made under a contract of insurance. In this regard, the purpose of this amendment is to delete the words “or in relation to” so that the definition of a claim for the purpose of section 16A is simply a claim made under a contract of insurance and remains consistent with the current Act. In doing so, this should help to avoid unintended



interpretation of the text and ensure legal certainty regarding the provision in the Consumer Insurance Contracts Act. It is clearly in everybody's interest to ensure clarity and legal consistency in these matters. I do not expect that Members will have an issue with what is a minor technical amendment.

To summarise, the original Bill brought forward by Deputy Doherty some time ago is the Consumer Insurance Contracts Act. This Bill is amending that Act. I flagged on Committee Stage that an amendment might be needed because there was an inconsistency with the definition of a word in the Act. We are proposing to delete the words "or in relation to" to make this Bill consistent with the wording of the Act which Deputy Doherty brought through the Oireachtas some time ago. It is a technical wording issue to ensure we are making this legislation and its wording consistent with the original legislation, and nothing further than that. It seeks to remove any potential ambiguity due to two slightly different definitions of the same thing. We want to ensure this legislation is consistent in its wording with the original legislation which it is amending. Members will accept that it is just a technical amendment. I hope everybody will agree on that and approve the amendment.

**Deputy Pearse Doherty:** As the Minister of State has said, this is a technical amendment. Sinn Féin does not oppose it. It is the only amendment on Report Stage.

I have made my views known about some of the legislation, which does not really do much. There are big questions about the gathering of information by the Central Bank and what the Minister of State plans to do about the insurance industry pocketing subsidies that were paid by the taxpayer and were supposed to be there for companies, not the insurance industry.

*8 o'clock*

I wish to focus on the measures on dual pricing contained within this legislation. The Bill seeks only a report on their implementation. I am very glad we are getting closer every day to the point at which dual pricing will be banned in this State. It is an exploitative practice. I sometimes criticise the Central Bank for being slow to respond, but I am very glad that, in fairness to it, on the back of my complaint nearly two years ago and the meeting with the Governor of the Central Bank, it has acted and has brought forward these recommendations. I think it is well known this is not the way in which I would have banned dual pricing. I think there is still far more wriggle room for exploitation within the insurance industry here compared with the position in Britain. That is concerning as to how this will be applied and implemented, and I have raised that with the Central Bank both in written correspondence and verbally.

I am more concerned about it now, given some of the information coming out of Britain, which has a far harder ban than what we are planning here. It is clear the British insurance industry is finding or trying to find ways around these measures and pricing the same risk differently, depending on the mechanism used to take out the insurance in the first instance. For example, a person who was an online customer a number of years ago is pegged against that online price as opposed to the price that person would have paid had he or she taken out the insurance through contacting the insurer in the first place. The industry is still finding ways to involve itself in differential pricing. The difference is that in the North and in Britain, from day one there cannot be differential pricing in the market, whereas the Central Bank here will allow differential pricing up to the first year. That raises concern.

That said, I recognise we have come a long way from a free-for-all for the industry, where-

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by hundreds of millions of euro was additionally charged on more than 2.5 million customers through this type of practice. The Bill will drive down insurance prices, all things being equal, but we know the insurance industry always finds some excuse to put prices up again. This needs to be monitored very carefully. The Dáil, the Oireachtas and particularly the Central Bank need to be agile regarding this ban, which will come in on 1 July. It is only weeks away now. We need to be sure of the intention of the Central Bank. My original intention more than two years ago when I made my major complaint, and the intention, I believe, of all Members of the Dáil, is to make sure insurance is priced fairly and based on risk, not other factors that would be seen to be exploitative.

Amendment agreed to.

Bill, as amended, received for final consideration.

Question proposed: "That the Bill do now pass."

**Minister of State at the Department of Finance (Deputy Sean Fleming):** I am grateful for the contribution of Deputy Doherty, in particular, and other members of the Opposition to the entire insurance debate, as exemplified during the course of the passage of this legislation.

