

# DÁIL ÉIREANN

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**AN COMHCHOISTE UM THITHÍOCHT, PLEANÁIL AGUS RIALTAS ÁITIÚIL**

**JOINT COMMITTEE ON HOUSING, PLANNING AND LOCAL GOVERNMENT**

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*Déardaoin, 9 Bealtaine 2019*

*Thursday, 9 May 2019*

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The Joint Committee met at 9.30 a.m.

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Comhaltaí a bhí i láthair / Members present:

Pat Casey,	Victor Boyhan,
Mattie McGrath,	Grace O'Sullivan.
Fergus O'Dowd,	
Eoin Ó Broin.	

Teachta / Deputy Maria Bailey sa Chathaoir / in the Chair.

## **Business of Joint Committee**

**Chairman:** At the request of the broadcasting and recording services, members and visitors in the Public Gallery are requested to ensure that for the duration of the meeting their mobile phones are turned off completely or switched to airplane, safe or flight mode, depending on their device. It is not sufficient to just put phones on silent mode as this will maintain a level of interference with the broadcasting system. I have received apologies from Deputy Barry who will not be here today.

### **Scrutiny of EU Legislative Proposals**

**Chairman:** We will record our decision on the EU scrutiny of COM (2019)125 on the proposal for a decision for the European Parliament and of the Council amending Decision No. 1313/2013/EU of the European Parliament and of the Council on a Union civil protection mechanism. It is proposed that this proposal does not warrant further scrutiny. Is that agreed? Agreed.

### **Local Authority Performance Indicator Report: National Oversight and Audit Commission**

**Chairman:** The next item is the local authority performance indicator report 2017 and related matters. On behalf of the committee, I welcome from the National Oversight and Audit Commission, NOAC, Mr. Michael McCarthy and Ms Martina Maloney.

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

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 call on Mr. McCarthy to make his opening statement and I welcome him back to the committee.

**Mr. Michael McCarthy:** I want to express our appreciation to the Chairman, the membership and the secretariat for extending an invitation to NOAC to appear before this morning's proceedings. I am joined by my colleague, Ms Martina Maloney, who is the chair of our subgroup on performance indicators, and by Mr. Neill Dalton and Ms Claire Gavin in the Public Gallery, who are here on behalf of the NOAC secretariat.

I thank the committee for its invitation to meet today to discuss the work of the National

Oversight and Audit Commission generally, but more specifically, its recent performance indicator report for 2017. The annual performance indicator report published by NOAC is one of its key reports every year. NOAC has the function of scrutinising local authority performance against relevant indicators. The performance indicator subgroup's mandate is to recommend appropriate performance indicators in respect of local authority activity and to oversee the data collection, verification, compilation and publication of a report on those indicators annually. NOAC believes that monitoring performance over time and against comparable authorities has the potential to encourage continuous improvement in local authority service provision.

Specifically on the issue of performance indicator reports, four performance indicator reports have been published by NOAC since 2014. A number of organisations are involved in its production, including the Local Government Management Agency, LGMA, 31 local authorities and various Government Departments. The outcomes of the report should enable best practice to be highlighted so that local authorities can learn from each other for the betterment of the services that they provide for their communities. In respect of the 2018 performance indicator report, the data for which is currently being collected, we have added two new indicators, bringing the total number to 37. Indicators are kept under ongoing review with the purpose of developing more qualitative outcome focused indicators as NOAC acquires a greater understanding of local authority functions through its examination of different aspects of the work that they do. NOAC is also beginning to examine the scope for grouping local authorities for comparative reporting purposes.

Underpinning the day to day work of NOAC is the requirement to see NOAC recognised as an organisation that can deliver real reform. Central to this is making sure that local authorities are delivering real value for money while adhering to proper governance. NOAC also ensures that it supports the best practices that are central to the work of local authorities. Successful transformation requires robust planning, clear and coherent leadership and suitably skilled staff. The impact of increasing demands across local government and the changing landscape in which councils operate mean that planning and oversight have never been more important. Robust plans that project how local authorities' outcomes and priorities will be delivered and funded are essential to ensuring the sustainability of services for the public. It is important that NOAC be there to ensure that these decisions are taken in a planned and co-ordinated way and that the impact of decisions on communities and outcomes is transparent and also understood. I look forward to the discussion to follow with committee members on the work of NOAC.

