

DÁIL ÉIREANN

AN COMHCHOISTE UM OIDEACHAS AGUS SCILEANNA

JOINT COMMITTEE ON EDUCATION AND SKILLS

Dé Máirt, 26 Meán Fómhair 2017

Tuesday, 26 September 2017

Tháinig an Comhchoiste le 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
Thomas Byrne,	Maria Byrne,
Kathleen Funchion,*	Robbie Gallagher,
Catherine Martin.	Lynn Ruane.

* In éagmais/In the absence of Deputy Carol Nolan.

I láthair/In attendance: Deputies Richard Boyd Barrett and Robert Troy.

Teachta/Deputy Fiona O'Loughlin sa Chathaoir/in the Chair.

Breaches of Fire Safety Standards: Discussion

Chairman: We have not received apologies from anybody at this point. We will have an engagement with the Minister for Education and Skills, Deputy Richard Bruton, on the breaches of fire safety standards found in a number of primary schools nationwide. We were all quite shocked when we saw the coverage in late August of the audit that had been carried out, particularly in five schools. The purpose of the meeting is to have a discussion with the Minister on the breaches which came to light in a number of press articles. We have been very concerned about them and a number of members contacted me, as Chairman, to ensure we would have an opportunity to engage with the Minister on the issue. We are also pleased to welcome officials from the forward planning unit and appreciate their attendance. I invite the Minister to make a brief opening statement to the committee which will be followed by engagement with members.

Minister for Education and Skills (Deputy Richard Bruton): I thank the joint committee for giving me the opportunity to discuss the recent matters concerning fire safety. My Department takes fire safety very seriously. I am announcing today a series of measures to deliver best practice in terms of fire safety. The measures cover the following three broad areas: a programme of audits to ensure compliance with fire certificates; a range of measures for new builds to underpin the highest possible safety standards; and new procedures within the Department to ensure that all fire safety concerns are properly addressed.

Members have been supplied with a detailed statement. In the time allocated, I shall not go through the full text. Under the heading of audits, there are two forms of audits that we are introducing. First, we will have a comprehensive set of audits of the Western Building Systems involving 30 builds that it has undertaken. It was audits of five schools that were the subject of the statement back on 1 September. We are now doing a full audit of all of the WBS schools. It is important for me to say this is not based on a concern that we have. We believe that the premises have been to the highest standards but we just want to make doubly sure.

Second, we are going to introduce a series of representative audits. About 30 representative schools will be selected across a range of types of build, such as rapid build that has outsourced design and build. In terms of the different types of schools, other rapid schools have been built by other contractors. This is obviously to ensure that there is the highest level of compliance with the fire certificates that applied in those cases. They will cover schools built over the past 20 years, since new regulations were introduced about 20 years ago.

The second area where we are taking action, that I have outlined in my statement today, is in terms of new builds or schools that are being built. We have taken a number of measures there. We have written to all of the design teams currently involved in such builds to underline to them their responsibilities under the new building standards code. We have written to their associations to again underline the importance of this aspect of work in terms of schools in particular.

Finally, we have decided that we will appoint in each new project a clerk of works as well as the designated certifier. The initiative will act as the eyes and ears of the Department in terms of each individual new build. These are measures that we believe will ensure that all new builds are built to the very highest standard and fully compliant with the fire certificate that was issued at the time a planning application was submitted.

The third element where we are introducing new approaches is we are establishing an internal fire safety committee within the Department. It will oversee all applications that come

our way in terms of fire issues be they audits, requests for additional works and right across the system to make sure that all of those applications are properly scrutinised in respect of the importance of fire safety for children. We are backing the initiative with the establishment of a new internal protocol. The protocol will ensure that where such matters come to the attention of the internal committee, it will establish their significance and then immediately engage with the fire officer where there is a significant issue involved, introduce a system whereby the patron and the school are duly informed of the issues, undertake whatever necessary audit is in place, design the works, seek and obtain approval both from the fire officer on the adequacy of the works and inform the school of the approach that is to be taken to deal with the issues concerned. Under the protocol, it will remain the responsibility of the schools to liaise with the wider school community, but they will do so with the very best information available to them.

