

DÁIL ÉIREANN

AN COMHCHOISTE UM AIRGEADAS, CAITEACHAS POIBLÍ AGUS ATHCHÓIRIÚ, AGUS AN TAOISEACH

JOINT COMMITTEE ON FINANCE, PUBLIC EXPENDITURE AND REFORM, AND TAOISEACH

Dé Céadaoin, 19 Eanáir 2022

Wednesday, 19 January 2022

Tháinig an Comhchoiste le chéile ag 1.30 p.m.

The Joint Committee met at 1.30 p.m.

Comhaltaí a bhí i láthair / Members present:

Teachtaí Dála / Deputies	Seanadóirí / Senators
Mick Barry,	Maria Byrne,
Pearse Doherty,	Pat Casey,
Bernard J. Durkan,	Aidan Davitt,
Mairéad Farrell,	Alice-Mary Higgins.
Jim O'Callaghan,	
Neale Richmond,	
Peadar Tóibín.	

I láthair / In attendance: Deputy Ged Nash.

Teachta / Deputy John McGuinness sa Chathaoir / in the Chair.

Covid-19 Payments and the Sale of AIB shares: Minister for Finance

Chairman: Apologies have been received from Deputy Matthews. Today we are engaging with the Minister for Finance.

On privilege, members are reminded of the long-standing parliamentary practice to the effect that they should not comment on, criticise or make charges against a person outside the Houses or an official either by name or in such a way as to make him or her identifiable. Members who are attending remotely may have limited privilege, whereby full privilege is extended to members and those who are conducting the meeting from the precincts of Leinster House.

I call on the Minister to make his opening statement.

Minister for Finance (Deputy Paschal Donohoe): I thank the Chair. I offer best wishes to everyone on the committee for the new year. I thank the committee for its invitation to attend. I will make some opening points on the reasons for the invitation. I will not go through my statement in full but pick out a few key points so that we can move to a discussion. I am joined by my officials Mr. Joe Cullen, principal officer with responsibility for income tax and the employment wage subsidy scheme, EWSS, and Mr. Brendan O’Leary, principal officer with responsibility for insurance and pensions policy.

On the Covid-19 supports for businesses, the committee will be aware of the importance and value of the EWSS, and its predecessor, the temporary wage subsidy scheme, TWSS. Together, they have involved the expenditure of almost €10 billion. In the case of EWSS alone, more than €7 billion has been provided. This amount comprises direct subsidy payments of €6.12 billion and PRSI forgone of €956 million. The Covid restrictions support scheme, CRSS, has provided support of €713 million to over 25,000 businesses.

The EWSS legislation places the administration of the scheme under the care and management of Revenue. The key metric for access to the scheme was a decline in turnover due to the impact of the public health restrictions. Revenue has been rigorous in its structured programme of checks to ensure the eligibility of businesses for subsidy payments under EWSS and will pursue any instances where a business fails to qualify for the scheme for whatever reason.

On the matter of companies that were in receipt of such support and subsequently paid dividends to their shareholders, I would state at the outset that I am not at liberty nor would it be appropriate for me to comment on the affairs of individual taxpayers. While the question of what dividends a company may or not be in position to pay to shareholders is a matter outside the current legislative remit of the scheme, I will keep this matter under review and assess whether it would be appropriate to introduce any further conditionality. However, I am strongly of the view that it would be important that any changes are proportionate and would not undermine the overarching policy rationale underpinning the scheme, which is to maintain employment. More than 700,000 employments have been supported by the EWSS and it is important that we do not lose sight of this important end goal. I stress that the overwhelming majority of companies which have participated in the wage subsidy schemes did so because they genuinely believed they would need support at that point based on the effect of the pandemic on their business. In the overwhelming majority that proved to be the case. Some companies subsequently had a strong financial year and ultimately considered that the State support was not required by them and returned the support received to Revenue. I would strongly encourage other companies who are in a similar situation to consider their actions.

On the broader issue of the future of supports, as the committee will be aware, in light of the necessity to reintroduce public health restrictions last December, the higher rates of EWSS were extended for a further two months across December and January. The EWSS was also reopened from 1 January for certain businesses who otherwise may not be eligible. These enhancements are beneficial to all sectors of the economy and in particular those sectors most severely impacted by the pandemic, including the hospitality, arts and entertainment sectors. The CRSS was also extended to 31 January 2022 so that businesses that have been significantly restricted from trading can now qualify for the scheme. The turnover reduction criteria was also increased from no more than 25% to 40% of 2019 turnover, and new businesses established between 13 October 2020 and 26 July 2021 are now be eligible to apply for the scheme. These changes were made in recognition of the challenges facing businesses in the sectors directly impacted by public health regulations.

I and my Government colleagues have always committed that there will be no cliff edge in respect of supports for businesses while accepting that such supports cannot continue indefinitely. In that vein, we continue to monitor developments, particularly those of the coming days and weeks, and consider options for the future of supports for impacted sectors.

Turning now to the issue of business interruption insurance I should begin by noting that the majority of such policies in place did not provide business interruption cover in relation to Covid-19. Ultimately, this is a legal, contractual matter between the relevant counterparties and in some cases has been the subject of litigation. Nonetheless, for the smaller number of policies that did provide such cover, it became apparent that some insurers deducted the value of state supports from claim settlements. Such deductions would appear as having been justified as being in line with the established insurance principle of indemnity. However, the Government was concerned that such action could be seen as representing a subsidy for insurers and furthermore, was not in line with the prevailing spirit under which these extraordinary supports were provided. My Department examined this issue firstly in terms of the prevailing relationship between state supports and insurance claims. It appears that in most instances, this issue does not arise because well-established measures already exist whereby state supports are not provided if losses are already covered by insurance, or where they are, they can be refunded to the State through official channels. Consideration was then given to whether the Government could legislate to ensure that the Covid-19 moneys retained by insurers were returned to the State. Having received legal advice, it was determined not to enact legislation seeking to retrospectively recover the amounts deducted by insurers.

There is a lack of transparency around this general issue. For this reason, the insurance (miscellaneous provisions) Bill, which is currently being drafted, includes as a clear, practical response two provisions directly linked to this. The first will clarify that the Central Bank may collect, for the purposes of the National Claims Information Database, NCID, data on any State supports deducted from final settlement amounts. This enhanced transparency, building on the positive impact of the NCID, will enable us in the future to make better, evidence-based policy decisions to help ensure that this situation does not arise again, thus protecting the public interest. The second pro-consumer provision will require insurers in the interests of transparency to inform policyholders of any such deductions of public moneys from final settlement amounts.

I note there has been some discussion about the approach taken in the UK. The Financial Conduct Authority, FCA, there advised that insurers should make a case-by-case assessment as to whether it is appropriate to make such deductions, considering the nature of the support and the terms of the policy. The Central Bank's general approach is aligned with this FCA advice.

It is important to recall that at the start of the pandemic, a core aim was to provide payments to the many businesses that needed them as quickly as possible. I think we can agree that this was achieved. However, there are lessons to be learned about deductions by insurers. Accordingly, the insurance (miscellaneous provisions) Bill of 2021 will provide a new framework to provide information on this practice. This, along with the policy learnings from this crisis, will enable the Government, if we are developing new supports, to help ensure that this does recur. I also note that the test cases related to this issue are ongoing and the courts are currently considering issues of quantum, with a judgment expected soon. Accordingly, I am unable to comment further on these cases at this time.

Insurance must take a “customer first” approach to these matters, in line with the Central Bank’s guidance on resolving issues around business interruption insurance. There will be a further implementation report due soon on the Government’s action plan for insurance reform.

Moving on to the sale of AIB shares, on the AIB trading plan, I announced to the market on 21 December 2021 my intention to sell part of the State’s 71.2% directed shareholding in AIB over the next six months by way of a trading plan. This will be managed on behalf of the State by Bank of America Merrill Lynch. The Government believes that banking is an activity that should be provided by the private sector and that taxpayer funds which were used to rescue the banks could be better used in other ways. My announcement on AIB is further progress in the Government’s policy of monetising its remaining stakes in the banks and returning them fully into private ownership.

As the committee will be aware, a total of €29.4 billion was invested in AIB, Bank of Ireland and PTSB over the period 2009 to 2011. Some €19.5 billion has been recovered in cash by way of disposals, investment income and liability guarantee fees. In the case of AIB, the State invested €20.75 billion and has recovered €10.62 billion, leaving a deficit of €10.13 billion. As at 10 January 2022, the State’s remaining equity stake in AIB was valued at €5 billion. I have instructed Bank of America Merrill Lynch to target that up to, but not more than, 15% of the expected aggregate total trading volume in AIB is to be sold over the duration of the trading plan. This is to ensure the State, as seller, does not disturb trading in the price of the shares on any given day. The number of shares sold each day will depend on market conditions, among other factors.

The trading plan which has been designed to handle volatility in the share price. Only a small amount of shares will be sold each day and a floor price, below which shares cannot be sold, has been built into the plan. The important outcome is not the price on a particular day but what on average is achieved over the duration of the plan. This is the first activity since 2017 for AIB. I expect the pace of share sales to be slower than what we have seen in the Bank of Ireland but it is important that we make further progress on what will be a journey over many years.