**Deputy Pearse Doherty:** Again, I recognise the work that has been put into this, especially by the officials, and all the support on Committee Stage. While there are varying degrees of the effectiveness of this legislation, I say not only on behalf of my party but also, I think, on behalf of Members right across the House that there is an appetite in the House for insurance reform. The Minister of State should use that as much as possible to drive through the reforms at the pace necessary in society. I thank the Minister of State for his contribution and for answering the questions raised on Committee Stage. I also thank the Department officials.

Question put and agreed to.

### **Property Services (Land Price Register) Bill 2021: Second Stage (Resumed) [Private Members]**

The following motion was moved by Deputy Cian O'Callaghan on Thursday, 26 May 2022: "That the Bill be now read a Second Time."

**An Leas-Cheann Comhairle:** I must now deal with a postponed division relating to the second reading motion on the Property Services (Land Price Register) Bill 2021. Last Thursday, 26 May, on the question, "That the Bill be now read a Second Time", a division was claimed, and that division must be taken now.

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

| <i>The Dáil divided: Tá, 51; Níl, 70; Staon, 0.</i> |                         |              |
|---|-------------------------|--------------|
| <i>Tá</i>   | <i>Níl</i>              | <i>Staon</i> |
| <i>Andrews, Chris.</i>                              | <i>Brophy, Colm.</i>    |              |
| <i>Bacik, Ivana.</i>                                | <i>Bruton, Richard.</i> |              |
| <i>Barry, Mick.</i>                                 | <i>Burke, Colm.</i>     |              |
| <i>Boyd Barrett, Richard.</i>                       | <i>Butler, Mary.</i>    |              |

Dáil Éireann

|                                |                                    |  |
|--------------------------------|------------------------------------|--|
| <i>Browne, Martin.</i>         | <i>Byrne, Thomas.</i>              |  |
| <i>Buckley, Pat.</i>           | <i>Cahill, Jackie.</i>             |  |
| <i>Cairns, Holly.</i>          | <i>Calleary, Dara.</i>             |  |
| <i>Carthy, Matt.</i>           | <i>Canney, Seán.</i>               |  |
| <i>Clarke, Sorca.</i>          | <i>Cannon, Ciarán.</i>             |  |
| <i>Collins, Joan.</i>          | <i>Carey, Joe.</i>                 |  |
| <i>Collins, Michael.</i>       | <i>Carroll MacNeill, Jennifer.</i> |  |
| <i>Cronin, Réada.</i>          | <i>Chambers, Jack.</i>             |  |
| <i>Crowe, Seán.</i>            | <i>Collins, Niall.</i>             |  |
| <i>Cullinane, David.</i>       | <i>Cowen, Barry.</i>               |  |
| <i>Daly, Pa.</i>               | <i>Creed, Michael.</i>             |  |
| <i>Doherty, Pearse.</i>        | <i>Crowe, Cathal.</i>              |  |
| <i>Donnelly, Paul.</i>         | <i>Devlin, Cormac.</i>             |  |
| <i>Ellis, Dessie.</i>          | <i>Dillon, Alan.</i>               |  |
| <i>Farrell, Mairéad.</i>       | <i>Donnelly, Stephen.</i>          |  |
| <i>Funchion, Kathleen.</i>     | <i>Duffy, Francis Noel.</i>        |  |
| <i>Gould, Thomas.</i>          | <i>Durkan, Bernard J.</i>          |  |
| <i>Healy-Rae, Michael.</i>     | <i>Farrell, Alan.</i>              |  |
| <i>Howlin, Brendan.</i>        | <i>Feighan, Frankie.</i>           |  |
| <i>Kelly, Alan.</i>            | <i>Flaherty, Joe.</i>              |  |
| <i>Kenny, Martin.</i>          | <i>Flanagan, Charles.</i>          |  |
| <i>Kerrane, Claire.</i>        | <i>Fleming, Sean.</i>              |  |
| <i>Mac Lochlainn, Pádraig.</i> | <i>Foley, Norma.</i>               |  |
| <i>Mitchell, Denise.</i>       | <i>Griffin, Brendan.</i>           |  |
| <i>Munster, Imelda.</i>        | <i>Haughey, Seán.</i>              |  |
| <i>Murphy, Catherine.</i>      | <i>Heydon, Martin.</i>             |  |
| <i>Murphy, Paul.</i>           | <i>Higgins, Emer.</i>              |  |
| <i>Mythen, Johnny.</i>         | <i>Humphreys, Heather.</i>         |  |
| <i>Nolan, Carol.</i>           | <i>Kehoe, Paul.</i>                |  |
| <i>O'Callaghan, Cian.</i>      | <i>Lawless, James.</i>             |  |
| <i>O'Donoghue, Richard.</i>    | <i>Leddin, Brian.</i>              |  |
| <i>O'Reilly, Louise.</i>       | <i>Madigan, Josepha.</i>           |  |
| <i>O'Rourke, Darren.</i>       | <i>Martin, Catherine.</i>          |  |
| <i>Ó Broin, Eoin.</i>          | <i>Martin, Micheál.</i>            |  |
| <i>Ó Laoghaire, Donnchadh.</i> | <i>Matthews, Steven.</i>           |  |
| <i>Ó Murchú, Ruairí.</i>       | <i>McAuliffe, Paul.</i>            |  |
| <i>Ó Riordáin, Aodhán.</i>     | <i>McConalogue, Charlie.</i>       |  |
| <i>Ó Snodaigh, Aengus.</i>     | <i>McGrath, Michael.</i>           |  |
| <i>Pringle, Thomas.</i>        | <i>McGuinness, John.</i>           |  |
| <i>Quinlivan, Maurice.</i>     | <i>McHugh, Joe.</i>                |  |
| <i>Ryan, Patricia.</i>         | <i>Moynihan, Aindrias.</i>         |  |
| <i>Sherlock, Sean.</i>         | <i>Moynihan, Michael.</i>          |  |

