

DÁIL ÉIREANN

AN COMHCHOISTE UM THITHÍOCHT, RIALTAS ÁITIÚIL AGUS OIDHREACTH

JOINT COMMITTEE ON HOUSING, LOCAL GOVERNMENT AND HERITAGE

Dé Máirt, 28 Meán Fómhair 2021

Tuesday, 28 September 2021

Tháinig an Comhchoiste le chéile ag 12.30 p.m.

The Joint Committee met at 12.30 p.m.

Comhaltaí a bhí i láthair/Members present:

Teachtaí Dála/Deputies	Seanadóirí/Senators
Francis Noel Duffy,	Victor Boyhan,
Joe Flaherty,	John Cummins,
Thomas Gould,	Mary Fitzpatrick,
Emer Higgins,	Mary Seery Kearney.
Paul McAuliffe,	
Cian O'Callaghan,	
Richard O'Donoghue,	
Eoin Ó Broin.	

Teachta/Deputy Steven Matthews sa Chathaoir/in the Chair.

General Scheme of the Water Services Separation Bill 2021: Department of Housing, Local Government and Heritage

Chairman: The purpose of this meeting is pre-legislative scrutiny of the water services separation Bill 2021. We are joined by Mr. Feargal Ó Coigligh, assistant secretary, water division, Ms Shirley Groarke, principal officer and Ms Karen Flynn, assistant principal of water services governance, Department of Housing, Local Government and Heritage. Members have been circulated with the briefing, opening statement and heads of the general scheme. I will first ask Mr. Ó Coigligh to make his opening statement, following which members will be invited to address their questions. If everyone can keep to five minutes for questions and answers, that would be helpful.

Members attending remotely from within the Leinster House complex are protected by absolute privilege in respect of the presentations they make to the committee. This means that they have an absolute defence against any defamation action for anything they say at the meeting. However, they are expected not to abuse this privilege. It is my duty as Chair to ensure this privilege is not abused. Therefore if their statements are potentially defamatory in relation to an identifiable person or entity, they will be directed to discontinue their remarks. It is imperative they comply with any such direction. I remind members of the constitutional requirement that they must be physically present within the confines of Leinster House to participate in public meetings. Members are reminded of the long-standing parliamentary practice to the effect that they should not comment on, criticise or make charges against persons outside the House or an official either by name or in such a way as to make him or her identifiable.

The opening statements submitted to the committee will be published on the committee website following the meeting. I now invite Mr. Ó Coigligh to make his opening statement on behalf of the Department.

Mr. Feargal Ó Coigligh: I thank the Chairman and committee members for the opportunity to engage with them on the general scheme of the water services separation Bill 2021, which was approved by Government on 20 April for publication and priority drafting. As indicated by the Chairman, I am joined by Ms Shirley Groarke and Ms Karen Flynn, who have responsibility within the Department for overseeing the governance of Irish Water. We are happy to answer any questions committee members may wish to pose.

I would like to provide some background on the policy issues and to guide members through some of the key elements of the general scheme. The Minister for Housing, Local Government and Heritage is currently the majority shareholding Minister for Ervia, formerly Bord Gáis Éireann, a commercial semi-State body. Ervia has responsibility for the delivery of strategic national infrastructure in the areas of gas and water. It has a single unitary board, which is responsible for the two principal subsidiaries, Irish Water and Gas Networks Ireland, GNI, both of which have executive boards. The Government has decided that the establishment of two separate State companies to operate the gas network and develop our water services provides the optimal solution to meet the future challenges of decarbonising our energy supply and modernising our water services. The purpose of the general scheme of the water services separation Bill 2021 is to provide for the separation of Irish Water from the Ervia group. The Department of the Environment, Climate and Communications is separately working on drafting legislation to integrate Ervia with Gas Networks Ireland.

Programme for Government: Our Shared Future commits to retaining Irish Water in public

ownership as a national, stand-alone, regulated utility. This commitment is being given effect through the proposed water services separation Bill 2021 and the policy outlined in the policy paper, Irish Water - Towards a National, Publicly-Owned, Regulated Water Services Utility, published in February. The paper outlines the Government's views and expectations on the next phase of the transformation of the water sector, which will see the public water system fully integrated within the organisation structure of Irish Water. It also explains in detail the rationale behind the four key concepts which support the future evolution of Irish Water, that is, a national, publicly owned, regulated, stand-alone utility.

In 2013, Irish Water was established as a subsidiary of Ervia, with shares vested in the Minister for Housing, Local Government and Heritage, the Minister for Finance and Ervia. Irish Water was established as a company under the Companies Acts, with its own constitution. The primary legislation governing the establishment of Irish Water is the Water Services Act 2013 and the Water Services (No. 2) Act 2013, with other Water Services Acts being also relevant, in particular the Water Services Act 2014, which prevents a current or future Government from initiating any legislative proposals that would seek to transfer Irish Water from public ownership, unless such proposals are first approved by a majority vote of the Irish people in a national plebiscite.

Members of the committee may wish to note that the general scheme effects the changes by making a number of amendments to the Water Services Acts 2007 to 2017. The general scheme gives effect to the programme for Government commitment of retaining Irish Water in public ownership as a national, stand-alone, regulated utility and it provides for the separation of Irish Water from the Ervia group and related matters.

The general scheme contains 14 heads which I will now summarise. Heads 1 to 4 are standard provisions relating to the citation and commencement, interpretation, amendments and repeals to the Water Services Acts 2007 to 2017 to facilitate the separation of Irish Water from the Ervia group. These amendments ensure Irish Water is retained as a national, stand-alone, regulated utility and that Irish Water will no longer be a subsidiary of Ervia. Head 5 amends section 5 of the Water Services Act 2013 to provide that all shares in Irish Water are vested in the Ministers only and the Ministers will hold all the rights associated with those shares, thereby providing that Irish Water is publicly owned and no longer part of the Ervia group. This head provides that Ervia will no longer hold shares in Irish Water. It also provides for a change in the ownership of Irish Water shares from the Minister for Finance to the Minister for Public Expenditure and Reform so as to reflect the position in respect of other State-owned bodies. The Minister for Housing, Local Government and Heritage and the Minister for Public Expenditure and Reform will be the named Ministers holding Irish Water's shares.

Head 6 amends section 6 of the Water Services Act 2013 so as to provide for the board of Irish Water and its chief executive to be prescribed in primary legislation rather than in the constitution of Irish Water. This approach reflects similar provisions in other State-owned bodies. The provision of such governance arrangements in primary legislation will enhance transparency and accountability. The appointment of the current board of Irish Water is prescribed in Irish Water's constitution, with certain provisions relating to its directors prescribed in the Water Services Act 2013. Following separation, the Irish Water board will consist of no more than nine directors, including a chairperson appointed by the Minister with the consent of the Minister for Public Expenditure and Reform. The appointment of the managing director of Irish Water is prescribed in Irish Water's constitution and this position will be retitled as chief executive officer. It is proposed to appoint a new chief executive officer in advance of separa-

tion such that that person will become the new chief executive officer on commencement of the legislation. The position was advertised in recent weeks.