We are, in addition, writing again to schools just to remind them of the various guidance and protocols that they have a responsibility to oversee. This initiative has come from them. We have engaged with the various patron bodies over the course of recent weeks. We feel that it would be appropriate to provide a circular that sets out the various issues because, as Members will know, there are issues around fire drills, fire safety equipment being on the premises and so on. I believe we have put in place a comprehensive set of measures.

In respect of the individual schools which were the subject of the five audits and comment, in every one of these cases works are either under way or being put out to contract to be completed as a matter of urgency.

I want to give the committee an absolute assurance about what occurred. The fire certificates issued for the schools required a 60-minute retardation period, but it was found that some of the works had not fulfilled that requirement, which was why the wider audit was undertaken. In respect of each of the schools we have undertaken or are in the course of putting in place measures to ensure the original fire certificate specification will be met. In all cases we have, of course, as the first item, met the direct fire officer involved. The fire officer is fully satisfied with the approach we are taking in dealing with the individual schools. We have put in place a fresh approach which I am confident will deliver best practice. We will continue to monitor all aspects of the matter, with the much strengthened approach now in place.

Chairman: I thank the Minister, but I would like to point out that we have not yet received copies of the statement which would be helpful for members of the committee and all of our Oireachtas colleagues who have joined us. I thank the Minister for agreeing to meet the committee so soon after the resumption of the Dáil. While the comprehensive set of measures the Department is going to put in place is very welcome, there are still many questions that we need to ask about the process, what happened in the past and why it took so long to release the report. The Minister mentioned the 60-minute fire retardation requirement, but in some of the schools mentioned it was reduced to 20 minutes. It is incredibly significant that it was only one third of the minimum standard required. I have a few more questions, but I will hold them for now and invite my colleagues to comment and ask questions.

Deputy Thomas Byrne: All of this is extremely worrying, but the slowness of the Department in coming clean publicly is particularly worrying. This issue has been coming to the boil since 2008 and has featured in the media at various times in the past few years, but the first detailed statement on it from the Department was only issued on 1 September, on foot of which I requested that this meeting take place. I am glad that the Minister is here and has facilitated the meeting. On that date it was made public on *etenders.gov.ie* that there was a tender for a further report, but the Minister would have been in a position to announce it long before then to the

Dáil and the public. The decision was obviously taken long before 1 September, but it was only at the very last possible moment that the information was released to the public. It was also released on a day on which and in a week in which, in educational terms, a lot was going on. Was there an agenda to reduce the impact by making the information public in the first week of the new school year? I am not sure how successful it was, but it does lead on to other issues.

One such issue is the Department's handling of requests in recent years for funding for fire safety works. It refused quite a number of such applications and seemed not to take seriously the concerns of schools when they applied for such funding. The Minister has given figures in that regard and they are extremely worrying. I ask him to explain the position. Is the Department going to look again at decisions where it refused schools money for fire safety upgrades? Will these decisions be looked at again, particularly in the light of what has happened, what the Department is now doing and safety concerns in other areas where people have died?

To move to the other issue I wanted to ask about, I, and I am sure every other Deputy here, have come across other major issues relating to building quality in recent years, including a brand new roof in my constituency which does not keep water out. That is obviously not a fire safety issue, but is the Department in general very worried about building standards and is it looking at them closely or are we simply happy to see the bright shiny building built? Of course we are, but it seems to me that some people think they can get away with shoddy standards in the schools sector. That appears to be happening lately, particularly when the schools are not directly involved themselves. A number of projects have taken place which have been managed separately from the schools. I know there is an efficiency argument for that, but the boards of management are not involved in a hands-on manner, which is leading to problems. Will the Minister comment on that? In general, are building standards an issue for his Department and is it something he is taking a detailed look at? Obviously the most important issue is the safety of our children, the staff who work in schools and the school community. Will the Minister answer the specific questions which I have put?

