

# DÁIL ÉIREANN

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## AN COMHCHOISTE UM LEANAÍ, MÍCHUMAS, COMHIONANNAS AGUS LÁNPHÁIRTÍOCHT

## JOINT COMMITTEE ON CHILDREN, DISABILITY, EQUALITY AND INTE- GRATION

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*Dé Máirt, 3 Samhain 2020*

*Tuesday, 3 November 2020*

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Tháinig an Comhchoiste Te chéile ag 4 p.m.

The Joint Committee met at 4 p.m.

Comhaltaí a bhí i láthair / Members present:

Teachtaí Dála / Deputies	Seanadóirí / Senators
Patrick Costello,	Mary Fitzpatrick,
Cathal Crowe,	Sharon Keogan,
Alan Dillon,	Erin McGreehan,
Joe Flaherty,	Lynn Ruane,
Sean Sherlock,	Mary Seery Kearney.
Mark Ward,	
Jennifer Whitmore.	

Teachta / Deputy Kathleen Funchion sa Chathaoir / in the Chair.

## **Business of Joint Committee**

**Chairman:** The first item is the election of Vice Chairman to the committee. At a private meeting of the committee on 20 October 2020, Senator Lynn Ruane nominated Deputy Patrick Costello, and Senator Sharon Keogan seconded this nomination. I am proposing that Deputy Costello be elected as Vice Chairman of this committee. Is that agreed? Agreed.

### **Sustainable Development Goals and Departmental Priorities: Minister for Children, Equality, Disability, Integration and Youth**

**Chairman:** I welcome the Minister for Children, Disability, Equality and Integration and Youth, Deputy O’Gorman, to the committee.

**Minister for Children, Equality, Disability, Integration and Youth (Deputy Roderic O’Gorman):** Can the committee hear me?

**Chairman:** Yes. I wish to introduce the officials accompanying the Minister. They are Mr. Conor Rowley, assistant secretary; Ms Laura McGarrigle, assistant secretary; and Ms Carol Baxter, assistant secretary.

I wish to advise the witnesses on parliamentary privilege. They are protected by absolute privilege in respect of the presentation they make to the committee. This means that they have an absolute defence against any defamation for anything they say at the meeting. However, they are expected not to abuse this privilege and it is my duty as Chairman to ensure that this privilege is not abused. If their statements, therefore, are potentially defamatory in regard to an identifiable person or entity, they will be directed to discontinue their remarks. It is imperative that they comply with any such direction.

The purpose of today’s meeting is to engage with the Minister on key policy and governance matters and progress on the implementation of the sustainable development goals set out in the UN 2030 Agenda for Sustainable Development. I invite him to deliver his opening statement, which will be followed by questions and answers with members. I will call members in the order that they indicate. I ask members to make their indications. The Minister has 15 minutes in which to deliver his statement, as we are subject to Covid-19 restrictions.

**Deputy Roderic O’Gorman:** I thank the Chairman. My speech was originally a bit longer, so I will try to skim through some of the elements of it. I thank the committee for the invitation to speak about my priorities, and I thank my officials for joining me.

As the committee will be aware, there is new expanded remit in the Department, encompassing equality matters previously under the remit of the Department of Justice, and subsequently, disability service provision, which is currently under the Department of Health. The Department will address some of the key social issues that Ireland faces in one single Department. A common strand across all the areas that we will address is vulnerability, and people who, historically, have been marginalised from the political process. My intention as Minister

is to act as much as I can as a voice for those people at the Cabinet table.

I will begin with the early years sector. This year has been one of significant pressure and challenge for the sector. The entire sector was closed at short notice in March 2020, but it was one of the first to reopen in the summer. I pay tribute all those in this sector for their work in supporting the reopening, and particularly for their work in continuing to remain open during the current level 5 restrictions. It is the work of providers and childcare professionals that has allowed this to be possible.

Throughout this time, my Department and the Government have put in place a range of supports for the sector, most extensively, through the employment wage subsidy scheme, EWSS. The early years sector was the only one to receive an automatic inclusion to the EWSS up until 31 March, in recognition of the vital role played by the sector. Originally, on average, the EWSS was covering 65% of wage costs for service providers. Since the enhanced EWSS has been announced to coincide with level 5, that has increased to 81%, on average, of the wage costs of providers. The State will provide the early years sector with an additional €200 million in 2020 and an additional €70 million in support up to March 31 2021. The State will provide the early years sector with an additional €200 million support in 2020, and up to 31 March 2021, an additional €70 million in support.

Nevertheless, we all acknowledge that despite the significant support, pay and conditions in the sector do not reflect the significant burdens on childcare professionals. This impacts on staff but also on children because high turnover rates mean the quality and continuity of care is not being delivered. The 2019 data, which are the most recent available, show that the average wage is €12.55 per hour, which we all know is insufficient.

The programme for Government commits us to creating a joint labour committee, JLC, in the sector that would lead to the drawing up of an employment regulation order, ERO, to determine minimum rates of pay, as well as terms and conditions. I am working with SIPTU, and look forward to continuing to do so, and the new provider group, Early Childhood Ireland, as it works to advance a wage agreement on behalf of staff and providers. I have also engaged with the Department of Business, Enterprise and Innovation on the issue of sick pay for childcare staff, particularly in the context of the national sick pay scheme that is being actively discussed. My Department will also consider the funding model and the workforce development plan - two ongoing pieces of work - to support and deliver better pay and conditions for childcare professionals in the sector.

We all also recognise that the costs of childcare for parents are too high. The Government will take action to reduce costs substantially in a way that will impact and benefit all parents. The proposals the expert group working on the funding model brings forward to address this issue will be important. All options, including the capping of fees, are on the table for consideration as part of the resolution of that issue. Targeting supports to the most disadvantaged children is fundamental to what my Department seeks to achieve. There are a number of schemes in that regard, such as the early childhood and care and education, ECCE, scheme, which is universal; the access and inclusion model, AIM, which makes ECCE available to children with disabilities; and the national childcare scheme, NCS, which is designed in such a way to combat the poverty traps that have sometimes impacted long term on parents.

As members will be aware, we have discussed this issue in the House on a number of occasions, and there are sponsorship arrangements to provide for especially vulnerable children to allow them to access free early learning and care and school-age childcare. Again, the expert

group on the funding model is specifically examining how to target additional funding at the most disadvantaged, and I look forward to continue working to broaden that targeted funding further.

The area of equality has transferred to my Department from the Department of Justice, and much of this work focuses on the implementation of Government strategies dealing with equality in a range of specific vulnerable communities. These strategies include the national strategy for women and girls, the national Traveller and Roma inclusion strategy, the migrant integration strategy and the LGBTI+ inclusion strategy. All these strategies work together to support sustainable development goal 10 by reducing inequality. I will chair the meetings of each strategy and look forward to doing so. I will be engaged with their oversight groups to ensure delivery of the goals set out in each strategy. As some of the strategies near their conclusion, I will work on developing the successor strategy, considering in particular how we can achieve more substantive outcomes. Key legislation in this area that I hope to continue to advance is the Gender Pay Gap Information Bill 2019. I hope we can ensure this will be passed by next year at the latest and that it will be fully operational by 2022. We are also considering the area of socio-economic discrimination as a new ground for discrimination under the Employment Equality Acts and the Equal Status Acts. One of the main changes my Department will experience is the transfer of the issue of disability from both the Department of Health and the Department of Justice. As a result, disability policy and disability service provision will be considered together in the same Department for the first time. This gives us an opportunity to move from considering disability specifically as a health issue to a wider view encompassing all parts of people's lives. One of the Department's key priorities will be to advance the implementation of the UNCRPD. Our approach to meeting the terms of the convention is one of progressive realisation. What this means in effect is that work is continuing apace on the reforms needed for an optimum level of compliance with the convention's requirements. As we continue to advance the implementation of the convention, it is vital the Government hears the voices of persons who have lived experience of disability. The experiences and perspectives of people with disabilities are paramount in developing policies and programmes that directly address the real needs in their lives. We are establishing the disability participation and consultation network for this reason. This is part of meeting our obligations under the convention. My colleague, the Minister of State, Deputy Rabbitte, announced the establishment of this network in August and recently announced the successful applicants for both the organising member and the grant-funded members. One of the body's first tasks will be to organise consultations for Ireland's first state report to the UN on our progress in implementing the convention.

The transfer of functions from the Department of Health in the field of disability involves a range of significant and complex transfer of function orders. It envisages the transfer of responsibility for policy development and for oversight of the provision of health and personal social services for people with a disability, with the associated staff from the Department of Health, taking €2 billion from the health Vote. There will have to be new governance arrangements, particularly in respect of the relationship between my Department and the HSE, and this will require amendments to the health Acts. Work is ongoing between officials in my Department and the Department of Health and we are looking to have a final transfer date in quarter 1 of 2021. In the interim, the Minister for Health retains statutory responsibility for disability matters.