Heads 7 to 9, inclusive, provide for revised accountability and auditing arrangements such that Irish Water will be subject to a dual audit by both the Comptroller and Auditor General and its statutory auditor under the Companies Acts. The dual role arises due to the provisions of the companies legislation, Irish Water's governing legislation and the legislation relating to the Comptroller and Auditor General. It also provides that Irish Water will be accountable to the Committee of Public Accounts.

Heads 10 to 13, inclusive, provide for the transfer from Ervia to Irish Water of those staff, rights and liabilities, contracts and records that relate to functions of Irish Water. These heads do not provide for the transfer of local authority staff to Irish Water. There are existing provisions in the Water Services (No. 2) Act 2013 relating to such transfer. The general scheme does not provide for the transformation process as outlined in the recently published policy paper I mentioned, but the draft general scheme will be informed by issues emerging from that transformation process in order to ensure that Irish Water meets those objectives outlined in the programme for Government.

Head 14 is a standard provision relating to consequential amendments to other legislation. Such legislation will be further examined in consultation with other Departments and the Office of the Parliamentary Counsel.

Further legislative amendments of a consequential or technical nature will be agreed between the Minister and the Attorney General for inclusion in the water services separation Bill during the course of drafting. I and my colleagues are happy to take questions from members.

Chairman: I thank Mr. Ó Coighligh for going through the briefing on the heads of Bill.

Deputy Paul McAuliffe: I welcome the witnesses to the committee. In some senses, the premise of the Bill is an admission that including Irish Water with Ervia was not a long-term or sustainable method of establishing a public utility. We should reflect on that and the serious mistakes that were made in the establishment of Irish Water. That has a cost. There is an estimated cost of €5 million outlined for this process. Can Mr. Ó Coighligh assist the committee in breaking down where that €5 million will go?

Mr. Feargal Ó Coighligh: The Government took the decision in 2011 or thereabouts to establish a new water utility under the aegis of Bord Gáis Éireann, as it was then. That company has evolved in that form since then. The Deputy will appreciate that there are certain services provided by the Ervia central group to both the Irish Water side of the business and the Gas Networks Ireland, GNI, side of the business. For example, there are shared services in the context of legal services, financial issues, ICT and so on. There will be a cost in terms of the separation project, such as separating out ICT systems, ICT contracts and so on. Much of the cost will arise in that regard. There will be an ongoing operational cost in respect of providing central services such as HR, financial and legal services to separate companies. That is a matter of which the Government was aware when making this decision because the view was that there were two significantly different businesses providing gas and water services with two different states of-----

Deputy Paul McAuliffe: What is the breakdown between permanent costs and once-off costs?

Mr. Feargal Ó Coigligh: We are looking at once-off costs in the region of €5 million. The ongoing cost will probably be above that.

Deputy Paul McAuliffe: The €5 million relates specifically to once-off costs. Mr. Ó Coigligh is suggesting that relates to the separation of services in each company.

Mr. Feargal Ó Coigligh: Yes.

Deputy Paul McAuliffe: Okay. Is that an estimated figure? Are public sector contracts in place? How has that €5 million figure been reached?

Mr. Feargal Ó Coigligh: It might be helpful to mention for the information of the Deputy that there is an oversight separation group comprising representatives of my Department and the Departments of the Environment, Climate and Communications, Public Expenditure and Reform, and Finance, as well as representatives of Ervia, GNI and Irish Water. That group oversees the full separation project. We have been in existence as a group for the past two years, overseeing the separation project. As part of the work we do in that format, we have monthly meetings and reports of costs arising. These costs were identified very early on and that steering group reviews them on an ongoing basis.

Deputy Paul McAuliffe: I may have more scope to examine that issue as a member of the Committee of Public Accounts. That may be an early warning for Mr. Ó Coigligh. There is a widespread political commitment relating to public ownership. The mechanism for doing that is the share of the Minister. We know from the past that can be changed by Government decision. What work has been done to try to ensure permanent public ownership? Should there be amendments to the Bill that would, for example, require a vote of the Dáil rather than just a decision of the Minister?

Mr. Feargal Ó Coigligh: As I outlined in my opening statement, the current legislation requires there to be a plebiscite of the people before the shares can be divested from public ownership. The Bill is not changing that. It is a very tight lock on the public ownership issue. Obviously, it would be impossible for it to go to a plebiscite without the consent of the Dáil. That is there. The policy paper published in February pointed to the possibility of a referendum as part of the consideration of the negotiations that are currently happening with the unions and the wider context of that. That is still under consideration by the Government.

Deputy Eoin Ó Broin: I will go through some pretty straightforward questions. Mr. Ó Coigligh said there would be ongoing operational costs, separate to the one-off cost of €5 million. I presume those are additional costs for both Ervia and Irish Water. Will he put a figure on what that cost will be annually, separate to the €5 million?

Mr. Feargal Ó Coigligh: We are looking at those costs but we have not settled on a final figure. This is an open question. Experience will tell, but it could be in the region of €10 million per annum. That is the cost that has been identified to the Commission for Regulation of Utilities, CRU, for its determination of the final costs that will occur for Gas Networks Ireland, GNI, and Irish Water as we go forward. That is the cost between the two in the context of a company that will expend more than €1.5 billion per annum in operational and investment costs.

Deputy Eoin Ó Broin: That will be an extra €10 million annually between the two organisations.

Mr. Feargal Ó Coigligh: I will need to double-check and come back to the Deputy on the

costs arising between the two organisations in relation to Irish Water, unless Ms Groarke or Ms Flynn want to come in on that point.

Ms Shirley Groarke: It is best if we double-check and come back to the committee on it.

Deputy Eoin Ó Broin: Head 6 is about ministerial appointment of the chair of the board. Will that be through the Public Appointments Service or does it give the Minister discretion to appoint outside it?

Mr. Feargal Ó Coighligh: The intention is to use the mechanisms required of all appointments of this nature, that is-----

Deputy Eoin Ó Broin: It is not a legal requirement though, is it?

Mr. Feargal Ó Coighligh: It is a requirement of all of us as officials to apply the guidelines we are told to apply. None of us has departed from that so that would be the way it would work. I do not think there have been any appointments to State boards like this that have departed from that, save using the types of exemptions outlined in the guidelines. The guidelines govern the way we work and that would be the intention. I am not sure they are written into any other Act, but that is the way the system works.

Deputy Eoin Ó Broin: I know that. It comes up every time we deal with this. The heads do not include anything about the application of the Freedom of Information, FOI, Acts or the lobbying register. Is that because Irish Water is already covered by all of that or is it an omission from the general scheme?

Mr. Feargal Ó Coighligh: No. Irish Water is already covered in that regard.

Deputy Eoin Ó Broin: Will that continue post the separation?

Mr. Feargal Ó Coighligh: Those requirements would continue.

Ms Shirley Groarke: I will clarify on the FOI issue. Mr. Ó Coighligh is correct. Irish Water is already covered by FOI legislation. The lobbying Act will come under head 10 where there is consequential amendments to other legislation. The Regulation of Lobbying Act 2015 will specify Irish Water in its own right. At the moment it is comprehended by the reference to Ervia, but it will now include Irish Water in its own right.