Deputy Catherine Martin: I thank the Minister for coming in to give a statement on such a serious issue. I have just a few questions. To reiterate what Deputy Byrne has said, why did it take so long to publish the reports? Why would a principal have to write to the Department seven times to ensure pupils' safety? Why was the Minister's Department so reluctant to give that information? Why did it take an intervention from the Information Commissioner for the reports on these five schools to be released? Surely principals should not have to beg for information to make sure their pupils are safe. In the end they had to rely on a freedom of information request submitted by a journalist, in this case the *Dublin Inquirer*. In the case of Belmayne Educate Together national school, there were simple solutions in respect of the stores which were present on the stairs. Had the school been told about that it could have cleared those stores. It seems nonsensical that schools would be kept in the dark about these issues rather than being worked with to fix problems as quickly and as effectively as possible.

That leads on to the next question. What processes will the Minister put in place to increase transparency and direct communications? He mentioned that he has written to the schools in respect of guidance and protocols on schools' responsibilities, but again there is no point in doing that because we have seen that principals were seeking the information and were not getting it. One can have every fire drill in the world, but if a school will burn down within 60 minutes, a principal is entitled to that information, as is every child and every single person who works in that building. It is despicable.

Does the Minister intend to introduce a programme to audit the fire safety of all school

buildings in the State? Perhaps that could not be done in one year but it could be done on a phased basis. Will the Minister indicate a timeline for that? It seems there are at least 17 schools which need to be looked at as soon as possible. They are the other 17 which were built by Western Building Systems, apart from the five which we are discussing today. I imagine that some of this work was subcontracted out. Does the Department have a comprehensive list of work undertaken on any school by any company which held a subcontract under Western Building Systems? That would seem to be the very minimum which needs to be done. I imagine it would add up to considerably more than 25 schools.

As I said earlier, for practical reasons all schools cannot be audited immediately, but I would ask the Minister to consider that. We need to ensure the safety of all children in every school in Ireland. If the Minister is not willing to do that, will he outline why he believes that the sample which he has sought in his tender will be able to catch any and all fire safety deficiencies in the country? It seems from these five schools that the instance of fire safety deficiencies could be much higher than could be dealt with by auditing just 25 schools.

The Minister stated in his reply to a recent parliamentary question that 37 schools were refused fire safety works by his Department since 2015. While the information as to why each one is a mystery and has not been provided, there still appears to be a huge number of refusals, especially when weighed up against the number of approvals. For example, in Donegal over the past three years only two out of seven applications have been approved. I am just looking for information on that. Why are there so many refusals?

Chairman: Would any other member like to speak before I go to our other Oireachtas colleagues attending today? I call Deputy Boyd Barrett.

Deputy Richard Boyd Barrett: Can the Minister explain the extraordinary fact that Educate Together repeatedly asked the Department of Education and Skills to release details of the building inspection reports and the Department refused to do so? This looks like an active attempt to suppress the fire safety issues affecting these schools, which is to my mind extraordinary and unconscionable. Can the Minister explain his statement that none of these schools was dangerous or posed a risk? This is an extraordinary statement. I have read the reports, which state that there were multiple breaches of the requirement for 60-minute compartmentalisation. It is not that the school could burn down in 60 minutes; it could burn down in ten or 15 minutes because where there is supposed to be resistance between units of 60 minutes, there was not. The reports give details of that. We know from fires in residential areas, like the recent fire in Newbridge where there was no compartmentalisation, that where a fire should have taken four or five hours to go from one unit to the next, it actually took 25 or 26 minutes. These breaches meant that these children were and, where remediation has not been carried out, are still in danger. There are multiple breaches of basic fire safety. How can the Minister possibly justify the extraordinary statement that none of the schools in question was dangerous or posed a risk? Can he tell us who originally signed off on these buildings back in 2008? Who said that they were compliant? We need to know the answer to this and those people need to be held to account. Did architects sign off on this or, as the report seems to indicate, and this relates to the whole issue around certification for fire safety, is it the case that architects sign off on plans but the buildings do not then correspond to those plans? Michael Slattery's report on this states that this is exactly what was happening, namely, that the plans were one thing but the buildings were another. This means that somebody was playing fast and loose with the law on fire safety and those people have to be held to account. I want to know what sanctions will be taken.

