

DÁIL ÉIREANN

AN COMHCHOISTE UM SHLÁINTE

JOINT COMMITTEE ON HEALTH

Dé Céadaoin, 13 Samhain 2019

Wednesday, 13 November 2019

The Joint Committee met at 9 a.m.

Comhaltaí a bhí i láthair / Members present:

Teachtaí Dála / Deputies

Seanadóirí / Senators

Stephen Donnelly,	Rónán Mullen,
Bernard J. Durkan,	Keith Swanick.
Alan Kelly,	
Margaret Murphy O'Mahony,	
Kate O'Connell,	
Louise O'Reilly.	

I láthair / In attendance: Deputies Danny Healy-Rae, Denis Naughten and Eamon Scanlon.

Teachta / Deputy Michael Harty sa Chathaoir / in the Chair.

The joint committee met in private session at 9.10 a.m., suspended at 9.22 a.m. and resumed in public session at 9.25 a.m.

Nursing Homes Support Scheme (Amendment) Bill 2019: Discussion

Chairman: We will now go into public session. Is that agreed? Agreed. We are holding two sessions this morning. In the first session we will hear from representatives from the Irish Farmers Association and officials from the Department of Health as part of the pre-legislative scrutiny of the general scheme of the nursing homes support scheme (amendment) Bill 2019. It is proposing amending legislation intended to change the treatment of family farms and businesses under the nursing home support scheme, also known as the fair deal scheme.

I welcome from the Department of Health, Mr. Niall Redmond, principal officer, Mr. Karl Duff, assistant principal and Ms Helen Simon, administrative officer. From the Irish Farmers Association, I welcome the president, Mr. Joe Healy, Ms Caroline Farrell, chair of the farm family and social affairs committee, Mr. Martin Stapleton, chair of the farm business committee and Ms Geraldine O'Sullivan, farm family and social affairs committee executive.

By virtue of section 17(2)(l) of the Defamation Act 2009, witnesses are protected by absolute privilege in respect of their evidence to the committee. If they are directed by the committee to cease giving evidence on a particular matter and they continue to do so, they are entitled thereafter only to a qualified privilege in respect of their evidence. They are directed that only evidence connected with the subject matter of these proceedings is to be given and they are asked to respect the parliamentary practice to the effect that, where possible, they should not criticise or make charges against any person or entity by name or in such a way as to make him, her or it identifiable. I also wish to advise that any opening statements made to this committee may be published on the committee's website after this meeting.

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.

I invite Mr. Redmond to make his opening statement.

Mr. Niall Redmond: I thank the committee for the opportunity to speak on this draft legislation. I am joined by my colleagues Mr. Karl Duff, assistant principal and Ms Helen Simon, administrative officer, from the services for older people unit in the Department of Health.

I hope to provide this hearing with the background to the Government decision to approve and publish the general scheme of the nursing homes support scheme (amendment) Bill 2019, and to briefly outline its main provisions. The general scheme of the nursing homes support scheme (amendment) Bill 2019 will create an additional legislative framework implementing a policy objective whereby family farms and family businesses will be better safeguarded for future generations.

The nursing homes support scheme, NHSS, was developed in the late 2000s and built on the existing nursing homes subvention scheme. There was an identified need to regularise payments through legislative underpinning, and to remove financial hardship from many individuals and their families who, under the previous system of subvention, had to sell or re-mortgage homes to pay for the cost of nursing home care. The nursing homes support scheme has been

very successful to date, supporting nearly 100,000 people to avail of nursing home care since its commencement just ten years ago. The scheme has proven to be robust and fair, reflective perhaps of the legislation having remained largely unchanged since its introduction.

When the Nursing Homes Support Scheme Act was developed and commenced in 2009 it was done with the proviso that a review of the scheme would be initiated following its first three years of operation. This review, published in 2015, examined a wide range of issues. A public consultation process was initially undertaken to inform the work of the review, with some 61 submissions received from a range of individuals, nursing homes, statutory and private organisations, voluntary bodies and organisations representing the interests of older people, including the Irish Farmers Association and Irish Creamery Milk Suppliers Association, among others. The recommendations received and the themes identified through that consultation informed the review. A recommendation arising from the review was that consideration should be given to whether a cap should be applied to the charge for nursing home care based on non-residential productive assets passed on to a direct family member after the death of a NHSS participant, and where the new owner carries on the farm or business as their principal livelihood. The existing programme for partnership Government committed to introduce these changes to the assessment of family businesses and farms in the context of the financial assessment of means under the scheme.

Farms are traditionally passed down through generations and it is recognised that it is important for rural communities that farms can continue to operate within the family unit and be maintained as sustainable productive assets. The same may also be said of businesses such as family businesses. Small farms, in particular, play an important role in supporting rural employment and maintaining the social fabric of rural areas and thus contribute to the objective of balanced territorial development. In a wider context, the general scheme proposes to help ensure the continued viability of family-run farms and businesses, especially for those for whom early succession planning has not been possible. The general scheme aims to give effect to the recommendation of the fair deal review and to deliver on the programme for Government commitment in that regard.

It is also important that we are cognisant of the wider situation with regard to ageing in Ireland. Our population is living longer than ever, and our older population is consistently growing in size. It is, therefore, important that, in any change to the NHSS, we ensure the longer-term sustainability of the scheme and ensuring continued and timely access for those who need it.

The NHSS is a financial support scheme that provides State support towards the cost of long-term residential care for adults in Ireland, irrespective of age. The amount of State support provided is dependent on the means of the applicant, where those with least means receive the most support and those who can afford to cover a greater share of the cost of their care, do so. This helps to ensure the sustainability of the scheme, ensuring that finite resources are targeted at those most in need.

Having regard to that, the stated policy objective of the general scheme is to introduce further safeguards in the NHSS to further protect the viability and sustainability of family farms and businesses that will be passed down to the next generation of the family to continue to work them as productive assets to provide for them their livelihood. Under existing conditions, applicants or participants to the scheme who experienced a sudden illness or disability that necessitated long-term residential care have their contribution based on their farm or business assets capped at three years in line with the treatment of the principal residence, subject to certain conditions. This general scheme aims to broaden the application of this three-year cap by removing

the requirement to have suffered a sudden illness or disability resulting in the need for care and instead introducing revised criteria. This amendment will extend the application of the cap to family-run farms and businesses that satisfy the prescribed criteria, thus extending the sense of certainty to all farm and business owners for whom a family successor will succeed the concern.

The general scheme comprises two parts. Part 1 deals with the normal standard provisions such as interpretation and commencement. Part 2 includes all other provisions for the amendment. The criteria required to qualify for the three-year cap on farm or business assets is set out in head 4. This introduces the requirement that the farm or business was actively worked by either the NHSS participant or applicant or a qualifying family successor for a minimum period of three years in the five years prior to nursing home admission and that the farm or business will be actively worked, as per the requirements in the amendment, by a family successor for a period of not less than six years following nomination of the said family successor.

Given the complexity of the scheme, a significant consideration has been given to how to amend existing provisions and introduce new provisions that will satisfy the policy objective in question. Where possible, we have endeavoured to build on existing provisions. However, there is need for changes in the operation and administration of the scheme, changes to the obligations on family successors in respect of their undertakings and associated reporting structures, and all other necessary changes to ensure the policy objective is implemented equitably and that existing participants in the scheme are not unnecessarily disadvantaged.

The general scheme provides for robust verification requirements in the continued active working of the farm or business in question, as well as the introduction of obligations on the family successor to comply with the verifications required and other criteria, as set out, such as commitment to continue working the farm or business and engage with the HSE on that matter. These requirements are included to ensure that the public policy objective is met as intended.

Heads 6, 7, 10, 12 and 13 set out obligations of both the NHSS participant and their family successor. It should be noted that a number of these provisions are in operation in the existing Act but their application is being extended to facilitate the three-year cap.

I draw the committee's attention to head 10, in particular, which is entitled "Special Provisions". This head has been included recognising that plans may not always work out as intended. In this instance, these *force majeure* style provisions recognise for example, that the family successor may not, through no fault of their own, be able to meet the requirement to work the farm or business for the required six years, and rather than an immediate obligation to repay the relief enjoyed arising from the cap, there is an opportunity to nominate a new family successor who will continue to meet that obligation.

The proposed amendment will also require a change to how elements of the scheme are operated, namely to include processes on the nomination of the successor, to allow for application of a cap on contributions, to calculate the value of said cap, and to set out how the criteria associated with the cap may be satisfied.

Heads 5, 8, 9, 11, 16, 17, 18 and 20 provide for the necessary changes in operations and powers of the executive, the HSE, in that regard.

As noted earlier, the existing legislation provides for those who have experienced a sudden illness or disability that requires long-term residential care as a result, as early succession planning may not have been feasible in such instances. Participants who have entered the scheme

under this provision will not be required to adhere to the new conditions that are being introduced.

Head 14 includes provisions for current participants to whom the sudden illness or disability clause may refer.

Where an NHSS participant or applicant is deemed to not have the capacity to make a decision in respect of certain matters under the 2009 Act, a care representative may be appointed by the court to act on these matters. Head 15 proposes the introduction of an additional power for the care representative, to allow for the nomination of a family successor in the case where a participant, at the necessary time, does not have the capacity to make such a nomination.

This overview gives a flavour of the Bill. I thank the Chairman and the committee for undertaking this pre-legislative scrutiny of the general scheme. We look forward to receiving the committee's report, which will make a valuable contribution in the further development of the legislation, and we are happy to answer any questions in that regard.

Chairman: I thank Mr. Redmond. I now call Mr. Healy to make his opening statement.

Mr. Joe Healy: I thank the Chairman and committee members.

I am joined by the chairman of the IFA's farm family and social affairs committee, Caroline Farrell; our farm business chairman, Martin Stapleton; and social affairs executive, Geraldine O'Sullivan.

I would like to acknowledge the work of the Minister of State, Deputy Jim Daly, and his officials who have at all stages recognised the contribution of family farms to maintaining economic activity and employment in the sector. They have worked constructively with the IFA to remove the uncertainty in the NHSS in order that farm families can plan appropriately for the cost of care.

The IFA supports the scheme and recognises its important role in providing financial support and security for people going into long-term nursing home care, as well as their families. The scheme operates under the principle of the ability to pay, which means that a person's copayment is calculated based on 80% of their assessable income and up to 7.5% of the value of their assets. Under the scheme, the principal private residence is capped at three years and following this period, it is disregarded from the financial assessment.

A key concern for the IFA since the introduction of the scheme has been the potentially uncapped liability on the farm business asset. Farm business assets are productive assets and are required to generate income. They are not a measure of additional ability to pay. Significant uncertainty and anxiety has been created for family farms, with fear that the viability of the farm will be undermined or lost while attempting to meet the costs of care. This has led to the introduction of a three-year cap on farm business assets in circumstances of sudden illness.

It is also important to note that assets transferred for less than five years are included in the assessment of means. As members can imagine, this has proven to be a barrier to the next generation taking over the family farm due to the debt owing on the farm business asset.

At this stage, before I go into detail on the draft heads of Bill and the proposed changes to the scheme, it would be useful to give a brief overview of the agricultural sector in Ireland. It is the backbone of the economy and is our largest indigenous industry with a turnover of €26

billion annually. The family farm is at the heart of the agricultural sector. There are 137,500 farms in Ireland, of which 99.7% are classified as family farms. The 2018 Teagasc national farm survey showed that 30% of farmers are aged 65 or over, while only 7% are under the age of 35. This steady erosion of farm incomes threatens both the viability and sustainability of the family farm and the sector's growth prospects. This can be clearly seen in the survey findings with only 34% or 47,000 of farms classified as viable.

A farm is economically viable if it can remunerate family labour at the average agricultural wage and provide a 5% return on non-land assets. A total of 32% of farms are classified as sustainable because of off-farm income and 34% are classified as vulnerable. It is critical to understand that farm assets are productive assets, which are required to generate income. They are not a measure of an additional ability to pay. If the farm asset is reduced, the income earning potential will decrease and the viability of the farm can be put in question. The agrifood sector, which employs more than 7% of the working population and is responsible for approximately 8% of GDP, is vital to the economy, but especially to the rural economy. Farming provides the raw material that underpins the success of the agrifood sector and it is vital that the future viability of family farms be protected.

The importance of the agrifood sector is clearly recognised and has been prioritised as a major economic driver in the programme for Government. It is acknowledged there are significant challenges facing the sector and that a number of important structural deficits affect its competitiveness. In particular, issues such as farm size, fragmentation, low land mobility and an ageing demographic profile are believed to affect negatively the efficiency of primary production. In the 2014 agri-taxation review, there was consensus that such structural deficiencies needed to be addressed and the report proposed a 50% increase in the income tax relief for leased land.

Long-term land leasing has operated in Ireland since the mid-1990s. As a farm business structure, land leasing is growing in importance, not least since the increase in the income tax relief on long-term leases introduced in budget 2015. The income tax relief rates and the tiered structure have encouraged farmers to enter long-term leases. Since its introduction, the changes in the income tax relief rates have resulted in a near doubling of the number of long-term leases and are an important policy driver that encouraged and incentivised farmers to enter long-term leases with third parties. The latest available Revenue figures show that the number of long-term land leases has more than doubled since 2013, rising from 4,370 to 9,790 in 2017. The rate has continued apace in 2018 and 2019, meaning that the number is now far higher than 9,790. It is important to stress that the income tax relief on leased land is not eligible to close family relatives and, therefore, Government policy has actively encouraged farm families to enter long-term leases with third parties.

In the draft heads of Bill to amend the nursing home support scheme, it is proposed to extend the three-year cap to farm business assets where the farmer, partner or spouse, or a family successor has worked a substantial part of the working day on the farm for three of the previous five years, prior to the person receiving care, or where a family successor is appointed and commits to continue consistently and regularly to apply a substantial part of his or her working day to farming for a period of not less than six years. Under the proposed changes, family farms leased to third parties are excluded from the three-year cap, as they are classified as an investment asset rather than a productive asset. The proposed changes and the classification of leased farm assets under the draft heads of Bill are inconsistent with other Government policies that actively incentivised and encouraged farmers to enter long-term leases with third parties. Crucial to the success of the income tax relief and the incentivising of long-term leases is the

confidence farmers have that in leasing their farms, they will not be negatively affected in the future transfer of their asset. If the proposed changes were introduced, it could threaten the future viability of such farm businesses and undermine the progress made to address deficiencies in the sector.

The IFA proposes that the precedent set out under the agricultural relief, a relief available on farm land transferred either in one's lifetime or on death, be applied under the fair deal scheme to qualify for the three-year cap. To create cohesive Government policy that continues to protect the competitiveness of the agricultural sector, the IFA proposes that the qualifying criteria under the fair deal scheme would be similar to agricultural relief, which states farm land must be farmed on a commercial basis for at least six years or the property must be leased to someone who farms the agricultural property on a commercial basis for at least six years from the date of transfer. The rationale behind the relief is to encourage the productive use of agricultural land and prevent the sale or break-up of family farms. Introducing a similar qualifying condition under the fair deal scheme for leased farm land would strengthen existing Government policy to address structural deficiencies in the sector and improve competitiveness.

Protecting the sector's competitiveness has never been so important, when the uncertainty of Brexit and the increasing production costs are considered. The IFA proposes that the eligibility criteria for the three-year cap are that the farm is farmed on a commercial basis for three of the five years prior to the person receiving care, by either the farmer, partner or spouse, family successor or leasee, or that the farm is farmed on a commercial basis for at least six years from the date the person receives care, by either the farmer, partner or spouse, family successor or leasee. Amending the draft heads of Bill to include the leasees is vital if the future viability of the family farm is to be protected.

Another condition not addressed in the draft heads of Bill is the clawback on farm assets transferred for less than five years. The IFA is fully supportive of and encourages lifetime transfers of farms. It is fundamentally opposed to a financial burden being placed on a transferred asset and is unclear how a third party could find itself responsible for the previous owner's cost of care. There is no doubt this has proven to be a barrier to the next generation taking over the family farm, as the viability of the farm business may be undermined by the impact of an unknown cost of care on the future value of the assets. Furthermore, farmers face a challenging credit environment and would be unable to secure credit to make the necessary investment in the farm business to increase efficiencies and production. The clawback mechanism is grossly unjust and must be reviewed. In other support schemes for elderly people, such as the non-contributory pension, when ownership of the farm asset is transferred, it is no longer included in the means assessment. If a transfer has taken place, the person is asked to supply a copy of the deed of transfer stamped by the Revenue Commissioners, or if the deed has been lodged, a letter from the solicitors confirming that the deed of transfer has been lodged with the Revenue Commissioners is supplied.

The document, Review of the Nursing Home Support Scheme, A Fair Deal, was published in July 2015, three years after the IFA's submission to the consultation process. It recognised the IFA's position that income generating assets should be treated differently. In July 2018, the Government approved proposals to change how farm assets are treated under the fair deal scheme. At the time, the Minister stated the draft heads of Bill would be progressed in the Oireachtas in the autumn session. It took a further year, however, before the draft heads of Bill were published in June 2019. The significant delays in the legislative process have had a negative impact on the viability of family farms. The Government has given a commitment that the

changes will be applied retrospectively, which means that once the Act is amended, it will apply to existing nursing home residents as well as new entrants. The IFA proposes that the retrospective be applied from July 2018, when the Government approved the proposal, and that the existing nursing home residents who satisfy the three-year cap as of July 2018 be refunded their contribution from the farm business asset. Farm families should not be financially penalised as a result of the delays progressing the drafting the legislation.