As the committee will be aware, the programme for Government commits to ending direct provision within the lifetime of the Government and replacing it with a new system of international protection accommodation centred on a not-for-profit approach. Dr. Catherine Day's advisory group has reported in recent weeks, and the Minister for Justice and I presented that

report to the Government and subsequently published it. The report was very clear in agreeing with the Government's position that direct provision is not fit for purpose and needs to be replaced. This will be done through a White Paper, which is being worked on currently, led by my Department but with engagement from a range of Departments, with a view to bringing forward the White Paper by the end of this year. I have always acknowledged that this would be a complex and difficult piece of work, but it is absolutely essential we have a system of accommodation rooted in human rights that respects the dignity of people awaiting assessments here. We also announced a number of short-term measures, including bringing HIQA in to carry out inspections of existing direct provision centres and introducing vulnerability assessments for new applicants as they arrive. We will work with civil society as well as Government agencies to make sure we bring everyone on board on this very significant and necessary change.

When I started as Minister one of the priorities I identified - I think it is one shared by every member of this committee - is tackling child poverty. We all recognise that growing up in a marginalised and disadvantaged community, experiencing intergenerational cycles of poverty, educational disadvantage and unemployment, seriously hinders the life prospects and opportunities of a child or young person. In the programme for Government we commit to implementing a successor to Better Outcomes, Brighter Futures. A focus on child poverty will be a key component of the successor strategy. I recently outlined in the Dáil that I am committed to establishing a new, ambitious target of child poverty reduction, and this will form a central element of the successor to Better Outcomes, Brighter Futures. However, the target in itself is not enough; we need the means, the structure and the will to deliver on this. As part of the strategy, therefore, we will set out new infrastructure not only within my Department but also across government for the delivery of our child poverty reduction goals. We will have mid-term targets as well as the final target and we will have monitoring mechanisms put in place so we are able not only to monitor progress but also to address any slippage that occurs in achieving our targets. As I said, we will set this ambitious target in the successor strategy to Better Outcomes, Brighter Futures. When I attended a meeting of the select committee a number of weeks ago, every member highlighted the issue of youth work, the great work done by these services during the pandemic and the need to support the sector. I listened closely to what was being said. We have committed to an additional €5 million investment in youth work next year, which was even more than the sector itself sought. This is to recognise the importance of the work the sector has done to support young people in recent months and years. This year, we have provided a number of small grants for current and capital ICT spending so youth groups can manage and obtain infrastructure for themselves to deal with Covid. We are always looking at youth work targeted services, which help those young people in areas of greatest disadvantage, and universal services, to ensure every child and young person who wants to be involved in youth work has an opportunity to do so.

Tusla is the largest single area of expenditure for the Department and, in recent years, it is well-known that its budget has been under pressure due to various demand-led pressures. This year, I have prioritised resourcing for the agency to ensure it can fulfil its statutory responsibilities and support some of the most vulnerable children and families in our society. I increased its allocation by €61 million this year to €878 million for 2021. This is a 7% increase in Tusla's budget and it is the largest budget increase it has ever received. This is to underline the Government's commitment to supporting the agency to meet that obligation to the most vulnerable in society. It will allow us to do a range of things but key is tackling the demand-led cost pressures regarding the provision of children's residential care, increasing staff allocations to front door referrals and safety planning in order that we can reduce the number of unallocated cases and provide care and protection through quality services for the victims of domestic, sexual and



gender-based violence. It will also allow us to fulfil our international commitments with regard to taking unaccompanied minors from Greece and other places as quickly as possible, and will also allow Tusla to undertake its new role as the custodian of the database of the mother and baby homes commission. I am very proud to support Tusla in supporting the most vulnerable in our society in the midst of the pandemic.

The legislation to protect the database created by the commission of investigation of women and children who were in mother and baby homes has now become law. We are all very aware of the significant issues raised during the debate about how we as a society and a Government respond to the legacy issues and the issues of institutional abuse that took place in Ireland. Last Wednesday, the Cabinet had a very detailed meeting on these issues and set out a statement outlining a range of issues specifically on the commission of investigation into mother and baby homes and the Government's plan for a wider range of legacy issues. I hope these measures, and the follow-up measures the Government will take, will start to rebuild trust between the Government and survivors' groups.

I have acknowledged in the Dáil, and the Government recognises, that there is a need for more openness and transparency and for greater understanding and acknowledgement of the wishes of survivors. I am engaged in meeting individuals and groups to start to rebuild that trust. The Government made significant announcements indicating a willingness to progress with the national archive of records related to institutional abuse. Such an archive could become a site of openness and truth telling for survivors and for the Irish people in general to understand what happened in these institutions and understand it in its wider context.

I am committed to bringing forward legislation in the near future on the exhumation and, as far as possible, the identification of the remains buried in Tuam and provide for their respectful reburial. I am also committed to bringing forward legislation to address the issue of information and tracing, particularly for adopted people, in a way that puts the rights of adopted people at the centre of any legislation. All of these legislative measures will require extensive scrutiny. I look forward to working with members of this committee on how we develop that legislation.

As members will be aware, on Friday last my Department received the final report of the commission of investigation into mother and baby homes. The Government is committed to publishing it as soon as possible. The report is currently under review by my Department and the Office of the Attorney General. Additional resources were provided to the Office of the Attorney General to allow this review to be undertaken as quickly as possible. I am determined, in light of the events of the last few weeks, to ensure that the State does right by the survivors of mother and baby homes, their families and anybody who has suffered as a result of institutional abuse that took place in this country.

I hope I have given the committee an indication of some of the priorities of my Department. Given the wide remit of my Department, I cannot speak to every area in the time available. I look forward to discussing these issues further with colleagues now and to working on advancing all of these issues over the next months and years.

**Chairman:** I remind members that they have five minutes, inclusive of a response from the Minister. I ask the Minister to be mindful of this as well when answering questions.

**Deputy Sean Sherlock:** I thank the Minister for coming before the committee today. I welcome his words in respect of rebuilding trust, particularly on the mother and baby homes issue. I note his remarks during the passage of the legislation in respect of requesting this committee

to have regard to this issue. However, we are unclear what the Minister means by that. It would be useful to have his perspective in that regard. Underpinning all of that is the commitment by the Minister in regard to the information and tracing Bill. When will that Bill come before us? The GDPR issues are matters on which we also need to have the Minister's perspective. We have received correspondence from Dr. Maeve O'Rourke on rights of access to information. I am sure the Minister will be in possession of that same information.

The Minister told us that he had met with survivors and groups. I am sure they notified him of some legislative changes they seek in respect of the Civil Registration Act 2004, which would provide people with their birth certificate. In the case of the Clann project and the data protection issues, I understand a Bill on access to historical care-related archives is being drafted.

I am raising many issues to which I do not expect the Minister to respond fully today but I want to put them on the record. On the issue of the interpretation of the GDPR, which we understand provides for access to information, and the information and tracing Bill, what are the timelines in that regard? How important will the information and tracing Bill be in dealing with the mother and baby homes issue? If it is to deal with the issues, the committee must see the Minister show good faith in respect of a throughput of work from a legislative point of view to ensure we do not end up hearing from stakeholders and then nothing happening after the fact. We need to work with the Minister, the stakeholders and everybody else involved in this matter. From a legislative point of view, we need to work in a process of partnership with all of the stakeholders to ensure the voices of the Maeve O'Rourke's and Claire McGettricks of this world are heard and that what they say is dealt with in a meaningful way so that we work through all of the issues. I am sure other members will make similar points on this issue.

Has the Minister given consideration to amending the Civil Registration Act 2004 to provide all adopted people with a birth certificate? When will the commission's report be published? I do not wish to deal with any of these issues until the committee has had sight of that report and read through its recommendations. I also want to give more time to the GDPR considerations and the information and tracing Bill considerations because they are all vital if we, as a committee, are going to deal with this issue in a sympathetic and meaningful way.

These are general points. I realise that the clock is ticking down. I do not expect the Minister to reply completely in the one minute that is left but I am sure he will have an opportunity to do so in the course of proceedings.

**Chairman:** Does the Minister wish to come back in briefly?

**Deputy Roderic O'Gorman:** I thank Deputy Sherlock. He raised many valid points that we will tease out across this discussion. As regards that legislative process, I believe the Deputy is right. We need to see the commission's report. That is why we have committed and put the resources in place to get it published as quickly as possible and every legislative step we take will be influenced by that. I agree with him on that matter. I would think the first legislation will be that relating to Tuam and the burials there. I hope to be in a position to bring a memo to Government in November in that regard to get the heads of Bill agreed. As soon as I get the heads of Bill agreed by Government, I will immediately write to the Chair of this committee and ask that she seek to allocate time for pre-legislative scrutiny. That is the first piece of the legislative jigsaw I see coming to this committee.

I conceptualised the information and tracing legislation as a distinct item of legislation.