I refer to the number of schools Western Building Systems was responsible for. I suspect

that it was for this and if that is the case, it should never get a public contract again. Can the Minister tell us how many schools this company is currently building? How many other schools has it built? We also know that it is involved in the Poppintree project for rapid-build. Are these units being audited for fire safety? It built the extension to Beaumont Hospital. Has that been fire-safety audited? I believe it did work in Temple Street hospital. Has that been fire-safety audited? Can the Minister tell us today that if Western Building Systems was guilty of multiple breaches of basic fire safety regulations? Will it be banned forever and a day from ever getting a public contract? It absolutely should be. Can the Minister also confirm whether the Whitehall College of Further Education was also built by Western Building Systems in 2008? It has been sitting empty to this day because issues were also identified there, initially by the National Standards Authority and because a case subsequently taken by the Office of Public Works over breaches of regulations and building controls. That building is sitting there empty.

Can the Minister tell us who is paying for the remediation? We understand the report on the Lusk Educate Together cost €900,000. Did we pay for that? Have we paid nearly €1 million for remediation of work that is actually the responsibility of Western Building Systems? If we did then that is shocking. Are we paying for all the other remediation works that have to be done? Is the tax-paying public picking up the bill for the shoddy work carried out by Western Building Systems? To what extent was the Department itself signing off on all of this right through the process? Were there no checks on proper compliance back in 2008? Why was the Department guilty, from what I understand, from October 2015 right up until now of suppressing the information about the extent to which these schools were failing to comply with basic fire safety, putting children at risk, and failing to acknowledge this when repeatedly questioned about it?

Chairman: Deputy Troy had indicated to speak, I assume because one of the schools is in his constituency, but he has just stepped out. Does Deputy Function wish to-----

Deputy Kathleen Function: I am okay.

Chairman: That is fine. Before even looking at matters of education and ethos, when a school takes children in as young as four their safety and security in their surroundings has to be absolutely paramount. What we have learned since 1 September is incredibly concerning. I share my colleagues' concerns, particularly with regard to the delay. We know that it was reported in 2015 that one of the schools in question, a school in Greystones built in 2008, had serious fire safety concerns. I would like to know what the Department did when this came to its attention in 2015. We know that the reports on these schools were finalised in 2016 so it seems strange that they were not published until September of this year. The summer holiday period would seem to have been a good time during which to try to do some of the remediation work needed, as opposed to not letting the schools know until 1 September, the very day the report was published. It would surely have been more beneficial for the schools to have received these reports beforehand. Educate Together, which manages some of these schools, has requested the reports on its schools on several occasions, as Deputy Boyd Barrett has indicated. Why was it refused, why was it denied these reports and why the delay?

I appreciate that the Minister has said that he will include the schools built under the rapid-build programme in the comprehensive set of measures he has put in place. It was claimed at the time that all buildings constructed and handed over to the Department complied with the fire safety regulations. We know, however, that the fire safety regulations have changed since 2008. If this is the case, was it not the responsibility of the Department to ensure that remediation work was carried out in the school buildings so that they complied with the new regulations? While I accept that protocols will be put in place, we are very concerned about the delays to

date and about how this could have been allowed despite all of the different levels of sign-off required.

Deputy Troy has come in so I will allow him to comment before handing back to the Minister.

Deputy Robert Troy: Apologies. I have a few questions, some of which may already have been asked earlier. As the Minister knows, one of the schools identified - Educate Together in Mullingar - happens to be in my constituency. Having spoken to the principal, I want to acknowledge that both the principal and the board of management are happy that remediation works are now being carried out. My concern is over how this was allowed to happen and how, despite the carrying out of initial inspections and the fact that the board of management sought a copy of the report on a number of occasions, the school had to wait on the submission of a freedom of information request to learn of the actual defects in the school. How can we have confidence that all of our schools across the country are up to adequate standards and regulations? The principal of the Educate Together school has said the principals of other schools throughout the country have been ringing her to ask how she had made sure the defects in her school were being addressed because they could not have them addressed in their schools, which is quite worrying. Is the Minister satisfied that adequate resources have been put in place to deal with defects found by schools that have gone to the bother of identifying weaknesses or defects, be they electrical, plumbing or a leak in the roof?

While the speed of delivery of the rapid school build programmes is welcome, another principal to whom I spoke had identified issues in the completion of snag lists. In some instances they are not completed to the best standards unless the chairperson of the board of management is thorough and follows through to the nth degree. In some instances schools have been passed, even though on issues such as disabled access and toilets they do not come up to scratch. Who from the Department goes out to make sure new buildings meet the requirements of the health and safety and disabled access building regulations?