In conclusion, the IFA welcomes the opportunity to share its concerns with the committee, and present constructive and realistic recommendations that, if enacted, would enable farm families to plan appropriately for the cost of nursing home care and positively affect the future viability of Ireland's family farm model. We would very much welcome any questions members may have and thank them for their time and consideration.

Chairman: I will open up the discussion to our members. The first three members offering are Deputies Kelly, Durkan and Murphy O'Mahony.

Deputy Alan Kelly: I thank the witnesses for the contributions. I am glad we are discussing this issue today but regret that we were not discussing it a couple of years ago. It has been on the long finger for far too long. Many of us, particularly those from rural constituencies like mine, have been dealing with this issue in our clinics and in real life with our neighbours for some time because of the current inequity that must be addressed.

I want to acknowledge at the outset, and I am not always in this space, the work of the Minister of State, Deputy Daly, in respect of this issue. To be fair to him, he took it on when others would not. I acknowledge that across politics because he progressed it when others did not.

The fact that this issue has not moved on is affecting decision making across families. I see it; I live on our family farm. There are many people close to me, geographically as well as personally - they are my neighbours - and the fact that this has not been dealt with is impacting on intergenerational issues. It is impacting on decision making. It is changing people's lives and careers. It is affecting diversification. As a Government and a country, we are encouraging diversification in farming but because this decision has not been made, this is impacting on investment, credit and a range of other issues.

I have a number of questions. I would say that, in the main, they are the same questions most members will have for the witnesses. They are the ones people raise with us in our clinics. These questions are for the Department officials rather than the IFA. On the issue of leasing to third parties and excluding them from the three-year gap, what are the plans to deal with that? This cannot go forward without this issue being dealt with in some way or having some form of criteria that will change the interpretation. The witnesses might explain why they are not willing to examine this, or are they willing to look at it? Perhaps they have changed their minds about it. As has been outlined, and as I have said, it contradicts Government policy in numerous other areas. We could cite many examples. Only one has been cited here in respect of agricultural relief but if I went far enough I could pull out examples across other areas. How will that issue be dealt with? It will have a significant impact as regards this scheme because on the one hand many farmers, dare I say it, of my generation have been encouraged to go in a certain direction in respect of leasing but the condition here will impact on the scheme. That is my first question.

The second issue is one I have juggling with for some time because I do not know how it will work. It relates to the clawback. I refer to the penalty in respect of the clawback for less

than five years of assets that have been transferred. I have no idea how this will work, and it is not outlined. How does the Department put a condition on a third party who has received the asset? How will that work legally? The witnesses might outline that. There needs to be some form of criteria in respect of that because the way the heads of the Bill are written is puzzling. I have no way of knowing how this will work.

The third issue relates to the actual timing of this Bill. As I said in my introduction, many people are being conditioned as regards its timing. We will have to bring in some form of retrospective application for those who are in nursing homes and new entrants in respect of this Bill. In some cases, people have had to make decisions in a rushed way. Some families had been holding out but could not hold out any longer. We will have to apply this legislation retrospectively in some way. I am open to discussing the dates. I have no fixed date in my head. The Department could look at the date it was published and other dates but the likelihood is that in the current political environment the passage of the Bill through the legislative process could go on for some time. I would like to see it done before this Dáil is due to conclude by next March, April or May. Do the Department officials intend having this scheme legislated for by then? We will have to retrospectively insert something in the legislation to make it applicable to those people to whom I referred. Those are my three questions, all of which are for the Department officials.

Mr. Niall Redmond: I thank Deputy Kelly for those questions. In terms of the length of time it has taken us to get to this position, it is probably fair to say, and it is not news to anybody in this room, that the scheme and the primary legislation that underpins it is complex. It contains many complex and competing issues that we have to examine, not just in terms of looking out to farms and businesses but also the impacts any changes to the scheme would have in respect of the sustainability of the scheme going forward. Next year, the scheme will reach over the €1 billion mark in terms of budget. It is a very significant scheme in terms of expenditure for the State and we will have to think carefully about any changes to it that could impact on its longer-term sustainability. That is part of the reason we spent so much time trying to identify the issues and the legal complexities and trying to address those in the heads of the Bill. We would like to have done it quicker but, unfortunately, the nature of the legislation and the background to it did not permit that. However, we are making progress now.

To deal with the Deputy's last question on our intentions around progression of the Bill, we have no desire to hang around in terms of moving this forward. We have drafters appointed now who are working with us and who will start drafting the Bill soon in respect of that. The sooner we can get that finished and into the Houses for debate and to progress it, the better. We have no reason to delay it any further, other than dealing with any issues that may arise that may need to be examined. By and large, however, we are as ambitious and as anxious to move it forward as quickly as possible.

In terms of the specific questions, on the issue of leasing, which the Deputy and the representatives of the IFA outlined, we have looked at it in great detail. Part of that was in respect of the complexities involved. When we look across Government at different policies it is important to get to the hub of the intent of any policy. The policy intent behind the agricultural tax relief relates predominantly to land mobility. This amendment to this scheme is about the protection of the family farm within the family unit as a source of employment and income going forward. It has a different policy intent. I do not believe it is incompatible necessarily with land mobility policy. The reason land mobility policy exists to some extent is because the farm, by and large, had not been worked. This is about keeping the farm that is being worked working

and providing safeguards to protect the viability in respect of the financial debt that may run up in that regard. I do not believe they are compatible.

The issue here is that we have to think about all other classes of assets that may be part of the financial means assessment in the scheme. To move away from the policy intent that the farm would be protected for the next generation in terms of working the land would depart from that policy intent. It would potentially have a domino effect in respect of other assets that people may have and create discrimination in the equitable administration of the scheme. It probably brings us all the way back to the subvention scheme that the fair deal tried to replace by undoing some of the inequitable principles embedded in that scheme. We do not want to take a retrograde step. We cannot include third parties in this because it does not meet the policy intent, which is to protect the family farm for the next generation who will farm the land. That is why those conditions are in the scheme and the conditions around sudden illness and disability provisions which are currently in the 2009 Act also cover that in respect of the requirement to be working the land.

In terms of clawback and the heads of the Bill, we have tried to improve the situation and in the head dealing specifically with transferred assets we tried to recognise that for a variety of reasons, including retirement, the farm may have been transferred to a family member already before the nursing home care is required. To address that we have allowed for the cap to be applied to such situations which currently is not the case. We have also allowed for the fact that under the existing provisions there is a hard cut-off of five years. We have introduced here a possibility for the land to be worked in only three of the last five years. We have moved to try to improve the position. The five-year transferred asset period has been a feature of the scheme since day one. Part of that is a particular safeguard to protect the scheme bearing in mind that it is based on means. The majority of people are honest and work with what is there but the safeguard put in place in 2009 was to stop people putting assets beyond the scheme nefariously rather than by accident. We have tried to recognise what happens on the ground in respect of succession. We have introduced what I think is a positive amendment in that respect to try to apply the cap to those situations as well.

Retrospection of the changes creates a difficult precedent in that we are trying to reach back legislatively to apply conditions to people who did not know those conditions existed. I suppose they did not exist at the time in respect of what is being proposed here. That is a challenging precedent to try to introduce to the scheme and it has knock-on effects irrespective of whether we talk about seven days or seven years ago. We have examined that in detail. We think the challenges and the risks are quite high for potential knock-on impacts. In our assessment it is not possible, particularly in the retrospective application of conditions that did not exist at the time.

Deputy Alan Kelly: How is the clawback in respect of third parties going to be done?

Mr. Niall Redmond: In what sense?

Deputy Alan Kelly: Mr. Redmond is saying that third parties are going to be in some way responsible for financing part of the five-year clawback. How is that going to work?

Mr. Niall Redmond: In the current situation, the asset that has been transferred within the past five years is included as part of the financial assessment and the contribution of the person in care, or his or her family, is included as part of the financial assessment and his or her contribution will be based on that. Such people will have to make that contribution and if they can-

not, it will have to come out of their assets. That is the current set up under the scheme. Here we are giving an option, where there is a family successor in place who is working the farm or the business, to agree to continue to work that, enter into a legal agreement and we can apply the cap in that situation. Under the current situation, the cap does not apply in those circumstances.

Deputy Alan Kelly: I see that being fraught with a lot of difficulties, legal issues and challenges and every sort of thing.

Mr. Niall Redmond: It is an option. People do not have to apply for it but they cannot avail of the cap unless they do. The current situation is that they cannot avail of the cap as it stands.

Deputy Alan Kelly: I know that but I can see a whole window of different issues there. I have a bit of experience in drafting legislation and I can see from that point of view that section needs to be tightened up, whichever direction it is going in because I can see that being challenged all over the place.

Deputy Bernard J. Durkan: I welcome our witnesses here this morning and thank them for their submissions. In general I would agree with Deputy Kelly's remarks on the legalities likely to emerge and the extent to which the courts could well be full of issues arising from this.

Mr. Redmond has evaluated how the clawback will or will not work. However, over the past few years has the Department carried out any audit directly to familiarise itself with the way the scheme has worked to date and the snags it threw up? Are its proposals based on what happened during that period? For example, I am sure we all know of several cases where the farmer's business had to be liquidated before payments could be made because, especially in the case of a long stay in a nursing home, the bills are colossal. In some cases that creates a problem if there happens to be a member of the farm or business family who has a disability, which imposes a double penalty on them. They have the problem of the disability and of an extraordinary bill that they cannot afford to pay other than by disposing of the assets and then there is a problem which falls back on the State eventually. The legalities of it in the way the Bill looks to be heading could well tie them up in such a way that there is no resolution. It could be passed onto the next generation or to the person who leases the property. I do not know how that is going to work out. I would be very worried because while there of course will be cases before the courts to determine how the legislation will work, that should not be unnecessary.

The first question I would like answered is the extent to which the Department has examined the way the scheme has worked to date, the snags it threw up and how they have been resolved. Not all cases are dealt with in the same fashion, some are dealt with more sympathetically than others, depending on who the person is dealing with. The important point at this stage is to realise that we are dealing with a vulnerable group of people in the very precarious situation of no longer being in control of a situation they had control of previously during their working lives.

Mr. Niall Redmond: In respect of the operational aspects of the scheme, the main expertise in the State is the HSE. The 2015 review considered the operation of the scheme from top to bottom and how all aspects of it worked, not just on this particular issue but all aspects. That came up with a range of recommendations, one of which was on this issue. The Deputy used the word "audit" but the Department of Health does not audit the scheme, so to speak. We engage on a monthly basis with the HSE. We have a specific structure set up with it to monitor implementation and not just the financial aspects but emerging issues coming up from the ground around policy and operation. We do have a good understanding of how it operates and where issues may arise. By and large many of them can be addressed on an ongoing basis. We

do have that ongoing dialogue because it is a very complex scheme and does provide a lot of value to people. We are conscious of that and anything we can do in respect of examining its operation we do on an ongoing basis. The review was the formal period when all aspects of it were covered. Off the top of my head, I think the review came up with recommendations for 32 administrative reforms. Almost all of those have been implemented. We are looking at a number of other reforms that required further work, relating to farms and businesses and to other matters, which required a deeper review, which is ongoing. That was probably the formal milestone of the review of the scheme in a nutshell. We have constant ongoing engagement with the HSE and other agencies of the State about the operation of the scheme. We keep a close eye on that and related issues that arise.

Deputy Bernard J. Durkan: To what extent has the Department, in its ongoing dialogue with the HSE, been able to address the issues that arose in the present framing of the legislation? Mr. Redmond mentioned the viability of the scheme. In the course of those exchanges of views with the HSE, what has been to the fore? Has the concern been primarily for the viability of the scheme, with the necessity to get more funding from whatever sources are available? Has the concern been to make it workable, accessible and functional? What is the primary issue in that debate?

Mr. Niall Redmond: I do not think that any specific issue takes primacy with regard to what we look at. We try to look at it from every angle. We have to put our minds back to the first principles of the scheme, namely, what it is about, why it was set up, what it intends to do and what it does. It is to provide financial support. As I outlined in my opening statement, it is a means-assessed scheme, so those who can afford to do so pay more and those who cannot get more State support. That is the basic tenet of the scheme. We have to understand that and protect that basic tenet of the underlying policy of the scheme. That means that when we look at making changes to the scheme, especially changes to the financial means assessment, we have to try to understand what the consequences of those changes may be, not just for the type of change that we are trying to make but for the cohort of people to whom we are trying to introduce additional safeguards.

If we make a change to the treatment of a specific kind of asset for a policy objective, we have actually to meet that policy objective and the question of proportionality and relevance comes in. We do not want to create a scenario where effectively every asset that anybody could have would suddenly be fair game in the financial assessment. We would then be moving away from a financial means assessment of the ability to pay to this being just a payment scheme, which is not the intention of this scheme. That poses significant financial challenges with regard to the scheme going forward if the doors are thrown open to all assets being excluded from the financial means assessment. That has a significant impact on budgetary issues and the ability of people to access the scheme. The reality is that the scheme is set up so that people can get access to nursing home care when they cannot afford to do so themselves. Our primary objective with the legislation is to ensure that people can access nursing home care when they need it and are supported to do that. Anything that risks that would be a significant problem for us.

Deputy Bernard J. Durkan: Has raising more money through the scheme or allowing it to continue to exist been a primary concern in the formulation of proposals? Are the possible resolution or elimination of issues that have arisen and a means to resolve them primary concerns? Have the number of situations where individuals have been placed in financial jeopardy as a result of the scheme and the manner in which it has been operated heretofore been brought to the Department's attention? I am sure that everybody here knows a number of such people.

What degree of urgency arises as a result of identification of issues of that nature?

Mr. Niall Redmond: When looking at this amendment, we used the outcome, findings and recommendations of the review in 2015. Some submissions that were made to the review group during that process are being used, such as those from the Irish Farmers Association. Our primary aim in this has been to try to address the recommendation of the fair deal review regarding farm and business assets. We have to be cognisant, when addressing that, that we do not create a difficulty for the scheme and undermine its sustainability. We do not look at it on the basis of an approach to revenue raising. This change increases the cost to the scheme itself and we have had to take that into account in our discussions with the Department of Public Expenditure and Reform and in our own assessment of how this might work in practice. Those considerations have to be part of any good policy assessment process. Our primary concern has been to address the review findings in a way that protects the scheme and delivers on the policy intent and recommendations of the review.

The HSE is largely able to manage issues that arise within the existing framework. Various safeguards are built into the scheme as it currently stands. The Deputy has mentioned cashflow and the potential of people having to sell assets to meet the cost of their nursing home care. A mechanism built into the scheme is the ability for people to take out ancillary State support, the nursing home support loan, which allows people's contribution based on their assets to be covered through a loan from the HSE, which means that they do not necessarily have to sell property when they go into care. Other safeguards are built into that, especially regarding the family home. When somebody leaves the scheme and the loan has to be repaid, there are mechanisms for where there is a partner or child, and some other conditions when people are living in the family home, such that repayment of the loan can be deferred for the time that that person lives in the home. That safeguard protects against the family home being sold from under somebody. Aside from the work that we have done on the heads of Bill, going back to 2007 and 2008, then the eventual introduction of the Act in 2009, there was much consideration of safeguards. The nursing home loan provides an opportunity for people to be able to continue to avail of nursing home care if, for example, they have a high-value asset without having to sell that asset. That important safeguard has existed since the beginning of the scheme.

Deputy Margaret Murphy O'Mahony: I welcome the witnesses and thank them for coming in. I will talk to Mr. Redmond first. I commend the work done by my constituency colleague, the Minister of State, Deputy Jim Daly, and the Department of Health. Why is it taking so long? Mr. Redmond mentioned it at the start. There have been a couple of announcements. The impression was given that this was a done deal, if the witnesses will excuse the pun, and we were all systems go. Farmers' lives are on hold. I know of many families who are holding off on making a decision about their future, waiting for this Bill to pass. Why is it taking so long?

Mr. Niall Redmond: I do not want to outline a litany of excuses. The Bill is complex. We cannot look at the issue in isolation. We have to look at the whole picture of the scheme, where we are going, ageing, the budget for the fair deal scheme in the future and all the legal complications. Without having to cast our minds back to the situation that existed prior to the introduction of this scheme, with the old subvention scheme, part of the reason for the fair deal scheme being introduced and for that pseudonym being given to it was to try to correct some of the issues that existed previously, particularly with inequity in the scheme. This can get very complex but one of the issues we have had to look at very closely is the constitutional element around equity, equal treatment and policy objectives or intents behind change in the level of treatment. Treatment may no longer be necessarily equal but it would still be fair. We have had

to look very carefully at all those issues.