Last Friday, I met with the Adoption Rights Alliance. I met with Dr. Katherine O'Donnell, Ms Claire McGettrick and Dr. Maeve O'Rourke to discuss this particular issue. They see information and tracing as being linked to the issue of the archive and being dealt with in the form of an omnibus Bill. I had envisioned it like that before. Their draft Bill has been sent to my Department and we are reviewing it to see if that would be the best way to go or whether it is better to divide it into discrete areas as well. That is being actively considered. Either way, however, I want to see work on this being done in 2021. I am absolutely determined to ensure that the issue of providing early birth information for adopted people and wider survivors of institutional abuse will be a key priority for my Department next year.

**Senator Mary Seery Kearney:** I congratulate the Minister on the work plan. It is a broad church of work and I look forward to working with him on it. I particularly lobbied for the employment regulation order for the early years sector and I was delighted when it made the programme for Government. I am particularly looking forward to the recognition of early years professionals.

Time is short so I want to address the recent mother and baby home legislation, which I willingly supported. Survivors and their families have had a long time of hurt and they deserve that anything to do with them is treated with the utmost of care, consideration and respect. I need to put on record that I am deeply disappointed and uncomfortable with the entirety of how the matter was handled, both in terms of the lack of consultation with survivors and the rushing of the legislation through the Houses. I would like to establish what the Minister has learned from that experience and how we will work together and he will ensure that it does not happen again. I want him to make sure that survivors' needs will be put front and centre from now on in any discussion he has regarding the mother and baby homes and those who survived them.

I respectfully submit that there are a number of priorities in this regard. Will the Minister furnish us with a timeline for the publication of a report? He equipped the Attorney General's office with additional personnel so its publication should be done without delay. I have no doubt the content of the report will be distressing for survivors and, indeed, all who read and hear about it. However, that phase of our history needs to be embraced in order for us to heal.

I welcome the Minister's commitment regarding the permanent archive. I will welcome a timeline in the selection of a site so that survivors can have their names known, where they wish to, and their stories told in an officially sponsored capacity as soon as possible. In my view, the Sean MacDermott Street plans look particularly exceptional.

The most important aspect of the rights of survivors is the right to their personal information and personal data. The pain of a lack of access to the entirety of their past is the pain I heard in the last few weeks and the one that most came out to me. The experience of knowing that information about oneself is locked away in a box that one cannot get access to must be excruciating. I appreciate that there are competing rights and that there are needs in the public good, however, we also have an absolute need for transparency in that regard.

Last week, I called for the publication of the data protection impact assessments, DPIAs, carried out by both the Department and Tusla. The most important message now is that survivors must be at the centre of all decision-making, including the application of the GDPR. The Minister confirmed to me in the Seanad that Tusla and the Department are undertaking DPIAs in anticipation of receipt of the commission's documents. I am urging Tusla and the Minister to publish these assessments for absolute transparency and to ensure survivors, their representatives and advocates know, in advance of submitting data subject access requests, how the nec-



essary balance of all rights are engaged when such a request is being administered. While the publication of DPIAs is not necessary under the GDPR, publishing them in this instance will strongly demonstrate the Government's commitment to ensuring that survivors are empowered to obtain the information if they so wish. That should be done swiftly in order to bring people some comfort. It is my firm belief that the application of GDPR may well arrest some of the issues in the here and now and may narrow down the issues in the creation of the information and tracing Bill and will bring about a swift resolution to some of the pain and hurt that is out there.

**Deputy Roderic O'Gorman:** I thank the Senator for those remarks. Regarding the rush on the legislative side of things, from day one I acknowledged that this was not the way I wanted to proceed. The sole reason for the rush was the need to get this legislation passed by the 30 October deadline to ensure we could protect the database. That was the sole reason for the rush. In all the items of legislation I have outlined, both orally and in the table provided to the committee, I see no need for rush. I look forward to engaging with the committee in pre-legislative scrutiny, further scrutiny and strengthening future legislation through that process, which I believe the process does.

On the consultation, I have acknowledged and apologised for my failure to consult adequately with survivors' groups. I am engaging, as I said already this week, to meet survivors' groups - both individual survivors and groups as well. This will be an ongoing process which will inform how I address all of the legacy issues in future.

On the data protection issues, this ties in with what Deputy Sherlock was asking earlier. The advice of the Attorney General on the application of the GDPR to the archive when it comes to my Department is significant. I have committed that my Department will engage with the Data Protection Commissioner to flesh out the implications of that for my Department. This will include how we will treat each individual data access request. In the context of the DPIA which we had already done on the original Bill, now the Act, we will now need to broaden that DPIA out to consider this element of the application of the GDPR to the archive and the implications of the Commissions of Investigation Act 2004. We will happily make that available; it is a living document, as I understand it. I think we made a version of the DPIA available to Senators earlier in the process. I am happy to engage with Tusla so that it might take a similar position as well. I have already spoken to the chief executive of Tusla setting out some of the issues around the application of GDPR to this area. We are very aware that in light of the Attorney General's advice, we need to go back to the Data Protection Commissioner and discuss the real-world implications of that advice for my Department, particularly when survivors are coming with their subject access requests, to ensure that we treat them in a dignified manner.

**Deputy Mark Ward:** I thank the Minister. I will allow him time to revert to me at the end of my couple of minutes. I thank him for outlining his priorities and I look forward to discussing them over time, but, probably like everybody else here, I want to discuss the issue of the mother and baby homes that arose in the past couple of weeks. I acknowledge all the people who contacted me and, I am sure, other members of the committee over recent weeks. I took the time to get back to each and every one of them personally. Many were from my constituency, Dublin Mid-West. It was important to get back to the people personally because a lot of the faith and trust in public representation needed to be restored after the events of recent weeks.

I also acknowledge the Minister's statement that he needs more openness, transparency and understanding of the wishes of the survivors of the mother and baby homes. That is fair enough but if the Government really wants to start rebuilding trust, it has to start examining the final report of the Mother and Baby Homes Commission of Investigation and the question of when

it is to be published. The Minister stated that the Department received the report on 30 October. That is almost five days ago. Survivors need to know when the report will be published. Having to wait so long for it to be compiled and published only adds to the pain of survivors. Survivors have to be central to the process and the Minister must ensure they have confidence in the report when it is published. They have been waiting for decades for the full account of what happened in the institutions to be made public and for the abuse they suffered to be formally acknowledged. Any undue delay is unacceptable. I want to know the publication date of the report. If there is to be a delay, how long will it be?

I am aware that others have asked some of my questions but it is important that I ask them on behalf of the people who got in touch with me. What was the legal basis for proceeding with the Bill originally? What advice did the Data Commissioner give the Minister, and when was it given? What advice did the Attorney General give the Minister, and when was it given? What were the exact dates on which the Minister met the Attorney General on this matter?

**Deputy Roderic O’Gorman:** I thank Deputy Ward. The entire Government is absolutely committed to publishing the report as soon as possible. There is no desire to keep survivors of mother and baby homes and the county homes that were investigated waiting for the information one moment longer than is necessary. What is necessary is that my Department and the Attorney General carefully scrutinise the report and make sure it does not have any consequences for ongoing Garda investigations. It is necessary that there be nothing in it that would warrant its not being published or the redaction of any of it. We want to publish the report in full as soon as possible. It runs to 4,000 pages. The report is an incredibly extensive and detailed piece of work so we want to scrutinise it. We have, however, made extra resources available to make sure this can be done as quickly as possible. The unanimous view of the members of the Government is that they want to provide this as quickly as possible.

In response to Deputy Ward and Senator Seery Keanery, I cannot give an exact publication date but everybody across Government is working to get this report published as quickly as possible. Deputy Ward is right that doing so will be part of the process of rebuilding trust. That is a process that is needed.

As regards the legal basis for the Bill, the need for the Bill emerged from the sixth interim report and queries raised by the commission of investigation itself. It brought to the attention of the then Government the existence of the database, an incredibly valuable database linking thousands of women who had gone into mother and baby homes and their children who subsequently came out of them. The commission highlighted its view that, under existing legislation, it would be forced to redact the personal information in the database - all the names - which would basically render the database useless. The commission saw that the database would have genuine benefits in respect of the information and tracing purposes we discussed and advised that we needed legislation on that matter. I have met the Attorney General about this Bill on a number of occasions since I became Minister and my officials have met with officials in the Attorney General’s office. I do not have the dates of those meetings to hand but I and my officials have met him on a number of occasions.

We engaged extensively with the Data Protection Commissioner on this particular issue. We sent the draft data protection impact assessment to the commissioner in late September. I think my officials had a meeting with the commissioner in early October at which she asked for one change to the impact assessment. We made that change and the commissioner subsequently indicated that the commission was broadly satisfied with the data protection impact assessment.

On 19 October, the Data Protection Commissioner came back with a query. It did not relate to the Bill that was passed. It was about the interpretation of the Commission of Investigation Act 2004, whether it required an absolute sealing of the archive and that the general data protection regulations, GDPR, did not apply to the archive once it transferred to my Department. As soon as we got that query from the commissioner, we referred it to the Office of the Attorney General. The Attorney General gave oral advice to the Cabinet on 28 October, last Wednesday, and subsequently gave written advice to me. We announced that written advice that evening to the effect that the Attorney General advised that GDPR did apply to the archive once it transferred to my Department.