I will keep other sale options open, including larger block trades or directed buybacks from AIB itself, should these opportunities present themselves. With regard to usage of the sales proceeds, it is important to highlight that no new income will be generated from the plan and the transaction should be viewed as a switch in State assets from shares to cash.

Chairman: I thank the Minister. Deputies Jim O’Callaghan, Barry, Nash, Richmond and Doherty have indicated.

Deputy Jim O’Callaghan: I thank the Minister very much for coming before the commit-

tee. In my view, I and every other member of this committee and the Oireachtas consider that the supports put in place by this Government and the previous Government were absolutely necessary and have been very successful to date. We can clearly state that had those supports not been provided, many businesses would have gone to the wall by now. Hopefully, once they are weaned off State supports, those businesses will continue in the future. The same applies to the pandemic unemployment payment, PUP, which was absolutely necessary from the point of view of employees.

Having said that, I will ask a question about the dividend payments. The spirit of the supports put in place by the State and objective of the Oireachtas was to ensure that businesses could survive through a very difficult business period because of the pandemic. None of us ever envisaged that businesses in receipt of State support would pay out dividends to shareholders. Certainly, I did not envisage that and I raised the matter with the Minister in October 2020. I am also sure the Minister did not envisage it happening. Under the equivalent scheme operated in the UK, the Covid corporate financing facility, there is a requirement that no dividends be paid and there be no buyback of shares. Did the Minister or his Department given consideration to a similar condition being introduced for the supports put in place by this Government and the previous Government?

Deputy Paschal Donohoe: We gave consideration as to whether further conditionality would be merited for access to the scheme, beyond where we were with turnover and tax compliance. I decided when we were introducing the employment wage subsidy scheme, EWSS, that this would not be appropriate. The reason was that I anticipated a very low level of dividend payments, if any, being made across the period. I also had a number of concerns regarding the execution of such conditionality, were it to be brought in. My principal concern was that if limitations were put in place regarding the non-payment of dividends in the period in which a company is participating in the scheme and a company made a profit during that period, for which, in normal circumstances, it would either be required to make a dividend payment for tax reasons or would make a dividend payment because of an expectation of shareholders or private owners, it would simply raise the prospect of dividend payments being made after the scheme came to an end where that company had a level of profit that gave it reason to believe that dividends were appropriate.

Those are the reasons I did not have such conditions in place. As I indicated, I will monitor this issue when I consider the future of these schemes. It is important to be transparent and open with the Deputy. I will not make any changes that undermine what I believe is the central objective of this scheme, namely, the maintenance of employment and giving every chance for employers to be viable.

Deputy Jim O'Callaghan: The Minister did give this matter consideration but he thought on balance that it would be too complicated for the operation of the scheme or could interfere with some pre-existing arrangements that are in place with shareholders. Would that be a fair comment?

Deputy Paschal Donohoe: No, it was for different reasons. The first one was that at that point in time we had the reasons the Deputy might well imagine. There was a very low expectation of dividends being paid in the first place. This is because at each point we revised the EWSS we were doing so at moments of great economic difficulty. We moved the temporary wage subsidy scheme, TWSS, into the EWSS because of what was happening with the economy and we extended the EWSS, again because of the impact of very demanding public health regulations. Thus, there was an expectation of it not happening for many and I had many

concerns about how it could actually be executed. Generally, it is to be expected that companies that were on the employment wage subsidy scheme continued to be profitable but at lower levels than they would have had in the absence of a pandemic. From my point of view, if I look at the retention of employment and creating new jobs in the future, a certain degree of profitability is both understandable and in many cases can be positive. It means that when we get to a point where we are changing the economic supports, companies are approaching that moment of change while already having a degree of profitability.

Deputy Jim O’Callaghan: As a final question on this, does the Minister have any concerns about companies that are in receipt of State supports simultaneously making dividend payments to shareholders?

Deputy Paschal Donohoe: As I have said before, it is not in the spirit of the way in which the scheme was both launched and the way in which the overwhelming majority of employers have been complying with it. However, I will only make changes with the scheme if I am confident it does not interfere with the retention of employment, and profitability is important for the retention of employment given my intention to remove these supports at the right moment.

Deputy Jim O’Callaghan: Separately, under the UK scheme which is called the Covid corporate financing facility, another condition introduced was that there would be a requirement for the business to show what is referred to as “restraint” on senior executive pay. Is that something the Minister gave consideration to? Does he have any concern that that, though not a condition here, is being breached by businesses in Ireland?

Deputy Paschal Donohoe: I do not currently have any evidence of this being breached either in a conspicuous or very broad way. Again, it is possible there would be businesses that were on this scheme that may have given some wage increases to some people who work there during the duration but it is unlikely.

Deputy Jim O’Callaghan: Okay. I move to the business interruption issue to which the Minister referred. I note what he said about the advice he received that he could not introduce laws that were retrospectively going to require insurance companies to pay back moneys gained by way of State support. I understand that. However, was any consideration given to introducing a prohibition on that happening prospectively?

Deputy Paschal Donohoe: It is something we will give consideration to. I await the outcome of the hearing the Deputy has made reference to before I give any further consideration to what could be done at that point. The measures I am committed to bringing in are ones that overall will increase transparency and information on the matter. I will consider whether further action is needed at the conclusion of the court hearings on this matter.

Deputy Jim O’Callaghan: Okay.

Deputy Paschal Donohoe: I briefly make the point to the Deputy that my mindset on many of these supports is not for their long-term maintenance. If he looks at the EWSS, at the moment one worker in 12 in our country is now on that scheme. At the same time, we have many employers that cannot get the staff and the workers they need. Again, I should be open with the Deputy that more than the conditionality of access to payments being a key issue for me - and this is something I will monitor - for me, what it is now appropriate to consider is the future of the payments, full stop.

Deputy Jim O’Callaghan: Okay. I am glad the Minister is going to give consideration to

perhaps introducing a provision because the ones in the insurance (miscellaneous provisions) Bill at present are really just an ability to accumulate data. There is no requirement on an insurance company to deduct from business interruption claims the amount of State supports the business has received.

Deputy Paschal Donohoe: That is correct and a fair summary of it. That goes back to the Deputy's earlier question to me on whether further action would be merited in relation to it. As I have said, it is not the intention of these supports that were brought in to subsidise the level of insurance payments that are being made. However, these are issues that need to be considered in the context of the point he opened up with, namely, that these payments and their execution have saved the domestic economy.

Deputy Jim O'Callaghan: I thank the Minister.

Deputy Mick Barry: I begin by asking the Minister what he reckons the payment made to Bank of America Merrill Lynch for the sale of the shares in AIB will be.

Deputy Paschal Donohoe: I do not have that information with me. I will have to see whether there are reasons of commercial sensitivity that would preclude me from sharing that now. If there are then there will be another point at which I can share the information with the Deputy. If I can share it more quickly than that I will.

Deputy Mick Barry: Okay. I thank the Minister. If it were possible for the Minister to communicate with my office when he has the information, either to say he is not in a position to give it out or that he is and then what it actually is, I would appreciate it.

Deputy Paschal Donohoe: I will indeed. Deputy Barry and other Deputies very frequently put parliamentary questions regarding legal and professional fees that are paid for the provision of services to the Department of Finance. Once we move beyond the period of any commercial sensitivity reasons for not sharing that information we share it. If there are no commercial reasons stopping me from sharing the information with him now then I will. If there are, we will do so at a later point. That will be done through the committee and directly to the Deputy, as requested.

Deputy Mick Barry: I would appreciate that. On the same issue, the taxpayer bailed out AIB with a very large sum of money. It is important the steps that are taken are beneficial ones for the taxpayer. The sale of the shares is a step in the direction of the privatisation of this bank. Clearly, when the shares are sold the bank will still have a majority State holding but it is without question a step in the direction of privatisation. I do not believe moving towards a for-profit bank is in the interests of the majority of ordinary people. It would be not just a for-profit bank but a for-profit bank within the framework of a for-profit banking system at a time when the State has a need for a powerful State bank that can intervene in the economy in appropriate ways. What I mean by that is the State clearly needs to have a programme of investment in housing, health, climate action, education and other areas. It does not make good sense to move towards increased for-profit banking when there is a need for State investment. AIB is not run in such a way at the moment that it is fully kitted out to do so but changes could be made to it within the framework of State ownership to make it a powerful driver of State investment. I put it to the Minister that is the way we should go rather than taking steps in the direction of privatisation. I am interested in his comments on that.

Deputy Paschal Donohoe: The Deputy's description of what the Government is doing, in

some ways, is correct. It is not my intention that the State would remain the largest shareholder of AIB in the long term. My view is that we should be in a position where the bank is privately owned. Before we get to that point, we need to be in a position where the State is no longer the majority shareholder. We will have different political and ideological reasons regarding why that should be the case. The most pressing point is that we are in a situation where the wealth of the State in owning a share in a large bank is dependent on what happens with movements in share prices. Overall, I believe those who should own a bank and those who should be investing in a bank and taking the risk of owning a bank should be private citizens and the financial markets, not the State. Precious taxpayer resources are better served in the provision of public services rather than in the ownership of a bank. Some of the policy objectives Deputy Barry and I would agree on are better achieved through regulation rather than ownership. The Central Bank is an independent regulator of the bank.