I do not want to bring up too much but, unfortunately, when we were in the depths of some of the very close engagement with our legal people in the Department and officials in the Attorney General's office, there were issues around the legal response to Brexit and all of that. It did not help, in truth, and we lost a bit of time with it. I do not want to put that up as a primary reason for this taking so long. It is just very complex and we are trying to work our way through the issues as best and as quickly as we can. We also have a duty to ensure that what we bring forward does not undermine or break the scheme in future or create difficulty for the people who need to access it.

Deputy Margaret Murphy O'Mahony: I hope today we can get on a roll and the process will happen very quickly. My colleagues have asked the nitty-gritty questions that I was ready to ask but I ask Mr. Redmond to examine retrospection again. It is very important.

I wish Mr. Healy well as he comes to the end of his tenure and say "well done" on a great few years as he represented the IFA very well. The Teagasc survey indicates that 30% of farmers are over 65. That is a large percentage and it may indicate that people are slow enough to pass assets to children in any event. We cannot blame it all on the delay in the Bill, although we may like to do so. Does the IFA advise farmers on how to do things legally or ease the process of passing on assets?

Mr. Joe Healy: We do. Mr. James Staines is our legal adviser and he is available to any of our people. As the Deputy correctly says, 30% of farmers are over 65 and over half our farmers are over 55, with just 6% under 35. There are a number of problems. The first is the very low levels of income from farming and the Teagasc farm survey pinpoints that, particularly in the dry stock sectors where the direct payments account for over 100% of the average farm income. Mr. Martin Stapleton is our farm business chairman and much of our lobbying is focused on trying to ease the burden of the transfer of farms. This is one example but there are also inheritance tax and stamp duty incentives that we seek on a yearly basis. All the members have attended our lobby days on such matters as it can be a very costly time for farmer families. When people take over farms, other members of the family may need to be educated. If a person takes over a farm now, it must look after two families, namely, that person's family and his or her parents.

We could say that everything we do is about improving the farmer's lot, income and making a farm more attractive to the next generation. It is about easing the burden and cost of transfer. Much of that involves providing advice through our staff network of offices around the country and people like Ms O'Sullivan being made available to these farmers. This is a case in point where there is such fear. I repeat our very clear requests. I take Mr. Redmond's point that he hopes the drafting of the Bill will start soon but how long is a bit of string in that context? With all due respect, "soon" can mean next week to some people and next year to others. We would prefer a more definite period. This has been going on for so long now and it has caused so much anxiety. It was one of the key issues in my election campaign this time four years ago. I went into houses where people were hamstrung by the cost of care. We want the Bill to be drafted immediately because this has been going on for long enough. If there are issues which are not clear now, I am not sure another four or six years will clarify them either.

Deputy Murphy O'Mahony has correctly highlighted the issue of retrospection and we want that to be applied from July 2018, when the Government approved the proposal. We also want the leasee to be included in eligibility criteria and for the clawback issue to be sorted out to avoid undermining the impact of an unknown cost of care on the future value of the assets.

These four requests are very clear and there is no more or no less. We cannot be clearer than that at this stage.

Chairman: When the committee completes its deliberations this morning, it will produce a report as rapidly as possible to assist the Department in drafting the Bill, and I hope it will be done before the end of the year.

Mr. Niall Redmond: On the question of how soon is “soon”, I did not want to create the impression in a previous intervention that we are sitting down and writing the individual sections of the Bill at this point. We have engaged with the Office of Parliamentary Legal Advisers and we have a drafter. We have had several engagements. The overall drafting process has started but we have not yet written a draft Bill. Soon is now in that the process has kicked off and we are moving through it.

Deputy Margaret Murphy O’Mahony: This is going on for so long and there have been so many announcements. In our office, we are hearing from many farmers and business people who are mixed up about what is happening. I recommend that the witnesses educate or give information to farmers about what exactly is happening or being suggested. There has been a lack of clarity lately.

Senator Rónán Mullen: Many of the issues I would like to have addressed have been raised already. Will Mr. Redmond jog our memories with an overview of the cost of the fair deal scheme when we factor in what is taken in through the financial contribution of persons availing of nursing home care and the money received from the 7.5% deduction over three years or longer where the cap does not apply? What is the net cost to the country? Will he give an overview of the average stay of a person in nursing home care? How many people does this policy measure that we are awaiting affect? How many people on an annual basis and overall will benefit from the measure? I address this to Mr. Healy and Mr. Redmond. It might be helpful to have the figures but I apologise if this was raised before I came in.

Mr. Niall Redmond: It was not raised before. The net full-year cost of the scheme for 2018, not including the individual contributions from people in the scheme, was €972 million. When we factor in the contributions made by people, it brought the cost to €1.3 billion. The budget for 2020 in terms of net cost is €1.03 billion.

Senator Rónán Mullen: I will stop Mr. Redmond there. Forgive my lack of understanding but the net cost increases when we factor in people’s contributions. I am trying to work out what is left when the amount the State gets is subtracted from the amount it costs.

Mr. Niall Redmond: Leaving aside the administrative costs, the cost to the State was €972 million in 2018. Taking into account contributions individuals make to their care brings the figure up to €1.3 billion. It is not the cost to the State but the operating costs of the scheme.

Senator Rónán Mullen: Is €1.3 billion the overall cost, with the contributions from people amounting to some €400 million?

Mr. Niall Redmond: Yes. The budget for 2020 will be more than €1 billion. Mr. Duff will go through issues relating to the length of stay and the number of people we think will be affected by the changes.

Mr. Karl Duff: The average length of stay for those in long-term care who receive financial support from the NHSS is three years, which has come down substantially from the figure for

the previous subvention scheme. A number of people are still on previous arrangements so the average time for people who are only on the new scheme would, I imagine, be slightly less than three years. As for who will be affected by this amendment, the HSE captures quite high-level information on the people coming in and the nature of their assets, specifically their interest in productive farm and business assets, and there are some 700 people in the NHSS with a farm asset at the moment. A total of 23,300 people are being supported under the fair deal scheme and that represents approximately 3%, which is along the lines of the representation of the general population. If we take out the people who are currently availing of the sudden illness provision, there will be an immediate impact. People in long-term care under fair deal, and who have an interest in a farm or business asset and have been in the scheme for in excess of three years, will be immediately impacted and they will be able to avail of the cap if they nominate the family successor and meet the conditions.

Senator Rónán Mullen: What is the size of that cohort?

Mr. Karl Duff: We think 250 people will be immediately impacted.

Senator Rónán Mullen: That is the total in nursing home care at this time.

Mr. Karl Duff: It is the total in care under scheme for in excess of three years who have an interest in a farm or a business asset. The cap takes immediate effect for them. We also imagine a cohort of who, for whatever reason, have an interest in a farm or business asset but are not supported under the scheme because they may be wholly private and self-funding. We imagine they might be attracted into the scheme, though we think they are a small cohort. If they were to come into the scheme, there would be a cost as they would immediately be able to avail of the three-year cap. We estimate 50 or 60 people in this category. We also feel there is a cohort of people holding off on entering the scheme. They may be availing of home support but now that they understand this proposal, they may be attracted into the scheme if they have some assurance as to the sustainability of their productive assets. The cap will not take effect for another three years but there is an immediate cost if we attract that cohort into the scheme. Three years from now, there will be a further cost when the cap is realised.

Senator Rónán Mullen: What is Mr. Duff's estimate for the number on the margins, wondering what is going to happen and how soon it will happen?

Mr. Karl Duff: It is quite difficult to come up with one for that. We have a number of assumptions and we have a rigorous methodology, which we shared with our colleagues in the Department of Public Expenditure and Reform to validate it. Approximately 3% of the client base have an interest in a farm but the number of farmers we believe to be in need of long-term care is slightly higher than 3%, at close to 3.4%. The additional 0.4% were the ones we saw as potentially eligible for the scheme.

Senator Rónán Mullen: How much would that be?

Mr. Karl Duff: I will have to check.

Senator Rónán Mullen: Mr. Duff said there was a base of 250 people plus another 50 or 70. Year on year, would 50 or 60 people be likely to come into the system?

Mr. Karl Duff: Yes. The cohort of people who are outside but who may be attracted into the scheme is just over 300 people. There would be a cost involved in that and there will be further cost in three years. The full-year cost of this proposal is approximately €10 million with

an additional cost of €3.5 million in three years.

Deputy Denis Naughten: I have made a detailed submission to the committee and I hope it will be considered. It dovetails with the earlier presentation by Mr. Joe Healy. The IFA made a valid proposal, which is that the test relating to farming replicate what is already in primary legislation in the way of agriculture relief. It is of fundamental importance that there be consistency across government in this area because otherwise confusion will be created. The objective of the provision before us is to remove current anomalies in the fair deal scheme and, therefore, it should not create other anomalies but if we do not take the agriculture relief as the definition, that is what we will do.

In his response to colleagues, Mr. Redmond stated that this was a land mobility policy, which should not be looked at in terms of the NHSS. I appreciate where he is coming from but he is creating a further anomaly in the system and we will have to come back to amend this again as it will undermine the clear objective and policy of Government to provide for land mobility. If the legislation is drafted as currently proposed, many people who would wish to go into long-term leasing will not do so because they will be discriminated against if they do. In his defence of not moving from this position, Mr. Redmond stated that it would threaten the equity of the scheme and that there is a constitutional issue in terms of equity. I am glad that he raised the issue of equity. Taking the example that Mr. Healy gave, can Mr. Redmond explain the justification for the current proposals regarding the lease of land for the first three years? We can argue about what should happen after three years, but I would like to tease out the position in regard to the first three years. First, 3.5% of the capital value of that farm is taken into account under the NHSS. Second, the rental income from the land is also considered income under the scheme. Third, if that money goes through the older person's bank account, which in all likelihood it would, that money is considered capital on deposit. This means the same land is charged for three times under the scheme. I ask Mr. Redmond to explain to me how that is equitable, constitutional or fair.

This does not only happen in regard to farm land. It is also the case in regard to a private home. Currently, there are five vacant homes in the ownership of elderly people in long-term nursing home care for every homeless family in this country. The dots do not join up. There are 9,000 vacant homes in respect of which the owners have gone into long-term nursing home care and in a bizarre twist of the current policy under the fair deal scheme, we are effectively banning the rental of these homes because they will be hit on the treble under the penalty system that is currently in place under the scheme. This penalty is such that in the case of a house owned by an older person in long-term nursing home care, the capital value is taken into account at the rate of 7.5% per annum. On top of that, if the house is rented, the income generated is also taken in account. As I said, that money is likely to go through the older person's bank account, which is considered capital on deposit subject to charge at a rate of 7.5%.

There are 9,000 vacant houses, some of which - it may only be a small cohort - families are prepared to rent out but the difficulty is that they would be subject to a charge three times. This is not equitable. It is even more bizarre that under the national broadband scheme 1,000 Mbps high-speed broadband is being provided outside some of these vacant homes that could accommodate families. Infrastructure is being installed yet these houses remain vacant, with weeds growing around them. This penalty is undermining the stated Government policy of trying to reopen vacant houses.

Following on from Mr. Healy's submission, and as set out in my own submission, what we need is equity, fairness and transparency. A property should be charged only once under

the means assessment. Under the Department of Employment Affairs and Social Protection non-contributory old age pension mechanism, where a capital asset generates an income, that income is taken into account. For example, if a farm is leased out, the lease income is taken into account. If the land is farmed, the income generated is taken into account. If the farm is not being farmed or leased, the capital value of the land is taken into account. A house that is the principal private residence is excluded under the social welfare scheme. In the case of any other property, the capital value of the property or any income generated from it is taken into account. I have no difficulty with people paying their fair share. I am not seeking a sweetheart deal for farmers or older people; rather, I am seeking equity. A property should be means assessed only once, not twice and definitely not three times. This is the fundamental anomaly of the NHSS as currently applied in terms of the lease of farm land and the rent of houses.

The argument will be made by the witnesses and the Department of Public Expenditure and Reform that the way forward is to progress with what has been proposed and to revisit the issue another time. The difficulty is that this scheme has been under review since 2012. I had a commitment written into the programme for Government that this would be fast forwarded because of the failure to progress it over the four years prior to the drafting of the programme for Government. Thanks to the support of individuals such as Maura Canning of the IFA, we have made progress. I accept that the Minister of State, Deputy Jim Daly, has done a lot of work and each of the witnesses has done a lot of work in that regard. I am aware of the barriers and bottlenecks they have dealt with in terms of other arms of government because I was involved at Cabinet in pushing through them. Now that we have the opportunity to take anomalies out of the system, to introduce an element of fairness and equity into the system, we should do so.

I ask the witnesses to incorporate the definition of “agricultural relief” in the Finance Act 2019 into the provisions of this scheme and, in terms of capital assessment, to treat property equitably, as provided for under primary legislation for the Department of Employment Affairs and Social Protection. All we are looking for is equity in this area. Conservatively, there are more than 50,000 vacant houses throughout the country. The fair deal scheme boycott is one element in that regard. Another element in regard to the blockage of these homes is the issue of probate. People in County Roscommon and the adjoining county of Galway have to wait, on average, three and a half months for it to be processed. If one is unfortunate enough to live in County Kilkenny, the process takes four and a half months. In Cork city, it takes two and a half months and, in Waterford city, it takes three and a half months. These are areas of the country where there is demand for housing yet the probate system is blocking the release of houses onto the market. There are 1.75 million houses in the country. We need to utilise them in the best way. We need to work with older people and their families to unblock any blockages in that regard. I hope committee members and officials of the Department of Employment Affairs and Social Protection will examine the blockage that has been created by the fair deal scheme and address the anomaly in respect of farm leasing.

Mr. Niall Redmond: I thank the Deputy for his questions. On equity, as I have mentioned, it is important to take into account the purpose and the policy objectives of the fair deal scheme, including in the context of the heads of Bill that we have developed, and the situation prior to the introduction of the scheme. I have read some of the Oireachtas debates on the introduction of the Act in 2008. One of the main aims of the fair deal scheme was to correct the situation whereby people of similar means were paying different levels of contribution. Part of what the fair deal scheme attempts to do is to provide a situation where a person pays a contribution towards his or her care based on the means he or she has. Effectively, that boils down the more means a person has, the more one pays, and the less means one has, the less one pays. What is

being suggested would fundamentally move away from that, irrespective of the other policies that may exist and those other policies that exist in relation to other aspects of Government. They have a particular policy intent and a particular policy objective. I am not necessarily convinced that this undermines any of those. I think this is a different policy intent. The fundamentals of the nursing homes support scheme being based on financial assessment of means would be significantly undone if we were to do anything else in relation to that and would actually create a situation where we are back to a position again that we were in previously where one resident in a nursing home has more means than another but contributes less to the scheme. That is the situation that the scheme tried to fix. We have done well in terms of doing that and supporting 100,000 people in the past ten years. Any move backwards in relation to that would create significant difficulties with the scheme.

Deputy Denis Naughten: I hear exactly what Mr. Redmond says. I do not disagree with it. I wholeheartedly agree that if one has more means, one pays more. That is a fundamental tenet of the scheme, and should be a fundamental tenet of the scheme, but I vehemently oppose the fact that if one has a single asset that one pays three times for it. Let me make it clear to Mr. Redmond. The Department is drafting the legislation at the moment. I do not know what the formulation of the House will be when this legislation goes through, but whoever the Minister of the day is bringing this primary legislation through the House, he or she will not be in a position to defend a situation where one pays three times for a single asset. That is inequitable. It is unconstitutional. It is unfair. I urge the Department to reconsider exactly what I have said while the legislation is being drafted to ensure that it provides the equity we all believe should be part of the scheme.

Mr. Niall Redmond: We have been concentrating on what is in the heads of the Bill this morning but we are having significant engagement with the Department of Housing, Planning and Local Government on vacant homes. Deputy Naughten raised the issue of rental income. That is a particularly difficult one, for the same principles I have outlined. Currently, there is no income within the scheme that is treated differently from other types of income. It would be difficult to try to segregate rental income and treat it differently and not have a situation where there is inequitable treatment. That is a major issue. I do not think that will work, in terms of the way the scheme is set up and what it is intended to do. That goes back to the issue of the cap and the precedent that exists in that regard. It has been a feature of the scheme since day one. We are working with the Department of Housing, Planning and Local Government to look at, for example, the possibility of capping the proceeds from the sale of the home at three years. It is an anomaly that can be addressed. Currently, the situation with the scheme is that if one has the physical property one pays 7.5% of the value of the property for three years and then it is capped. If one decides to sell the property either before going into care or when one is in care the cash proceeds from the asset are not subject to a cap. If someone was in nursing home care for ten years, one would pay 75% of it. There is definitely an issue in that regard. That would be a barrier to people selling on the property. We are committed to having a look at that. It is unclear how quickly we can get through it, but it is our intention if people are in agreement that we could try to piggy-back an amendment to the scheme when the Bill is eventually debated. That is something we can do. One of the issues, more broadly, is trying to get good evidence and a good methodology in place. This goes back to the issue of proportionality. The rational process for delivering a policy objective is trying to understand realistically how many vacant homes are out there that are a direct result of a person going into long-term care. Some data came out of the 2016 census. The CSO has highlighted the difficulty in its disclaimers, for want of a better word, in that it was a small process that was done on an experimental basis. We are working with the Department of Housing, Planning and Local Government to see what we can

do to try to get a better handle on what the figures might be and have a more robust methodology for looking at those.