Deputy Eoin Ó Broin: I thank Ms Groarke for that clarification. With respect to head 9, explain to me the logic of Irish Water not presenting to the Committee of Public Accounts as an Accounting Officer? That limits the ability of that committee in its oversight of Irish Water's finances. The Secretary General of the Department that funds Irish Water is an Accounting Officer. Is that the reason or is there some other reason Irish Water does not have its own Accounting Officer for the purposes of the Committee of Public Accounts?

Mr. Feargal Ó Coighligh: The Deputy will find there are certain unique features that relate to and will continue to relate to Irish Water. It will be a company under the Companies Acts and will come under the full regime that governs companies under those Acts, which I do not believe provide for Accounting Officers. It is not a position that a company would have, but given that Irish Water is largely publicly funded and in response to concerns raised in this committee over the years, the Government has decided the Comptroller and Auditor General should be given a dual accounting role. There is double accounting oversight of Irish Water, but as a company it will not have an Accounting Officer. Is there anything Ms Groarke would add to

that?

Ms Shirley Groarke: As currently drafted, the head refers to the chairperson nominating a member of the board. We will look at the drafting of this head with the Office of the Parliamentary Counsel and, more than likely, it will reflect the provisions in the Land Development Agency Act. It may be reworded to refer to the chief executive of Irish Water rather than the chairperson of the board nominating. In practical terms, we expect that when Irish Water is called before the Committee of Public Accounts, the chairman may, with the chief executive and Irish Water's finance officer, attend that committee. We will look at this again as part of the drafting process.

Deputy Emer Higgins: I thank all of the witnesses before us today. As we all know, the programme for Government commits to retaining Irish Water in public ownership as a national and stand-alone regulated utility. The first step towards achieving this was the approval and publication of the Government's policy paper on Irish Water, Irish Water - Towards a National, Publicly-Owned, Regulated Water Services Utility. The Minister then wrote to the Workplace Relations Commission to recommence engagement on a framework for the future delivery of water. That is very important.

What we have before us is an approved priority drafted Bill, which goes to show the importance the Government is placing on this. The general scheme is with us and this is a great opportunity for us to have our say and to shape it during pre-legislative scrutiny. The separation of Irish Water from Ervia is a clear commitment in the programme for Government but it also gives us a unique opportunity to increase accountability within the utility and to improve regulatory requirement, especially around auditing. There has been a lot of discussion on that today. I am very pleased the Minister and the Government have prioritised that accountability within this Bill. That is something that we, as a nation, need to strive more towards when it comes to every body, and Irish Water is no different.

I would like for us to be talked through the €5 million set-up cost, the budget and where and how it will be allocated. That would give us a better indication as to how the new utility will be set up for success.

Mr. Feargal Ó Coigligh: The set-up costs are something we can come back to. As I mentioned, the steering group overseeing separation looks at this issue at all our meetings. The highest costs relate to ICT issues. There is one single ICT network in the Ervia group. We are dividing that into two separate networks. There are legal costs because the company has a significant legal journey to go on. For example, Ervia procured many contracts for a range of services on behalf of both companies. Those contracts need to be amended and so on. A significant amount of work is involved in doing all that. Those are the kind of areas where costs arise. I have no problem giving the Deputy a breakdown of the figures, except that those figures are ones at a point in time as we move through the process. We will come back to the committee on that.

Deputy Emer Higgins: It would be very helpful if we could get that breakdown, even in written correspondence after this meeting. I appreciate the migration from one server to another and everything that goes with it from a data management and technical perspective is a major cost, as is legal. It would be very helpful for all of us to have that kind of high-level overview. I appreciate that it will be estimates at this point, but it is quite a substantial amount of money so it would be very helpful for us to be aware of where it will be purposed.

Mr. Feargal Ó Coighligh: In the context of the scale of an organisation spending more than €2 billion per annum between gas and water, the amount is a reasonable one with which to set up two different companies.

Chairman: Head 5, dealing with shares, at (f) states:

The ... [Ministers] may, in respect of the shares in Irish Water for the time being held by either of them, exercise all or any of the rights and powers from time to time exercisable by the holder of such shares.

Will Mr. Ó Coighligh kindly explain to me what rights and powers the holders of such shares might exercise?

Mr. Feargal Ó Coighligh: I will ask Ms Groarke to deal with that question. It is a company under the Companies Acts and there are annual general meetings, and so on. All of the paraphernalia of company law provisions would apply, together with the exercise of voting rights where they are required under the Companies Acts. This is not an unfettered power because power of the Ministers to act is fettered by the legislation. If people are worried about the disposal of shares, that is not possible under the scheme but I am fairly sure this is standard language in how one would describe the use of shares in legislation. Has Ms Groarke anything to add to that?

Ms Shirley Groarke: I do not have very much to add to Mr. Ó Coighligh's comments as he has got it covered there. It is also helpful to make the distinction of what is in the current share structure of Irish Water, where the shares were divided up between Ervia and the Ministers. There is no division of the shares in the proposed structure. The Ministers will hold all of the rights to the shares and there is no split between economic and voting rights and nobody else holds those rights. Mr Ó Coighligh is right in that subclause (g) refers to the Ministers not being able to alienate the shares they have. I have nothing further to add.

Chairman: I thank Ms Groarke for the clarification. On head 12, and heads 10 to 13, inclusive, relate to transfer, just to reiterate and it has been stated already, there is no provision in this general scheme relating to transfer of local authority staff. This is purely Irish Water staff and Irish Water being separated from Ervia's current set-up. Can that point be clarified again for me, please, for the record?

Mr. Feargal Ó Coighligh: The Chairman is correct on that point. It might be helpful for the committee to explain that at the moment there is Irish Water and a staff cohort of approximately 800 people. There is then GNI and its own staff cohort, and then there is Ervia, which is the central holding company in the middle sharing services for both companies. It directly employs some 400 to 500 staff members. That cohort of staff needs to be divided between GNI and Irish Water in the future. That work is under way at the moment. Staff have been identified for transfer to either Irish Water or GNI. This provides a formal mechanism to do that whereas, in actual fact, much of the preparatory work is taking place at the moment so that the companies will become what is called operationally separate from next year but the legal separation and the deployment of staff is provided for in these heads.

This does not deal with the issue of local authority staff whatsoever. There were existing provisions in law in the 2013 Act about designation. We are currently in negotiations with unions under the Workplace Relations Commission, WRC, regarding how Irish Water can take control of the local authority cohort of staff. Unions have made clear their wish that staff should

not be required to transfer. We are, therefore, trying to negotiate a position which gives Irish Water direct control of all its operations in agreement with unions. That is the process which is under way at the moment and this Act does not go into that area at all.

Chairman: My last question deals with where Ervia consists of Irish Water and Gas Networks Ireland. When Irish Water is separated out, will Ervia continue to exist in any form or will it be required?

Mr. Feargal Ó Coigligh: No, the intention is that Ervia will collapse into GNI so that there will then be two remaining companies, Gas Networks Ireland and Irish Water.