**Senator Lynn Ruane:** The written statement that we have is slightly different to the statement that the Minister made at the outset. In that written statement, he stated that he planned to examine the possibility of including a new discrimination ground of socioeconomic status in equality legislation. I have advocated on this issue for many years and am concerned by the weakness of that commitment, in light of all the work and advocacy that has been conducted, particularly by the Minister's Department. The issue has been the subject of reports from the Department of Justice since as far back as 2004 under the then Minister, Michael McDowell. Deputy Jim O'Callaghan introduced a Private Members' Bill on the issue in 2017, in response to which the then Minister of State with responsibility for equality, immigration and integration, Deputy David Stanton, committed to undertaking extensive research that was scheduled to conclude this year. At some point, we need to move from examining the possibilities to acting on the inclusion of socioeconomic status in our equality legislation. Will the Minister give me some sort of a timeline for when he intends to bring a memo to the Cabinet on the issue and when he will be submitting legislation to this committee for pre-legislative scrutiny?

Many questions have already been asked and answered about the mother and baby home legislation and the role that this committee will play. I have two questions about that, the first of which relates to the application of GDPR and whether the Minister will be engaging an independent legal expert to advise on its application, in light of the problems with his Department's legal advice so far. He has stated several times that the report will be published as soon as possible but we need to come up with some less vague terms for people who are texting me every day. For some people "as soon as possible" would mean a week and to others it would mean six months. The Department needs to look at expressing a maximum amount of time that people can expect to be waiting. Some people are worried that it will not happen until early next year. Giving a minimum and maximum timescale might be advisable, rather than a particular date which I know is impossible to give now. A suggestion as to how long it will take would be a help to people who are anxious.

I wish also to ask about the Optional Protocol to the UN Convention against Torture, OPCAT, which requires the State to allow for independent inspections of all deprivation of liberty settings. As the Minister knows, Ireland is preparing to ratify the protocol. Can he provide an update on when he expects that ratification to be completed? Is it his intention to have direct provision centres included in the inspection regime under OPCAT?

Will the Minister comment on the many concerns that have recently been raised about the role of Ruhama in a direct provision centre? People are obviously concerned about the history of Ruhama and the fact that it stemmed from a religious order that was involved in the Magdalen laundries. It would be great if the Minister would also comment on that matter.

**Deputy Roderic O'Gorman:** I thank Senator Ruane for her questions. On socioeconomic status, the programme for Government did not make an absolute commitment to legislate on

this issue but makes a commitment to examine it. I am strongly in favour of doing this but we need to bring forward the evidence. The Senator spoke about research done in this area in the past. This will add to the body of evidence supporting this change. Research commissioned by the equality section of my Department earlier in the year is expected shortly. My plan is to use that research to start a wider public consultation on what this measure would look like and, following on from that, to bring proposals to Government to amend the legislation. I feel very strongly that this needs to be done but we need up-to-date research so that I can make the argument for it convincingly. That is what I am proceeding to do.

On the application of GDPR, the first port of call for the Department is the Data Protection Commission, DPC, because it is the arbiter of the appropriateness of how any State agency applies GDPR. The idea of the Department engaging with independent experts is one I am completely open to. A number of names were mentioned when we engaged with the Adoption Rights Alliance with regard to people who could assist and provide advice and I am fully open to that suggestion. It is one we are examining. We will engage with the Office of the Attorney General on the application of GDPR and the Data Protection Commission. I am also open to bringing in expert advice to give some guidance to the Department.

My understanding of the optional protocol referred to by Senator Ruane is that it does not apply in the case of direct provision centres because they are not considered to be places of detention. I can come back to the Senator on that particular point. As to the involvement of any specific organisation in the running of direct provision centres, I will also revert to the Senator on that point.

**Senator Lynn Ruane:** Can a minimum or maximum timeline be set for completing the report?

**Deputy Roderic O’Gorman:** My apologies. I am very wary of doing that. What I can say is that we want to get this report out to survivors as quickly as possible. I have already indicated that all of the legislation that I have spoken about and that I want to start working on needs to be influenced by the report. The report is needed to put that legislation in context. There is no desire among anyone in government to delay this matter for one moment longer than is necessary. We need to undertake due diligence through the Office of the Attorney General to ensure the publication of the report will not compromise or endanger anything else. We want to get this done as quickly as possible.

**Deputy Jennifer Whitmore:** I will also discuss the mother and baby homes issue. It has been a very difficult few weeks in this regard, particularly for the survivors who wanted us all to work together and come up with a good solution for them. That, unfortunately, did not happen in the way it should have happened. There was a lack of consultation and an expedited process resulted in significant confusion on the issue. It is a very complex issue both legally and technically.

I have questions on the GDPR as this is an issue that we will have to keep revisiting and it will underpin much of the work that we do as we go forward. On 16 October, the Minister stated in the Seanad that he had been advised by the Attorney General that the right to access personal data in Article 15 of the general data protection regulation is expressly restricted by section 35 of the Commissions of Investigations Act 2004. The Minister repeated that point on 22 October in the Dáil. I find this confusing. How did we get from that point to the statement by the Attorney General on 28 October that the 2004 Act does not preclude consideration of requests under GDPR? I have written to the Minister’s office to ask for a timeline of the advice

from the Attorney General and that from the Data Protection Commission, DPC. I have not received that yet but it is important to establish when that advice was given to the Minister. Will he confirm that it was the Attorney General who gave him the advice on the points he made on 16 October in the Seanad and 22 October in the Dáil regarding GDPR? It is important we ascertain what advice was given when and, as it will continue to come up for us as a committee and in respect of the legislation, will the Minister furnish us with the information and advice he was given on GDPR? This committee will have to deal with a lot of that as we go forward. I ask the Minister to answer those questions and then I wish to raise an issue relating to the survivors' groups.

**Deputy Roderic O’Gorman:** On the question of advice, the Deputy will be aware of the convention that we cannot publish Attorney General’s advice. I and all Members of Government are bound by that. That is as frustrating for Opposition Members as it would have been for my colleagues when they were in opposition.

When the commission of investigation submitted its sixth interim report in January, it outlined that the database had been created. Subsequent to that, my Department had an engagement with the then Attorney General on the specific point. The advice we received at that stage was that any access to the records would be prohibited by law and any disclosure of the records would be an offence. Subsequently, on receipt of parliamentary questions later this year, probably in September, asking specifically about the applicability of GDPR to the archives when it came to my Department, officials in my Department engaged with staff from the Attorney General’s office who were seconded to my office on that point and they concurred with the previous advice regarding prohibition of access to the archives.

When the Data Protection Commissioner came in with the specific point on the application of section 39 of the 2004 Act, as amended by the 2018 Act, on 19 October, we immediately went back to the Attorney General’s office and asked for advice on that point. That advice was provided to us on 28 October. I am delighted to see that advice. It is an important statement on the applicability of GDPR. We all know that will not answer all the problems and we still need information-----

**Deputy Jennifer Whitmore:** Can I confirm that there were two separate Attorneys General giving advice on this issue and, during the debates in the Dáil, the Minister was basing his information on the advice from the previous Attorney General in January?

**Deputy Roderic O’Gorman:** Yes.

**Deputy Jennifer Whitmore:** I thank the Minister. All Deputies received a letter from the collaborative forum where they outlined their frustration and anger at the fact they were not consulted and were directed to Twitter to get some understanding of what was happening on this legislation. They have asked for the forum to be reconvened and listed recommendations they would like the Minister to consider. Will the Minister consider reconvening the forum? It is important to do it at this time if he is trying to rebuild trust. That was an important group for the Department to engage with on this matter.

**Deputy Roderic O’Gorman:** I am having phone calls with a range of members of the collaborative forum over the next number of days. I have also received the document that has circulated to Deputies and Senators and, as I have said, I acknowledge that I should have engaged immediately with members of that forum and with representatives of the wider groups on this issue. My initial step is to talk individually with members of the collaborative forum. I hope I



will then be in a position to meet the entire collaborate forum as a group as part of our response to the commission's report and to outline to it, and engage with it on, the Government's wider strategy on the legacy issues following on from the statements following the Cabinet meeting last Wednesday.

**Senator Mary Fitzpatrick:** I thank the Minister for attending, albeit virtually. I congratulate him on his appointment to his Ministry.

Like others, I will start out with the mother and baby homes and the commission of investigation because these have rightly dominated in the past couple of weeks. The commission was working for five years. That the Oireachtas collectively dealt with such a sensitive and important issue in such a ham-fisted way was always going to be a recipe for distrust and distress. It caused an enormous amount of both. I welcome the Minister's acknowledgement that the matter was mishandled and his commitment to having us work more constructively and responsibly in the future.