Deputy Mick Barry: I thank the Minister for his reply. It is not new or breaking news that the Government favours privatisation of this bank. It is also not breaking news, I suspect, that I am opposed to privatisation of this bank. The Minister mentioned two milestones, namely, majority private ownership of the bank and full private ownership of the bank. When would the Minister hope to have achieved those two milestones?

Deputy Paschal Donohoe: At the moment, we are a fair bit off both. We still own in excess of 70% of AIB. There are quite a few bridges to cross before we get anywhere near the State no longer being the largest shareholder in the bank. There will be many more decisions required after that before the bank is in private ownership. It is very difficult for me to put a timeframe on that. It depends on so many variables such as what would be the price of the equity of the bank in the future and what future Ministers and Governments may decide to do.

Deputy Mick Barry: Is majority private ownership of AIB achievable within the lifetime of this Government?

Deputy Paschal Donohoe: Were I to indicate in that regard, it would give a public indication of the future decisions I am going to make in regard to the State's share in that bank. It is possible that further decisions could be made that would lead to a reduction in the shareholding of the bank. As to whether we would get to below 50%, I prefer not to speculate on that for now given that we are currently involved in a slow and gradual process of selling shares.

Deputy Mick Barry: I thank the Minister.

Deputy Ged Nash: The Minister and I have very different views on the attachment of certain conditions to what was initially the TWSS, now the EWSS. Those arguments and policy differences have been well ventilated and well rehearsed. There is one thing that we do agree on, namely, that companies which evidently did not need this level of State support through the wage subsidy schemes should pay it back. Does the Minister have any sense of how many such firms have voluntarily repaid at this point and how much in total has been recovered in this respect?

Deputy Paschal Donohoe: If the Deputy will bear with me for a moment, I will ask my officials to get the information on how much has been repaid. As to whether any companies have indicated an intention to do that again in the future, I am not currently aware of it. I should emphasise - I know the Deputy will be aware of this - that would be something they would indicate to the Revenue Commissioners rather than to me.

I now have the information. To date, 402 employers have repaid all of the subsidies in full. The value of that is €52 million. Some 3,331 employers have made partial repayments, which is approximately €54 million. Overall, €106 million has been repaid, with 3,500 employers involved.

Deputy Ged Nash: They are significant amounts and numbers. Am I correct that these are firms which decided they did not require this money from the State and which voluntarily returned the money?

Deputy Paschal Donohoe: No, it would be a bit broader than that. It would be some employers who repaid the subsidy due to ineligibility, that is, they either reached a view that they were ineligible or, in conjunction with the Revenue Commissioners, that view was reached, and some employers who voluntarily repaid the subsidy. For example, there are employers that continue to meet the Revenue threshold of being 30% or more down but did find themselves in a position where they were profitable due to the changes that may have happened in their operating model. There are two reasons the money would have been returned.

Deputy Ged Nash: There are separate issues. Some firms have returned some money and others have gone public stating that they do not require it and have returned it to the State. Am I correct in saying that other firms, through the Revenue compliance programme, have returned significant sums? I ask the Minister to provide a breakdown in terms of the overall compliance scheme to include how many firms have returned money on the basis that they identified they no longer met the threshold and how many firms would have returned significant sums as a result of a Revenue intervention?

Deputy Paschal Donohoe: I do not have that information available to me. It may not be available because when employers made a decision to return a payment, they were not required to indicate to the Revenue why they did so. I will inquire as to whether I can shed any further light on the question, but my expectation is that I will not be able to do so. When money was returned to Revenue, employers were not required to say why they were doing it.

Deputy Ged Nash: It is reasonable to expect that as part of Revenue's ongoing compliance programme it may have identified a number of firms that were not, in its view, eligible for qualification for the TWSS or the EWSS and that the money was returned on that basis.

On the question of firms that do not need the money and have returned it and the question of firms that have paid out dividends, there was always a risk that firms that were benefiting from this very significant State investment would decide that they would continue, if profitable, to pay out dividends to shareholders. That issue has been well debated, especially over the past few weeks. It would be important from a public policy point of view, and it is in the public interest, that Revenue would be asked to undertake an audit of firms on the schemes that have paid out dividends. That information would be available in the normal course of Revenue's work and the records that it has access to. That would be evident as well in the annual company accounts filed in the office of the CRO. Has the Minister considered asking the Revenue Commissioners to undertake an audit to establish which firms on the scheme have paid out dividends and the value of that money?

Deputy Paschal Donohoe: Given that the operation of the Revenue Commissioners is statutorily independent of the Minister for Finance, I do not believe it would be appropriate for me to be directing Revenue as to what type of reports or audits it should do. If information becomes available via the Revenue Commissioners through its normal reporting procedures

that is of help in seeking to understand this matter, that will be done. We have to remember that when we set up this scheme, the key threshold that we put in place was business turnover. We did not have an indication in relation to profitability or dividends because of the expectations that we had regarding what a difficult period it would be for employers.

Deputy Ged Nash: We have spent about €10 billion supporting, at various points over the course of the pandemic, approximately 700,000 jobs and that investment is really significant. I have argued over the last two years, along with my colleagues in the Labour Party, for the attachment of significant labour, social, economic and environmental conditions and it would be important for the Minister to continue to reflect on that. He has said that it may be the case that a form of short-time work scheme will evolve out of the EWSS to support sectors that may be impacted over the next year or two. Inevitably, for some sectors the recovery will be uneven and supports will be required. In that context, it is important for the Minister to keep this entire question under review because we need to ensure that we get value for money from these kinds of State investments and that we use these huge transfers of public money into private hands to drive better outcomes for working people and society more generally.

At the outset, in his response to Deputy Jim O’Callaghan, the Minister said that he anticipated low levels of dividend payments in the case of firms that benefited from the wage subsidy schemes. The truth is that we simply do not know how many firms have decided to pay out dividends to their shareholders and how many have decided not to do so. It would be very useful for the Revenue Commissioners to undertake the kind of audit I suggested and if it is the case that the Minister is considering keeping under review the question of attaching forms of conditionality to any successor schemes that might emerge, then from a public policy point of view and in the interests of the taxpayer, that would be important.

Deputy Paschal Donohoe: I differ strongly from Deputy Nash in one respect. He referred to the transfer of public money into private hands but that was done with the purpose of keeping people in work. There are hundreds of thousands of people who have a job today who would not have one without the EWSS. In fairness to Deputy Nash and the Labour Party, they have recognised that by their support for the legislation. Deputy Nash has acknowledged this at other points. However, the description of it as a transfer of public money into private hands needs to be completed with an acknowledgement that it has worked in keeping people in jobs. When we put the various schemes in place, it was with the reasonable anticipation of very low levels of profitability occurring during a pandemic. It is an open question as to whether it would be appropriate to put in place further conditionality at a time in which the very viability of employers was threatened.

I wish to make two concluding points on this topic. If a company is profitable enough to make a dividend payment but we put in place a restriction to say that when a company is participating in the EWSS, it cannot pay that dividend, then the profit will just stay on the company’s balance sheet. When the company exits the EWSS, a dividend will be paid at that point. If we are going to have a debate about dividend payments, we must also have a bigger debate about what kind of profit, if any, an employer should make when on the EWSS. Finally, for employers that have got through the pandemic and are about to exit the EWSS entirely in the coming months, having a degree of profitability will, in general, help with the retention of jobs. If we have employers who, in general, are on EWSS and are already at a loss or just about breaking even and then the supports they are on go, as the public health crisis recedes, then the jobs that Deputy Nash cares about and that the Labour Party has protected through supporting this legislation, will be further threatened.

Deputy Ged Nash: We will continue to differ on the question of the merits of conditionality around schemes like this. This is taxpayers' money and, in many respects, borrowed money and we need to drive better outcomes. The Minister and I have discussed at length over the last two years the singular and absolute importance of the two wage subsidy schemes as an intervention for saving viable jobs and supporting businesses. It is an unprecedented investment and I make no apologies for ensuring that we get the best possible outcomes for the taxpayer, the public and citizenry more generally.

I have a question on AIB. What consideration, if any, has the Minister given to rewarding staff employed at AIB for their professionalism, commitment and loyalty to the organisation in the context of any future sale of AIB shares?

Deputy Paschal Donohoe: The level of pay or recognition that AIB staff receive is a matter for the board of AIB rather than for the shareholder. Whether it is a bank or any other organisation, how the staff are paid is a matter for the board of the company. That said, I want to acknowledge that those who have worked in the front lines of our banks have played a really valuable role during this pandemic. Lots of customers were going through a harsh and difficult time, including those who were not as used to accessing digital payments as others. Those bank workers who kept branches working provided a very valuable service to their local communities.