**Senator Victor Boyhan:** I thank Mr. McCarthy and welcome him. I am supportive of NOAC and I am familiar with the overview of it but I am not sure if the public at large is familiar with it. There is a lot of work to be done there in how it promotes itself and how it sets the standards. NOAC clearly has a matrix of standards that it judges people from.

On resources, does NOAC have the capacity and the resources? Mr. McCarthy's predecessor mentioned here previously that there may have been issues and constraints with the resources. I note that NOAC's budget was €200,000 last year and this year again. That is an issue I want to talk about.

NOAC also says that it has a second customer survey for users of local authority services and that this will be completed in a further 11 authorities. The witnesses might tell us when that report is due because that is really important. NOAC also mentions that it is looking at and planning to begin to examine the possible scope and the potential for grouping local authorities for comparative purposes and exercises. What sort of local authorities is NOAC talking about grouping together and what is the rationale behind that? It is difficult because they are all dif-

ferent in size and make up. There is a range of reasons it is difficult but NOAC might look at that.

Is NOAC satisfied that it has sufficient resources to enable it to carry out its work and its future planned programme? The witnesses might explain that to us. NOAC also mentioned in its report that a Government Minister can commission NOAC to do a specific piece of work. Has NOAC been asked by any Government Minister in the last 12 months or the last 24 months to specifically deal with a particular issue, project or piece of research? If so, what was that about and what was the outcome of that? I hope Mr. McCarthy does not mind me asking and he might just touch on that. Does NOAC think that the revised indicators used to measure housing in 2017 are appropriate? I would like the witnesses to comment on that and tell us what the changes are. There are significant variations among the local authorities in processing fire safety certificates within the two month timeframe set down. Can the witnesses explain the reasons for such variance? It is 100% for Cork County Council and 10% for South Dublin County Council. I will leave the witnesses with those questions.

**Mr. Michael McCarthy:** I thank the Senator for his contribution. I know he has been a strong supporter of local government and to be fair to him he has brought those issues to the floor of Seanad Éireann. He has given a unique insight into the operation of the local government sector across the 31 local authorities.

I will talk about this year's report and the capacity and resources and then my colleague, Ms Maloney, will talk about the rationale for the grouping of the local authorities and the issue of housing. To give a quick and short answer to the question on whether I am happy with the resources NOAC has, the answer is "Yes". I pay tribute to my predecessor in this role who started in 2014 when NOAC was created. It was a different Ireland, albeit it was only five years ago, in terms of how scarce resources were and the financial difficulties faced by the country at that stage. In recent times, we have had an increase in capacity of the secretariat and I am satisfied that the Minister has provided resources for us. We rely on the various talents and skillsets of the members of the board, especially for the project-specific work undertaken by the subgroups. Much of that is done *pro bono* by the members of our subgroups. We tend to do as much as we can with resources that are sufficient but also finite. I am therefore happy that a capacity and resource issue does not arise. Building up the profile is a significant challenge for us. It is to reflect the work that is being done in our interaction with local authorities, with the Department, with the Local Government Management Agency, LGMA, and with other stakeholders. Since my appointment last September, I am endeavouring to meet as many of those stakeholders as I can to ensure that we are doing what we can to extend that network and reflect the amount of work that is being done.

With regard to the question about ministerial requests for a post, the answer, in short, is "No". I suspect that may change in the future. I do not have any firm knowledge but I suspect it. It is prescribed in the Act. We are open for business in that context. The challenge in building the profile is always there. All our reports are published online. Significant work by a number of stakeholders goes into putting them together. The Senator will find in his own experience in Leinster House that when one produces a volume of work, it is sometimes largely neglected by some organs of society. I am not pointing a finger at anyone in particular but sometimes there might not be an appetite to ingest the news of the day in that report versus, for example, the topical current affairs issues that will always dominate the airwaves and print media.