The second part of the equation is trying to understand what is the realistic benefit in terms of freeing up homes by making a change to the scheme. That is a difficult one in itself because if one takes something like, rental income, for example, just because something is a possibility does not mean that people will follow through. There may be a whole host of reasons for that, not least because what we are talking about are people who themselves may not be vulnerable but who are in vulnerable positions in terms of being elderly in a nursing home with various medical and other needs, but I am not sure how likely it would be to happen on a large scale that they would take on the role of landlord and all of the legal implications and responsibilities that has. That is an important aspect when we look at this issue. The more important piece is trying to segregate a particular type of income and treat it differently from every other income and have the situation we had previously where people of different means were paying different contributions but not based on paying more because they have more means but paying less because they have more means. That would create a very fundamental unfairness in the system.

Deputy Denis Naughten: I will comment on that very briefly as I am not going to get involved in this to any greater extent. The statistics I have given in terms of the 9,000 are from the HSE and relate to the nursing homes support scheme. They are on foot of a reply to a parliamentary question. I believe many older people and their families do not want to rent out their properties. That is fair enough. That is their own decision. It is very hard to know what the impact will be until one does something. However, the fundamental issue is that the Department of Employment Affairs and Social Protection has a very equitable, fair and defensible system of calculating income but in the nursing homes support scheme we are saying that if one has a particular type of income, then one pays for it three times. That is wrong. That is inequitable. It is immoral and needs to be changed. All I am asking the Department to do is to look back over what I have said this morning, look at the legislation in the Department of Employment Affairs and Social Protection, and bring a bit of fairness into the fair deal scheme.

Deputy Kate O'Connell: I thank the witnesses for attending. Following on from Deputy Naughten's comments, there has been much talk back and forth and the point has been laboured. I do not think anyone is suggesting that anybody should be treated in an unfair manner. The point is that it is the assets that are being treated differently. I do not think anyone is suggesting that someone from a farming background should be treated more favourably than somebody coming from an alternative background. The point being made is that the asset has potentially been targeted three times as part of the calculations. I want to make sure that we do not have to go back over it another three times. The point is very clear.

I agree with Mr. Healy's four asks. I do not think they are too much. The cost for people in farming communities of the lack of mobility and paralysis on this issue cannot be overstated, as it has had real-life impacts for people who are trying to succession plan as part of their lives in rural Ireland. I agree in particular with the back-dating of any proposal as compensation for the stagnation that has occurred with the progression of this legislation.

I do not wish to go back over the exact same points as anybody else, but I know the Department is in contact with the Department of Housing, Planning and Local Government about leasing or renting properties. I have a slight concern with Mr. Redmond's assumption that everybody that is in a nursing home is not of sound mind or that there is a vulnerability there. Many people have extensive support networks and, with all due respect, it is their families that stand up for them and their communities. I do not think we need to classify them as a particular

type of vulnerable person here this morning. The Department of Housing, Planning and Local Government was mentioned. I have been informed by the Minister that it is considering this as an option to free up the supply of stock. I imagine that there may be issues of suitability. For example, many rural homes might not have insulation or be retrofitted and, consequently, might not be fit for rent. That is a decision for the family, though.

In terms of the all-of-Government approach to climate action, has this matter been considered? The witnesses might think I am being a bit out there in this, but there is supposed to be carbon checking or a climate response from every Department. Some years ago, there were initiatives to incentivise the leasing of land to improve land mobility so that younger or more progressive farmers would not need to go to a bank and seek funding that they might not get. I am sure that the departmental officials are fully aware of those tax incentives to encourage the leasing of land. It has been referred to as income, given that the leased asset is considered in the calculation. Without making broader statements, and perhaps Mr. Healy will agree, a younger farmer tends to be qualified in the areas of the beef genomics scheme and all those other progressive actions we are taking in agriculture. The role that rural Ireland and farms in particular have to play in our decarbonisation is so important that we cannot do anything that in any way disincentivises people. The number of leases that have been taken up has doubled to 10,000 as a result of the policy of encouraging land mobility. If we do not make the modifications that are being asked for today, we will not be climate proofing this policy and it will make moving into the farming sphere less equitable and fair. The younger, more progressive farmers will be penalised and, therefore, we as a country will not get the benefits that we should from their progressive methods and standards.

I am concerned about the five-year clawback. There have been a couple of instances of people not meeting the five-year threshold. A line must be drawn somewhere, but is there an appeals system? If something happened in a family four years and 360 days ago, would a sliding scale apply or would it be completely black and white? Is any compassion shown if people are in a difficult situation with, for example, a sick family member?

I am informed by the IFA that 86% of farmers have no succession plan. That is worrying, given that they are the custodians of most of the land that will trap the carbon. As such, the issue under discussion is being looked at in a silo rather than as part of the overall solution for the country. Has the Department considered this matter in its planning on the legislation?

Mr. Niall Redmond: Regarding incentives and the five-year period, we would be less likely to be having a robust conversation on this issue if people succession planned appropriately and passed on their assets to future generations in good time. The solution to all of this lies in the individual's hands. There may be a whole variety-----

Deputy Kate O'Connell: Individual what?

Mr. Niall Redmond: Getting on board is in the individual's hands. Everyone with a broader stake in farming and agriculture recognises that. The IFA mentioned its recognition of it at this meeting. In the context of the fair deal scheme, a major solution to many of the issues around the continued viability of farming is to plan ahead, plan well and effect that succession planning as early as possible. This important point needs to be made. It has been an in-built incentive in the scheme from day one.

The five-year period is black and white under the primary legislation. In that light, I do not know what allowances would be made in practice if someone was at four years and 364 days.

I can check it out with the HSE.

Deputy Kate O’Connell: Mr. Redmond can imagine a situation where an asset is at stake and an older person is not getting the care he or she wants or needs because people are trying to reach the five-year point. They might prop mammy up at home until they reached it. That is not good policy. The older person should be the focus.

Mr. Niall Redmond: Absolutely. Looking at it from a different angle, though, if people can divest themselves of all assets before they enter the scheme, the scheme will cost whatever it costs and people will not get access unless we find a pot of money that can live with that additional cost. There are issues in that regard, so it is a question of trying to strike a balance. The five-year period was decided on in 2009 to strike that balance and give people an opportunity.

Regarding the Bill’s head on transferred assets, the three-year cap can apply to transferred assets on the condition that they have gone to a family successor. We have tried to move that forward a little while also protecting the integral part of the scheme and the sustainability of what it is trying to do.

To be honest, we have not given climate action consideration. This is a financial support scheme and I understand that-----

Deputy Kate O’Connell: Everything is supposed to be climate proofed now. Everything is supposed to have that consideration. There was a concerted effort to reduce fragmentation - pockets of land - and make things more efficient, but some of this Bill will have a negative effect on that policy. I cannot see how it is not a consideration. I would like the Department to consider it. The people who are taking over these farms are the people with the hedgerows, the grasslands, the land that will be planted, GLAS and so on. They are the ones on whom we will be dependent to decarbonise our economy and to cool the environment. There are positive benefits to efficient, progressive farming, larger farms and making it possible for younger farmers to afford to get land without buying it. We must consider all of that if we are serious about the climate issue.

Mr. Niall Redmond: The scheme does not undermine that in any sense. To qualify for the cap, one must have a family member who is working the farm. The basic policy objective is to protect situations where the family farm is passed on to the next generation to work the land and to avoid the uncertainty of an open-ended contribution towards nursing home fees. What we have proposed addresses that.

If people for whatever reason do not want to or cannot work their land, there is an opportunity to transfer that asset in good time and have it in someone else’s productive use. The scheme does not undermine that. An important aspect is how it presents people with a range of choices about how to manage their land and affairs. We must also consider the scheme in a broader context than just farm and business assets. If we make it the case that one could have any asset, be one working or not-----

Deputy Kate O’Connell: No one is suggesting that.

Mr. Niall Redmond: No, but if we treat a certain asset in that way, we have to treat other assets in the same way.

Deputy Kate O’Connell: I understand that, but these are unique assets. Such assets sequester carbon and need to be managed. If the land is not leased and is left fallow, there will be

an issue. Active farming of the land and the maintenance of biodiversity and so on that farming communities do are important. The point of the incentives some years ago to promote leasing and land mobility was to make the farm an equitable business. In consideration of the leased land as an asset, and for the purposes of calculation, it almost undoes the good of the previous policy objective.

Mr. Niall Redmond: On working with the asset, a primary condition for the cap is that somebody must be working the land. We are not putting the land out of use.

Deputy Kate O'Connell: I understand that. My point is that if it becomes inequitable to bother leasing it out or if it is not equitable to lease the land due to the tax arrangements, it will be left fallow. No one will bother with it because it will not be worth it.

Chairman: I thank Mr. Redmond and call Deputy Danny Healy-Rae.

Deputy Danny Healy-Rae: I welcome the officials from the Department, Mr. Healy and the other representatives of the IFA in attendance. As we are all well aware, this matter has been ongoing for several years. I call the fair deal scheme for farmers the lousiest deal in the world. They are being militated against and a bush has been put in their way to access the fair deal. So much wrong has been done to them that it is unbelievable it is happening in a democratic country such as Ireland, and that it is being allowed to continue.

I call it a debacle. We thought we had brought it to a head in July 2018. Our Rural Independent Group, of which the Chairman is a member, called a vote in the Chamber on the matter at the time. The Government and its supporters voted against it and Fianna Fáil abstained, but I am glad to say Sinn Féin and small groupings of parties ensured that we had a majority and the Government would have to address it. The Minister of State, Deputy Daly, seemed to be receptive but it is clear that other forces within the Government are resisting it. The finance of the fair deal scheme, for this year alone, has been under threat. People qualified for the scheme and submitted their application but were then told they would have to wait until funding became available. It is clear that what is happening is the funding is not available for the fair deal scheme and, therefore, the crowd will block it or try to extract as much as they can from farmers. It is ridiculous.

We had a notion that a three-year cap would be put in place for farmers accessing the scheme. The position that obtains, whereby the applicant must pay 7.5% of his or her assets, applies in cases where he or she is the sole owner of the farm. In rural Ireland, it may be that one person owns the farm even though he or she is married, or in a couple or whatever, and it is often the case that the other person's name is not on the farm. A figure of 7.5% is charged, which, multiplied by five in the case of a €500,000 farm, is €37,500, although, as Mr. Healy will be aware, one would not buy much of a farm for €500,000 in today's world. A young farmer, who might be a woman or man trying to continue on his or her own, will be liable for that payment each year. That is totally unfair and undemocratic. In the case of everyone else in the country, if he or she has a house, it is only the value of the house that will be assessed for the scheme.

I met a man in west Cork a few months ago who had just bought a farm. We all know that one must increase production even to stand still in respect of one's income. The farm's value will be taken into consideration. The man's wife has motor neurone disease. She accompanied him to a wedding I attended. She did not know exactly where she was but she was able to move around. The man told me that in six months, she would have to move to a nursing home. They have a young family and he will have to contend with that.

That is what is being doled out. It is a matter of like it or lump it, and one must pay the rate of 7.5% for as many years as possible, until someone caves in somewhere and agrees to the cap. One matter the IFA may not have pushed hard enough, which I resent, is that the full value of the farm is assessed but it should not be. It is very unfair. In most other instances, only the family home is assessed. Someone suggested that farms be passed on in good time but when is a good time? People get sick when they are 30 years old, in their mid-20s or when they are 40. Should one pass on the farm 20 years early? Most people believe they should retire in their mid or late 60s. Should people hand over their farm before they turn 40 years of age? That is ridiculous to entertain. The matter is simple. The Government can keep putting bushes in the gap and say farmers cannot qualify if they will not farm the land for six years after the owner has gone into care or has accessed the fair deal scheme, or that the person in charge of the farm at the time cannot rent it out. It is ridiculous. Take, for example, a man who is seriously injured. Farming is a physically demanding occupation. If something happens and the man must move to a nursing home, his wife may have a young family who must be minded and she may have to get a part-time job to try to keep food on the table. If she is told she cannot access the fair deal scheme because she leases it out, that should not be entertained. If that is shoved down people's throats, they will not take it because it is just not fair.

I have nothing against Mr. Redmond or any of our guests. I accept that it is a combined effort of the Government, which resists giving farmers a fair deal when they get sick or must access a nursing home. It is a combined effort of the Government and, perhaps, Department officials, although I do not suggest it was the fault of any of our guests. When a chairman or member of a company becomes sick, is the value of all the parts of the company or business taken into account in the same way that a small family farm is hit when someone wants to access the fair deal scheme? I hope it is not just farmers who are being hit by this. I ask for an answer to my question.

Chairman: We will give the witnesses an opportunity to respond to those points.

Deputy Danny Healy-Rae: I am very interested in the answer to the question about company value and other businesses aside from family farms.

Mr. Joe Healy: In doing our bit for climate change, we are no longer allowed to cut those bushes or put them in the gaps. We have to hang gates instead.

Deputy Danny Healy-Rae: Wherever people are cutting bushes, they are putting them in the gaps anyway.

Mr. Joe Healy: I say that in jest. The Deputy's point is well made, as were the points made by all the other speakers. I have repeated our asks. They are simple and straightforward for a number of reasons. We have given examples, and Deputy Naughten repeated them, of the rules that apply in other Departments and parts of Government. We look at the inequity of excluding farmers who lease their lands when it is a measure recommended by the Department of Agriculture, Food and the Marine in a number of other areas, as I outlined in my opening statement. From a Government point of view, we need to see consistency through the different Departments. If consistency were applied, it would solve many of the problems we have been discussing.

Mr. Niall Redmond: I will not go back over old ground in respect of what we discussed, the different intents and rationale for different policies and how they are set up for different purposes, and all the unintended consequences that can arise. We have looked at these issues in

great detail and it is not as simple as just applying the measures suggested. Deputy Healy-Rae raised the issue of sudden illness, which is an important point. In 2009, when the original Act was being developed and debated, that was an issue that came up in great detail. A clause was included in the scheme at the time providing that, in circumstances where a farmer or business operator, through no fault of their own, experiences a sudden illness or disability, for example, as a result of an injury, the three-year cap could apply provided he or she has been operating the farm or business and a family successor continues with it in his or her stead. That has been a feature of the scheme. What we are trying to do with the amendments is to build on that feature and broaden it so that the sudden illness and disability clause is not required. We have moved on that position.

The Deputy asked about companies. This goes back to a current that runs through this morning's discussion, namely, the issue of equity. One of the challenges is to segregate a type of asset for a particular policy purpose and to treat it differently from other assets. That is what we are doing here and that effectively exists already in the scheme, with the sudden illness clause. That also has to be consistent in terms of businesses and companies that are not farm-related. That will continue to exist in the scheme under this proposal.

Somebody who is operating a business will also qualify for the three-year cap if he or she meets the same conditions that would have to be met if he or she was farming land. One thing that differentiates businesses is that where a business is a limited company, the assets of the company are not the assets of the person. By and large, these assets are not taken into account in the financial assessment, although the person's share in the company may be taken into account. The assets of a limited company may not be taken into account because it is a separate legal entity. All of that exists in the scheme and we are broadening it with this amendment, particularly in removing the requirement to have suffered a sudden illness or disability. That is the angle we have taken in trying to build on that.

There are other safeguards built into the scheme as well, some of which we have discussed and some of which we have not discussed. For example, the Deputy mentioned couples and farming families. There is an asset disregard of €72,000, which means that in the case of a couple, the first €72,000 is not included in the financial assessment. There are other safeguards in the scheme to try to create a level of fairness around issues such as that.

To return to the discussion with Deputy O'Connell on the issue of people's vulnerability, I was not suggesting that because someone is in a nursing home, he or she has, by default, some level of vulnerability. That is not the point I was making.

Deputy Danny Healy-Rae: I want to get an answer to the question I asked about a farmer who purchases more land and has borrowings on that or who has maybe borrowed the whole value, as happens. Is the value of that borrowed farm taken into account or will it continue to be taken into account and assessed if new provisions are made for farmers?

Mr. Niall Redmond: As an asset in the ownership of an individual, it is currently assessed and there is no proposal to change that. However, there are a range of allowable deductions in the scheme, one of which is interest on a mortgage in the purchase of an asset. The interest can be discounted from the financial assessment.

Deputy Danny Healy-Rae: That is wrong as well. It is wrong that this will be calculated as part of the assessment. We know farmers have done their best through the generations to hand the farm on to the next generation in as good or better condition as when they got it in the

first place. Insisting that someone who accesses the fair deal scheme must pay back €7,500 on each €100,000 of the value of the farm land would mean that €35,000 per year would be paid for three years in the case of a farm valued at €500,000. That would place a burden of €105,000 on a young farmer trying to take over a farm who would be behind as soon as he or she starts out. Credit is hard to get from banks and the other lending institutions. What this will most likely mean for young fellows who find themselves in this situation is that they will have to walk away and sell the farm that was handed down to them. The farm may have been in the family for five or six generations. Is that what the Government will allow to happen in this day and age? It is not fair and should not be the case.