Deputy Neale Richmond: I thank the Minister for his opening statement and for his responses to colleagues thus far. To follow on from what has been said, I have three questions I wish to raise with the Minister. The first relates to the EWSS and is somewhat retrospective at this stage. I refer to the conditions that companies had to meet in order to qualify for the scheme and, in particular, the 30% drop in turnover condition. The point was made to me by a number of hospitality businesses in my constituency that while they had a relatively good trading period between 1 and 19 December, when the 8 p.m. curfew was introduced, business dropped off. They had to take into account their turnover between 1 and 19 December but the curfew continued into January. A lot of businesses simply pulled down the shutters when the 8 p.m. curfew was announced. I can think of three pubs and one restaurant in my village of Stepside that did that because they did not want to run the risk. Is there a lesson to be learned there in terms of flexibility so that the supports are most effective in keeping people in work? What can be done for those businesses that kept the lights on and the doors open as much as possible? A lot of businesses, particularly in the hospitality sector, simply could not afford to close because customers would get used to not going to them. It is a volatile sector and we knew that long before the pandemic hit.

Deputy Paschal Donohoe: I understand and accept the point Deputy Richmond makes. When we pick any performance threshold for being able to move on to what is a very valuable subsidy programme, there will always be some businesses that are just outside that threshold. I know that at the end of last year there were companies that traded very well from September into December. Things changed at the end of December but they were still trading better in terms of their turnover not being down by 30% in comparison with 2019. I am not sure how many businesses were in that category but we have heard about some of them. Unfortunately most companies in the hospitality sector did not have too much difficulty meeting the -30% performance level because of how tough trading was last year but there were a few outside of it.

On what could be done about it, I did not give a lot of in-depth consideration to changing the -30% level to make it easier for companies to come in because the 30% decline figure has been in place for over 18 months in the different wage subsidy schemes we have had in place. I

am aware that the longer we maintain these schemes it can create perverse incentives whereby it is safer for some employers to be on them than it is to continue trading because they have a guaranteed payment of up to €350 per employee. I am aware of that as a risk.

Deputy Neale Richmond: It was quite stark for a lot of businesses that the real cut-off for them was 20 December with the introduction of the 8 p.m. closing time. In many cases that was compounded for the businesses that attempted to stick it out, while we had issues with staff shortages and so on due to isolation periods. It is something worth bearing in mind and I would hope there is an agreement that this year we might see the end of the EWSS or will be in a position to end it based on the roll-out of the pandemic.

I have two questions on AIB and timelines. On the announced trading plan, can the Minister give any indication of what the duration of that might be or when he thinks it could be brought to a close? On the trading plan for Bank of Ireland, the Minister said before that the target was extended to May 2022. Is that still the case or is that under review?

Deputy Paschal Donohoe: I will briefly go back to the practical example the Deputy gave me earlier on. It was also in recognition of the kind of issues the Deputy is referring to that we changed the CRSS. I would expect that some or all of the businesses the Deputy is referring to that were not in a position to trade after 8 p.m. or that had their business significantly impacted by public health regulations could then move onto the CRSS, whereas a year ago they could only have moved onto that scheme if their premises were fully closed. It was also in recognition of the issue the Deputy is raising that we maintained the subsidy rate at €350.

I refer to the other two questions the Deputy has put to me. Was the first question on AIB?

Deputy Neale Richmond: Yes.

Deputy Paschal Donohoe: The answer is up to six months. The second question was on the trading plan for Bank of Ireland.

Deputy Neale Richmond: Yes.

Deputy Paschal Donohoe: The date of May still stands for that but we keep it under review to see if the targets we have are achieved before that point.

Deputy Neale Richmond: I thank the Minister. That is all from me.

Deputy Pearse Doherty: I hope the Minister will present himself before this committee again soon on the following matter. We learned from RTÉ in the last week that the entire Disabled Drivers Medical Board of Appeal resigned *en masse* in October. Nobody in this committee was aware of this to my knowledge and Members of the Oireachtas were not aware of it. This was seven months after the board met the Minister and told him about their dissatisfaction, that they could not stand over this scheme and criticised the lack of progress. Now we have a scheme that is up in the air so the Minister needs to present himself before the committee on that. Hopefully the committee will make time to have a proper and dedicated session on that. I know that matter is not on the agenda for today but I wanted to raise it given the importance of this scheme and the fact that a whole board resigned and the Minister did not tell anybody. That is a serious problem for a committee that is supposed to oversee the work of the Department and there are serious issues here.

I will start with the dividends and I think the Minister is wrong on this. This should never

have happened and it is taxpayers' money. The EWSS and its predecessor are valued and welcome schemes and without them we know the impact there would have been on companies and jobs; that goes without saying. However, in March 2020 before the scheme was ever envisaged, I wrote to the Minister and spoke about how we needed to bring forward a scheme to support employers and employees. As part of that communication I said it was crucial that this could not be a subsidy to shareholders through dividends. The Government brought forward a scheme and rushed legislation through. We know the importance of it and why it was rushed but the Minister's counterpart in Britain ensured that dividends could not be paid out and the ECB ensured that banks could not pay dividends out.

If one takes O'Flaherty Holdings, for example, which is involved in Mercedes-Benz, it received €1.8 million in taxpayer support to its company and it paid out dividends to its Isle of Man shareholders of €1.8 million. That was a transfer of taxpayers' money to shareholders in the Isle of Man and that should not have happened. The Minister should recognise that there was a mistake and flaw in the design of that scheme. To say we are keeping this under review is just political speak which seeks to get over this hump. That should never have happened. The Minister is suggesting that if it did not pay out the dividends this year it would have done so in two or three years' time but that is not necessarily the case. For example, nobody knew how the pandemic would continue. Why did the ECB place a ban on all Irish and European banks paying dividends for 2020 and up to the third quarter of 2021?

Deputy Paschal Donohoe: That is a matter for the ECB to answer rather than me. The answer that I imagine it would give is that it did so in recognition of the liquidity support it was making available to those banks.

Deputy Pearse Doherty: As the ECB and the board of governors of the Central Bank have stated, there was an uncertainty regarding the pandemic and these companies needed to ensure their capital was preserved so they would not be dependent on taxpayer support in the future. Likewise, those companies should not have been allowed to pay out dividends at a time when they were receiving important money that the State needed. The Minister allowed that to happen and others did not. The Dutch Minister of Finance put in a ban, as did the British Chancellor of the Exchequer. Other Ministers across Europe did the same but the Minister has allowed this to happen. Does the Minister accept at this late stage that this was a mistake? Did any official in his Department give the Minister advice or guidance that this ban should be in place?

Deputy Paschal Donohoe: In the engagement I had with officials on this, at no point did I receive guidance that it should be in place. A big feature of why our schemes have worked in the way they have is the only two features for accessing them have been where a company is with turnover and where it is with compliance. Behind that the company will have been impacted by public health regulations. The low level of cases in which dividends have been paid in a way that is of concern to the Deputy and to the committee indicate that few companies were able to do it across this period. The Deputy has named a taxpayer, which I will not do. Can the Deputy tell me how many people that taxpayer employs?

Deputy Pearse Doherty: First of all-----

Deputy Paschal Donohoe: The Deputy has named a taxpayer so how many people does it employ?

Deputy Pearse Doherty: Let me answer that question. That taxpayer has been named by *The Irish Times* and its accounts are public. On the number of people who were retained in

employment because of the EWSS, the answer is zero because all of the €1.8 million that went into that company through the EWSS was paid to the Isle of Man parent company in dividends. It is nearly the same amount; €1.76 million, which is nearly equivalent to what was paid in State supports. The Minister could have introduced this here because the furlough scheme was successful and the Dutch scheme was successful. Does the Minister know how many companies used this money to pay out dividends to shareholders?

Deputy Paschal Donohoe: I am aware of those companies that are in the public domain but it has not been reported back to me because it was not a reporting requirement for accessing this scheme. However, this scheme is the most significant and successful one for the retention of jobs and that is the measure against which it should be judged. The Deputy is raising the case of an individual taxpayer. He stated the issue is in the public domain. That is a taxpayer who employs people. There are people working for that company. My first priority and objective during the pandemic with the employment wage subsidy scheme was to retain and create work when this pandemic hit. By any objective evaluation, I and the Government have been successful in that regard.

The Deputy referred to a letter he wrote to me. Did he raise this issue with me at any point during the various debates we had on the legislation for this scheme?

Deputy Pearse Doherty: Yes, I did. The debate on this was limited. As the Minister is aware, it was truncated. I understand the reason. There was a-----

Deputy Paschal Donohoe: How many times did he raise it?

Deputy Pearse Doherty: We only had one debate in the Dáil in respect of this. The Minister asked a question. I pointed it out to him. If he wants to blame me for his failures as a finance Minister, he can go ahead. I wrote to him stating that the scheme should be designed in such a way as to ensure the supports would not go to dividends or shareholders. I also raised the issue of profitable companies hoarding this money. If he is satisfied with the idea that a company can avail of scarce taxpayers' money and pay it all out in dividends, that is okay. I recognise that Sinn Féin called for a scheme such as this. We supported the scheme because of its value. However, that does not justify the fact that the Government did not do what many other governments did, which was to introduce a condition preventing this money being paid to shareholders. The Minister can argue that they wanted to keep it simple. If some people decided not to go into the scheme for that reason, so be it. They got valuable State support and all they had to do was not pay it out to their shareholders.