Ms Maloney will address the rationale between the grouping of local authorities and the housing issue. Ms Maloney is a former chief executive and has extensive experience. She has

contributed significantly to the work of the performance indicator report and the operations of NOAC as a whole.

**Ms Martina Maloney:** The rationale behind the approach to grouping counties arises for the very reason the Senator mentioned, namely, it is hard to compare counties. One can hardly compare Dublin city with Leitrim because one is dealing with two very different areas with different geography, topography and demographic considerations. There is no doubt that some counties are comparable. When we interact with the chief executives, they would have identified that there are counties that they automatically compare with. If one looks at Monaghan and Cavan, there is strong competition between them to see which is the best at different things. They compare with one another. The large counties along the west coast tend to compare, including Donegal, Mayo, Galway and Kerry. There is a rationale behind that comparison. Some of the midland counties, including Laois, Offaly, Longford and Westmeath, would be comparable. We are trying to instil in local authorities the requirement to use the data that we have gathered from all the councils to improve their own performance. We would ask them to look at their performance over time, including whether they are improving yearly, and to use the data for comparisons with comparable local authorities to see if there is something they can learn from similar local authorities on which they can build and improve and learn from their practice. That is the purpose for which we group authorities. There are some authorities which are difficult to identify partners for, for example, Dublin City Council, which is somewhat unique.

The Senator's second question focused on the issue of housing indicators. We have quite a number of indicators in the housing area because we see it as a very important dimension of the work of local authorities that impacts much of our citizenry. We look at changes to the housing stock owned by local authorities throughout the year, with regard to new acquisitions, new construction and disposals under the tenant purchase scheme and otherwise. We also look at housing vacancies in the council housing stock because we are anxious to encourage councils to give the best performance they can in not having properties vacant and turning them around quickly. Over the four years NOAC has been producing this report, we have seen a significant improvement in the level of occupancy of local authority housing. If I go back to 2014, the figure for vacancies was 3.8% of social housing stock throughout the country. That figure for 2017 was down to 2.72%. That is a significant improvement. In 13 local authorities, the vacancy rate was less than 2%. The lowest rate in the country was 0.43%. A real effort is being made by local authorities in delivering on occupancy levels, and also on turnaround times when a house becomes vacant, to make it habitable for the new tenant. There has been a significant reduction in that over the last four years. It is now running at 28 weeks, on average. The quickest turnaround time is 6.8 weeks in one local authority.

Part of what we do is trying to encourage best practice. Where we see really good practice, we try to spread it. We hold an annual conference in collaboration with the LGMA. One of the showcases was a local authority which had managed to cut that turnaround time down to the minimum possible. We look at the cost of housing maintenance per unit of accommodation. We also look at private rented inspections and how many houses are being inspected by local authorities. We look at the question of the long-term homelessness. We try to address a number of important dimensions for the housing service that the local authority carries out. We changed the indicators relating to housing output for the 2017 report, reflecting the changes that come about through Rebuilding Ireland. NOAC has to be dynamic and to respond to changes in Government policy. We have included indicators under housing assistance payment, HAP, and the rental accommodation scheme, RAS, and housing delivered through approved housing bodies, AHBs, rather than housing delivered through local authorities themselves.

The Senator asked about fire safety certificates. There is certainly a disparity in the figures for how fire safety certificates are processed. They are a very important dimension in the work of the local authority. I would not pretend to understand the dynamic behind the processing of the fire safety certificates. We encourage the audit committees at local level to look at the performance indicators for their particular local authorities and to review them *vis-à-vis* other local authorities, and to ask those questions at local level. As we meet the chief executives of local authorities, we raise with them the questions that arise about performance under the different indicators. It is a question that is best referred to the local authority concerned.