I voted for the legislation. I voted to protect the database so survivors could have access to their own information and so the report for which they have all waited so long can be published. I did so very deliberately. I heard all the arguments but, for me, the survivors are paramount. It is paramount that their voices be heard and that their needs be met. That must be the Government's priority and the priority of us all.

The protection of the database is the route by which survivors can reclaim their own identities. There has been a lot of debate about various legislative measures, including those on GDPR, but we need to keep this simple. Every individual should have access to her or his own information. I want that to be the Government's first priority. This committee needs a copy of the report early. It will be asked to do work so it needs a copy early. The survivors need a copy as early as possible. I am looking for confirmation from the Minister that everybody who contributed to the report, including every survivor, will get a copy as soon as it is available for release. It should be available online and a copy should be put into every library in the country so it will be widely available and so there will be no secrecy or concealing of the facts contained in it.

With regard to the personal data and GDPR, there have been requests to have the data impact statement. Could members have that as early as possible? Giving adopted people access to their own birth certificates should not be an impossible task, and it should be prioritised by the Government.

I welcome the Government's commitment to create a national archive. I have been pushing for the designation of the Sean MacDermott Street site. Members of this committee should visit the site at an early stage so they can appreciate how suitable it is.

With regard to the rest of the Minister's portfolio, there are three points on which I want to touch. He mentioned childcare. The childcare sector was in crisis before the Covid-19 pandemic hit. Childcare workers were the first to go back to work. They have allowed parents to go back to work. I welcome the Government's commitment to championing better childcare solutions but it has to be a priority. I would welcome it if the Minister could advise us when he will be reverting to the committee with proposals on childcare.

I am a founding director of a youth service in Cabra, Cabra for Youth. It has been in operation for about 11 years. Since 2013, it has suffered cuts of 20%. I welcome the funding that

the Government has recently made available but it is capital funding. We need our operational funding to be restored so our service can be returned to a full service. We are operating on the basis of a four-day week and we are targeting youth at risk. We are the only dedicated youth service in the area. There are many others in the city operating in a similar fashion. I would like the Minister to revert to the committee members and work with us on sustainable funding for the provision of youth services. I would like the Minister to come back to the committee and work with us on sustainable funding for the provision of youth services.

I welcome the commitment of the Minister and the Government to end direct provision and have it as a human rights-centred service. I would appreciate if the Minister worked with the Minister with responsibility for housing because the Government has committed to a referendum on the right to housing. It is very important in making a commitment to end direct provision that in parallel we ensure there will be sufficient supply of housing for people. There is no point in speaking about one without the other. They have to be done in tandem. I thank the Minister.

**Chairman:** I ask the Minister to be very brief because we are running out of time. I note there is a lot in it.

**Deputy Roderic O’Gorman:** Senator Fitzpatrick has given me quite a list. I agree with her that five years of work has gone into the commission’s report and a lot of it was put into creating the database. This is why the legislation was put forward, solely to have a database that will be of use to survivors. It is the only reason the legislation was ever put through. I am glad the legislation was passed because the database is there and will be valuable for future information and tracing legislation. We are committed to widespread publication and dissemination of the report once it is published. I am very happy we will engage with the committee on it. The Senator is right with regard to stakeholders. We have a stakeholder group with which the Department communicates. It includes representatives of survivor groups and individual survivors and they will be the people who are engaged with first.

On the issue of youth funding, the €5 million extra announced for next year is current funding and it will help to bridge the funding difficulties which I know many youth services throughout the country face. We were asked for €4.7 million by the youth sector and we gave €5 million. I was struck by the very strong contributions of a number of committee members when we met about a month ago.

On childcare there are three big pieces of work, which are the funding model, the operating model and the workforce plan. I hope they all will have either final or close to final reports by the middle of next year and I hope that in budget 2021 we can start to take steps to continue to support our childcare services with greater investment and more targeted investment.

I take on board the Senator’s point on direct provision. Human rights will be absolutely central to the provision of a new model of accommodation. I agree that the solution to accommodating people in international protection will be found in the wider commitment of the Government to address the housing crisis. There is a commitment to 30,000 social housing units throughout the lifetime of the Government, for which significant funding was provided in this year’s budget, and a commitment to new models of tenure, including a cost rental model. There is a wide range of commitments. The Government is committed to addressing homelessness crisis and ending direct provision. They are not in any way contradictory.

**Senator Erin McGreehan:** I welcome the Minister and thank him for joining us today. We

have a huge body of work to get through. The Department and the committee has a huge and diverse range of issues in our work programme. I welcome what the Minister has said about the childcare sector. It is a huge priority. As someone who did not get to work because of a lack of childcare when my children were younger it is a very important issue and it hits most families in the country.

I reiterate what Senator Ruane said about socioeconomic discrimination being added to the list. It is very important that we do not rush but make it a priority. It is very clear that socioeconomic discrimination is happening and it is a very sad indictment of modern Ireland that the incidence continues to rise.

What are the timelines for all of the strategies the Minister mentioned in his speech, including women and girls, the Traveller and Roma inclusion strategy, the migrant integration strategy and the LGBTI inclusion strategy? I have a few questions on the mother and baby homes. I want a guarantee from the Minister that all groups, big and small, and individuals, will all be included in this and that it will not just be those who have the most access to meet him but that he will reach out and make a public call to women who are not part of a group and who want to have a say on their history and life and on how the legislation will impact them. I have had discussions with many survivors' groups and they are afraid of the balance of rights. They are concerned that the rights of adoptees and mothers might be conflicted or jeopardised. I want a guarantee from the Minister that we have-----

Has the Minister gone? I have frightened him.

**Deputy Roderic O’Gorman:** I apologise. My laptop died and I have jumped onto the laptop of one of my officials. Can I be heard?

**Senator Erin McGreehan:** Yes.

**Deputy Roderic O’Gorman:** I apologise.

**Senator Erin McGreehan:** I ask the Minister for a guarantee that the balance of rights will be ensured between mother and child and the personal information of the mother will be accessible within her rights. From listening to survivors and mothers I know they are very afraid their personal details will be handed out when they do not want them to be. This will be very difficult for some adoptees. It is the situation we are in and we as a State have delivered this atrocity. It will not be an easy balance of rights.

When the recommendations in the report are given to us, I want to make sure that we work on them without haste. These women and children need supports, counselling and help. They have been abused by the State and institutions, and their faith in institutions in this country, whether church, State or societal institutions, is very low. The law is not caring but the Department needs to care for these women because they are vulnerable and hurting. They have had a lifetime of hurt.

There has been talk of burial grounds in Bessborough House and I have not heard much about this. Has the Department looked into marking the graves of the babies and perhaps the women who may be buried in Bessborough House in Cork? There is a lot of talk from survivors about the possibility of their friends who were in those homes and their babies being buried in the grounds of the house.

**Chairman:** I again ask the Minister to be brief because of the time constraints.

**Deputy Roderic O’Gorman:** I apologise for the breakdown there. With regard to Bessborough House, perhaps it is best that we wait for the report to come out. It will have a detailed chapter on Bessborough. It would be best to look at it then and we will be in a position to address queries about the next steps.

The Senator has raised an important issue about adoption. The reason information and tracing legislation has not come to pass until now is this balance. The *I O’T v. B* case of 1998 suggested it was needed because of the privacy rights of the natural mother and the rights of the adopted person. There is a range of rights and views. It is worth saying the case was decided before the GDPR was introduced, and looking at personal information such as names and birth certificates will have to be examined in the context of the GDPR. However, the reality of life has jumped past this situation. Earlier, I spoke to a friend who did an online DNA test and is identifying family members or distant relatives throughout the country and in other countries. I refer to the ability of these things to skip past the legalities of whatever is in the legislation. People can be linked with somebody on Facebook who might end up being their second cousin. They may ask the person was there an aunt who was away from the family for a number of months 40 years ago and suddenly the story comes out. Technology and modern life has moved on a long way from when the *I.O’T* case was decided. Whereas constitutional rights and the need to balance rights are always there and do not change with technology, we have to understand that people will do whatever they can to find out who they are because it is such an innate need in all of us. We have to draft and conceptualise the legislation in this area to meet the reality of how technology today allows adopted people find out a considerable amount of information that maybe statute does not provide for now. We have to ask ourselves if there is a point in statute continuing to block that.

Finally, as I say, I will reach out and talk to many groups. I am trying to talk to individuals as well and hear their stories and I have been doing that already this week. I will continue to do that in the forthcoming weeks. I need to build this sort of listening in as part of my ongoing work as Minister in this Department. I thank the Senator.

**Deputy Patrick Costello:** I will start where the Minister finished. The Minister says people will do whatever they can to find out who they are. We have seen that through the strength and resilience of many of these survivors. While they are doing whatever they can, I hope that we are not trying to put roadblocks in their way. For many, it feels like they are pushing a stone uphill. Hopefully, we can try and remove some of those hills for them and, as the Minister says, look at the legislation and ensure that it is supporting them in doing whatever they can to find out who they are instead of putting the roadblocks in place.