Chairman: We will get an answer to that question. We need to conclude soon.

Mr. Niall Redmond: That point goes back to a question the Deputy asked earlier about when is a good time to pass on the asset to the next generation. Any asset that has been transferred over five years before someone goes into nursing home care is disregarded and not included in the financial assessment. I have said already, as have others, that I would strongly encourage all those who are involved in farming or a farm business to plan ahead, consider their succession options and put in place mechanisms for succession. If they do that, much of this conversation will have been unnecessary. We know that for various reasons and through no one's fault, that is sometimes not possible but, by and large, it is possible with good planning. I encourage as many people as possible to do that because we will not have to consider the asset within the financial assessment. It comes back to the purpose of the scheme, which is to provide financial support. The State provides financial support to avail of nursing home care which is based on means. Those who have income and many assets pay more. That is the basic principle of the scheme.

Deputy Danny Healy-Rae: Just to finish-----

Chairman: I am sorry, we have given the Deputy 20 minutes already.

Deputy Danny Healy-Rae: I disagree with the notion that farmers should pass on land at the age of 40 or 50 years. That is wrong.

Chairman: Before I call Senator Mullen, on what Deputy Naughten said that the land or the asset could be assessed three times, is it possible that one chooses the higher assessment figure and disregards the other two? Alternatively, does one allow the income in the other two to be offset against the higher assessment figure, say, of 7.5%? That would mean that the rental income would be offset against the settlement figure of 7.5%.

Mr. Niall Redmond: That is not possible. Income and assets are treated differently under the scheme. Income is treated at the 80% rate, while assets are treated at 7.5%. While there may be linkages, they are separate sets of means. Income is treated in one way and assets in another. There is no choice for anybody as regards how they are treated under the scheme.

Deputy Denis Naughten: That is why it needs to be changed. What is going on is immoral.

Chairman: On the proposed statutory home care scheme that will be introduced in the near future, will the same assessment criteria be applied to it as are applied to the nursing home scheme?

Mr. Niall Redmond: We do not know about the development process for the policy behind the scheme, but the Minister has previously signalled that there should be some contribution.

However, we do not know at this point how it will shape up.

Part of the funding we secured in budget 2020 was to allow us to commence a programme of rigorous testing of different approaches to the statutory homecare scheme and the delivery of homecare under the new scheme in 2020. The testing programme is being developed between the Department and HSE and some of these issues will be looked at in that context. There are probably some issues that are quite natural and which may not have an impact. I cannot say for definite until the process is completed, but the expectation that somebody will pay 80% of his or her income while still living at home, compared to somebody living in a nursing home in which a certain amount services are provided, including bed and board, is not likely to be compatible. It is a key feature that we will have to examine. It will all start to become more apparent next year as we work through the testing programme. My understanding is we will test slightly different approaches in different areas to build a profile of what will actually work under the new scheme.

Senator Rónán Mullen: I will not keep the delegates long. I am conscious that this has been a long session and that they have been here for longer than I have.

On the question of vulnerability, we should not hesitate to acknowledge the fact that we will all become vulnerable as we grow older. People are in nursing homes precisely because they are vulnerable. That is why this is an important debate. Mr. Redmond was kind to acknowledge and clarify this, but it was probably not necessary for him to do so.

I return to the question of extending the eligibility criteria to include a situation where land is leased. I apologise if I am cutting stubble. On the one hand, the tax incentives for long-term leases are to achieve the particular policy objective of promoting land mobility. Mr. Redmond considered the different policy objective of ensuring families could be enabled to continue farming a productive asset. He stated these were two different policy objectives and that he was considering them together. Speaking about family vulnerability, I am somewhat close to this problem, but I do not know how extensive it is. However, it seems that families sometimes lease land in order to be able to continue farming a productive asset. I am thinking of people who are caring for a person in the home. While it might become a more challenging task, they might want to continue to do so for as long as is possible. It might be in contemplation of the possibility that at some point in the future nursing home care might be required. One might have a situation where a family would prefer to lease land for a period to allow them to focus on the provision of care and cope with something that could be challenging. However, they are prevented from doing so because if they have leased land, at some point in the future when they seek to avail of nursing home care, they will not be able to avail of the cap. Is that not an anomaly? Is it not very unfair? Does Mr. Healy agree with me that it is one of the possible range of scenarios that might arise? Is it correct that there may be cases where people want to lease land precisely to postpone the day when they will need to avail of nursing home care? This is an issue that needs to be taken into account. What is the fundamental objection to extending the eligibility criteria to include leased land?

Mr. Niall Redmond: As matters stand, if someone is not working a asset up to the time he or she goes into a nursing home, under the sudden illness and disability scheme provisions, he or she will not qualify to avail of the cap. To recognise certain situations, we have introduced a measure whereby one only needs to have been working it in three of the past five years. The reason for this is to address some of these issues but also to be clear on the fact that one has to show some intention. The real plan is that one will work the land or that one's family successor will.

Again, it is one thing to look at one policy and its objective and another to look at another policy and its objective. We have to look at all of the consequences in dealing with these issues which are necessarily directly related. If one is talking about leasing, one is talking about something which is passive in terms of a person's involvement. A person leases land, but by default he or she does not have to do much with it. The issue is that potential applicants have a range of assets such as stocks and shares. All of their assets become qualifiable under the conditions of the scheme. That is one of the major dangers. One would end up getting to a situation where all assets would be capped. That would have a significant impact on the sustainability of the scheme.

Part of what we are trying to do is recognise some situations and deliver on the recommendations made in the 2015 review. At the same time, we have to be cognisant of the need to protect the scheme for what it is and its basic principles, as well as ensuring people can continue to be supported into the future. As I stated in my opening statement, we are conscious of the ageing demographics and what lies ahead. Anything that undermines the sustainability of the scheme is not good for citizens in a general sense.

Mr. Joe Healy: Land is different from other assets, as we have clearly pointed out. Leasing has become an integral part of succession and is recognised by the Department of Agriculture, Food and the Marine, the Department of Finance and across government. It is incredible that there is a reluctance to treat it in the same way for the good of the scheme, agriculture and succession, as well as in ensuring land is well looked after and put to productive use. That is the argument we are making. We have the Bill, the leasing issue, the clawback and the issue of retrospection. They are the four key issues. There has to be an acknowledgement that leasing is a central part of succession. That is what we are asking for as part of our four requests.

I thank the Chairman and all public representatives. Deputy Danny Healy-Rae referred to the IFA. When all is said and done, it is a lobbying organisation. Public representatives have the power to ensure it will be pushed at the various levels. That is what we are asking the committee to do for us.

Chairman: I thank Mr. Healy. That concludes our hearing. I thank Mr. Redmond, Mr. Duff and Ms Simon from the Department of Health and Mr. Healy, Ms Farrell, Ms O'Sullivan and Mr. Stapleton from the Irish Farmers Association for giving evidence.

Deputy Bernard J. Durkan: I apologise for my absence earlier. I had to go to the Chamber for questions and when a quorum was called.

Chairman: We will produce a report as soon as possible to assist in the drafting of the legislation. I again thank the delegates for coming.

Sitting suspended at 11.40 a.m. and resumed at 11.55 a.m.

Workforce Planning in the Irish Health Sector: Discussion (Resumed)

Chairman: We will resume our review of workforce planning in the health sector. I welcome from the Irish Nurses and Midwives Organisation, Ms Phil Ní Sheaghda, general secretary, Ms Eilish Fitzgerald, second vice president, Ms Niamh Adams, president, and I have left one person out.

Ms Martina Harkin-Kelly: It is me, Martina Harkin-Kelly, president. For the record, Ms Niamh Adams is the librarian and researcher.

Chairman: My apologies.

Ms Martina Harkin-Kelly: That is all right. This woman will soon correct the Chairman.

Chairman: I wish to draw the attention of witnesses to the fact that by virtue of section 17(2)(l) of the Defamation Act 2009, they are protected by absolute privilege in respect of their evidence to the committee. If they are directed by the committee to cease giving evidence on a particular matter and they continue to do so, they are entitled thereafter only to a qualified privilege in respect of their evidence. They are directed that only evidence connected with the subject matter of these proceedings is to be given and they are asked to respect the parliamentary practice to the effect that, where possible, they should not criticise or make charges against any person or entity by name or in such a way as to make him, her or it identifiable.

I also wish to advise that any opening statements made to this committee may be published on the committee's website after this meeting.

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.

I invite Ms Phil Ní Sheaghdha to make her opening statement.

Ms Phil Ní Sheaghdha: We very much thank the committee for this opportunity to present to it. We have submitted our written statement, which we have been advised is very lengthy. Therefore, we will endeavour to condense it in our presentation.

The issue of staffing in the health service is one on which we have been campaigning for more than a decade. It involved us taking strike action earlier this year. The issue still remains a major one for our members both in the hospital sector and in the community sector. The main issues particular to nursing and midwifery are that nursing and midwifery as professions have a worldwide shortage. We set out in the submission that the issues we face here are not unique to Ireland but, unfortunately, we have to work much harder to maintain our level of staffing and particularly to retain our graduates once they qualify. We qualify 1,850 graduates a year and we will manage this year to hold on to approximately 900, which is good. That is an improvement on previous years but, obviously, it is not good enough. We have set out the turnover rates in our submission and there is considerable detail on that, which I would like to go through with the committee, if that is okay. In the submission, we go through the global shortage and set out exactly what that means, which is that each country that requires nursing and midwifery is basically recruiting from the same pool. We are largely dependent on the non-EU workforce made up of nurses who come from the Philippines, India and Nigeria. They are the three top countries and are the countries on which the American countries, Canada and Australia also rely. The recruitment costs are quite expensive for obvious reasons. We must send teams to interview and then ensure that when we recruit, we provide accommodation for a period of time. A stipend salary is also provided, estimated at a cost of €11,000 per person, prior to taking up a job in the health service. In the meantime, a recruitment pause was introduced in May, although the HSE continues to deny there is a pause. In fact, it is very evident, including in the front-line workforce, and presents a real problem. The circular issued by the HSE to service providers on 20 June states:

- No new posts [other than those approved and funded developments via the existing national control process] or replacement posts can proceed to offer stage or be put onto the payroll in any CHO, HG or [section] 38.

- No career break returnees or any other returns which are at the discretion of the employer can be allowed to take place during the period [this control] is in force. Also, no increases to weekly hours of staff who are not already working full time can be allowed to take place or approved during the period that [this control] is in force. Reductions to weekly hours can proceed.

This means that we have applications from nurses to return from a career break and that they are being denied and that they are sitting at home. Under the career break scheme, the employer has the right to postpone the return date by one year but must then lawfully take the employee back. Unfortunately, we are absolutely crippled by the recruitment pause. Our members report daily that they are working with completely inadequate numbers, that they cannot provide the required care and that conditions are unsafe. Their physical and mental health is being affected to an absolutely unprecedented and unacceptable level and no one can be recruited because of the introduction of the pause. It affects one third of the workforce and the turnover within the nursing and midwifery professions will be higher than in any other profession because of their numbers. Therefore, they will be affected by the pause to a greater extent and that is what we are witnessing.

We cannot open additional beds. We have had the overcrowding of hospitals reported this week at a figure of just over 100,000 people who are sick enough to be admitted to hospital and who require hospital care but for whom there are no beds. It is an absolute scandal. The figure is increasing week on week and we have been reporting it daily. We view that reporting as a very important part of our role. We do it in order to highlight that the health service is not working in the way it should be. It is now a dangerous place to which to be admitted. We have recently met groups that have reported to us that the admission of the elderly population, that is, those who are over 75 years of age, is at a higher rate than for those under 75. They have nowhere else to go in certain circumstances because community step-down services are not available. As there has been a decrease in palliative care services, people are being admitted to emergency departments and dying on trolleys. That is not the service in which our members want to work and provide care or for which they want to apologise continuously.

When we talk about workforce planning, we say there are a number of solutions. In 2017 we presented all of these arguments to the Government and exhausted the machinery of the State through the WRC. We reached an agreement which required an annual service plan and a workforce plan to be developed and funded by November each year. The only year in which this was actually achieved was 2017. It was ignored in 2018. We met representatives of the HSE yesterday evening and it does not have a workforce plan for the professions of nursing and midwifery for 2019. That makes it two Novembers for which we do not have a workforce plan. What we have is a very serious restriction on the ability to recruit. The memo of instruction, dated 20 June 2019, from the financial officer of the HSE requires that for any post that becomes vacant for whatever reason, for example, if someone retires, resigns or takes a period of leave, the replacement to be sanctioned by the chief officer or the head of the hospital group. That is one person who must sign each form that eventually reaches that level. Can the committee imagine the delays in this process, considering the size of the workforce in the health service? There are approximately 70,000 staff in the acute hospital division and there is a turnover of staff. Obviously, this introduces significant delays. As late as Tuesday of this week, we were

receiving reports from the directors of nursing in Cork University Hospital which is extremely overcrowded that they had been waiting for nearly three months for a response to the request that posts be advertised that had become vacant. We had to intervene again this week in the matter of unfilled public health nurse posts in east Galway. Services for the public are affected. For example, when patients receive chemotherapy at home, they require a public health nurse. The directors of public health nursing are saying such a service will have to cease because we cannot replace nurses.

These are very real issues for citizens who are dependent on the public health service. Until someone is in an overcrowded emergency department or ward, it is difficult to understand how serious the problem is and how serious the consequences are for those being cared for in areas that are overcrowded, with staff who are absolutely stressed and trying to provide a service that is safe. It is simply not possible to do so.

We are delighted to be here to highlight these issues, but we believe a number of very practical solutions can be introduced immediately. We ask the committee to make representations at the highest levels of government in that regard. We must immediately bring an end to the current recruitment pause, particularly in the nursing and midwifery professions. Once it ceases, there will be a ripple effect in recruitment for approximately six to eight months. That is how long it takes to recruit to the professions of nursing and midwifery. We also need to consider in the medium term increasing the number of undergraduate places. We need to train more nurses and midwives at undergraduate level in order to have a steady supply. As I said, we train approximately 1,850 across all disciplines. We could accommodate a greater number. We know, for example, that the Nursing and Midwifery Board of Ireland registered 1,750 non-EU nurses in the last calendar year. That is how many nurses are coming into the country to register to work in both the private and public sectors.

As part of the recent settlement of our dispute, we obtained agreement from the Government that it would fund the measurement tool to determine how many nurses and midwives were needed in hospitals in surgical and medical wards. We have never had such a tool and it is Government policy to fund it. It is called the framework for safe staffing and based on patient outcomes. It was measured by a team of researchers led by University College Cork over two years in six wards in three hospitals. What they concluded was that when the correct number of nurses were employed, the level of patient mortality and length of stay decreased, patient outcomes and retention of staff improved and the level of sick leave reduced, while there was a dramatic decrease in agency costs, all of which is good news and accepted by the Government. The Minister for Health launched the policy, but it was not funded. Therefore, as part of our strike settlement, we sought funding to be made available in this year's service plan for the nurse staffing framework. As late as yesterday evening, we sought confirmation that this part of our settlement would be honoured because it is a huge plank and everyone agrees that it is right to base staffing levels not on funding but on patient outcomes. Unfortunately, we have not yet received confirmation of the service plan, but we remind the HSE that the Labour Court recommendation that settled our dispute clearly sets out that funding has to be made available as part of this year's service plan, as well as the plans for 2020 and 2021, to fully roll out the framework over a three-year period. This annual funding for the workforce strategy on which we had agreement in 2017 must form a normal part of business for the HSE annually. Otherwise, we will continue to be reliant on agencies and an *ad hoc* filling of posts and there will be an inability to open new beds to relieve the pressure on the acute hospital system. The working environment of our members in hospitals and the community, particularly in overcrowded hospitals, is such that their health and safety is being deliberately interfered with by the policy

that has been introduced by their employer. That cannot continue. We are happy to answer any questions the committee may have.

Deputy Alan Kelly: I thank the delegates for their attendance. We have been down this road several times. I am well aware of the issues and recommendations. I support all of the recommendations. I hope to tease out through my questions where we are in practical terms. Every day, I deal with the issues raised by Ms Ní Sheaghdha. The two hospitals with which I deal most are University Hospital Limerick, UHL, and South Tipperary General Hospital. It is like a perfect storm or Bismarck's nightmare. They are two of the worst hospitals in Ireland for overcrowding.