Deputy Paschal Donohoe: The Deputy used the phrase "so be it". That is not a luxury that was open to me when I was dealing with the threat of a mass unemployment crisis. At no point in the exchange we had did I seek to attribute to him responsibility for failures I may or may not have. The case I am robustly making is that by any independent evaluation of the employment wage subsidy scheme, it has played a massive role-----

Deputy Pearse Doherty: Nobody disputes that.

Deputy Paschal Donohoe: It needs to be asserted here because this is a classic tactic by the Deputy and Sinn Féin. He is creating an inference that I am seeking to prioritise the wealthy in any scheme that I bring in. The reality, however, is that this scheme was brought in to save jobs and it has been successful in doing so. I refer to the assertion I made and stand over - it is my view that if we brought in a criterion relating to dividend issues, dividend payments could

be deferred at a point in the future. It is also my view that having an access condition for the scheme that is based on profitability would have been inappropriate and would have undermined the operation of the scheme. When some companies exit the scheme, they will have a low level of profitability or might be making a bit more profit than they expected. They will need that when they exit the scheme and its supports are removed. The Deputy cannot state how many people are working for the employer in question. It is to the people who are working for that employer that I have primary responsibility.

Deputy Pearse Doherty: I understand that. The Minister cannot say how many companies actually paid out dividends. He cannot state how much money allocated in State support was paid out to shareholders through dividends because he never asked for that information and it is not a condition. This has nothing to do with profitability. What Britain and the Netherlands did was not about profitability; it was a ban on paying out dividends. I am just saying the Minister made a mistake on the facts. The annual accounts of companies show that in some cases 100% of the money they received through the pandemic payments went to shareholders offshore. That was never the intention. I am sure it was not the intention of the Minister. I am just trying to point out that he made a mistake. We pointed this out in written correspondence and on Second Stage. It was a mistake and it needs to be dealt with in the context of any supports going forward.

I refer to the issue of business interruption claims. The Minister stated that he had received legal advice that he could not reclaim this money from insurance companies. Was he personally involved in this? If so, from whom did he get that legal advice?

Deputy Paschal Donohoe: I will go into that matter fully in a moment but, before I do so, the Deputy is right in saying that I am not in a position to tell him the total number of taxpayers that paid dividends across this period. I am, however, in a position to tell him the number of employers that returned money to the scheme due to decisions they made or because they were not able to comply with the criteria of the scheme I set up. The sum in question is €104 million. That shows that the design of the scheme and the reaction of many employers to it did work.

As regards his point in respect of from whom we received the advice, it was from the legal unit within my Department. As to whether I have been made aware of the advice, I have been made aware of it.

Deputy Pearse Doherty: Did that advice come from the Attorney General?

Deputy Paschal Donohoe: I will have to check whether the Attorney General was involved in that advice. I can check that for the committee and revert to it. The Attorney General is not always the first port of call. Rather, it is the legal unit within my Department or that of any other Department that is seeking legal advice. I will check whether it went beyond that.

Deputy Pearse Doherty: The Minister seems to be very hands-off when it comes to this issue, in spite of him being the senior Minister. I heard the Minister of State, Deputy Fleming, state on a radio programme that he wanted to find out how British insurance companies were not deducting these payments. The Minister is aware that it was not even 2021, but 2020 when the Association of British Insurers wrote to the Secretary of the Treasury and announced that 12 insurance companies, many of which operate here, would not be deducting certain pandemic payments from business interruption claims. These companies include Allianz, Zurich, Aviva, RSA and Axa. They are all operating here. What has the Minister done? Has he asked any of these companies why they are not deducting these grants and supports from business inter-

ruption claims in Britain, and in Newry, Derry, Belfast and the Bogside, but are doing so in Donegal, Dublin, Kerry and Cork?

Deputy Paschal Donohoe: The Minister of State, Deputy Fleming, the Department and I are in contact with the insurance companies very regularly. As regards communication we have had with them directly on this matter, this has happened through Insurance Ireland. The Minister of State and the Department contacted Insurance Ireland to make clear our concerns on this issue. That happened last year as this issue developed. The Central Bank has issued guidance on the general matter of the operation of business interruption schemes.

Deputy Pearse Doherty: Has the Minister met Insurance Ireland on this issue?

Deputy Paschal Donohoe: I have not met Insurance Ireland on this matter in recent months.

Deputy Pearse Doherty: Okay. Has the junior Minister met Insurance Ireland? The Minister referred to communication. Did the junior Minister send Insurance Ireland an email? Has he met the group?

Deputy Paschal Donohoe: I believe he has. I am happy to check that.

Deputy Pearse Doherty: Is that the meeting that took place in December?

Deputy Paschal Donohoe: I will not comment on the detail of it. It is fair that I check it first before I revert to the Deputy.

Deputy Pearse Doherty: What action has the Minister taken? He is the senior Minister in the Department. What action has he taken in respect of the fact that tens of millions of euro that was given to these companies to keep them alive and afloat and keep their workers in place are ending up in the pockets of insurance companies?

Deputy Paschal Donohoe: The action we have indicated we will take is the legislation we will be bringing forward in respect of a higher level of transparency on this issue. I was involved in that as senior Minister in the Department and I will be involved in further action but, before I give an indication as to whether further action will happen, it is appropriate, as senior Minister, that I wait to see what will happen in the courts first.

Deputy Pearse Doherty: With respect, that section of the legislation in response to this issue is a joke. That legislation only asks the Central Bank to give the Minister a report on how much the insurance companies have pocketed in pandemic unemployment payments. That is all it does. It is a report to find out how much they took of the pandemic unemployment payments. It does not deal with the issue. We had an issue many years ago in respect of bankers and bonuses. There were contractual obligations between the financial institutions and the employees such that we could not step in and disrupt that contact between the financial institutions and the bankers. We could not stop bonuses being paid to them but we were able to, in effect, stop the bonuses being paid to them by introducing a surcharge on tax. Why do we not, for example, use that same mechanism and place a surcharge on the insurance companies to the value of the amount of pandemic payments they have deducted in regard to business interruption claims, thereby, de facto, recouping that money to the State?

Deputy Paschal Donohoe: It is because these are the same insurance companies that we want to be providing insurance cover at reasonable prices to businesses.

Deputy Pearse Doherty: Does the Minister want the money back or not?

Deputy Paschal Donohoe: Let me go on to answer that question. Earlier, the Deputy asked me what action I took. When I tell him what the action was, he dismisses it as a joke. He had already decided to dismiss it as a joke before I gave him my answer. In regard to what more I am going to do, the Deputy is interested in a headline. If I make a commitment in regard to action, it is action that I have to take. As a Minister, it is appropriate to see how this matter concludes in our courts first. As to my view in regard to this money, I do not want to be in a position where taxpayers funding is in any way being used to subsidise payments in the way I have described but, equally, the guidance I received on this matter is that I can only handle it in a prospective manner and I cannot do it retrospectively.

The Deputy has made the case that we should be taxing these insurance companies. If we were to do so, we would be one of the few jurisdictions that are making the decision to tax the insurance sector more. This is the same sector that we want present in our country, providing coverage to employers at lower prices and providing coverage to all parts of our economy. Can the Deputy not see the tension between the two objectives? Can he not see the tension if someone is running a large insurance company globally and they have made the decision to headquarter a business here in Ireland, providing hundreds of valuable jobs? Does he not see that if the reaction to an issue that a Government may have is to tax that company more, it could have other consequences?

Deputy Pearse Doherty: Absolutely, but let me say this.

Deputy Paschal Donohoe: I am glad the Deputy has recognised the risk.

Deputy Pearse Doherty: Of course, I recognise it.

Deputy Paschal Donohoe: That is good.

Deputy Pearse Doherty: Let me say this. If I was in the Minister's seat, I would not have let the last year and a half pass without meeting a single insurance company or Insurance Ireland about business interruption. I would not have allowed that to happen. I would have asked them directly why their companies are taking some of our pandemic payments here when they are not taking them in the North, in Wales, in Scotland or in England. I would ask those questions. I would say to them that they need to hand that money back or, otherwise, we will bring in a pandemic surcharge only on that money in order to get that money back for the State. That money was given to those companies to keep other companies afloat. In fairness to the companies, they are not saying they want cover from the insurance provider and from the State. They are saying the money should go back to the State. The Minister is just taking a hands-off approach here, and that is the problem. A year and a half later, asking for a report that is going to be delivered next year on how much money they took is a joke. I have made my mind up on that. It is a joke. It is a waste of this committee's time. I am sure that if the Minister wrote to the Central Bank, it would give him that information. Having to go through five Stages of legislation in the Dáil and another five Stages in the Seanad for that is a joke and a waste of our time. Does the Minister want the insurance companies to hand this money back? I ask him that simple question.

Deputy Paschal Donohoe: I will answer that question. Of course, I want to be in a position so that, if taxpayers' money has been used in a way to underpin a payment that has been made, that money is returned to the State. As I said, however, in my view, that can only be done legally in a prospective manner.