I echo the points raised by Senator McGreehan in that there are stakeholder groups who feel annoyed at present because they have not been consulted with. They have not been part of any conversations and they have concerns that they are not part of the public debate up to this point. I will talk to the Minister on another occasion about some of those groups, but that consultation needs to be conducted far and wide. Perhaps we need to explore innovative routes to ensure that we are bringing everyone into that consultation because we need to put the survivors at the centre of this once again. That point of view and that support needs to be at the centre of this. It has drifted away from that and that needs to be the centrepiece.

The Minister talks about the increased funding for youth work. That is, of course, welcome. I am involved with a Garda youth diversion project in Crumlin which has been doing good outreach work in relation to anti-social behaviour in the areas it covers. The outreach work is good. It can happen late at night. It can happen in areas where the young people are getting

into trouble. It reaches people where they are instead of waiting for them to come to the centre, which might not always happen. While it is shown to work, the reality is that it takes from the work that happens in the centre because it is staff intensive. One is looking at a situation where projects are choosing between effective outreach and more general centre-based work. It should not be a choice. It needs to be both. If we can look for funding lines that would specifically fund outreach services on top of existing youthreach services, even on a short-term basis, the outreach services can be targeted to pull people who are not already engaging in to the centre-based programmes to improve the ultimate centre-based programmes.

The other matter I want to pick up on is Tusla. The Minister says correctly that he has made a significant budget available for Tusla to meet its statutory function. I have raised with the Minister on numerous occasions my concern about fostering recruitment and the dangers there of Tusla not being able to fulfil its statutory function because it is not recruiting enough foster carers. I note also the Minister is still wearing his fostering button and I assume he is alive to these concerns. What are we doing to ensure that Tusla will spend that money on fostering recruitment?

The other issue I want to raise is in-house therapeutic supports in Tusla for children in care. In parliamentary questions, the therapeutic hub in Dublin North-Central has been highlighted as an exemplar of excellent work done to support foster carers and children in care. It is an excellent service. I encourage the Minister to engage with Tusla to ensure this money is being routed towards funding more such services. I also ask him to visit this service and meet the people who deliver it, the social workers who rely on it to support young people and, if possible given the nature of the service and the privacy required, some of the foster carers or perhaps even the children who have benefited from it to hear directly from them how such a service could be transformative in Tusla's ability to fulfil its statutory function.

I am conscious that the clock is ticking. It has been suggested that there are unmarked graves not only in Bessborough but in plenty of other places. Will the legislation the Minister is talking about in relation to the Tuam site be sufficient to cover all potential exhumations that are required or will we need to more legislation for other specific sites? The Minister may only have time to answer my last question. If so, I can respond to the others in writing.

**Deputy Roderic O’Gorman:** I cannot see if the Chairman is still wearing her fostering badge but I know she was wearing it earlier. Fostering awareness week is coming up and my Department is doing one or two discrete campaigns. As well as the wider fostering campaign, we are also looking to target fostering parents within the Travelling community. We are also looking at a programme to encourage foster parents for unaccompanied minors such as those coming from Greece as a specific new category of foster parents, and provide the relevant supports. I take on board the Deputy’s point on the importance of supporting the Tusla foster parents.

On the issue of the exhumations, the idea is that we create legislation that allows for the creation of an agency for a defined period of time, which would undertake the excavations, exhumations, identification and reburial for a specific site. Initially, it will be Tuam. However, if a range of determined factors were met in another site, the same legislation could be used to create a new agency, also established for a specific period of time, to undertake similar work on another site. We will not need to legislate again as this legislation will address any subsequent need, beyond Tuam, to undertake this sort of work.

**Deputy Cathal Crowe:** I will pick up on the Minister’s final comment. It is right that there



would be exhumation of the remains of babies who did not receive a Christian burial and were buried wrongly and inappropriately on the sites of some of these mother and baby homes. As we approach the centenary of the State, we will only be able to move forward with maturity and with our heads held high as a people when we have brought about justice and redress for those babies who were voiceless and the survivors of those homes.

This committee will deal with some heavy and emotive issues in the coming months. Specifically, in regard to mother and baby homes, survivors and their children must be front and centre of our work. As politicians, it is vital that we deal always in the realm of facts and communicate always in the realm of truths. While the Government communication on the mother and baby home legislation may have been clumsy at best, and it was wrong and unfortunate that there was not more engagement and interaction with survivor groups, it is nonetheless important that the committee state clearly and double down on the fact that the legislation passed by both the Dáil and Seanad a fortnight ago did not lock up or seal away highly sensitive records and testimonies for 30 years. The legislation ensured that the records were saved and for politicians to say otherwise is inaccurate. I have a number of questions to put to the Minister, Deputy O’Gorman, this afternoon. The first is what everyone in the country is waiting to hear. What is the expected timeline by which the legislative pieces required to set up tracing databases and access to records will be introduced?

Can he give assurances to adoptees that they will be granted the rightful access to birth certificates? Currently, one in five are having their applications denied. I am dealing with one case in the constituency where a lady has tracked down her mother. Her mother has consented to her birth certificate being released and made available and the red tape of the State still does not allow it. That is fundamentally wrong. This is emotional and should guide much of the work we do. She told me her birthday each year is the worst day of the year. It is a day most of us look forward to where one has a few drinks and celebrates with friends. For her, it is a day she knows she does not have an identity, as such, going back to her birthday. She cannot account for nine months of her life and that is devastating for her. That needs to be moved and corrected in legislation.

Third, in terms of supporting adoptees we have all had many conversations over the past week. Another constituent contacted me last week and said she successfully traced her birth mother in England and felt she was well-supported by the instruments of the state in Britain. As someone who has gone through this process already, she fears the Irish State may be under-resourced in terms of social workers. It is much more than a person finding out his or her birth name and surname and going home with a letter then crying in the car park after reading that letter. There is much more to it than that. There is a need for social worker support during the research stage but, more importantly, in the stages that follow. Some might be extremely supported by family and may not want that support but for those who do, it needs to be there in abundance. It is a raw situation.

I wish to speak about direct provision. I am glad it has come up in the discussion today. I grew up adjacent to Knockalisheen Accommodation Centre in Meelick so I have friends from childhood and now friends in adulthood who are there. I taught in the local school. I have legally gone guarantor for some of the families in their fight to remain in the country. Their stories are absolutely fabulous. What we have seen in the last 12 months in town halls, where certain right-wing groups hijack an agenda and go out with horrible vitriol, is not the type of direct provision I have experienced. I experience people who have come from the most genuine situations. They crave and thirst and hunger for the thing all of us want, that is, stability in

their lives and a decent place to bring up their kids. They are still quite concerned and one of the biggest frustrations is that they still cannot get meaningful employment despite legislation being updated in 2018.

I will also join in what other speakers have said. I do not want to bury this idea but the suggestion that Ruhama would have a role in terms of sex-traffic workers should also be considered and, perhaps, reconsidered given its foundations are rooted in two religious orders that we have discussed already here today. It needs more in-depth thinking. I will leave it there.

**Deputy Roderic O’Gorman:** I acknowledge what Deputy Crowe is saying on the burials in Tuam and what was done there, and the importance of the State taking action now to give some dignity to those children and babies in death. It is a dignity we will probably see was not afforded to them in life or immediately on their passing.

As regards the timeline for information and tracing, I hope this legislation will be before the Dáil and, initially, before this committee for pre-legislative scrutiny next year. That is my intention. As I said earlier, there are various views as to whether it is done in conjunction with the issue of the wider archives in an omnibus Bill that will cover a range of Departments or whether it is treated as a discrete issue. I had intended to treat it as a discrete issue but alternative views have been put to me by the Adoption Rights Alliance and I want to examine them before making any determination. I believe that access to the birth certificates should be central in that. We flagged other issues in earlier discussions with Deputies and Senators but when one considers the GDPR is now applicable in this context, those issues need to be looked at again.

The Deputy has outlined some stories of the real difficulties adopted people have experienced in getting access to information. I have heard similar stories in my engagements in recent days. We must take away those roadblocks that Deputy Costello spoke about. While GDPR applicability to the database and to the archive is a step forward, the information and tracing legislation that provides clear legislative pathways to addressing these problems is absolutely essential. I welcome the Deputy’s comments on direct provision. I acknowledge the work he and teachers all over the country do in supporting young people in direct provision by going to local schools and helping the elements of integration. From my engagement I know that in most centres around the country there are significant friends of the local direct provision facility who give that very real Irish welcome to the people in those centres.

We acknowledge many of the centres are not fit for purpose and we need to change the model. That is what we will do in the White Paper. One of the things that I and the Minister for Justice announced three weeks ago as regards the issue of employment is to reduce the time period within which an individual can seek employment from nine months originally to six months. A person can apply for employment, therefore, within six months and that employment permit will last for 12 months rather than just nine months. That makes it much more attractive to employers as well. That is one step of many to make life in the system better and afford people more dignity.