Chairman: These will then be stand-alone public utilities, nationally owned. I thank Mr. Ó Coigligh.

Senator Victor Boyhan: I thank the witnesses for coming in and for sharing and presenting to us on the general scheme of the water services separation Bill 2021.

First, I am generally in support of this Bill at this stage but there is a great deal more to be dealt with. On a first look at this and the presentation made by our witnesses, I am glad they have again put on the public record that this will be a publicly owned, national, stand-alone, regulated utility. I do not want to go back because I do not believe in that but much of what we are talking about today was discussed in the committee rooms before and concerns were raised about Ervia. That was on another day and I hope lessons have been learned from that.

I want to focus in particular on two or three issues, and while I do not have many questions, I wish to make a number of statements. Heads 7 to 9, inclusive, provide for the revised accountability and auditing arrangements for Irish Water in terms of its dual audit, which Mr. Ó Coigligh spoke about earlier. Will he elaborate a little bit more on that and on the statutory audit under the Companies Acts? That has to be welcomed. One need only look at the Comptroller and Auditor General's function and role. His job is to provide, as our witnesses and we all know here, an independent assurance as to accountability and the appropriate use of public funds in accordance with the law of those resources. That is to be welcomed and it is a very positive move.

I am also conscious that all of the reports of the Comptroller and Auditor General are presented to Dáil Éireann and are therefore examined on behalf of the Dáil by the Committee of Public Accounts, which is another layer. That is reassuring and is a very positive step. I subsequently made some inquiries with the Office of the Comptroller and Auditor General yesterday and I understand that, in the absence of the Comptroller and Auditor General himself being present, a senior member of the office staff attends all meetings of the Committee of Public Accounts as a permanent witness. That was something I did not know. There are many layers of accountability and good governance which I welcome in this initiative.

Mr. Ó Coigligh touched upon an issue, and while our committee does not wish to get into any issues related to industrial relations, IR, or the WRC, because it is important those issues progress, any stable framework for the delivery of water services to replace the service level agreement, SLA, providers must involve securing an agreement through negotiation and addressing the stated concerns of all of the stakeholders involved. That is very important and their status as public sector workers needs to be addressed. I will not comment further on that issue. I spoke to a number of the representative unions and I indicated I would raise that today. I am happy just to put the point and park it at that. It is not appropriate for this committee to get into

the WRC issues other than to say that I am sympathetic to and supportive of the staff.

Will our witnesses touch on the issue of public ownership and, in particular, the referendum on Irish Water, please?

I thank our witnesses and I am generally supportive on the way this Bill is progressing or appears to be. Another key objective we must always be mindful of when we are talking about water, particularly if recent weeks have taught us anything, is of the broader environmental management systems of water and waste networks. Sometimes we forget that issue in this debate, and I know the Cathaoirleach will be especially interested in this issue. The environmental management systems must also be fit for purpose.

Those are some of my comments and I ask our witnesses to give me some feedback on them, please.

Mr. Feargal Ó Coigligh: On the dual audit function, as a company under the Companies Acts, Irish Water would be subject to a full audit in the normal fashion that is expected of any company. In recognition of the fact that Irish Water will be 80% funded, and in response to concerns referred to earlier, it has been decided that the Comptroller and Auditor General should also have a dual accounting function. Ms Groarke has been engaged in discussions with the Comptroller and Auditor General. Perhaps she wants to outline a little bit how that works in practice.

Ms Shirley Groarke: It is a case of bringing the Comptroller and Auditor General onto the pitch along with the statutory auditors, as Mr. Ó Coigligh said. We are trying to be careful here because there are provisions in the existing legislation. Sections 17 and 18 of the Water Services Act deal with the accounting and reporting to the Minister, including the annual report of Irish Water. We have tried to maintain those provisions while also reflecting what has happened in other legislation, such as the LDA Act or the Home Building Finance Ireland legislation, where there is a dual auditing role. We have also tried to stay true to what is in the code of practice for the governance of State bodies. What it boils down to at the end of the day is that Irish Water will provide its unaudited accounts to the Comptroller and Auditor General and to the statutory auditor at the same time. Audited reports are provided to the Minister after four months, which will be tied in under the code of practice, and in the normal course of events they go to Government and are laid before the Oireachtas. The most important thing the Bill provides for is the role for the Committee of Public Accounts.

We would have developed these heads in close contact and consultation with representatives from the Comptroller and Auditor General's office. That is why we did not amend the Comptroller and Auditor General legislation. There is provision in the Water Services Act which reflects what is in the Home Building Finance Ireland Act and the Land Development Agency Act. The Comptroller and Auditor General was happy with that approach. We consulted Ervia and Irish Water in the drafting of that. We think what we have provided for in this Bill will work for all parties concerned, and, most important, accountability to the Oireachtas will be strengthened as a result.

Mr. Feargal Ó Coigligh: On the Workplace Relations Commission, we all hope there will be a good outcome from that. We all need a stable framework. It is not easy and there are many different interests. There are a significant cohort of local authority workers involved. The local authorities are concerned about their finances. We need to make sure, therefore, the agreement works for everybody. We also know, following on from the topics discussed at this committee

last week, that the current system does not provide the accountability and responsibility that is required of a service that provides drinking water. Getting an agreement is a significant challenge.

On public ownership, the Minister has indicated he is open to looking at that issue and it has been mentioned to Government. That will be considered as part of the overall framework in the context of Government priorities in regard to referenda and other Government business. That is still under discussion.

Deputy Cian O’Callaghan: I thank the witnesses for their time, for coming in and for the work that has been done on this. On the consideration by the Government of the holding of a referendum, in terms of ensuring public confidence in our water treatment and wastewater infrastructure, it is important we have a referendum to enshrine public ownership of our water infrastructure in the Constitution. We have seen in other countries significant costs involved with the infrastructure being privatised. We have seen the water infrastructure in some countries and cities being renationalised and remunicipalised due to the lack of investment. That is an important point. On that consideration Mr. Ó Coigligh referred to, will he tell us more about that and whether any analysis has been done or reports compiled as part of that consideration?

Mr. Feargal Ó Coigligh: The history of a possible wording of a constitutional referendum goes back some time. It was discussed by this committee under the previous Department. Government decisions were made that indicated it would be considered. There have been discussions with the Attorney General’s office on its wording, and some of that is on the Dáil record.

In regard to discussions under way, the Minister is kept apprised of all the developments. He has met the unions and is aware of their concerns. The unions have responded to us. What we have done, and I would have no issue sharing it with the committee, is to have prepared a short paper on the issues around a referendum and the possible approaches, which we gave to the trade unions at one of our engagements in the early summer. We set out the possibilities of how it might be brought forward and asked for their views. We can share that paper with the committee. This matter still requires further consideration by Government.