Many people have contacted me regarding the recruitment freeze. I tabled multiple parliamentary questions on the matter and asked questions directly and indirectly of Ministers and the chief executive of the HSE. The answers I have received have all been rubbish. One gets a standard reply stating that there is no recruitment freeze but, rather, a process through which the HSE is managing its funds. That is rubbish. It is a recruitment freeze aligned with a lack of retention planning and other matters on top of administrative burdens that have been put in place to slow down recruitment. That is what is happening. Nobody can tell me otherwise. So many people have contacted me on this issue that I could probably take out my phone and get the details of 15 or 20 cases without having to check too hard. The issue of those returning after leave is incredible. I have had to contact hospital managers regarding cases where they stated they lacked nursing specialists in certain areas and I had people who were returning and wanted to go back to work. In some cases, I had to embarrass the managers or argue that the staff needed to be taken on to fill the vacancies the hospitals are publicly stating exist. In some cases, they were taken on. It is a significant issue. A modular unit in South Tipperary General Hospital will have to open in two tranches because the management cannot recruit sufficiently to staff it. If the hospital manages to stick to its plan, 20 beds will be opened in January and another 20 will be opened five or six months later.

I have carried out a comparative analysis of statistics for two hospitals that are of the same scale and model, namely, UHL and Beaumont Hospital. The Chair is well aware of my work on this issue. There are 1,294 nursing and midwifery staff in Beaumont and 1,016 in UHL. UHL has 349 health professionals compared with 527 in Beaumont and 228 support staff compared with 459 in Beaumont. This matter is of such seriousness that it goes beyond politics. I have never seen a situation like that in the hospital in Limerick this November. I have no idea what it will be like there in January and February. Several members of my family who have recently been in the hospital were left on trolleys for days or weekends. Very elderly people have been left on trolleys. Infection control is a significant issue there. Patients have been moved to Nenagh Hospital to avoid infection. That is not on.

The recruitment freeze must be lifted. We need to deal with this issue immediately. It has gone on for too long. We need to address the recruitment freeze, the administrative burden and the lack of planning and so on. I know the HSE and the Department of Health are watching these proceedings. I am begging Mr. Paul Reid to deal with this issue. I have written to him, spoken to him and questioned him. My pleas have fallen on deaf ears. I acknowledge he must try to meet his targets and do what he must do, but there must be other ways to reach those targets. People are suffering badly. The situation in Cork hospitals has escalated. It was not too bad in previous years but the situation has been aggravated by a lack of specialist nurses in certain areas, in addition to other issues.

I have significant understanding of the issues and sympathy for those involved,. My ques-

tions relate to details that could help us to formulate the necessary arguments. I agree with the remarks of Ms Ní Sheaghda. Does she have statistics regarding geographical areas and specific hospitals that have the biggest issues? She referred a slight increase in retention of graduates, which is to be welcomed. What is behind that increase? Is there a specific reason for it that we could push on a little more? Does she have more information on the lack of places in step-down care? Are there areas where particular issues have arisen? It is definitely a problem in my area. Has the INMO been consulted on the winter plan that is meant to be announced this week? I have no idea what magic the Minister will come up with, but it will need to be magic. If the INMO has been consulted on the plan, what is its opinion thereof? Ms Ní Shealghdha referred to a decrease in palliative care services, which is very disturbing and disheartening. Have specific areas been affected in that regard? I referred to the fact that beds in South Tipperary General Hospital cannot be opened because of a lack of nursing capacity. The new modular unit should open in the first week of January but that seems doubtful. I hope it will. Are there similar situations elsewhere? The workforce planning strategy was published in 2017. Who initiated it? Was it of benefit in the grand scheme of things? I presume it was. What has changed such that it has not been carried out in the past two years? Is Ms Ní Shealghdha aware of an example of its being of assistance? I presume it was of assistance. Why has it not been carried out since?

My hope is that the more we can focus on the areas, hospitals and policies that are not working and how they are affecting people, the more political traction we can get to deal with them. Given where we are headed early next year, we need to deal with them urgently. I am not being dramatic. The statistics back me up. This will be one of the worst periods in Irish healthcare. A hospital clinical lead told me that the trajectory of overcrowding is such that he or she expects catastrophic events this winter. What they mean by that is that people are going to die unnecessarily. Would Ms Ní Sheaghda agree with that statement?

Ms Phil Ní Sheaghda: To answer the last question first, there is research that demonstrates that the period of time spent on a trolley causes the patient to have poorer health outcomes and unfortunately that means the patient is more than likely to have a very poor outcome. That clearly is not good enough.

We sought the workforce plan as part of a dispute on the numbers of nurses and midwives employed in Ireland. We have a maternity strategy that determines how many midwives we should have per birth. We should have one midwife for 29.5 births. That is the science and that is to ensure safe delivery of care to the mother and the baby. We are now 220 plus midwives short of that target in all of our maternity units. It is a national figure. We know this. The plan was put in place to recruit 90 in 2017 and the remainder in 2018. The latest figure we have is that we are even further behind the 2017 figure than when we started because we have an inability to retain and to recruit. This year when midwives graduated, we had to argue with employers to give them permanent jobs in Limerick, Galway and Letterkenny - throughout the country - despite the fact that the Minister for Health at our conference guaranteed that every graduating nurse would have a permanent contract. That did not happen. We recruited 900 because post strike, we concentrated on the low salary for the new graduates. We have improvements to that, we explained that to new graduates. We told them the salary is increasing; it is improving and the Minister for Health has guaranteed publicly that they would get a permanent job. That led us to a situation in September where we had to argue, in many instances site by site, for the retention of our graduates, which is beyond comprehension.

The workplace plan does make a significant difference because those posts are funded and

therefore the arguments about whether we can put the advertisement on the HSE website or whether we can recruit disappear. The funding is there in advance, there is a set number and one's concentration is on filling the numbers set out in the workforce plan. We had a very modest 1, 270 odd as a target for 2017. The numbers who leave versus those who are recruited always leaves approximately 67%, onto which one must add. If 1,000 nurses are needed, one needs to recruit 1,670 to reach 1,000 because the turnover through resignation and retirements requires that. Very disappointingly, in the staff nurse grade according to the recent census, the numbers recruited since last December are down for that very reason. The HSE will say it is recruiting nurses but what it will not say is how many left during the same period. The margin is quite significant. Consequently, one cannot take one's foot off the pedal for recruitment and retention in nursing and midwifery. It is just too difficult to recruit without obstacles that an employer puts in. If that is coupled with a moratorium or a pause, one will be going backwards for several years. Unfortunately, we will be going backwards.

As for the geographical areas, we have a lot of information from various hospitals. There is no doubt but that the HSE sites are affected to a greater extent. The voluntary hospitals, the section 38 agencies - the Mater, Beaumont, St. James's - use a much more sensible approach. They try to recruit and retain and have a bit more autonomy in doing that. In respect of the statistics comparing Beaumont and UHL, Beaumont's argument has always been that it is a tertiary referral centre for neurosurgery in particular, which requires a higher staffing level in some of its intensive care units etc. It does a good job of trying to recruit and the committee will notice from the trolley figures that it has also done a good job in respect of trying to reduce the trolley count by ensuring, lobbying and getting additional capacity in the community in various units around north Dublin and that requires funding.

Deputy Alan Kelly: To be fair, it has more options.

Ms Phil Ní Sheaghdha: Well it does. To be fair to UHL it was – I suppose the only word I could use to describe it is-----

Deputy Alan Kelly: Guinea pig.

Ms Phil Ní Sheaghdha: It was the victim of a reconfiguration that did not increase its capacity.

Deputy Alan Kelly: Absolutely.

Ms Phil Ní Sheaghdha: Certain services in Ennis and Nenagh were closed but UHL did not get additional beds. Nobody should be surprised that it is overcrowded. The problem is that the health of the people who work in that environment is now being affected. That simply is not good enough.

Deputy Alan Kelly: Absolutely.

Ms Phil Ní Sheaghdha: I hope that answers the Deputy's questions.

We were advised that the winter plan would be launched on Thursday. We were not given any indication of what is in it, bar a very broad-----

Deputy Alan Kelly: The INMO was not consulted at all?

Ms Phil Ní Sheaghdha: We were not consulted. I co-chair the emergency department task force. We have had a lot of information about various sites and what they will do for winter but

no consultation in respect of what is actually going to happen. We have sought-----

Deputy Alan Kelly: In previous years, has the INMO been consulted?

Ms Phil Ní Sheaghda: It depends; some years we were. We seek always to have a dialogue with the employer in respect of a winter plan. It has happened-----

Deputy Alan Kelly: It is common sense.

Ms Phil Ní Sheaghda: The big issue for us is that the winter plan focuses on providing additional home care packages and on the National Treatment Purchase Fund. The focus will be on buying services in the private sector. That is a small period when there will be relief and hopefully there will be relief in the acute hospitals but is by no means a long-term plan.

Deputy Alan Kelly: It is not sustained.

Ms Phil Ní Sheaghda: We need to lift up the bonnet. It is very simple. If additional beds are required, as the Economic and Social Research Institute and the Sláintecare report tell us we need, staffing needs to be planned around those and getting to that point. We are not doing that. In fact, we are doing the opposite. We are closing the lid firmly on recruitment. It is simply counterproductive. The staff in our grades, nursing and midwifery particularly, are not hanging around. They are going to the UK, and particularly now, with the emphasis on Brexit, the UK has become extremely active in recruiting from the Republic of Ireland on the basis that it is not getting nurses who will travel to work from other European countries. We have a real problem. The Deputy said that he has written to Paul Reid, we have written to him also. We believe that the solution is very simple. One should look at the 2017 workforce plan and do what is supposed to be done in accordance with the agreement we have under the Workplace Relations Commission, that is, an agreed, funded, workforce plan for nursing and midwifery. If there is a need to pause, then one pauses but one makes sure those posts are filled because they are essential.

Deputy Bernard J. Durkan: I thank the witnesses for coming before us and giving us their views. What has the HSE said about the recruitment pause? The Minister has said there is no pause. In Ms Ní Sheaghda's opinion, what are the reasons for any slowdown or pause?

She mentioned that insufficient staff were available to staff wards and that there were beds available. She said many beds are available that cannot be used due to lack of adequate staffing. That is a simple question.

We had a meeting with the heads of services in our area in the past few days. They seem to be optimistic about getting to grips with the situation in a much better manner than they had been able to do previously, for a variety of reasons. Can Ms Ní Sheaghda tell us about the extent to which and the manner in which staffing levels are affected by career breaks? As she said, it has not been possible to allow people returning from career breaks to take up their permanent positions. To what extent has that affected the delivery of services? Where have such effects most often been recognised? Which region has been most affected in this fashion? On the question of recruitment and retention, can Ms Ní Sheaghda give us an indication of the people who are most likely to be difficult to retain? Are they people who have been indigenously recruited or people who have been recruited through overseas recruitment? How does that affect the delivery of the service? Does Ms Ní Sheaghda find that it is more difficult to retain those who have been recruited from overseas? Obviously, they may want to go back home. Where do they go? Has any of this been researched? Do they go to other overseas countries? I have

some other questions that I would like to ask after Ms Ní Sheaghdha has answered the questions I have already asked.

Ms Phil Ní Sheaghdha: I have already given the reasons for the slowdown on the pause. There is a pause. The memo of 20 June 2019 sets out the particulars around it. No job can be offered and no recruit can be put on the payroll unless the correct process has been followed and the relevant form has been signed by the single national official who is in charge of this area. That is a fair bar when we are talking about over 70,000 people in a service.

Deputy Bernard J. Durkan: Does that apply to nursing staff only?

Ms Phil Ní Sheaghdha: It applies to all staff. The point we are making is that a pause of this nature will have an effect on those grades that comprise a third of the workforce because the turnover happens more regularly. The budgeting is the reason. We are told that last year's overrun cannot recur this year. All recruitment is being stopped as a very crude instrument until the budget is brought down. I understand the relevant number at the moment is approximately 350. That is what the target has become. I will explain how the pause, which is affecting the front-line service, is manifesting itself. Some of the bed numbers that currently exist have been reduced. More importantly, we now have extra capacity on wards. We record that on a daily basis. As well as having additional trolleys in accident and emergency departments, there are additional trolleys on wards. I will mention an example of the reduced volume of workers that was given to us as late as last evening. Four nurses were supposed to be going on night duty, but instead there were just two. They should have had 28 beds, but instead they had 32 because of additional trolleys. It is simply not possible to provide any level of safe care in that environment. That is not an isolated incident.

Deputy Bernard J. Durkan: Are beds vacant as a result of those glitches?

Ms Phil Ní Sheaghdha: No. Additional beds are being placed on wards because of the volume of dependent people. The staffing of those beds known as "surge beds" is a mixture of agency staff, which is very costly, and very poor staffing numbers. According to the last figure we had, just under 460 beds are closed throughout the country. We know from the Sláintecare and ESRI reports that we are down approximately 2,000 acute beds, based on the projected need and the fact that community services have not been developed to provide an alternative to acute hospitals. The Deputy asked what happens when people on career break are refused the right of return. Invariably, they will work as agency staff. In some instances, they will be employed through agencies. In other instances, they do not work as a nurse for a period of time or they go to the private sector. The point is that all of this is nonsensical.

Deputy Bernard J. Durkan: Has this been measured and quantified within the system with a view to finding out roughly how many people go in each of the different directions?

Ms Phil Ní Sheaghdha: No. The point is that the memo of 20 June 2019 instructs that nobody who seeks to return from a career break should be sanctioned to return. The point is that if we are in the business of providing healthcare with safe levels of staffing, these instructions should exempt front-line staff. There should be an exemption for front-line staff.

Deputy Bernard J. Durkan: That brings me to my next question. Was any priority given in terms of that pause-----

Ms Phil Ní Sheaghdha: Absolutely not.

Deputy Bernard J. Durkan: -----to the need to secure medical and nursing staff?

Ms Phil Ní Sheaghda: No distinction was made between any grade of staff.

Deputy Bernard J. Durkan: Okay. I also asked about recruitment from overseas. How does the retention of such staff compare with the retention of indigenously recruited staff?

Ms Phil Ní Sheaghda: We do not measure based on where people have trained. We measure the number of staff nurses in the front-line grade, who normally work at the bedside. We know that since December 2018, the number of staff nurses working in the public health service has decreased by 395. We know the levers and we can measure that. The last statistics in that regard are from 2017. The number of overseas nurses working in Ireland is continuing at a pace. Approximately 1,700 are being registered. That includes the private sector. We get those statistics from the Nursing and Midwifery Board of Ireland, which has to register people who request to work here. We continue to be very dependent on our overseas colleagues to provide services. The Deputy also asked about where nurses are being recruited to. Nurses in general are being recruited to England first and to Australia second.

Deputy Bernard J. Durkan: They are going from here-----

Ms Phil Ní Sheaghda: Yes. It does not matter whether they trained in Ireland or they trained in a different jurisdiction and have experience of working in the Irish system. The Canadian health service looks to Ireland. When I attended a conference in Canada recently, I met a nurse who worked in the Mater hospital for six years. He is originally from the Philippines. He was recruited from Ireland to Canada along with six other people from his community with whom he had been recruited to Ireland in the first instance. Many recruitment agencies look at the Irish market with a view to recruiting nurses who were trained in Ireland and nurses who have experience in Ireland. It is seen as a good place to recruit from. When we introduce a pause, we make it more difficult to retain. It makes absolutely no sense.

Deputy Bernard J. Durkan: We have come across that. We will take it up again. We will take it up with the HSE as well. I would like to ask Ms Ní Sheaghda about the need for more undergraduate places. What is her view on the wisdom of increasing the number of undergraduate places here, bearing in mind the extent to which they tend to go abroad afterwards? It is generally accepted that it is not rewarding, from the point of view of the delivery of health services in this jurisdiction, for large numbers of medical and nursing graduates to go abroad, perhaps after staying at home for a year. A pattern must be identified as we look at what will happen if we end up handing over our graduates to the highest bidder after we have trained them. That is where we are going. We have dealt with this matter here. At a meeting here not so long ago, we were told by the HSE that we have to compete with Canada, Sydney, New York and the Middle East every time a post is advertised. In some of those jurisdictions, tax-free salaries of up to €120,000 are available. We cannot compete with that here. In order to retain a reasonable staffing level and thereby provide a secure health service, how can we encourage graduates to remain here or encourage graduates from abroad to come here? Must we train staff from overseas in our training schools to try to provide the service expected and, in the course of doing so, improve the quality of life for staff at all levels in the health service? It is a convoluted way to ask the question. Ms Ní Sheaghda has heard it before.

Ms Phil Ní Sheaghda: The Deputy might have confused the issues. The point is that the graduates are not seeking to leave. Jobs are not made available to them to apply for because there is a recruitment pause-----

Deputy Bernard J. Durkan: Hold on a second, that is not entirely true.

Ms Phil Ní Sheaghda: The recruitment pause document states-----

Deputy Bernard J. Durkan: Bear with me for a moment. I am not mixed up at all; I am quite clear on this. We have had representatives of the HSE here, asked the questions and got the answers. We keep asking the same questions and getting the same answers. How can we arrive at a situation whereby, by one means or another, be it recruitment at home or recruitment overseas, we can have an adequate level of staff, including nurses, medical staff and consultants, in our hospitals? I appreciate that Ms Ní Sheaghda has no function regarding medical and consultant staff.

Ms Phil Ní Sheaghda: The issue this year and last year was not that people are not interested in working when they graduate; it is that they were prevented from getting jobs because there was a recruitment pause or because jobs were not available to them to apply for. As I stated, we had to work very hard as a trade union to ensure graduates were offered posts this year. That was following a commitment from the Minister for Health that they all would be.