Deputy Richard Bruton: I thank members for the comprehensive range of questions. The rapid build approach was introduced in 2008. After planning permission was obtained, the contractor did the design and build work. The contractor signed off in 2008 that the buildings were compliant with the terms of the fire certificate. However, defects were found in a particular school in the batch from 2008. The Department then undertook to conduct an audit of the other schools in the batch. It's approach was to deal with the fire officer for the school and pursue the contractor to undertake the necessary work. I understand the contractor indicated that it was being undertaken. When a subsequent inspection occurred, however, it was discovered that it had not been undertaken. That is what led to the Department stepping in and contracting to have the work undertaken.

The new protocol has addressed the deficiency of not informing schools and school patrons. It requires in all cases where there are significant fire issues the school board and patron to be informed. That is the approach being taken on every issue that comes to our attention. It includes fire issues on snag lists, or applications to undertake emergency or summer works or audits. They will all go through the new internal committee which was established to make sure no issue would be missed with a fire safety dimension, to be assessed, to ensure a protocol will be followed and the school will be informed, as I outlined in my opening remarks.

In response to Deputy Thomas Byrne's question about works where there have been refusals, applications are received to undertake summer and emergency works which may have a

fire safety dimension. They will be refused where, for example, there is already an adequate alarm system in place and it is not necessary to replace it or where there was some dimension of add-on to the level of fire alarming and safety lighting and those additional works were not approved or it could have been an electrical upgrade. I will ask the new internal committee to make sure that the criteria being used in all these cases are robust and that no case is missed. Each case would have been examined to see if it was appropriate for funding under the scheme.

The Deputy also asked whether standards are slipping. Under the new building regulation introduced in 2014, the certification process has been upgraded. It is no longer the contractor certifying that this has been done at the handover. There is now an additional obligation on the professionals concerned to individually certify that the work has been completed to those standards and in accordance with the fire certificate issued at the time of construction.

As I indicated in my opening remarks, to strengthen that, we have written to all the professional bodies and individuals involved in contracts. Deputy Troy raised the new builds in place. In addition, we have decided that a clerk of works will be appointed to be the eyes and ears of the Department to ensure that as the construction is conducted every element of the certificate is complied with. We do not have an indication that the standards are slipping but we are taking every step to make sure that the standards are at the highest level.

In respect of the freedom of information request and why audits were not released, the decision on freedom of information is entirely independent. It was made by an independent officer in accordance with the normal process. The approach we are taking for the future is not to publish such audits but to pursue a protocol for snagging or audits. It is first to assess the seriousness of the issue. If it is serious there will be consultation with the fire officer and the school will be informed. The school will then decide, as it sees fit, based on each individual case, how it informs the school community. We will not as a routine publish every request for fire issues. We are taking this new approach which we believe is robust and I think it is the correct approach to deal with this.

Deputy Catherine Martin asked how the representative audit will be conducted and how Western Building Systems will be audited. I assure her that 100% of Western Building Systems will be audited. The issue of subcontractors does not really arise because the main contractor has the responsibility but we will conduct a 100% audit going back to 2003.

In respect of the representative audit of another 30 buildings, they are being selected to ensure they have mix based on where there would be, if one likes, a risk-weighted. We will look, in particular, at rapid builds as that is where these issues have arisen. It will be a representative audit. Given that it will be a representative sample of that size, we will be able to complete the work by January and at that point we will take decisions as to whether that reveals exposure in certain types of build and we will make decisions at that point as to whether an additional audit should be undertaken.

The issue of saying children were not in danger in these schools was based on a discussion with the fire officer in the context of the audit. The audit revealed that the fire retardation period was not being fulfilled. We understood it was more than 30 minutes, but it had not reached the 60 minute requirement. The fire officer had not deemed it to be dangerous. Obviously, with the fire officer, we were determined to ensure the defects would be addressed.