Deputy Cian O’Callaghan: I appreciate that; it would be helpful. My second question is on a different matter. When preparing a Bill like this, I appreciate a huge amount of work goes into it and there are a significant number of different areas to consider. It may not have been part of the consideration but I do want to ask about the use of gender-inclusive language. The general scheme does not use gender-inclusive language. In fact it states on page 15 the presumed gender identity of the chair of the board. In other instances, it does not use gender-inclusive language. Will the Bill include gender-inclusive language? Will the Department look at the guidelines from the United Nations on gender-inclusive language and ensure the Bill fits in with best practice? It is the case, unfortunately, from what I have seen in other legislation brought forward, that Bills are not following best practice in terms of gender-inclusive language. I ask that it be followed.

Mr. Feargal Ó Coigligh: We will certainly be happy to raise the question with the Parliamentary Counsel.

Deputy Cian O’Callaghan: We are told on page 15 of the general scheme about the gender identity of the chair of the board. It will be “The Chairman of the Board of Irish Water”. That is not acceptable. I appreciate mistakes can be made, but I would like a commitment that the Bill will use gender-inclusive language. If that cannot be given, fair enough, but that is what I seek.

Mr. Feargal Ó Coigligh: In terms of standard of drafting, it is usually he-she as chair. It is something we will check with the Parliamentary Counsel. Beyond that, we are not the experts in drafting legislation. We prepare the general schemes. We would need, therefore, to take advice from the Office of the Parliamentary Counsel. On the issue of the use of “chair” versus “chairman”, I am sure that can be dealt with.

Deputy Cian O’Callaghan: That is fair enough and I accept that. However, I point out in terms of gender-inclusive language that it is not an issue of simply putting in “he” and “she”. The United Nations guidelines on this would need to be looked at. It is good that advice will be sought on this.

Chairman: Deputy O’Callaghan has raised an important point. In a lot of documentation we see, there is a failure to use gender-inclusive language. This instance relates to just one Department, whereas this should be applied across all legislation and heads of Bills. As a committee, we will write to the Office of the Parliamentary Counsel. Is that the office responsible for such drafting?

Mr. Feargal Ó Coigligh: Yes. It reports to the Attorney General. It lays down the standards of drafting terminology.

Chairman: That is a relevant point and we as a committee will take that up ourselves and write to that grouping.

Senator Mary Seery Kearney: There is little to question in this. It seems very straightforward. Having read the general scheme, it is a straightforward transfer. For people in the street, those living in the average home who get ill after drinking water, as we saw recently in another area of the country, or those who have issues with water supply etc., what will change for them as a consequence of this proposed Bill?

Mr. Feargal Ó Coigligh: The important point is that there will then be a company and a board with a sole focus, namely, a commitment to the provision of top-quality water services to the public. That will be important not just to the economic well-being but to the health of our individual citizens as well. I refer to having a single company as the water utility that everyone will know and respect and, I suppose, grow to love. We have good examples of companies like that, such as the ESB, which is a well-regarded company providing electricity services throughout the country. The ESB also developed over the years, and that is the type of utility we want to develop as well. Having a single identity, board, chair and CEO would help in that regard and bring about a strong, forward-looking company with great opportunities for staff. It is an exciting proposition. This proposed legislation would give the company the freedom to evolve in that way.

Senator Mary Seery Kearney: I appreciate that analogy with the ESB. If there are power cuts at home or if the supply is erratic, etc., I know exactly which helpline to phone. In the same way, any ambiguities between local authorities will ultimately be removed by this proposed legislation. There will then be one single entity with one telephone number to ring in respect of water services, and that is the position at which it is envisaged we will arrive. I refer to one single point of accountability.

Mr. Feargal Ó Coigligh: That is correct.

Senator Mary Seery Kearney: I appreciate that answer. It is very clear. I thank Mr. Ó Coigligh.

Deputy Eoin Ó Broin: I will pick up with Mr. Ó Coigligh where we left off in the last round. In the context of being located in Ervia, Irish Water is a commercial semi-State company. There is some indication in the White Paper from the Government that the future status of a single utility may be redesignated as a non-commercial semi-State. What is the significance of the general scheme of this proposed Bill in respect of the commercial or non-commercial standing of Irish Water? Is that something that would have to be dealt with in separate legislation?

Mr. Feargal Ó Coigligh: The standards in respect of Irish Water as a company under the Companies Act 2014 are not changing but clarity will be given. This proposed Bill will provide the company with the ability to provide directly for the board, the chair and the CEO. The issue of the company being a commercial semi-State has probably become a little bit of a hang-up. It means many different things in many different contexts. Therefore, the company will be subject to company law, but it will be constrained by all the other provisions in the proposed Bill that we have discussed.

The workforce uses the commercial semi-State pay model. Pay agreements are not subject to public sector pay agreements. There is no intention to change that aspect. However, the company does not have the traits we see in other commercial semi-State companies. I refer to constraints concerning its own funding. The company does not have an entitlement to raise its own moneys. It cannot borrow for investment in the domestic sector. It can only borrow for investment in the non-domestic sector, through the Exchequer, and that is very different from a commercial semi-State organisation. Irish Water is regulated by the CRU, and that agency sets the amount of money it can earn, in theory, but the company is subject to the context of the annual Estimates and budgetary process.

Deputy Eoin Ó Broin: To cut across Mr. Ó Coigligh, would it be fair to say, because I am one of those people hung up on this question because I think that it is an important one, that in all its operational matters, Irish Water is a non-commercial semi-State company. The only area where it continues to work as a commercial semi-State is in respect of the terms and conditions of the employees. They are not now, and if this proposed Bill goes through as it is, the employees will not be subject to the protections of public service pay agreements. For all other purposes, Irish Water effectively operates like a non-commercial semi-State company. The terms and conditions of its employees are the aspect that is the exception. Would that be a fair summary?

Mr. Feargal Ó Coigligh: I think what the Deputy has said is true in respect of that element. Someone could come in and say that another element is different. I could not go so far as to say that is the only facet in that regard. The company is subject to auditing by external auditors and by the Office of the Comptroller and Auditor General. It is a unique animal in its own way.

Deputy Eoin Ó Broin: That is fine. I get that. I have two other questions. I appreciate there is a significance in bringing Irish Water under the control of the Office of the Comptroller and Auditor General. One worry I have in this regard is that, as Mr. Ó Coigligh will be aware, the Comptroller and Auditor General does look-back studies. The value of having an Accounting Officer from Irish Water presenting to the Committee of Public Accounts, though, is that it would be possible to get full visibility of its financing in real time. What aspects of Irish Water's financing or funding may not be covered by the Secretary General of the Department coming into the Committee of Public Accounts as the Accounting Officer? What bit could be obscured or only be visible in a look-back study?

Mr. Feargal Ó Coigligh: I do not think that there is any intention to obscure any particular

aspects.

Deputy Eoin Ó Broin: Does Mr. Ó Coigligh have such a thing?

Mr. Feargal Ó Coigligh: One other element that must be considered in respect of the issue of scrutiny of Irish Water is that it is also subject to scrutiny by the CRU. It scrutinises Irish Water's expenditure to ensure it is-----

Deputy Eoin Ó Broin: I understand that, but as a Member of the Oireachtas I wish to know what would we not have visibility of under what is being proposed here. I ask that because something will be obscured, whether intentionally or not.