There are two fairly simple solutions. There is oversubscription in respect of school leavers applying to do nursing, which is good. Therefore, we know that students in school who are considering their career choices still consider nursing. Although the CSO figures indicate a drop, there is still oversubscription. The point is that if we provide more undergraduate places, they will be filled. We need to train more nurses and midwives but we also need to make sure that when they qualify, there will be jobs made available to them. That is simply done. We have put our proposal in this regard to the HSE in the past. When nurses and midwives are trained, they become employees in their fourth year. They get a contract of employment for 36 weeks. That contract needs to be extended to include the first year after qualification. It is simple. It cuts out all the bureaucracy of recruitment. The point is that the individuals are qualified and trained. Once they pass their exams, posts should be made available to them in order to consolidate their training. This would guarantee that they would stay. If they do not, they will have a reason other than one we are currently battling, which is that posts are not being offered to them.

In the context of existing places, there are 920 for general nursing, 140 for general and sick children, 420 for mental health, 210 for intellectual disability and 140 for midwifery. That amounts to 1,830. As stated in our submission, the conservative estimate from the workforce planners involved in the development of the new children's hospital is that we will need 300 sick-children nurses over and above the current number. We are training 140 for general and sick children, which means some of them will remain in the general service after qualification. That is a four-year programme. Accounting for resignations, retirements, etc., we know this end that we will not have enough. Therefore, we need to increase the number significantly in order to staff the hospital.

We stated in our submission that much of the debate has been on the capital expenditure on the children's hospital. The workforce planning has not got an airing. It needs to because, although a very expensive hospital may be opened, it may not be possible to staff it. Therefore, some of the wards will remain closed. Those responsible for staffing must be cognisant of the fact that each of the rooms in the wards will be different. Being single rooms, a higher number of staff will be required. This is particularly the case for a children's hospital. That is a genuine issue. There are two ways of dealing with that. One is to recruit intensively now and do everything possible to retain every graduate within the discipline. That includes removing all obstacles of a procedural nature that are introduced by the employer, including a pause in

recruitment. The second way involves increasing the number of undergraduate places to ensure supply will meet the need.

Deputy Bernard J. Durkan: As with the new children's hospital, is there not a presumption that staff need to be employed when planning for the future, based on the identification of what is required and the predicted retirements and their likely impact? For as long as I can remember, no new institution that ever opened had an adequate supply of staff at the time even though the staffing requirement was well anticipated. This goes back as far as the opening of Beaumont Hospital, which was a long time ago. Beaumont was not open for about a year after it was built because of a lack of staff. At least that is what we were told at the time.

The aspect that irks me most is the pause. When it came, it affected all staff, even though this committee was raising time and again the need for medical and nursing staff to be prioritised. I refer to front-line staff. I do not expect Ms Ní Sheaghda to answer this question but she can give me a hint if she wants to. Who made the decision? Was it the Minister, the HSE or somebody at mid-management level who believed it would be a good idea? Has anybody been identified as the culprit in failing to prioritise recruitment to ensure the required levels of nursing and medical staff?

Ms Phil Ní Sheaghda: The authors of the memorandums set out why. It is Government policy to stay within budget. The HSE has issued the recruitment pause and all its properties by memo to the system. It is not a secret. Clearly, however, the HSE has to answer to the Departments of Health and Public Expenditure and Reform.

Deputy Bernard J. Durkan: Is it recognised that all Departments have to stay within budget, for example?

Ms Phil Ní Sheaghda: The summer economic statement set out clearly that there is extra scrutiny of health by the Department of Public Expenditure and Reform.

Deputy Bernard J. Durkan: Because of overruns.

Ms Phil Ní Sheaghda: When the Minister, Deputy Donohoe, set out the summer economic statement, there was a specific reference to scrutiny in the Department of Health. From our perspective, the most important point we are trying to make at this committee is that there is a ready-made solution. There is a pre-existing agreement indicating there is a need for a workforce plan that is funded to cater for the numbers of nursing and midwifery staff required to provide a public health service that is safe. We are aware, although we do not like reporting it, that people are now afraid of going to public hospitals. They are afraid of the waiting time and they are afraid that they will not be seen on time. That is very unfortunate. It should not be happening in 2019.

Deputy Bernard J. Durkan: I thank Ms Ní Sheaghda.

Deputy Stephen Donnelly: I apologise sincerely for being late. We are trying to keep St. Joseph's Shankill dementia care centre open so we had a big rally outside the gates. I needed to be there.

I acknowledge the work of the INMO's members. The current system is extraordinarily difficult. Almost every interaction I have had with public hospitals and some of the community-based services - the nursing services - points to extraordinarily dedicated nurses and midwives working in what are becoming impossible conditions. The circumstances were very difficult

and demanding, leading to demoralisation and burnout, but I am now seeing conditions that are inhumane. Ms Ní Sheaghdha used the word “inhumane” recently. I acknowledge the work the nurses and midwives are doing to keep the system going in what are inhumane conditions. I read through the INMO opening statement last night with a mixture of despair and frustration that the INMO needed to come here asking for something as basic as a workforce plan. There are something like 30,000 nurses and midwives in the system and we have thousands of doctors in the system, and the idea that there is not a plan for training, recruitment, retention and promotion of nurses and midwives in our hospital system beggars belief. As the INMO lays out, there was a Government commitment to do so. Is it the case the HSE does not have a workplace plan for nurses and midwives for 2018, 2019 or 2020? Is that essentially what the INMO is saying?

Ms Phil Ní Sheaghdha: In 2017, we negotiated through the Workplace Relations Commission a funded workforce plan for nursing and midwifery and the numbers were set out within each of the categories. That was to be repeated in November 2018 and November 2019, and it has not been. A workforce plan is grand in theory but it has to be funded, so the key is that we get a funded workforce plan. The funded workforce plan for 2017 was fairly modest, considering our turnaround. We know how many nurses we need to recruit in order to just replace those who retire and resign. The workforce plan was designed in that year with the assistance of the WRC to ensure we at least broke even at the end of the year. However, as I reported earlier to the committee, we know now that we are further behind in 2019 than we were in 2017. For example, the maternity strategy required an increase of just over 240 midwives to maintain a safe level of care, given 1:29 births is the threshold. Dr. Peter Boylan was on radio this week-end describing what it means for situations in maternity hospitals and general hospitals when there are two midwives looking after a very large volume of very seriously ill patients, and the consequences of that.

Deputy Stephen Donnelly: Thank you. I apologise to the Chair if I am covering ground that has already been covered. Given it is obvious a workforce plan is needed, given we are looking at one-year, five-year and ten-year thinking and investment in training, in graduate courses and in recruitment and retention, and given there is a commitment in place for that, and it is plain as day that we need it, what is the INMO’s view as to why these commitments have not been honoured by Government? It is something the Government committed to and something we obviously need. What is the INMO’s sense as to why the Government has reneged on these promises?

Ms Phil Ní Sheaghdha: The obvious issue this year is that the Government has instructed the Department of Health to stay within its budget and then the HSE and the health services have determined that, in order to do that, they will hit the lowest hanging fruit, which is the workforce. We can overrun in our capital spend but we cut back on the workforce because that is the only easy method of reducing the annual cost.

We are still running our health services on an annual budget. We have challenged both the political system and the HSE itself on this. The Sláintecare report clearly states we cannot plan on a yearly basis when we have a service like ours, which has a growing elderly population and an increased cost of pharmacology. We are very proud to work in a health service that develops and is developing new, innovative ways of looking after and improving population health. Unfortunately, we cannot do that and then cut the workforce.

Deputy Stephen Donnelly: While the committee has probably already discussed this at length, we had senior management of the HSE at the committee recently and I put the recruitment pause directly to them. I said I am being contacted by nurses who are telephoning

hospitals around the country, and I named various hospitals, and they are being told there is a recruitment ban in place. I put it directly to HSE management and they said unambiguously there is no recruitment ban in place. They then caveated that by saying that, of course, if they do not have X, Y and Z in place, they may not be allowed to hire anybody. It is certainly my contention, but is it the INMO's contention that there is essentially a recruitment pause or ban in place at the moment for nurses and midwives?

Ms Phil Ní Sheaghdha: Again, I opened our presentation today by reading from the memo that has been issued by the Health Service Executive and I will read it again. It states that the mandated interim controls provide that no new posts, other than those approved and funded developments via the existing national control process, or replacement posts can proceed to offer stage or be put onto the payroll in any community health care organisation, hospital group or section 38. That is a pause. In fact, it is a moratorium - that is exactly what it is.

Deputy Stephen Donnelly: Yes, that is exactly what it is. I thank Ms Ní Sheaghdha for that. Some really good progress was made by the INMO over the last two years in terms of getting agreed safe staffing levels. When I go into the acute hospitals, what the doctors and nurse managers say is that they do not have the nurses on the ward. I was in a hospital recently and one nurse seemed to be doing all the work in two wards. I looked and I thought that she looked very young, so I went and had a chat with her. Of course, she is young; she is a student and not a qualified nurse. The INMO made good progress in terms of the research and then, I thought, agreement with Government to get to safe staffing levels. Certainly, I know my own anecdotal experience of our healthcare system and while it may be I am wandering into the least staffed wards around, I bet I am not. Has there been any progress on getting to safe staffing levels for nurses and midwives?

Ms Phil Ní Sheaghdha: The Deputy is correct. The progress we made, which is Government policy and which we were very supportive of, was the policy framework on safe staffing on surgical and medical wards for nurses and healthcare assistants. This is a measurement tool that determines how many are needed. When this framework was piloted in Beaumont, Loughlinstown and Our Lady of Lourdes in Drogheda, it proved to do a number of things. The main one was that it cut the spend on agency staff significantly - from 100 to 30 was one of the examples given. It improved the patient experience significantly, reduced the length of stay in an acute hospital, which is the most expensive part of our healthcare provision, improved retention of staff and improved and reduced burnout and sick leave. It ticks all of the boxes from a patient perspective and from an economic perspective because it saves money.

The agreement, as part of our strike settlement, was that that would be funded in 2019 outside of the service plan to the tune of €5 million and that, in the service plan for this year, which covers 2020 and 2021, there would be sufficient funding available to roll it out across all of the remaining hospitals. We met the HSE last evening and we asked what is the progress, where is the service plan and how much is being assigned to the framework. Clearly, if, in a strike settlement which covers from May to the end of the year, one is allocating €5 million, one will need to allocate a minimum of €10 million for a full year. They were unable to tell us. It is still, they tell us, a dialogue between the HSE, the Department of Health and the Department of Public Expenditure and Reform. We are very clear this is part of the strike settlement and it has to be funded and implemented. Otherwise, it is a breach of the agreement.

Deputy Stephen Donnelly: If I understand what Ms Ní Sheaghdha is saying correctly, no commitment is in place for that, as things stand.

Ms Phil Ní Sheaghda: “The service plan is under discussion” is the official response from the HSE. The commitment we have is that the Labour Court has recommended that it is funded and we have a letter from the Department of Public Expenditure and Reform confirming that it accepts the Labour Court recommendation. Funding has to be found to roll out safe staffing levels for nursing and midwifery on surgical and medical wards.

Deputy Stephen Donnelly: Has any progress been made to date or is this something we are hoping happens in the future, in terms of actual staffing levels and ratios?

Ms Phil Ní Sheaghda: In respect of how it is rolled out, it requires an IT system which gathers all of the statistics which can then prove the savings and the improvement. That is being rolled out and nine co-ordinator positions have been advertised across the country. Nine co-ordinators at nursing grade will oversee that. The uplift at the pilot sites at Beaumont, Loughlinstown and Our Lady of Lourdes in Drogheda to meet the safe level of staffing has been maintained in the large wards and areas. However, in some instances it has not been maintained because of the normal recruitment issues. When the emphasis on the pilot was reduced, shall we say, funding then had to be found within the hospitals’ budget. This requires national funding. It is national policy, agreed by Government and it was launched by the Minister for Health as a policy that will ensure good patient outcomes, safe levels of care and an economic way of staffing wards.

Deputy Stephen Donnelly: Has the ratio moved in the right direction?

Ms Phil Ní Sheaghda: No, it has not.

Deputy Stephen Donnelly: Is it true to say that nothing has happened?

Ms Phil Ní Sheaghda: It has not commenced because the funding has not been made available. The service plan which is currently under negotiation will have to provide funding to ensure it happens.

Deputy Stephen Donnelly: By definition we are still running our healthcare system at unsafe staffing levels. Is that correct?

Ms Phil Ní Sheaghda: Yes.

Deputy Stephen Donnelly: There is a hiring moratorium in place which we are being told is not in place. We are running on unsafe staffing levels and those levels have not changed. Bits and pieces are being put in place but we are not hiring nurses and midwives-----

Ms Phil Ní Sheaghda: The levels have deteriorated. We know from the statistics that, for example, in December 2018 we had 395 more staff nurses than we have now.

Deputy Stephen Donnelly: So we are going backwards in terms of staffing.

Ms Phil Ní Sheaghda: We are going backwards.

Deputy Stephen Donnelly: We are going backwards on midwifery-----

Ms Phil Ní Sheaghda: There are 37 fewer public health nurses employed than there were in December 2018 yet we are supposed to be trying to ensure that primary care services are improved to take the pressure off the acute sector.

Deputy Stephen Donnelly: In spite of all the promises, we are going backwards.

Ms Phil Ní Sheaghdha: The recruitment moratorium and the lack of funding to back up and implement agreements that have been reached is affecting the safety of the service we are trying to provide. Even if the moratorium is lifted tomorrow, the fact that it has been in place since last May will have a knock-on effect.

Deputy Stephen Donnelly: I spoke with a midwife in Wicklow recently. She loves her job and loves being a midwife. She has undertaken all sorts of extra study, training and education, including completing a master's degree in midwifery. She works in one of the Dublin hospitals. She said that her job has gotten so difficult, the cost of living has gone up so much, congestion has gotten so bad and the conditions in which she is trying to treat mums and their babies are such that, with a very heavy heart, she is currently looking for a job in the local supermarket. I talk to nurses on the wards and I keep hearing stories of nurses being burnt out. This is particularly true in certain areas like emergency medicine. We know there is pressure on the entire system but are there particular pressure points where it is becoming more difficult, where INMO members are under even more pressure than is the norm? Are there pressure points in particular areas like emergency medicine, paediatrics, oncology or in certain parts of the country where, as a matter of urgency, we need to act immediately?

Ms Phil Ní Sheaghdha: I wish it were as simple as that. Unfortunately, the pressure exists throughout the system. The statistics that we have show us that there is an increase in resignations at nurse manager grades. Nurse managers are now finding it extremely difficult to manage in a system into which they have no financial input and over which they have no control in terms of who is recruited, how recruitment takes place or even whether recruitment can take place, despite the clinical need. The lack of autonomy of nursing managers is causing an increase in resignations, as evidenced by the statistics. That is hugely problematic.

Deputy Stephen Donnelly: When Ms Ní Sheaghdha says a lack of autonomy, is she talking about the inability of nurse managers to do their job?

Ms Phil Ní Sheaghdha: Absolutely, yes.

Deputy Stephen Donnelly: Why is that? Is it creeping centralisation? What has happened to cause that?

Ms Phil Ní Sheaghdha: The framework on safe staffing that we discussed earlier recommended that nurse managers would be supernumerary to the roster, that is, they would have the right to manage their staff and to do all that goes with managing a ward. Unfortunately, because of the staffing levels, that is not always possible. In fact, it is the norm for nurse managers to take a patient caseload as well as carry out their management functions and that is simply not possible. That causes burnout. Nurse managers tell us that in some cases nurses, some of whom are not even trained, are taking charge of areas. Employment controls are in place and there are not enough staff working. This means that nurse managers go on duty to find that instead of the six nurses required, there are only three. Patient volumes have increased because the emergency department is overcrowded and there are additional trolleys on the ward. What do the nurse managers do? It is impossible. If the nurse manager makes a mistake or if there is an omission of care, he or she will be referred to the registration body to determine fitness to practise. That is the strain under which nurse managers are working. It is inhumane. That is the only word that describes it adequately. The employer's health and safety obligations are being completely ignored in these circumstances. The employer is obliged to provide a safe place of work for nurses and midwives. They go to work with the aim of doing a good day's work but they are being prevented from providing safe care because of the moratorium. The system does

not discriminate positively towards front-line staff, which it should do.

Deputy Louise O'Reilly: I thank the witnesses for coming in today. I could also say thanks to the members of the INMO but everyone says that. There is never a bad word said about nurses. I do not know how many times people in my clinics in Swords, Balbriggan and elsewhere say that they do not know how nurses put up with it or how they do what they do. However, it is getting beyond the point of being reasonable at this stage. I was thinking earlier of the last moratorium on recruitment, of which Ms Ní Sheaghda would have been aware. She and I would have worked together at that time. Again, it was the same story from Government in terms of denial. As Yogi Berra says, it is like *déjà vu* all over again.