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|                          |                                    |  |
|--------------------------|------------------------------------|--|
| <i>Shortall, Róisín.</i> | <i>Murnane O'Connor, Jennifer.</i> |  |
| <i>Smith, Duncan.</i>    | <i>Naughton, Hildegard.</i>        |  |
| <i>Stanley, Brian.</i>   | <i>Noonan, Malcolm.</i>            |  |
| <i>Tully, Pauline.</i>   | <i>O'Brien, Darragh.</i>           |  |
| <i>Ward, Mark.</i>       | <i>O'Brien, Joe.</i>               |  |
|                          | <i>O'Callaghan, Jim.</i>           |  |
|                          | <i>O'Connor, James.</i>            |  |
|                          | <i>O'Dea, Willie.</i>              |  |
|                          | <i>O'Donnell, Kieran.</i>          |  |
|                          | <i>O'Dowd, Fergus.</i>             |  |
|                          | <i>O'Sullivan, Christopher.</i>    |  |
|                          | <i>O'Sullivan, Pádraig.</i>        |  |
|                          | <i>Ó Cathasaigh, Marc.</i>         |  |
|                          | <i>Ó Cuív, Éamon.</i>              |  |
|                          | <i>Phelan, John Paul.</i>          |  |
|                          | <i>Rabbitte, Anne.</i>             |  |
|                          | <i>Richmond, Neale.</i>            |  |
|                          | <i>Ring, Michael.</i>              |  |
|                          | <i>Ryan, Eamon.</i>                |  |
|                          | <i>Shanahan, Matt.</i>             |  |
|                          | <i>Smith, Brendan.</i>             |  |
|                          | <i>Smyth, Niamh.</i>               |  |
|                          | <i>Stanton, David.</i>             |  |
|                          | <i>Troy, Robert.</i>               |  |

Tellers: Tá, Deputies Cian O'Callaghan and Catherine Murphy; Níl, Deputies Jack Chambers and Brendan Griffin.

Question declared lost.

Cuireadh an Dáil ar athló ar 8.20 p.m. go dtí 9 a.m., Déardaoin, an 2 Meitheamh 2022.

The Dáil adjourned at 8.20 p.m. until 9 a.m. on Thursday, 2 June 2022.