Mr. Feargal Ó Coigligh: I think the Deputy is asking me to prove a negative, which is impossible to do. If the Deputy has any particular concerns in this regard that he can point to, we will certainly look at them. I am not sure, however, that I can point to where it might not be possible to have visibility on a particular issue. It is not possible to prove that negative.

Deputy Joe Flaherty: I thank all the speakers. I will home in on one point that was mentioned briefly. I refer to the local authority staff and the cohort that may be transitioning over in this context. I am conscious that discussions are under way at the Workplace Relations Commission, WRC. Is there a view within the Department that the legislation from 2013 is sufficient to transition those workers over? Is the Department sure that sufficient comfort and legal safeguards are contained in that legislation to allow for those staff to transition over?

Mr. Feargal Ó Coigligh: The 2013 legislation provides protections in respect of terms and conditions etc. for workers who are transferred across. The position of the unions is that they do not want the triggering of the requirement to transfer across, but the Act of 2013 does provide protections in respect of the terms and conditions for those staff who do transfer across. The unions have not asked for any additional protections. Their stance is that they do not want any mandatory triggering that could force someone to transfer across who does not want to do so. It is a major challenge to ensure Irish Water has control of the service it is required to deliver. That is the big challenge facing us in the WRC.

Deputy Joe Flaherty: I have a final point on that, although I know it does not relate specifically to the witness's Department. What is the position of the Department of Public Expenditure and Reform on the transition of local authority staff? Is there resistance from the Department or is it taking a position that the Department of Housing, Local Government and Heritage is trying to work around? Will the witness give us any information on that?

Mr. Feargal Ó Coigligh: I suppose the Government policy paper sets out that the Government is committed to developing a single public utility and the full workforce would work for Irish Water. The wording in the policy statement that was published refers to giving Irish Water control of the workforce. That is the Government policy and the Department of Public Expenditure and Reform is therefore behind that Government policy. It is a matter of seeing how that can work within the constraints of employment law, which is very complex in terms of protecting everybody's rights. We are working very closely with the Department of Public Expenditure and Reform in trying to get an outcome that works for everybody.

Deputy Francis Noel Duffy: I am on the campus and I thank the witnesses for their statements and answers. My question is slightly tangential but perhaps they could answer it. Does the Bill give powers to fast-track the construction of infrastructure? The County and City Management Association noted last week that it takes three to five years to procure water and waste

plants and it did not see this changing. I say this in light of the fact we are in a housing crisis and Irish Water has existed since 2013. If the Bill does not cover this, from the knowledge of the witness of the process, does he know if the company has such powers? It appears the existing infrastructure and company set-up is not performing to provide the required infrastructure for the housing that is needed. If the company does not have these powers, is the Department considering pursuing avenues to fast-track these projects?

Mr. Feargal Ó Coigligh: I thank the Deputy. The presentation from the managing director of Irish Water was very clear about how Irish Water has facilitated housing development. The vast majority of connection requests are facilitated. The development of significant infrastructure is a complex process in terms of planning, design, procurement, environmental impact assessments, rights of access to environmental law, rights to take a judicial review and so on. All of those elements come into play.

Irish Water has a very strong record in delivery once the Government provides the capital resources to invest in the company. It has been very agile in making that investment and it continues to do so. I was privileged to be at the opening of the Cork lower harbour drainage scheme that the Taoiseach opened a couple of weeks ago. Tens of old sewers were pouring untreated water in Cork harbour and they have all been cleaned up, dealt with and the water is being treated to a higher environmental standard. Irish Water is delivering value for money with the taxpayers' investment and it will continue to do so. That does not mean pinch points will not arise at particular locations at particular times. I note the comments of the Construction Industry Federation but the record indicates Irish Water has been very successful in supporting housing development and will continue to do so.

The investment to be delivered by the Government to Irish Water next year will again be a significant increase on this year. The Government has committed €4.5 billion under Housing for All for Irish Water by 2025 and that will make a significant contribution. With other delays, I know people are looking at issues with the planning system to see if it can be made more effective. That work would apply equally to Irish Water as any other sector or industry. This Bill does not deal with such matters.

Senator Mary Fitzpatrick: I thank all the witnesses for the work they have done in moving forward with this legislation. I was a critic back in 2013 and we have moved on quite a bit. I suppose we hope this legislation will deliver on the commitment that has been in place since 2018 to set up Irish Water as an independent and publicly owned nationally regulated water service utility. I am clearly very supportive of that objective and I want to do all we can to try to progress this as expeditiously as possible.

I agree with Mr. Ó Coigligh's comments that there has been some progress in some deliverables. Irish Water was certainly robust in its defence of its delivery of those. We must also accept that although it connected approximately 33,000 new houses last year, we are coming out of a decade of undersupply of housing and we are in a massive housing crisis. We really need to see that Irish Water can ramp up speed, efficiency and capacity so it does not become another of many barriers to us tackling the housing crisis. I appreciate Irish Water is only one element but it is very important because it deals with wastewater and fresh water connections.

We all recognise that €4.5 billion in funding has been allocated. In separating Irish Water and setting it up as a single entity, we should consider the values the witnesses have spoken about, including the commitment that there would be a focus on the delivery of improved water infrastructure and quality. That is something that can only be measured over time and the ac-

countability and scrutiny measures being proposed in the legislation will be very important to us into the future.

There were questions earlier in the session about costs and I know the witnesses have given a report indicating a €5 million cost. Have we also costed the implications of not doing this? What is it costing us in not having a separate entity right now? The public ownership of Irish Water is clearly very important and there is a commitment in that respect. There is also the question of a referendum. Is the potential cost of a referendum built into the €5 million or would that be dealt with completely separately?

Mr. Feargal Ó Coighligh: There are a couple of points relating to value for money. The Senator is absolutely right. One of the issues to bear in mind is that the Oireachtas, in its wisdom, set up a model where Irish Water is subject to significant scrutiny. We saw yesterday that the Environmental Protection Agency brought Irish Water to court for a discharge. An Fóram Uisce is a general consultative body that oversees Irish Water, and the Oireachtas set up a water advisory body specifically to oversee the performance of Irish Water. One of the most powerful tools is the Commission for Regulation of Utilities, which pays very close scrutiny to the efficiency of Irish Water and the delivery of investment. It has done very important work to hold Irish Water to account. For example, there have been issues regarding projects being delayed and timelines slipping, and as a result of criticism from the Commission for Regulation of Utilities, Irish Water commissioned an independent report from Scottish Water International to look at its systems. As a company and as a utility, it is improving performance all the time. From where the Department sits, we have seen it come on a journey, and there is a way to go.

That leads me to the second point. Senator Fitzpatrick is right about the ongoing costs. There will be ongoing costs to companies, but there will be significant savings in the longer term due to a more efficient delivery model. Local authorities have led the way in terms of upgrading Ireland's infrastructure over 100 years since independence, but the sophistication of the equipment and the investment now required cannot be delivered by 31 independent local authorities. That was one of the justifications for the establishment of Irish Water. As it matures and develops as a single company, there will be standardisation across the country. I refer to standard procurement, construction and operational processes. There will be a significant gain. Work is being done on that at the moment in terms of the Workplace Relations Commission, WRC, process and what efficiencies will accrue with the evolution of the employment model. In the medium to long term there will be significant efficiency gains even if there are some additional upfront costs.