As to who is responsible for the defects, that is an issue which will have to be examined based on legal advice. In some cases we have decided that simply going back to the original

builder and requesting for some of the elements to be repaired would not be the best outcome for the school. We have decided to contract for new fire doors with entirely new units rather than carry out repairs in order that we will be 100% confident the new units being installed are of the highest standard. That means that we are meeting the cost involved rather than pursuing whatever hold we have over a contractor to undertake the corrective works. At the end of the day, who is responsible and what costs we can recoup are matters on which we are taking advice from the Office of the Chief State Solicitor.

As the Chairman stated, there should have been earlier notification of the schools and that will happen in the future. We have changed the approach in the light of our experience and it is the right one.

On whether it is an issue of resources, it is not. All cases where we have various programmes to deal with the issue will be dealt with where there is any question of a risk to a child. Resources will not prevent intervention. We always prioritise such cases. One of the elements of the new protocol I have put in place is that there will be an internal fire safety committee which will comprise experts. Every case, whether it involves a snag list with a fire safety issue or an application, an audit or whatever else, will go through the expert committee to ensure nothing will be lost, appropriate action will be taken and it will be prioritised within budgetary constraints.

Deputy Richard Boyd Barrett asked whether Western Building Systems was eligible to apply for further contracts. It can. The rules under which tendering occurs are very strict as to when an individual or a contractor can be disallowed from participating in the process. They include where someone has committed offences or undertaken activities involving misrepresentation, undue influence on procurement procedures, grave professional misconduct or agreements to distort competition-----

Deputy Richard Boyd Barrett: It is guilty on at least two of them.

Deputy Richard Bruton: -----or demonstrated significant or persistent deficiencies in the performance of a public contract which led to its early termination. The situations in which one can or cannot exclude a builder from a particular application process are very clear. It is true that although we are carrying out an audit of every building constructed by Western Building Systems, the Department is confident that they are being built to the highest standards. All of the new protections which have been in place since 2014 in terms of certification are in place in respect of those buildings. We want to make sure there is no question of anything which is not up to the highest standards being missed. That is why we are undertaking a 100% audit of the schools built by Western Building Systems since 2003.

Deputy Richard Boyd Barrett: There was a specific question about Whitehall College of Further Education.

Deputy Richard Bruton: There is an ongoing court case involving the Office of Public Works.

Deputy Richard Boyd Barrett: It involves our friends in Western Building Systems. They are great guys.

Deputy Richard Bruton: As there is a court case, I am not in a position to comment.

Chairman: I thank the Minister for responding. I will let members back in. I will allow

Senator Robbie Gallagher to speak first, if he so wishes.

Senator Robbie Gallagher: I will hold off for the moment.

Chairman: That is fine.

Deputy Catherine Martin: I thank the Minister but his responses, but I am not quite sure if the question most of us have asked about the delays has been answered. Why was the principal of the Educate Together school denied access seven times? What was the justification for it? I am not sure if we received an answer to that question.

I refer to Western Building Systems. The Minister has said it may apply for future tenders and that one of the grounds on which it could be excluded from the application process would be grave professional misconduct. I presume that is what happened and what we have read about.

Deputy Thomas Byrne: What is going on here is utterly shocking and beggars belief when one looks at it in the round. Essentially, the Minister has confessed that information on the safety of children and staff in schools has been hidden deliberately by the Department for a number of years as a matter of policy. It is only because of the persistence of a number of journalists in making freedom of information requests and submitting queries to the Minister that the information on the safety of children and their teachers has come to light. Some of the journalists who covered the story are in the Visitors Gallery. Is that not a summary of the position? Is it not a disgraceful position for the Department to be in?

Deputy Richard Boyd Barrett: The fact that the Minister is now acknowledging that the Department should have informed schools but did not is an admission of a cover-up. That is what happened. If I understood the Minister correctly, the cover-up has been ongoing since 2008 when it was first discovered that there were problems in some schools. Some of the problems were identified as early as 2008, but was it in 2015 that we first discovered there were problems?

Did Western Building Systems receive public contracts after the issues had been identified? Is it the case that, based on the checklist of reasons for disqualification the Minister has given, it is guilty on at least two of the things included in the list? I am referring not just to gross professional misconduct but also misrepresentation. It clearly misrepresented the fire safety and building standards in schools. Are they not immediate grounds for disqualification from receiving further public contracts?