What I find extraordinary about the outburst from Deputy Doherty is that he referred to my appearance as being a waste of his time and he said the answer I am giving is a joke. Every time I am invited to come to this committee, I come in at the first opportunity, every single time. I am here now having received the invitation from this committee just last week, no doubt at Deputy Doherty's request. I will continue to come in and do this because it is my obligation as a member of Government.

As I do that, it is equally important that I point out the inconsistencies and risks that the Deputy is bringing forward. A moment ago, he acknowledged to me the risks that are there in the approach he is taking.

Deputy Pearse Doherty: If the Minister was taxing them, which is what I was suggesting.

Deputy Paschal Donohoe: The risks are there, no matter what the Deputy is suggesting.

Deputy Pearse Doherty: That is-----

Deputy Paschal Donohoe: Let me conclude. This has to go both ways. In the exchange I had earlier, I made the point to the Deputy that a Government deciding that our answer to an issue we are facing is that we are going to tax the employer more brings risks to it. The Deputy acknowledged that to me a moment ago when he said it does. He acknowledged there are risks. If we have large global insurers that we want to provide more insurance here in Ireland, it is a risk if the answer to a difficulty that is there at the moment is to tax them more.

Deputy Pearse Doherty: That is not what I am arguing.

Deputy Paschal Donohoe: That is what the Deputy is arguing.

Deputy Pearse Doherty: No.

Chairman: The Minister is due somewhere else shortly and there are five other speakers.

Deputy Pearse Doherty: I will leave this point and move on to one last question.

Deputy Paschal Donohoe: It is consistent. Deputy Doherty is against the data centres and does not seem to acknowledge the point that data centres play a role in employment in our country. He does not have a good word to say about any bank but when two banks leave Ireland, he is the first to criticise that. Then, when we are here on the insurance companies, he wants more insurance at better prices with more insurers here in Ireland, and I do too, but his reaction to a difficulty with them is that we will tax them more.

Deputy Pearse Doherty: No. I will move on but let me make this point. The Minister is being completely misleading because he has no record to defend himself, and that is his problem. I am not talking about a broad tax on insurance companies. I am saying that the portion of profit they have deducted due to the pandemic payments should be recovered by the State and, on that, the Minister should be meeting them, he should be asking them and he should be talking to them face to face. If they do not hand it over, then the other option is to do it in the exact same way we did with the bankers' bonuses, which is just on that unique amount. That is what I am saying.

By the way, the Minister had no problem retrospectively taxing every Tom, Dick and Harry who lost their job during the pandemic and was in receipt of the €350 pandemic unemployment payment but, by God, he has got plenty of legal advice to hide behind when it comes to insur-

ance companies pocketing tens of millions of euro of the same pandemic payments.

We are pressed for time. I would not be selling AIB. The last time AIB paid dividends, in 2019, it was €329 million and it was €232 million before that. There is a value in keeping the shareholding in AIB and there is still a value in the shareholding itself. Why now? Why did the Minister take the decision now compared with 2017, for example, when the share price was twice as high as it is now, or 2018, when it was 70% higher?

Deputy Paschal Donohoe: Deputy Doherty made reference to my record earlier and said I have no record to stand over. The record I have to stand over is being Minister for Finance at the moment the pandemic hit and at the moment at which our country was dealing with Brexit. Across that period, we have grown and maintained jobs in our country and we have protected the taxpayer.

Deputy Pearse Doherty: What about business interruption?

Deputy Paschal Donohoe: The Deputy is quite happy to make a general comment.

Deputy Pearse Doherty: I said it was on business interruption.

Deputy Paschal Donohoe: The record will show what the Deputy did or did not say.

Deputy Pearse Doherty: The Minister has none.

Deputy Paschal Donohoe: Of course, in my answers to the Deputy, I pointed to the legislation we were going to bring forward and I also pointed to the legal advice I have received that does, to a degree, constrain me. I could go on to all of the other legislation that the Government has brought forward, for example, the guidelines with regard to personal injuries, and the other things the Government is also doing to respond to the issues we have with the insurance sector, but maybe we will leave that to another day.

To go on to the Deputy's question regarding AIB, I did so because it is my view that, across the medium term, there will be opportunities for us to regain money we have invested in our banks because of changes I anticipate happening in the valuation of banks and the general economic conditions of the country. For this reason, I believed it was important to begin by selling a small share in that bank.

Deputy Pearse Doherty: Has the Minister had discussions with any bank or any officials in his Department with regard to ending the excessive remuneration charge, which would be the 45% USC surcharge on bankers' bonuses that we discussed?

Deputy Paschal Donohoe: I have ongoing discussions with my officials in regard to all matters with regard to banks. That particular matter has received their attention over the last number of years.

Deputy Pearse Doherty: I am not talking about the last number of years. Has the Minister recently, in the last six months, had discussions with his officials or had papers from his officials or with banking executives in regard to removing the excess bank remuneration charge?

Deputy Paschal Donohoe: I think it has been, maybe, referenced on an occasional paper that I have received but it is not something that I have considered or am minded to do.

Deputy Pearse Doherty: Will the Minister give a commitment that the excessive remuneration charge will be removed?

neration charge will remain for the remainder of this Government?

Deputy Paschal Donohoe: That is a decision that is made budget to budget but I have no plans to bring it forward. No plans.

Deputy Bernard J. Durkan: Like the Chairman and others, I thank the Minister for attending and patiently going through the various questions that have been raised. I understand that we have the right to raise questions and I compliment him on his responses.

I am not sure whether the issue that I want to raise is appropriate at this time. It concerns banking in general in the sense that I, and I am sure that the same is true for everybody else, have received expressions of concern from constituents about the extent to which banks remain available to their customers and the public. We have moved from a situation where during the Celtic tiger era the banks were in their customers' ears advising and encouraging them to go further afield and go overboard, in terms of borrowing and spending unwisely, to a situation where the banks have withdrawn and now exist behind screens. So there are now many closures of banks up and down the country and customers seem to have difficulty accessing a person of authority in the respective banks. I am not certain that such a situation is a good thing and it could be a dangerous practice as time goes by. Is it appropriate to raise this matter with the Minister now and for him to raise this matter with the various banks or should I wait until representatives of the banks are before the committee again?

Deputy Paschal Donohoe: That is a matter that will be dealt with in the context of the review of the retail banking sector that is now under way. I am very much aware that there are concerns regarding customer access and ability to access the kind of local decision-makers. This is something that we are considering in the context of the banking review.

In terms of the engagement that I have had with banks directly on the matter, I have had engagement with the banks on the matter when I have met the CEOs. The issue that I have brought up is around access to local services and local decision-makers, particularly for SME loans.

Deputy Bernard J. Durkan: That is encouraging and I shall raise another issue in that context. I know that the Minister is pressed for time so I will not delay.

Deputy Paschal Donohoe: I am a little but I did accept the invitation to come in and I will answer all of the questions that are put to me. I hope that I do not live to regret that.

Deputy Bernard J. Durkan: There is another issue that comes up from time to time when dealing with the banks and raising questions as to their lending capacity or willingness to lend, and that has basically been taken up by others such as investment funds. The banks complain from time to time about the reserve requirement with which the banks in this country must comply. How does the reserve requirement in this country compare with that in banks across Europe?

Deputy Paschal Donohoe: They are higher, Deputy. The reason they are higher is because of the requirement that our Central Bank has, and the ECB has, for our banks to hold a high share of capital in the context of the consequences of the banking crisis a decade ago. So they are higher and the reason for that is that the level of capital one is required to hold is judged by looking backwards over a number of years, and that number of years lens includes the aftermath of our banking crisis.

Deputy Bernard J. Durkan: Yes, I understand that. I agree and understand the reasons.

I am concerned lest the practice continues indefinitely and for too long a duration on the basis that it could impact on the efficiency and efficacy of the banking system here for an unnecessary long period. Is it evident that our banking system here has learned from its mistakes in the past and is willing to ensure that there is no repetition of what happened during the Celtic tiger era? Can the Minister, in any way, extract from the banks an indication that what happened in the past was wrong, is not going to be repeated and does not require the reserve in terms of the ECB and the Central Bank of Ireland?

We accept the fact that we had to be punished and the people, banks and businesses were punished. There were huge losses all over the country in almost every sector and the following questions now arise. Is it wise to continue that attrition into the future? More importantly, how long will the punishment continue?

Deputy Paschal Donohoe: I would not characterise it in terms of punishment at all. What we are discussing here, and what the Deputy is questioning me on, is how much capital the banks are required to hold and why. As I said, they do hold a higher level of capital than their European peers. In fairness, to describe that as punishment, if that is what the Deputy is doing, is not a term I would use. While I do accept that the level of capital that they are holding does have other consequences, we have also just gone through an extraordinary economic shock and our banks and financial sector did have the resilience to withstand that shock due to the level of capital they held combined with the employment wage subsidy schemes that we put in place. While I think there is a debate ongoing regarding the level of capital that our banks hold, I believe we saw the value of higher level of capital at a time in which we shut down our domestic economy at so many different points and it did not travel into a big difficulty in our banking sector.