**Deputy Joe Flaherty:** We all appreciate that recent weeks have been especially difficult for the survivors of the mother and baby homes and their families. It is certainly a matter of fact that the legislation was badly handled when it was dealt with in the Convention Centre. I appreciate that the Minister has acceded in respect of this point. It is probably regrettable that we did not have the subsequent advice from the Attorney General’s office and, indeed, the Minister’s statement on foot of that advice a week earlier because it would have been hugely helpful and informative.

We must acknowledge the importance of the work of the commission. It is truly vital that we deliver on what is a hugely important piece of historical work. That process, however, will count for nothing if, on publication of the report, the survivors cannot access the records so many of them desperately seek and absolutely deserve to access. Between now and the publication of the report, the survivors and their wishes must be front and centre. I am glad to hear the Minister acknowledge that today. It is vital that the survivors be engaged with and I appreciate that the Minister has already done significant work in that regard over the past week.

GDPR and other technical and legal terms can often cloud the process. We need, however, to see a clear road map put in place which will allow the survivors the knowledge that they have absolute certainty as to how and when they will be able to access their information. Anything less and the hurt of decades that justifiably manifested itself so forcefully in recent weeks will fester further.

Since the legislation was introduced almost two weeks ago, I have met with a number of the survivors locally. They are hurt and angry, and rightly so. As I said, I acknowledge that the Minister has had significant consultation with the survivors in recent days. I know this will doubtlessly positively inform his decisions and actions in the months ahead. We must look to the families and the survivors but, more importantly, we must look to those relationships. We need to ensure a framework is put in place that will assure the survivors, their families and siblings have full access to their records prior to publication of the report.

Everybody in the room can appreciate the quickest lesson one learns in politics is that one makes mistakes and makes them often. We must acknowledge the Minister's admission of infallibility over recent weeks. It speaks volumes to him as an individual but also to his capacity as a legislator and it reinforces my belief in him that he will get this right. I appreciate that he has an extensive brief and programme of works. What I really want from the Minister today is an assurance that there will be full and absolute disclosure for the survivors of the mother and baby homes and that this is foremost in the minds of not only the Minister but also the Department and his fellow members of Government.

**Chairman:** I assume the Minister can hear us even though the screen has gone dark.

**Deputy Roderic O'Gorman:** We are having camera issues. Can the Chairman hear me?

**Chairman:** We can hear the Minister perfectly. Did he hear everything Deputy Flaherty said?

**Deputy Roderic O'Gorman:** I heard everything Deputy Flaherty said. I agree with everything he said and thank him for his comments. We can give a full assurance that there will be absolute disclosure of everything in this report. It is incredibly detailed. It contains 4,000 pages. It includes chapters on each of the mother and baby homes and a social history chapter that tries to give the context of Ireland in the 1920s, 1930s and 1940s, looking at Dáil debates and what was happening in wider society and also looking at specific themes across the times, including adoptions and deaths in the mother and baby homes. It deals with a range of matters. There will be very detailed information for society in general. There is a chapter on the confidential committee, which we have spoken about a number of times in the debates. It consists of the contributions made by 550 individuals who spoke to the commission and gave their experiences in the mother and baby homes. Having read some of that, it is very difficult reading but we need this. We need to understand what happens. As members of different generations to whom this is completely alien, we need to understand what happened and put it in the context of

supporting victims and survivors. Putting that central in everything we do, as the Deputy said, is essential. If Deputies are meeting any survivors groups that would like to engage with me, I would be happy if they put them in touch with me. I will arrange for that in my Department.

**Senator Sharon Keogan:** The Minister is welcome and I am delighted to be able to speak to him. I would like a copy of the data protection impact assessment statement and all records that the Minister is holding and is the data controller of, if that is possible. The Minister says the final report is under review by the Department. Why is it under review? What will be published and what will be amended in that report before publication?

While I welcome the programme for Government statement on ending direct provision, has the Government just put a fancy new name on it with “international protection accommodation”? There are currently 7,000 people in direct provision accommodation and 30% of those are children. We need about 3,000 homes just to deal with the people in direct provision at this time. I do not want this to be renamed “international protection accommodation”, if that is what the Minister calls ending direct provision.

Has the Minister left?

**Chairman:** We are trying to establish that. Can the Minister hear us?

**Deputy Roderic O’Gorman:** I can still hear the Senator and the Chair.

**Chairman:** Great.

**Senator Sharon Keogan:** On Tusla increasing the number of residential care spaces, I wonder why the Minister promotes that method of childcare. Fostering in a family home environment, whether it is by single parents or another type of fostering, is much better for any child than residential care where the children have social workers coming in to look after them 24-7. I do not want to see the Minister promoting that model. I want to see him promoting the fostering family model, if it is possible, whatever the family make-up might be. Having a child brought up in a family environment is much better than having a child brought up in residential care.

We have spoken about the mother and baby homes of yesteryear but what about today’s mother and baby homes? Will the Minister provide the committee with details of these? Believe it or not, there are still mother and baby units in this country for young girls. What step-down facilities are available for those young girls and their babies? Who runs these homes? I am not sure whether they are run by Tusla or private operators but if the Minister will provide details on that, I would appreciate it. The Minister is looking quite confused now, but they do exist.

I want the Minister to be a fantastic champion for children. I am a foster parent. I know the trials and suffering experienced by the kids that come in my door. I want the Minister to champion them and I have not seen that being done yet. Working men and women were given an allowance of €250 under the stay and spend scheme. The students of Ireland were given €250. Why does the Minister not give the teenagers of this country a leisure or well-being voucher they could use for their health and well-being? We need to do something for the teenagers in this country, something individual and unique to them which they can use for health and well-being, going to the gym or whatever they choose. I have in mind some sort of leisure, recreational or well-being voucher that makes these kids feel valued and important in society. If we can help them at that age, problems may not manifest down the line.

Alcohol Action Ireland today stated that 200,000 children are affected by parental alcohol abuse, while 400,000 adult children live with its consequences. That means 12% of our population is affected by alcohol abuse. How will we address that? We need to address those issues.

I wish the Minister well. He has a huge body of work to do. The mother and baby issue is sensitive for everybody. At this time, if I am a victim of a mother and baby home, I cannot access my data. The Minister has created a database and I can get at it but I cannot get the testimony I gave to the commission at the time. Those are the facts and I want people to know that. Other parties, who have left the room, came out with fake news saying people could access their data but they cannot. They can access their name but not their own testimony given to the commission at the time. Thank God we have GDPR to protect those individuals' data and a European law that supersedes any law we have in this country.

I wish the Minister well and hope he does the right thing always by the children. The children of this nation are not just the children we have today but the children we did not serve as the State developed over the past 100 years. We have made many mistakes. Let us not continue to make them with residential care homes for our teenagers. Let us not continue to make them with our mother and baby homes. They are only small mother and baby homes. There could be only two or three mothers and babies in these homes. Let us learn from the mistakes and be the best society we can be for all our children.

**Deputy Roderic O’Gorman:** I thank the Senator for her comments. On the issue of residential care and the preference for fostering, I absolutely agree. Fostering is always the preference. Of all children in care in the State, 91% are in foster care and 7% are in residential care. That shows the extent to which Tusla focuses on residential care but there are situations where a child or, often, a young person has needs. There may be behavioural needs or needs related to family circumstances or wider societal circumstances related to where the young person is coming from such that the traditional foster model that has worked so well and is so good for the vast majority of young people in care is not suitable. It is necessary to have a range of specialists looking after that child or young person around the clock and, unfortunately, the number of those cases has grown significantly in recent years. That is why we have seen the increase in residential care. It is not through choice but necessity.

**Senator Sharon Keogan:** Yes.

**Deputy Roderic O’Gorman:** That is why we have had to put in additional supports. We could not do otherwise. If there is a situation involving a young person whose needs far outstrip the capacity of a foster family, we have to put in place that level of care.

The Senator referred to direct provision. This cannot, and will not, be simply a name change. It is a complete approach to how we treat people in the international protection process while they are waiting for a decision. It is about accommodation and the wider supports provided to them. It is about allowing them independence in terms of work and the ability to get a driving licence and engage with society as a whole. It is also about protection in the context of education. It is about integration and ensuring that the direct provision centre is not somewhere miles from town that is not accessible. There has to be integration as well. It is far more than simply a name. The Senator has my assurance that we will deliver on that.

She made a strong point on the well-being of young people. Since the pandemic began, my Department has undertaken research to ascertain specifically how it is impacting on young people. This research was important in making the case that the reopening of schools was im-



portant from the point of view of general mental health, to support children from disadvantaged areas and to support those with special educational needs. It also serves as a window into the lives of those children whose families may be dysfunctional or where there is some element of abuse taking place. When a child is in front of a teacher for six or seven hours in a day, that teacher can spot issues quickly and notify the relevant authorities. The research we did in conjunction with SpunOut examining teenage experience was important in the context of the roadmap for resilience and recovery that we are all operating under at the moment. It was important in convincing me to put additional financial supports into youth services. One thing the research spotted was that young people who had engaged with youth services during the lockdown or pandemic had far better outcomes than those who had not. That is one of the issues that convinced me of the importance of supporting the youth sector in this period. The data and research are also informing me in other ways. I attended a Cabinet sub-committee meeting last night to discuss mental health. I brought forward the need to concentrate on the mental health of everyone now that we are back at level 5, but especially the mental health of young people.