Senator Robbie Gallagher: I apologise for being late and ask for forgiveness if I cover old ground. A number of questions spring to mind.

How many schools are involved? Perhaps an audit has been carried out in that regard.

Whenever a building is handed over, even a basic dwelling house, someone has to sign off somewhere along the line to confirm that it has been built according to planning and building regulations. Why did that not happen in the case of schools? Who fell down in that regard? If a school was to be constructed tomorrow, what has changed compared to what happened in the past?

Chairman: Before I hand back to the Minister, I agree with my colleagues. It is completely wrong that there are no sanctions for the builder concerned. It is very disconcerting to think

possible future tenders might be sent the same way, despite what we have learned and what, to be fair, the press has uncovered. In this instance, it has done the State some service in bringing the matter to our attention. The first all members of the committee knew anything about the breaches was when they read about them in the newspapers. I have a folder which contains newspaper cuttings which indicate the good and accurate coverage this issue has so rightfully received. I will hand back to the Minister to respond to some of the questions raised and comments made.

Deputy Richard Bruton: I recognise and agree fully that the schools should have been informed, but the policy of the Department at the time, before the protocol was put in place, was to pursue issues with the fire office and the contractor in order to have works conducted. That was the approach taken. In this case, of course, the Department discovered that the undertakings made were not conducted in the manner expected and that is the reason the Department intervened. We are changing the policy and the schools will be informed from the beginning. The approach that was not one of neglecting to work on correcting the issues. The issue of whether this represents misconduct or misrepresentation would have to be proven in a court of law in order to disqualify a person from applying to tender. We are taking legal advice on the whole matter and the rights we have. We are not holding back on ensuring that the issues that have arisen are remediated while waiting for the outcome.

Deputy Boyd Barrett is no longer present, but the defects were not identified in a school back in 2008 but in 2015. That was what triggered the decision to conduct additional audits.

Every application from a school in respect of a fire issue, a snag list or an audit will be dealt with. Things will come up in that area in respect of applications for emergency works. Every application will go to this internal committee to make sure that nothing is missed. On the issue of who signed off that the building was compliant, at that time it was down to the contractor to sign off on compliance. Since 2014 the requirements to sign off on compliance have changed considerably and it is the professionals, the various architects, designers and so on, who must also certify professionally that the work has been done in accordance with the permissions and the fire certificates.

As I said, what has changed is that not only are we alerting the designers and architects of all schools and their professional organisations of their obligations, under the new approach we have a designated certifier in place who on behalf of the Department certifies that the work is done. In addition we are putting in a clerk of works on to the site to act as the eyes and ears of the Department in respect of the conduct of the work. That is a much strengthened approach to ensuring compliance, not just with the fire certificate but other dimensions which Deputy Byrne raised concerns about earlier.

Chairman: Deputy Byrne has indicated that he wishes to respond.

Deputy Thomas Byrne: In regard to the Department's recourse to anybody who may be responsible, there is obviously a statute of limitations of six years for contracts. I have concerns about the statute of limitation in respect of works in 2008 or 2009, because when one adds six years to that one gets to the year 2014 or 2015. Have the legal advisers raised the issue of the statute of limitations in terms of the Department's options of pursuing anyone who might be responsible for the defects in these particular cases but also in other cases?

Chairman: Does the Minister wish to respond to that?

Deputy Richard Bruton: I understand that in the case of a sealed contract there is a 12-year period for defects. We are consulting the Office of the Chief State Solicitor in respect of all of the issues.

Chairman: I thank the Minister for appearing before the committee to engage with it. While I condemn the actions of the past, let me say on behalf of the members of the committee that we feel the Department could have dealt with the situation far better, far more comprehensively in a speedier manner. At the same time, we certainly welcome the set of comprehensive measure the Minister has announced today. We look forward to these measures improving communications and, most importantly, improving the safety of our children and our teachers in the future.

I thank the Minister and his officials for appearing before us.

Deputy Richard Bruton: I thank the Chairman and members.

Chairman: We will now go into private session to discuss matters.

The joint committee went into private session at 4.55 p.m. and adjourned at 5.30 p.m. until 4 p.m. on Tuesday, 24 October 2017.