It is right that we focus on patients, 603 of whom are on trolleys today, according to the INMO. We have already hit the 100,000 mark this year, which is an absolute shame on this Government, its policies and those who support it. I am interested in the impact on front-line staff. If one goes back to 2007, one of the issues that we would have raised at the time was the potential long-term impact of the moratorium. Has there been any recovery from the 2007 moratorium? I do not recall a massive uplift in recruitment in the interim that would have buffered us against this new moratorium. It is not just this year's moratorium but also the historic impact of the previous moratorium that we are dealing with now. If my memory serves me, the Government imposed a moratorium on the health service first and then on every other sector about two years later.

Ms Phil Ní Sheaghda: In 2008.

Deputy Louise O'Reilly: As I said, it was a different Government at the time but the same line was used, namely that there was no moratorium, just a pause. In truth, I and other Deputies see it. We know that in some instances, albeit erroneously, they have committed to writing that there is a moratorium, yet they come in here and deny it. Was there a recovery? Are we working off a higher base than we would have been? Was there a significant uplift in recruitment that would buffer us against this, or are we still falling from one to another?

Ms Phil Ní Sheaghda: In our submission, it can be seen that the census figure for December 2007 was 39,000. The census figure for August 2019 was 37,998. Of that figure, 882 were students in training. That leaves us with about 37,116 qualified nurses, so we have not recovered. That is the point we are making. Introducing a pause to nursing and midwifery has a longer-term effect and it is very much an expensive game to be in considering the global shortage.

Deputy Louise O'Reilly: I wish we had a time machine because I would like to go back and remind everyone of exactly what we were saying at the time, which is that this would have long-term implications. It is clear that there have been implications and we are living with them. Regarding the impact of this on staff, my understanding is that there are a number of implications where there has been a failure to recruit and the staffing levels are low. One is the cost of agency staff. We know that this is only going in one direction. Ms Ní Sheaghda might outline the figures if she has them. If not, she can send them on to us. The second implication is around the issue of the workplace becoming a dangerous place for workers. There is a direct relationship between the levels of staffing and the levels of assault, so if Ms Ní Sheaghda has some information that, I would appreciate hearing it. I would like not just to find out the figures, because I know that there is an issue with healthcare professionals. I know from my previous work that there is significant under-reporting of assaults. We know that is happening. Will Ms Ní Sheaghda outline the numbers and types of assaults and their impact on the workplace, not

just in terms of time lost but in terms of morale and the work environment for nurses and midwives who are up against it and indeed all healthcare workers? Would that it were exclusive to one particular grade group or category of workers, but we see a lot of shortages among front-line staff. Will Ms Ní Sheaghdha outline the impact this has on the workforce?

Ms Phil Ní Sheaghdha: Again, the Deputy is correct. The correlation between assaults and staffing levels is well documented in nursing and midwifery across European and international studies that have proved that when staffing levels are reduced, unfortunately, assault numbers go up. HSE assault figures are recorded by hospital group. Traditionally, they would have only been recorded for the HSE hospitals with the voluntary hospitals being left outside of that, so we do not have a full figure but we know that 60% of all assaults are perpetrated against nursing, are recorded as being perpetrated against nursing and midwifery staff, and are on the increase. The issues are that assaults are not confined to what we would have traditionally viewed as areas of concern such as psychiatry and emergency departments. We see an increased incidence in locations such as children's hospitals and care of the elderly. Again, there is no excuse. It is a requirement of the employer to provide a safe place of work. In particular, with regard to emergency departments, we have an agreement dating back nearly six years where security personnel must be employed. Our members report to us that there are incidences when that is not the case, which is unacceptable. Assaults constitute a problem that is increasing.

In addition, we have significant cross-infection in hospitals with which staff must cope. Staff are becoming unwell themselves because of the incorrect overcrowding and all that goes with that when there is a contagious condition. These are the well-documented consequences that are well known to the employer and the Health and Safety Authority. The employer is obliged to notify the Health and Safety Authority when somebody is absent for three days as a result of an assault at work, so all those figures are available and known. No more than anything else, the pause does not stipulate that the grades of nursing and midwifery be treated in a manner that is any different from any other grade employed in the health service.

Deputy Louise O'Reilly: I have raised the presence of security guards with the Minister on a number of occasions. To be fair, his response is that they prioritise the health and safety of staff. Is it common for a security guard not to be physically present? The response I sometimes get is that there will be a security presence in the hospital but it will not necessarily be in the emergency department. Does the agreement referred to by Ms Ní Sheaghdha specifically refer to a presence in the emergency department?

Ms Phil Ní Sheaghdha: It does.

Deputy Louise O'Reilly: Is that broken?

Ms Phil Ní Sheaghdha: In many instances, security personnel are there but not for a 24-hour period.

Deputy Louise O'Reilly: That correlates with the information I have. Regarding the winter plan, and I know this was raised previously, will Ms Ní Sheaghdha outline best practice because we love that? It involves best international practice and looking at somewhere where they are getting it right, where they are getting their winter initiative and planning correct and are bang on the money. I assume they would publish their plans much earlier than we do. My understanding is that it is expected next week. I apologise if this question was asked previously but will Ms Ní Sheaghdha outline the level of negotiation that has taken place and the funded element of that if there is one for workplace planning?

Ms Phil Ní Sheaghda: The NHS publishes its winter plan much earlier. We have requested that the winter plan be published towards the end of August. The response we get from the HSE is that it is planning all year for the winter. I am not being flippant about it but we know that the overcrowding figures have increased significantly this year during the summer. They are moving towards 100,000 and it is early November, so we know that whatever plan is there is obviously not working. We are advised that the winter plan will be published this Thursday, which is tomorrow. We expect that there will be some announcement in respect of the additional provision of home care packages and services through the National Treatment Purchase Fund. If there are announcements around additional beds at this point in the year, it will be impossible to staff those beds because the pause will remain in place and the pause has caused people who graduated in Ireland to make decisions around where they work. We managed to increase the number of graduates who were employed, but not all of them were offered jobs and they do not hang around. This is the point we made earlier. Likewise, when a service is working short-term continuously, people do have choices and there is a really active recruitment campaign from the UK and the private hospitals in Ireland. If the announcement indicates that additional beds, which we know are needed in community settings and in long-term and step-down care, will be made available, our fear is that it will be impossible to open them because the staffing crisis is such that we do not have staff to recruit to staff those beds.

Deputy Louise O'Reilly: Is that what happened last year?

Ms Phil Ní Sheaghda: It was exactly the same last year. The beds in the modular build in South Tipperary General Hospital have been announced for nearly four years running but still have not opened. Some beds were opened but many of those beds were staffed by agency staff.

Deputy Louise O'Reilly: It is *déjà vu*.

On the engagement of graduates, in her presentation Ms Ní Sheaghda said there would need to be a 50% uplift in the numbers we were training to shore up the deficit. Are efforts being made with the colleges to that end? It would be an awful shame if any effort to increase numbers was only to the benefit of the private sector, as well as hospitals in Britain, America, Australia and everywhere else our graduates have gone. Is this work ongoing with the colleges to build capacity? Some of the colleges are full to capacity. Is that plan in place?

Ms Phil Ní Sheaghda: We have had no engagement with the HSE on its involvement with the third level institutions. I understand negotiations are ongoing with one private educational provider, but we are not privy to them. We know that if jobs are available, people like to consolidate their training in the country where they have been trained. There is the obstacle of making the job available, plus we know, thankfully, that school-leavers still consider careers in nursing and midwifery to be attractive. The numbers applying for courses still exceed the numbers of places available. Therefore, if the number of places is increased, there will be applicants. The trick is, as we have said on a number of occasions, to make a contract of employment available in the fourth year when they become employees that will expand the initial period post-qualification. That seems to be entirely sensible to us. It would give us a ready and guaranteed stream of graduates every year. The numbers of college places and the clinical placements have increased slightly since 2017 in specific disciplines. There is a need to increase numbers, particularly, as we said, in children's nursing, intellectual disability and mental health services, as well as the general sphere. The overall intake can and must be increased.

Deputy Louise O'Reilly: I am not convinced that they will be increased to the levels required. I note the discussions with the private educator, but I am not convinced that it will shore

up the gap in any meaningful way.

I thank the representatives of the INMO for coming as I know that they are busy, but it is very useful for us to get the picture from the front line. I thank INMO members for the work they do day in and day out. We need to be able to get to grips with this problem and this is an opportunity to highlight the issues. We need to start to hear about the Government's plans to deal with it as we are caught in a very expensive spiral.

Chairman: I have a number of questions. Sláintecare makes a proposal which is accepted for a regionalisation of the HSE into six regions based on hospital groups. Will that make recruitment and retention easier? Will it reduce the number of steps required to recruit somebody in the organisations?

On limiting recruitment, a moratorium or a pause, does the INMO believe the Department of Health and the HSE understand it is a counter-intuitive move? Limiting recruitment will have knock-on effects. There will be an increase in the levels of unmet need and waiting lists and poorer outcomes for patients. Patients do not tend to go away. If they are not receiving a service in one location, they will seek it in another, unfortunately, in emergency departments.

Is there still a pay differential for nurses? If so, what effect does it have on recruitment? Does the INMO believe nurses are valued within the system or are they seen as a resource, rather than employees? Are they encouraged to advance their careers by increasing their professional education to gain extra qualifications which can be fed back into the system? I understand there is very little financial support in that regard, as well as limited opportunities to take leave to attend education courses.

Ms Ní Sheaghda spoke about the recruitment of overseas nurses. Did I understand her correctly that it costs up to €11,000 to recruit an overseas nurse? Surely that is-----

Ms Phil Ní Sheaghda: That is the figure the voluntary hospitals have submitted to us. We have included it in our submission to the Public Service Pay Commission.

Chairman: Obviously, the shortage of nurses is feeding into the lack of supply of theatre services. Are theatres closed because hospitals cannot recruit sufficient numbers of theatre nurses? It feeds down through the system, with a backlog of surgical cases backing down into emergency departments. What is happening in emergency departments is just a symptom of what is happening in the health service. Because of what is happening elsewhere in the health service, community services and the supply of beds and recruitment, people end up in emergency departments unnecessarily and inappropriately in some cases. Their progress through the emergency department is then limited because of the lack of bed capacity and recruitment. I ask Ms Ní Sheaghda to comment on these issues.

Ms Phil Ní Sheaghda: I will deal with the final point first. Theatre time is not being utilised largely because hospitals are admitting a large number of medical patients to beds through the emergency department. The majority of patients admitted through emergency departments are medical patients. Therefore, the post-operative beds are simply not available. One will often hear stories from patients who are taken directly from the emergency department to theatre and then to the recovery room in some instances for two or three nights because no ward bed is available for them. That is impacting on patients booked in for elective procedures. If no bed is identified, obviously they cannot be asked to come. Many patients talk about elective operations being cancelled repeatedly because of the lack of availability of beds.

Theatre nurses are highly trained and skilled and in short supply. While we have managed to keep numbers sufficiently above the threshold, the requirement to provide an on-call service impacts significantly on them. As well as working a 39-hour week, they also need to provide an on-call service which in many instances takes them out of the service. We need to staff theatres inclusive of the on-call commitment. Basing it on a 39-hour week is not helping to determine the correct number because every single night of the week an on-call team needs to be available and in some instances two, depending on the specialty involved. In some hospitals where maternity services are also a feature, if there is an emergency, the hospital might only have one on-call team to deal with an emergency and it might have an emergency obstetrics case. It has become a significant risk in some hospitals, particularly those outside the maternity specialism. Some hospitals cater for general admissions, maternity services and paediatrics all under the one roof and have one theatre on-call team, which is not safe. With regard to the pay differential, the settlement of the dispute, which was delayed but has now started to be implemented, will see a big difference in salary at staff nurse grade. The second part of this is the expert group on the management grades. We are disappointed in the length of time it has taken the Department of Health to revert to us on the terms of reference and the parties to conduct it. The Labour Court has instructed that it has to be concluded by next May in order to feed into the next round of public service pay talks. Despite numerous requests, we have not received the terms of reference. We have submitted our draft terms of reference and the parties to conduct the expert review. We are awaiting this from the Department and it is well overdue.

Chairman: With regard to-----

Ms Phil Ní Sheaghda: The counterproductive element of the pause?

Chairman: Yes.

Ms Phil Ní Sheaghda: The Chairman is absolutely correct. Placing difficulties in the way of recruitment would be viewed by other countries as nonsensical. They will probably take advantage because if we are hampered in recruiting, it will be to their gain, particularly that of the UK, our close neighbour. Britain is short of nurses and has reduced payments and bursaries for undergraduates, which saw a drop-off in its training places. It has a huge interest in recruitment from the Republic of Ireland.

Chairman: What is the position with regard to nurses being supported in their work and professional career?

Ms Phil Ní Sheaghda: Education is piecemeal. The Chairman is correct that it is not supported. We have best practice that states advanced nurse practitioners should make up 2% of the overall workforce. This would require us to have 700 advanced nurse practitioners, of which we have approximately 247. These nurses can provide services that have proved to reduce waiting times in emergency departments and the need to admit. When advanced nurse practitioners work in emergency departments they reduce the length of time patients wait and can assist in getting the patient home as opposed to being admitted. Likewise, in all other services where they work, and international studies demonstrate this, they improve the patient's journey considerably and they provide a very safe service. Unfortunately, in this country we have had a real problem in getting the Government to fund places for advanced nurse practitioners to the point that we are still well below the recommended 700 mark for these grades.

We have met the leads on Sláintecare who accept that advanced nurse practitioners add to the efficient use of bed time. They also accept that advanced nurse practitioners can and

should be extended more broadly into community services. There is an idea that management of chronic disease in the community should not be led by advanced nurse practitioners but everybody knows they have a great deal to add. The same applies with regard to clinical nurse specialists. However, this requires investment in educating nurses and midwives to these levels. That would give us a service that actually has a chance of delivering primary care in the community in a very safe manner and in remote areas where advanced nurse practitioners could lead services. We can have nursing-led services in these areas. The plan needs to be approved, the availability of education needs to be fast-tracked and we need to look at models of healthcare delivery that are not solely based on the medical model. Advanced nurse practice and clinical nurse specialism are well established but they need to be funded.

Chairman: When a nurse is recruited is it built into the contract that there is protected time for further education?

Ms Phil Ní Sheaghdha: No. It is only protected in areas that are mandatory. Mandatory training is protected but outside of that it is not. People apply for training and it may be sanctioned.

Chairman: Does Ms Ní Sheaghdha believe the development of regional integrated care organisations will make a difference in responsiveness, whereby when a nurse is required an application would be made to the regional authority and a response would be received faster than through the centralised system we have at present?

Ms Phil Ní Sheaghdha: We hope this will be the outcome because otherwise there is no point. We hope the legislation will bring about the regional authorities being devolved so the financial authority, recruitment and retention is decentralised. The centralisation of these, particularly with the pause at central national level, makes absolutely no sense. The regional authorities should have and must have the right to recruit and manage their budgets based on their geographical patch.

Chairman: Community intervention teams have been a great addition to the delivery of services in primary care. They keep people out of hospital and allow people to come out of hospital quickly. My experience of community intervention teams is that they are now being restricted. There is a recruitment difficulty and their work has become so expansive that they find it very difficult to supply the service because more and more work comes from hospitals.

Ms Phil Ní Sheaghdha: The community intervention teams are a great addition to community services. They provide a 365 day a year service on a 24-hour basis. They provide care in the home after discharge and sometimes pre-admission. The problem we have always had is in expanding this very good service to areas outside the restricted areas in which they work at present. There are not that many community intervention teams but where they exist their statistics demonstrate they make a major contribution to hospital avoidance. By default, a person can stay in his or her own home and be provided with the care required. In some instances where people attend an emergency department, there is a facility to have care provided through a community intervention team in the home. It makes perfect sense. It is the right model. Again, these teams are staffed by staff nurses and clinical nurse managers and are covered in the recruitment pause.

Chairman: With regard to morale over the past three and a half years, has Ms Ní Sheaghdha found morale is increasing, decreasing or staying the same? What is the situation with regard to burnout of nurses? Those who are left still standing in the system tend to bear the brunt

of the extra work. They will burn out quicker and their morale must be affected.

Ms Phil Ní Sheaghdha: Without offering platitudes to our members, the level of service and the mindset they bring to their daily work must be commended. They are extraordinary. Anybody who interacts with a nurse or midwife at work would readily say that they are extraordinary. They are very tightly scrutinised by professional bodies, HIQA, and their employers in an environment in which it is becoming impossible to guarantee safe care. They do extraordinary work every day.

Morale is very low and there is absolutely no doubt that burnout levels are increasing. The concern we have as a trade union representing nurses and midwives is that, despite the fact that all of the statistics and reports indicate this, the health and safety of the workers in the mix of a financial imperative for overspend in the health service is ignored and neglected. This is not in accordance with any health and safety provision in our legislation.

Chairman: On behalf of the committee, I thank the witnesses for coming in to contribute to our workforce planning meetings. We have had four or five such meetings to date and we might have one more.

The joint committee adjourned at 1.40 p.m. until 9 a.m. on Wednesday, 20 November 2019.