If the Government chooses to run a referendum, that would be paid for separately, so that is not included.

Senator John Cummins: As a Government party representative, I acknowledge that mistakes were made along the way in the establishment of Irish Water, but one of the mistakes was not the establishment of a single utility for water in the country. I come from an area, Waterford, that would have been to the fore in delivering a lot of excellent water and wastewater infrastructure, especially in Waterford city. We do not have the constraints that many other areas have. It is essential to have a publicly owned, stand-alone national utility that is regulated. It is the way forward. That is the purpose of the legislation before us for pre-legislative scrutiny.

My colleague, Deputy Ó Broin, was trying to find gaps or potential pitfalls, and the fact he could not cite any is probably testament to the legislation before us being robust.

Following on from what Deputy Duffy said about fast-tracking infrastructure, that is a point I teased out last week with Irish Water in the committee. I cited the fact that the lack of access to Part 8 was an inhibitor in terms of the provision of small-scale water and wastewater infrastructure, in particular in rural areas. It is not encompassed in this Bill, but will it form part of other planning legislation that may be introduced? The collective wisdom of the Department and the committee could come up with a mechanism whereby Irish Water could partner with local authorities to utilise the Part 8 mechanism for the provision of that smaller element of water and wastewater infrastructure, notwithstanding the subsequent constraints that are there in terms of procurement and environmental impact assessment. Is that something that could be taken on board? It was one of the points that shone through last week. There is a three- to five-year period to go through all the various stages to get a project over the line. Such a step should be explored and taken seriously. If it could cut out three, six or nine months from a process that takes three to five years, it would enable developers to get on the ground quicker to provide housing.

Mr. Feargal Ó Coigligh: When Senator Cummins raised that point last week, it did strike me that one of the powers Irish Water lost in the move was the availability of Part 8, which local authorities use to good effect. It is not something Irish Water has raised directly with the Department, but I am happy to explore the issue with it to see if it considers it a constraint on the speedy delivery of infrastructure and if there is anything we can do on it. I do not promise anything, but it is certainly something the Department would be happy to raise with Irish Water and with planning colleagues in the Department.

Senator John Cummins: It might not have been raised because there are other priorities within a utility of that size and smaller water and wastewater infrastructure schemes are not the top priority. That is the reason we have established the small towns and villages growth programme. If Part 8 could specifically be used in that context, it would enable us to be able to get on site quicker with housing developments. The areas to which I refer need our support because we want to be able to develop sustainable communities in rural areas to support the pub, post office and local school. It is an inhibiting factor at present. It was said last week it could allow developers to get on site 12 months in advance of the estimated delivery time of a project. We must do anything we can to assist in that regard. Many planning applications in rural areas throughout the country have planning currently but cannot commence. I cite as an example in my own local authority area Lemybrien in County Waterford. I urge the witnesses to take that up. Even if it is not being requested by Irish Water, the Department should take a proactive approach and do something regarding the provision of Part 8.

Chairman: I am sure the Department will note the comments of Senator Cummins. To be fair to witnesses, I urge members to keep the discussion on the Bill before us and not to stray too far into other water-related matters.

Deputy Thomas Gould: I thank the witnesses for their presentations. Is there anything in the Bill to ensure the day-to-day running of the plants is not outsourced and is fully managed by Irish Water? Contracting work out is something we have concerns about.

In terms of the rights of existing workers, it is very unfair to expect them to walk away from their terms and conditions. I do not believe that is right. These workers are public service employees. Labour Court hearings are coming up in October. I do not think that is right because these are local authority workers. I hope the local knowledge of the local authority workers has not been forgotten given its value for the provision of water services locally.

Mr. Feargal Ó Coighligh: The managing director of Irish Water was here last week and made it clear that it very much favours an insourced model. The experience to date is to bring in aspects that have previously been outsourced so there are no fears in that regard. This is not something that is subject to this legislation.

Regarding workers' rights, there are protections in the legislation. We want to make sure workers are happy to transfer to Irish Water. There is no denying the contribution local authorities and local authority staff have made and continue to make. As we have seen, they were front-line workers throughout Covid. Nobody is questioning the commitment of local authority staff. We saw last week that there are issues about control and accountability, which are not fit for purpose, so the company must evolve. We want to make sure the workforce is happy to transition across. That is the ultimate aim.

Deputy Thomas Gould: In respect of the Department's engagement with WRC, are the people attending the WRC just there to observe or will they be decision-makers who will, it is hoped, help resolve the workers' rights issues?

Mr. Feargal Ó Coighligh: The objective of the WRC is to reach an agreement.

Deputy Thomas Gould: In 2015, Irish Water introduced a decade-long plan starting with a public consultation to source a new water supply for Dublin in the midlands. Given that the process of separating Irish Water was not meant to happen until 2025, will the separation impact on and delay this process?

Mr. Feargal Ó Coighligh: They are completely different issues so I do not see any impact on that project.

Deputy Thomas Gould: Should the referendum on water not have been brought forward before this new company? Surely a referendum will have profound implications for this new company. Has the Government not made a mistake in not bringing forward the referendum first and then dealing with this issue?

Mr. Feargal Ó Coighligh: The Deputy is asking me to comment on Government policy, which I am not sure I am supposed to do. It is part of the discussions.

Deputy Thomas Gould: I believe the referendum should have been dealt with before we got to this stage. A number of Government Deputies and Senators made the point that a lot of mistakes were made with the setting up of Irish Water. If ever there was a comment that did not reflect the complete disaster that was the setting up of Irish Water and the water charges that were implemented, it is that. I wish to mention all the volunteers and campaigners who stood on roads and outside their houses. We hope we have put that behind us but I just wanted to recognise it at this meeting. It has been my first opportunity. Significant mistakes were made and a significant amount of money was wasted with the setting up of Irish Water.

The €5 million in expected costs-----

Chairman: We are out of time. We should be sticking to pre-legislative scrutiny of the Bill before us.

Deputy Thomas Gould: I have serious concerns that the annual costs of €5 million and €10 million will be far more.

Deputy Eoin Ó Broin: Can I reassure Senator Cummins that I am supportive of the legisla-

tion? I think separating Irish Water from Ervia subject to some of the issues being resolved is a good thing. That is separate from whether the single utility as is being proposed is a good or bad thing. Much of that devil is in the detail.

Regarding the potential figure of €10 million in additional operational costs each year, obviously, it is the same number of staff who will be occupying the same amount of office space, albeit with some reconfigurations, and they will be doing things similar to what they are doing at present. Will Mr. Ó Coigligh run us through where those extra costs of €10 million come from and what they will fund? Does he have a read in terms of what those additional costs will be annually?