Deputy Bernard J. Durkan: I thank the Minister.

Senator Pat Casey: I thank the Minister for attending. Let me put it on record that my family business has benefited from nearly every scheme that has been mentioned today. I am one of the 51,000 employees and one of the 25,000 premises that have availed of these schemes. Without them my family business would not be alive today and would have folded. I acknowledge the supports that have been provided to businesses. They have kept a significant number of businesses afloat through a very challenging time.

Before Christmas, myself and Senator Maria Byrne raised an issue with the Minister related to businesses that operate on a seasonal basis accessing the EWSS. They had to de-register from the EWSS and could not re-register in January. I acknowledge the changes that the Minister made to the scheme to allow seasonal hospitality sectors to re-avail of the EWSS and changes were made to turnover.

My company has lodged money into the tax warehousing scheme and we borrowed significantly more money over the last period to keep afloat. Many small family businesses will have built up an historical debt, which will be an ongoing challenge into the future. What is the level of debt now? How many businesses have availed of the warehousing scheme? Perhaps the Minister can give me the information.

Deputy Paschal Donohoe: While the Senator asks his other questions I will get the information.

Senator Pat Casey: Rather than having questions, I have a concern about the viability of many businesses moving forward as we emerge from the pandemic because of built-up debt and so on. The viability of the hospitality sector has changed significantly. Some 300 or 400 pubs have not reopened their doors and might never do so. It is a very challenging time for us as a sector to survive and get back to where we were in 2019.

I was going to get into the debate on the dividends issue but I will tie it in to the insurance debate. We eventually proved we had a claim for business interruption and, a year and a half later, we are still going through the process, which is frustrating. I can understand the frustration out there. I am not fond of the insurance companies but there has to be a balance. Some businesses, luckily, had access to the business interruption loan scheme, which allowed them to make a claim, but others did not have that available. The EWSS, to a certain extent, brought a level of support in all sectors. If the insurance companies are going to deduct the State supports from my claim, I will accept that because the State supported my company. If it had not done that and an insurance company had paid my company the equivalent of the State support – I return to the issues of profitability and dividends - should I then pay back the State the support it gave me?

There is a lot of roundabout stuff. My greatest concern, as a business operator whose insurance has increased by 250% in six years, relates to what impact this will have on my renewal premium in respect of my claim and how it will affect that, as well as on the other businesses it will affect. This is not about dividends but rather profitability, if we are going to measure it on anything.

This was a huge roll-out of State support, as the Minister said. What we are looking for moving forward is a scheme that is much more flexible and specifically targeted. Perhaps, if the scheme had been targeted before, some of these larger companies that probably did not need it might not have been in a position to avail of it. Will the Minister comment on that? We are not yet out of Covid and restrictions could return in the summer. It was difficult before Christmas to target the EWSS to the sectors directly affected by the Government's decision. Does the Minister foresee a more flexible and targeted scheme? If that had been in place, perhaps some of these larger corporations would not have availed of it.

Deputy Paschal Donohoe: The Senator asked about the value of what is currently warehoused. The answer is €2.9 billion, relating to 98,000 individual businesses. It comprises €1.36 billion in VAT and €1.4 billion of employers' PAYE. Clearly, the warehoused sum is large.

On the future of supports, as I have said many times in the Oireachtas, we have to get to a point where the change in public health regulations will allow us to exit these schemes entirely. I reiterate the point I made to Deputy Jim O'Callaghan. The State is now paying the wages, or a large share of the wages, of one in 12 workers in the economy. At the right time, and still in a careful way, we will have to bring that to an end. It is not tenable for us to be in a position whereby there are many employers that cannot get the workers they need while, at the same time, we are paying a large share of the wages of other employers, particularly at a time when public health regulations could be at a very low level in future.

Insofar as the public health regulations allow it, therefore, we will continue with our plan to exit the employment wage subsidy scheme. The first lower payment will issue on 1 February and we will have to see where we are next week with regard to the advice we get from the National Public Health Emergency Team, NPHET, and how the Government responds to it. Beyond the future of the EWSS, as for what the future could hold, the Senator makes a fair

point, namely, that while we all hope it will not happen, we have seen the way in which this disease can return quickly. We are aware of how circumstances may change in future. My short to medium-term priority relates to how, when public health conditions allow it, we will exit what we have at the moment. We will then give consideration to whether better schemes are available for the future that will build on what we have done well and that will allow us to build on the insights and learning we have developed in order that, if we find ourselves in a position in future whereby new public health measures are in place and parts of our economy are very adversely affected due to public health regulations that are in place, we might have more agile ways of responding. That is something we will consider.

Senator Maria Byrne: I thank the Minister for coming before the committee and giving a comprehensive overview of all that has happened, especially since Covid hit our shores almost two years ago. I thank him also for the supports that were provided. While I am not directly involved in our family business and have nothing to do with it, I am very aware from small or niche businesses that have availed of these supports, which have certainly helped to keep them afloat. Many of the questions I had prepared are similar to those asked by Senator Casey and I will not repeat them because the Minister answered them. The current legislation allows for the supports to be in place until the end of January. Does the Minister envisage they will end then or will they be phased out?

Two banks have left Ireland within the past 12 months or are in the process of doing so. Are there plans within the Department to create competition in the financial markets to ensure consumers will be better served in light of the fact two banks will have left?

Deputy Paschal Donohoe: On the first question, our plan is to phase out the payments gradually, beginning on 1 February. We are not going to move to a position whereby the payments will fall from €350 for some workers to zero. The plan we have, as it is currently legislated for, although I do have the ability to vary much of it by ministerial order, is that we will move from €350, to €203, to €100, at which point the payments will be phased out. We are scheduled to do that all the way up to April. While I very much hope the public health conditions will facilitate us in implementing that plan, we will have to see the advice from NPHE and the consequential Government decision on that.

The Senator's second question was on the presence of banks and whether new retail banks would enter Ireland. At the moment, the overall trend among European and global banks is not, in many cases, to move into new markets. For the foreseeable future, I anticipate any new financial service that is provided in Ireland to come through non-traditional financial service providers, that is, companies providing services through the use of technology as opposed to branches. The Senator is aware that some companies began doing this in recent years.

Senator Maria Byrne: Like Senator Casey, I acknowledge that the businesses we raised with the Minister while the Finance Bill was before the Seanad fall within the scheme. I thank the Minister for listening to us on the day.

There is a requirement that business be down 30%. Traditionally, the months of January and February are quiet for many businesses. Will the 30% decrease be compared with the same week in 2019, for example? Some businesses might be down just under the 30% but their turnovers are low because January and February are traditionally quiet months. Is there any way for this to be considered? Some businesses might be in trouble if there is not a degree of flexibility.

Deputy Paschal Donohoe: I do not anticipate that we will revise the 30% guidance in a

way that makes it easier for companies to move onto the scheme. I will impart a key message regarding the future of these schemes across 2022: as public health regulations allow and as we get to a point where our economy is able to normalise and businesses are able to have more normal trading conditions for longer, the Government will have to decide how to conclude these schemes, not how to continue them. I will give the committee a sense of scale. In December alone, the EWSS was in excess of €400 million, the direct employer payment part of it was just over €372 million and the PRSI forgone element was €54 million. In December, the EWSS received €426 million in taxpayer funding. That money was needed and had a positive impact. While we do not want anyone to have to move on to the pandemic unemployment payment, PUP, and we hope that people can stay in work, the Senator will be aware that the number of people who moved onto it was lower than we expected, which shows the value of the EWSS. As opposed to thinking about how more employers can get onto it, though, we will have to move towards continuing the conclusion of the programme at the right time and when the public health regulations allow, just as the Government has tried to do with the PUP.

Senator Maria Byrne: I thank the Minister.

Chairman: I call Deputy Tóibín for a short contribution, as we are coming to the close of the meeting.

Deputy Peadar Tóibín: I had to go to the Chamber for a period, so I thank the Chairman for allowing me to contribute.

Gabhaim buíochas leis an Aire as ucht teacht isteach. Throughout the Covid crisis, there has always been some section of enterprise that has been left out of Government supports. At one stage, it was the taxi drivers. At another, it was barristers because they did not have business rates. Last year, circuses were left out. What about the pantomime sector? The Liberty Panto does not tick all of the boxes that the Government has created. For example, it does not have two years of history. Nonetheless, it has made investments. Now, it is making a loss as a result of the Government's decision. Surely it should be getting supports, too. Does the Minister agree that it is wrong that the Government would stop businesses like Liberty Panto from functioning in order to recoup their investments but then not provide them with proper support?

Deputy Paschal Donohoe: There are some businesses that did not get the level of support they felt they should have but we moved heaven and earth to support as many employers as we could. From the Deputy's point of view, he will raise with me employers that are not in the schemes but we have had more than 70,000 employers who were in them.

The Deputy might be able to tell me at this meeting. If the business performance of the pantomime company he referred to was down by 30% or more, it should have moved onto the EWSS. He will not comment on that, not unless he wants to-----

Deputy Peadar Tóibín: I will pass the information on to Minister, if he would like. I just-----

Deputy Paschal Donohoe: -----but if it is a company and is down 30% or more, the EWSS is only conditional on turnover. It does not require a business to have a premises as well.