**Senator Sharon Keogan:** There is an anomaly with regard to apprenticeships for children under the age of 18. An apprentice in that category cannot get any payment whatsoever. Can the Minister talk to the Minister for Social Protection? It does not matter what we give these teenagers. If they are aged between 16 and 18 years, they cannot get anything. They did not get anything during the first lockdown. Can the Minister address that with his colleague?

**Deputy Roderic O’Gorman:** If the Senator wrote to me on that point, it would be useful.

**Senator Sharon Keogan:** I have highlighted the matter with the Minister for Social Protection.

**Deputy Roderic O’Gorman:** If the Senator writes to me as well I will engage with the Minister for Further and Higher Education, Research, Innovation and Science, Deputy Harris, who I understand leads out on apprenticeships. I would be happy to engage with the Oireachtas on that.

**Chairman:** I am coming tight on time. I understand Deputy Dillon has to step out early and Deputy Whitmore wants to make a quick point. I will make one or two brief points as well.

**Deputy Alan Dillon:** I thank the Minister for his time and for outlining his key priorities in the coming months and years. I look forward to working with him through the committee.

I welcome the commitment contained within the programme for Government and on his priority list to the reform of the pay and conditions for the childcare sector. It is crucial. We urgently need to advance wage agreements on behalf of the staff and providers in this sector. We also need to look to reform childcare costs. These are a significant burden on working families at present. The establishment of the expert group, which will be working on the new funding model, is crucial. I am keen to hear exactly when in 2021 that report will be published. It is crucially important and it will set the direction for this committee in respect of the sector.

I want to touch on the mother and baby homes legislation that was passed almost a fortnight ago. We received considerable correspondence at our constituency offices in Mayo. There was major anxiety and stress among members of the public. I draw the Minister’s attention to the petition that 196,000 people have signed. What are his thoughts around the phrase “Repeal the seal, Open the archive”? It is probably bringing considerable anxiety to the women and children who are survivors and who came through mother and baby homes. They believe they

are being denied access to their own testimony, files and records. I am keen to get legislation involves and where we need to go to in the coming months in terms of further legislation to ensure they have access? Can we ensure that Tusla is on board and that the Department will be to the forefront on this?

**Deputy Roderic O’Gorman:** I am aware of the petition. The treatment of the archive of the commission of investigation comes from the original 2004 Act. The mother and baby homes commission was established in 2015 on the basis of the 2004 Act and the requirements of that Act with regard to the archive. My legislation, which is now an Act, was designed to take part of the archive and give it to Tusla.

*(Interruptions).*

**Chairman:** We cannot hear the Minister. Is there a problem with the microphone?

**Deputy Roderic O’Gorman:** Is that any better?

**Chairman:** That is perfect.

**Deputy Roderic O’Gorman:** We are being stymied everywhere we go. The treatment of the archive is a result of the 2004 Act and the decision to establish the commission on the basis of its provision. The decision of the Attorney General that the GDPR applies to the archive in my Department is significant. It means that rather than a blanket “No” to access requests, we have to consider each on its individual merits. That is a good step. We will be engaging with the Attorney General and especially the Data Protection Commissioner to enable us to understand how we do that best. That will be a new thing for us. We were not expecting that but we have to address it. As I said, I welcome it and believe it is positive.

It will not be a solution to the wider issues of access to information in this archive and in the archives of other commissions into other institutional abuse that took place in this country. That solution will be through the information and tracing legislation as well as through legislation to give legal effect to a new archive of institutional abuse. This is the CoLab model that the Adoption Rights Alliance, Justice for Magdalenes and CLANN have brought forward. My engagement with this is still in its infancy but I met representatives of the Adoption Rights Alliance and I am committed to looking at it. This will involve other Departments as well. The Department of the Taoiseach will have an important role in co-ordinating the idea of an archive. That may involve a physical location for all of this information as well as a legal basis to access it.

I will comment on what Deputy Dillon was saying about early years and the importance of pay and conditions. I have identified sick pay - there is a need to provide it now that significant efforts are being made to address sick pay on a national basis. That is a really good step by the Government. I will be ensuring that childcare professionals are involved in that. There are wider issues in the context of pay. We have been making significant strides, even in recent weeks, towards the direction of a joint labour committee. I welcome the work of Childhood Services Ireland and SIPTU and their engagement with this process so far. We are not there yet but we are working towards that. That committee can put in the basic steps of a proper pay scale so that we can adequately reward the work that childcare professionals do in this country.

The issue of fees is also significant. As I said, there are three big pieces of work, namely, the review of the operating model, the expert funding group and the workforce development plan. Two of those were established by my predecessor, Katherine Zappone, and I established the

operating model review. I have made this point a number of times and I know that people get a little tired of hearing that another review is ongoing but one of the problems in the early years sector is that too many things happened on an *ad hoc* basis and models were created in response to an immediate need. That dates from ten years ago, a time when the State was putting no money at all into the early years sector. It was wholly privately run and only those who could afford it could engage with it. I want to gather research in those three key areas to put a good structure on a new model of childcare in this country. We must make sure that the significant State investment about which we spoke earlier - €638 million next year, even before any of the additional Covid-19 supports are counted - is going to the right places, keeping providers viable, ensuring that childcare professionals are adequately remunerated and that we can support parents so that their out-of-pocket costs are not too great. We also must ensure that children in areas of disadvantage are getting the strongest supports.

**Chairman:** Does Deputy Whitmore want to make a brief point?

**Deputy Jennifer Whitmore:** Yes. Will additional and specific mental health supports be provided to survivors in advance of the publication of the reports? It will be a difficult time for them.

I will also ask about the two advices from the Office of the Attorney General. Was the office specifically asked about the general data protection regulation, GDPR? I am confused as to how it gave such different responses. Was it asked the same thing about GDPR and its application to the Bill and the 2004 Act?

**Chairman:** Before the Minister responds, I want to make one or two brief comments. The mother and baby home legislation has dominated this discussion. The committee debated the matter earlier. Everybody here is anxious to be a part of the solution and to ensure that survivors' voices are heard. We are a little confused because various people have referred to the committee and the work we are going to do but we have not been given a specific timeline or information from the Department about what is expected of us. As I say, we want to be a part of the solution and to ensure that survivors' voices are heard and put at the heart of everything. We ask the Minister and Department to come back to us with a written timeline setting out when the report will be published, how the Minister envisages consultation with survivors, their representative groups and families, and what will be the specific role asked of this committee. We want very much to be involved but we must know in which parts we are to be involved. As the Minister knows, this is a very wide topic. We obviously need to wait for the report to be published but we are anxious to have a written document from the Minister and the Department setting out the specific requests of this committee so that we can engage properly with the survivors, the Minister and the Department.

I have a question about the Tuam burials which have been touched on by a number of speakers. Is there a possibility of extending that to look at other sites where there might also have been burials? Will that specifically relate to Tuam? That might be something for pre-legislative scrutiny but I put that point to the Minister nonetheless.

Deputy Whitmore touched on the point I wished to make about the council and the supports and additional resources to be made available.

The Minister may now make some concluding remarks.

**Deputy Roderic O'Gorman:** We will absolutely engage with the Chair. I did not get all

the specific questions that she asked, so she might put them in a letter or ask the clerk to the committee to put them together and we will get back to her. As I said in the Dáil and Seanad, I want to work with this committee. Many of the items of legislation we will address, which are very technical and require pre-legislative scrutiny, require engagement with survivors' groups and experts to get them as close to right as possible before we put them into the full legislative process. Mental health supports and other supports will be provided for survivors in advance of the publication of the report. My Department is currently engaging with the Department of Health and the HSE on that point, which is important.

Regarding the advices of the Attorney General, the query submitted to him on 19 October was specifically on the query brought forward by the Data Protection Commissioner that had been sent to our Department. That was the query that went to the commissioner. I do not think it was identical to the original query about the legal status of the archive that was put forward in January of this year because the context was different.

I do not have any specific concluding remarks. I look forward to working with the Chairman and all members of the committee on these issues.

**Chairman:** I thank everybody for their co-operation particularly on the time aspect. It is difficult with Covid considerations when we must work within a certain timeframe. There were a few technical glitches but in general it went very well. I thank the Minister and his officials for appearing today. We very much look forward to working with him and to our ongoing engagement.

I propose that we publish the Minister's opening statement to the Oireachtas website. Is that agreed? Agreed.

The joint committee adjourned at 5.57 p.m. *sine die*.