Mr. Feargal Ó Coigligh: I need to come back with details. There might be one ICT team and the two separate companies will need two ICT teams. There is one chief finance officer and two chief finance officers will be required. There is one chief executive and two chief executives will be required. There will probably be one legal head and two will be required. There are costs like that. There are significant costs relating to-----

Deputy Eoin Ó Broin: Sorry for interrupting. Does that mean there will be additional staff above the current total cohort of staff across the three companies?

Mr. Feargal Ó Coigligh: Not to any huge degree. There will be some key positions that legally need to be filled. It will be a requirement of good governance-----

Deputy Eoin Ó Broin: Could they be deployments from within the existing cohort of staff or will new staff be employed?

Mr. Feargal Ó Coigligh: Generally, it will be through deployments from within the existing cohort.

Deputy Eoin Ó Broin: Obviously, our discussion has strayed a bit into the completion of the single utility, which is a separate issue. Is the general scheme required to complete the single utility or could Irish Water have remained in Ervia and the single utility could have taken place in terms of the early ending of the service-level agreement with the local authorities? Are these two slightly separate things related but not necessarily interdependent?

Mr. Feargal Ó Coigligh: They are slightly separate but it would defeat the purpose if a single national public water utility was a subset of a separate company, so I think it is part of the overall package.

Deputy Eoin Ó Broin: In Mr. Ó Coigligh's view, it is not required but is preferable.

Mr. Feargal Ó Coigligh: I suggest this is a theological question.

Deputy Eoin Ó Broin: I do not want to get into the detail of the single utility because our problem is there are different views on that and we do not have all of the different players in front of the committee. I understand that time was set aside to meet in Croke Park, I believe, in August for the WRC to advance those discussions and that not all of that time was used. To say the talks were suspended is probably the wrong term but they were paused and moved to October. I ask Mr. Ó Coigligh to confirm that not all the original time allocated was used. Why is that the case or is the information I have incorrect?

Mr. Feargal Ó Coigligh: The WRC set aside an amount of days that might have been required for the talks in July. The amount of discussion that we required took place over two days

at which point all parties agreed that it was time to take stock and to reconsider the issues so that we could come back again in October. That is not surprising. It has taken a very long time to get into face-to-face discussions. Obviously, Covid restricted us in doing that. We needed to build better understandings on both sides of what the issues were. There might have been a hope that they could have gone into Croke Park for three days to seal and deliver a deal. I am not sure that was ever possible.

Deputy Eoin Ó Broin: I have one final question before my time runs out. Mr. Ó Coighligh said two days were used, but how many days were set aside? Was there a concern on behalf of the WRC or any other party that some of the detail required to get into the substantive discussions had not been tabled at that stage and that further detail was required to advance the discussions?

Mr. Feargal Ó Coighligh: As I understand, two days were set aside and two days were used. The Deputy needs to appreciate that discussions were happening prior to those at Croke Park about bottom lines and options. The stances the parties took meant it was not possible to bring the talks to conclusion in July and that all the parties needed to reflect further and come back with additional information and additional proposals. The union position was that it would not agree to an outcome that led to a requirement of staff transfer. That was very limiting for the options on the management side trying to get agreement. Several conversations took place on those issues to bring us to a point.

Chairman: I thank Mr. Ó Coighligh. We are out of time on that slot. I again remind members that pre-legislative scrutiny of the general scheme of the water services separation Bill 2021 is what is on our agenda. To be fair to the witnesses, that is what we have invited them in to discuss.

Deputy Richard O'Donoghue: My concerns about a single identity in Irish Water relate to the connectivity between Irish Water and the local authorities. At this committee last week, I spoke about certain issues in my own area. For six years I served as a county councillor for the Adare-Rathkeale district before I became a Deputy. I have been self-employed all my life. If I ran my business the way Irish Water has run its business, I would not be in business. The connectivity between Irish Water and the councillors who represent the towns and villages of County Limerick has been nothing but shambolic. There has been no connection. Representatives of Irish Water have refused to turn up to meetings and have refused to appear before local councillors who represent the people of County Limerick.

Last week I was given a commitment here in this committee in front of witnesses that I would receive a response directly to a question I asked about Croom in County Limerick. When I am told I will hear something directly, I will give a day or two days, but a week has gone by and I have not received a phone call or an email. If someone is supposed to come back to me directly, common courtesy would require that they would come back to me directly with an answer to the question I asked concerning County Limerick.

The work for which Irish Water has been funded completely discriminates against counties outside city bases. All the funding that has been made available to the LDA has been made for city projects and the upgrading of county projects, not capacity. In my job as an elected representative for County Limerick there should be no discrimination. There should be freedom for everyone to build, whether it is in a local town, village or rural area. The Government did not seem to want to do that when I proposed an amendment to the 2040 plan which allowed for non-discrimination for people to build on their own land. That is an issue that Government has.

My issue here is that if I want to contact somebody in Irish Water, I want connectivity. Since 2013, Irish Water has proven it does not care about the local councillors. It does not even come back to them or appear before them even though they can help Irish Water and advise it on their areas. That is my major concern about any single-identity company. I want the witnesses to give me a guarantee that from today onwards again - this is on the record of the Dáil - that if Irish Water says it is going to get back to me directly, it will do so. My phone is online; it has five numbers. Irish Water can email me, text me or contact me here in my office. I am contactable 24 hours a day, seven days a week.

I want to be contacted by Irish Water over concerns I have raised relating to Fedamore and Croom. I do not want to be listening to the same spiel that this will happen in a couple of weeks. For more than a year in response to questions about Fedamore, I have been told that it would take a couple of weeks. The same couple of weeks is coming up. I have had a meeting with Irish Water in my office and on Zoom with our representatives. Last week I was told I would be responded to directly. I would now like Irish Water to come back to me directly. I would like to open communication so I can help Irish Water as much as it can help me in County Limerick.

Chairman: I am not sure if Mr. Ó Coigligh, as an official in the Department, can answer on behalf of Irish Water.

Mr. Feargal Ó Coigligh: No representative of Irish Water is in the room, but I will pass on the Deputy's message directly.

Chairman: Deputy O'Donoghue has raised an important point. When we ask questions of witnesses in committee, those witnesses often do not have somebody writing down those questions. When members are looking for written answers back, it would be helpful for them to follow up. I am sure we brought it up and Irish Water representatives committed to meet the Deputy at Croom or I cannot remember where we said it was.

Deputy Richard O'Donoghue: Chairman, you, yourself, actually asked them to verify that they would do it and they did on the day.

Chairman: I know I did. I think it would be helpful to follow up with a written reminder of the commitment they made.

We have been through the third round of questions and there are no further questions to be asked of the departmental officials. I thank Mr. Ó Coigligh, Ms Groarke and Ms Flynn for their attendance today to assist us in our scrutiny of the heads of the Bill. We will now proceed to write a pre-legislative scrutiny report on our session here today.

On Tuesday, 5 October I think our meeting slot will be from 3 p.m. to 6 p.m. rather than 11 a.m. It might be helpful to change our private meeting time to correspond with that. I will come back to members on that.

The joint committee adjourned at 2.09 p.m. until 3 p.m. on Tuesday, 5 October 2021.