Deputy Peadar Tóibín: I will pass the information on to the Minister's office and he might look into it.

Deputy Paschal Donohoe: Sure.

Deputy Peadar Tóibín: Have the Minister and his Department done any work on the question of how many jobs will be lost and how many businesses will close completely? The Drinks Industry Group of Ireland has stated that approximately 40,000 jobs will not exist in 2022 that did exist in 2019.

The elephants in the room are the 8 p.m. closing time for hospitality and theatre and other performance arts and the Covid pass. When will these measures come to an end? The Minister is likely to say “When NPHEAT says so”, but when does he believe they could come to an end? Thankfully, Omicron has not been as damaging as projected and all the key indicators are falling, yet we have a Government saying that it will probably be 31 March before these restrictions are lifted fully. For many who are warehousing their taxes because they cannot pay them fully, who have lost their jobs or who have had their incomes radically reduced, the idea of only being fully clear of restrictions on 31 March is hard to take.

Deputy Paschal Donohoe: The members of the Government who are directly involved in this have given an indication that they are hopeful about our ability to remove many of the public health restrictions that we have in place. The legal ability is there for some of them to be in place up to 31 March but I hope that, if the trends of the past number of days continue over the coming days, we will be in a position to act on many of these regulations before then. As to when that will be, I will wait to say. We will probably have a Cabinet meeting on this matter on Friday and we will have NPHEAT’s advice before then.

Deputy Peadar Tóibín: I will ask a few short questions. The €2.9 billion in warehoused taxes is an outstanding figure. It will be difficult for businesses to work their way through that. What plan has the Government to help them to do so?

Chairman: The Deputy should be brief with his questions because we are trying to conclude.

Deputy Peadar Tóibín: Is there any information on when the banking forum will be up and running? The banking sector is experiencing a concurrent crisis. Has the Minister any information on when that forum will be established?

Deputy Paschal Donohoe: The banking review is up and running and we have a team in place in my Department which will work on and oversee it. We will soon seek the views of members of the public and stakeholders on retail banking. I will let the Deputy and committee know about that. We will give consideration to the kind of event or format in which those views can be heard publicly and considered. That process is under way.

On the handling of the tax liabilities, we have in place a scheme whereby tax debts will be parked on an interest-free basis for the 12-month period after 31 March 2022. That takes us up to the end of March 2023. The Revenue Commissioners will then put in place plans to agree with taxpayers as to how those warehoused taxes can be paid during that period. However, for the year beyond March 2022, provision will be made to allow those taxes to be parked on an interest-free basis for another 12 months.

Chairman: Does Deputy Mairéad Farrell have a brief question?

Deputy Mairéad Farrell: I have only one question. I apologise that I was late; I was attending another committee meeting. I understand the Chair will want to ask questions as well, so I will stick to asking one question.

The Competition and Consumer Protection Commission, CCPC, has rules with regard to mergers, the level of concentration they cause and how they affect competition. This measure of market concentration is called the Herfindahl-Hirschman Index, HHI. According to this index, in a highly concentrated market, a post-merger increase of less than 150 is unlikely to cause concern. Obviously, therefore, a figure of over 150 would cause concern. By their own measure, if there were to be a merger of Bank of Ireland and KBC, it would increase this index by 600, or four times the passable threshold. What are the Minister's views on whether that would be compliant with the CCPC's own rules? Would it be an issue of concern?

Deputy Paschal Donohoe: It is for the CCPC, which is involved in evaluating that transaction, to make a conclusion on that matter. I categorically cannot make any assessment of or offer a view on that matter, while the CCPC is evaluating a very important commercial transaction. That is a matter for another day and one for the CCPC to answer. It would not be appropriate for me to give a view on it. It begs a question of Deputy Mairéad Farrell and her party, however. If they are not in favour of AIB or Bank of Ireland owning KBC or the loan books that will become available as KBC exits the market, who do they support owning them?

Deputy Mairéad Farrell: Just for clarity, this was a question which I thought it would be interesting to tease out with the Minister. However, as the Minister feels he cannot comment specifically on that matter, that is okay.

Deputy Paschal Donohoe: I thank the Deputy. No, I cannot comment but I thank her for raising the matter.

Chairman: I have three short questions for the Minister. We received a submission from the Revenue Commissioners in relation to the VAT being charged between principal dentists and associates. It has to do with the VAT on services. The Revenue Commissioners have given an interpretation. If we send that to the Minister, will he give us some sort of overview from the Department in the context of legislation and VAT, including in the European context?

Deputy Paschal Donohoe: We will do that this week.

Chairman: In 2019, the UK Parliament found that the accountancy profession was giving misleading advice that was inconsistent with European law relative to the international financial reporting standards. That comes into play now in terms of those standards and the sale of AIB. Will the Minister ensure that when AIB is reporting its financial position to the potential shareholders, the information will align itself with the law and not with the current interpretation of the international financial reporting standards? This issue has cropped up from time to time as to how these standards are interpreted. I want to get the Minister's view on this relative to the AIB sale.

I have a final question that I hope the Minister will address. The State owns 71% of AIB. Recently in the courts, AIB and EBS settled a case with a tied agent. There is a confidentiality clause, I presume, attached to the outcome of that case and the settlement involved. Some 20 witnesses on the side of the tied agency were to come forward in that case. They would have had similar circumstances and experiences. If this court case had been heard and its outcome had been a successful one for the tied agents, it would have stood as a baseline for others to be tested against. That now cannot happen because of the confidentiality issue and because AIB and EBS have closed down and dealt with only one of the agents. However, there are many more agents. Is the Minister not concerned that, in informing stakeholders of legacy issues in particular, this matter will probably not even be referred to and, also, that there are, or were, tied

agents who have still not had their grievance heard in an open way by EBS and AIB?

I have always endeavoured to try to get the banks to the point where they would at least mediate in some way. However, that has not happened. While the case did not come to trial, now that the sides have seen the case and have all their documentation and so on, does this not provide an opportunity to look at how this settlement was reached on the steps of the court, assess each individual case of the tied agents involved and come to some resolution? It has gone on and on.

The committee have raised this case with AIB, which insists that it represents EBS and will not let the principal people in EBS appear before us. I can partially understand that but I fully understand the side of the EBS tied agents. The public gallery was full of these agents at one of our meetings. Since then, their numbers have dropped because some members of the group have died. That is the way life is. However, for those who are left, surely something must be done? I am not asking the Minister, with the State's 71% shareholding, to influence the outcome. However, surely to God, as the main shareholder, the State should at least request the bank to be open and transparent about that legacy issue which is causing so much pain and grief for the people involved and their families. Now that the court case is finished, let us see if EBS will do it.

Deputy Paschal Donohoe: I thank the Chair for raising the matter. I will deal with the issue of tied agents first. The Chair raised it with me in one of my previous appearances before the committee. Since then, I have received correspondence on the matter from some of the individuals who were involved in this issue. I want to acknowledge to them the Chair's ongoing interest in the matter and that he has raised it directly with me.

I have sought a briefing on the matter, given the Chair's involvement in it. I have received clear advice that because other cases are ongoing with regard to this issue, I cannot comment on it publicly. However, the interest of this committee and its Chair in this matter is well known. I have sought a briefing on the matter. I am now better aware of some of the details than I was when the Chair last raised it with me. However, I cannot comment on it publicly. I hope that any matter that has been going on that is a cause of great difficulty to individuals can be resolved in an amicable and fair way. I am just making a general comment, as I cannot comment on this issue.

Chairman: Could I just-----

Deputy Paschal Donohoe: I reiterate that since the Chairman raised it with me, I have received communication on the matter. I want to acknowledge that this is an issue he has taken a lot of interest in and I am sure he has played a role in trying to support people who were affected.

Chairman: I thank the Minister very much. By way of conclusion, I listened to the debate around the Covid cover from insurance companies. The companies funded the test case. Here, we have a similar situation in that a group in this case is at odds with EBS and AIB and there has been a case. Can it now be examined and measured against each of the individual agents concerned to see if some form of settlement can be mediated with each one? I think that is fair. That is all I am asking.

Deputy Paschal Donohoe: The fact is that the Chairman has outlined a very clear legal process that may happen. While it is appropriate for him to raise the matter, I cannot comment

on it. I know this issue is under consideration at the moment. It is being dealt with in the courts, perhaps in the way the Chairman has just indicated. At this point, however, given how long this has been going on and some of the difficulties involved in it, I again acknowledge his involvement and interest in it. That said, I must leave it to the bank and those who are dealing with it to resolve the matter.

Chairman: Could the Minister ask for a briefing on the court cases?

Deputy Paschal Donohoe: I have already received it.

Chairman: Okay. That is all right.

Deputy Paschal Donohoe: I did so on foot of the Chairman raising this matter with me at the previous committee meeting.

Chairman: I thank the Minister very much. We will see what the outcome will be. I thank the Minister for coming before the committee.

Deputy Paschal Donohoe: I thank the Chairman.

The joint committee adjourned at 3.32 p.m. sine die.