**Senator Victor Boyhan:** I ask that they look at it again. That is an alarming situation with fire safety. We discussed issues with fire safety with various people here a few weeks ago and I will not repeat them. People raised serious concerns and allegations about one of the local authorities and it got media attention. We should look at it. There are more than 980 county councillors and they are a conduit to be used better. I find that I am asked to send councillors NOAC's report. It is rather strange. NOAC has an opportunity to engage. The witnesses are talking about chief executives, the council and having conferences. Remember that the elected representatives, sitting county councillors, are the closest politicians to the people on the ground. There is an opportunity to engage better with them. I suggest that when the witnesses produce reports, they are circulated then. I have had a report sit on a chief executive's desk for two months before being circulated to elected members. The whole thing is mad. It applies to local government audits too but that is a matter for later. There is also the issue of sanction. What sanctions can the witnesses impose other than reporting about shortcomings? What powers and sanctions do the witnesses have? Do they want more powers or the ability to sanction local authorities? Will they share their views on that?

*Deputy Pat Casey took the Chair.*

**Mr. Michael McCarthy:** I will take up the point about councillors and the conduit that they are. I have mentioned a number of stakeholders, including the joint committee, the Department, the LGMA and the County and City Management Association, CCMA. The Senator is correct that in a few weeks we will have over 900 new members across the 31 local authorities. That is an avenue I will follow up on in terms of using that skillset. From our point of view, we can do what we can, but there is much credence and merit in the Senator's proposal regarding a local knowledge. I agree that the elected members of the local authority are best placed to interrogate what the issue might be and to have a particular insight into that, which we will never pick up by meeting the executive team. That is something I will take up.

There are no sanctions and penalties. Our role is specified in the Act. It is an oversight role, by and large, without the carrot and stick. There is a little carrot, and the Senator will have heard the point Martina Maloney mentioned regarding the number of voids. That used to drive me bananas as a public representative in a previous life. I could not understand why the voids were allowed to deteriorate to the level they had reached at that point in time. There has been a reduction in the overall figure from 3.8% to 2.8%. We believe that is a direct response to our site visits and reports. It places a pressure. I will take up the Senator's issue with regard to the councillors, the network and the association behind that because there is a particular skillset within that sector which I believe will be of great benefit to NOAC in how it discharges its functions.

**Deputy Fergus O'Dowd:** I welcome the witnesses. Martina Maloney is a former manager and she is extremely helpful and proactive. She is one of the best and most dedicated public officials with whom I have had the pleasure of working. Her wealth of experience, that of the

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chairperson and the work they do are highly valuable. I am here to be fair to everybody and I acknowledge the expertise and the good work throughout the country, but I have an issue of concern and I hope NOAC can examine it. It is about oversight of the way people with disabilities are being dealt with across local government.

It continues to be my concern, and I emphasise that this is no reflection on any individual or local authority, that we are not showing due respect for people with disabilities when we deal with their problems. For example, a case was brought to my attention this week. The letter is written to the mother of a disabled child and the person who has the disability is referred to in the third person throughout the letter as “the disabled person” rather than “your son” or “your daughter”. That is disgraceful. It makes me very angry that people who fight for rights for their children are treated disrespectfully. That is the reason I raise it here. It made me angry yesterday because when I arrived here there were two rows of people in wheelchairs outside the door of Leinster House who are not getting the home care packages they need. That is not the concern of the witnesses but it is my concern. They were outside in the rain. It is absolutely unacceptable that people with disabilities who need care and attention are not being treated properly. Their rights are being disrespected.

The difficulty with the case I have on hand, and this person cannot be recognised from what I intend to say, is that the person has a visual impairment, complex physical and intellectual difficulties and requires percutaneous endoscopic gastrostomy, PEG, feeding and frequent suctioning. The person has nursing care at night but requires 24-hour care. The HSE wrote to the council on behalf of that person asking that the person be given a special bath and hoist because of the significant disabilities. Where the council refers to the person in the third person, it absolutely ignores the person’s needs. The last line states that the application is hereby refused. It treats the person with great disrespect. This is just one case, but it should not be happening.

I ask that the NOAC, as a matter of urgency, examine the language that is used in letters to people with disabilities. If it is disrespectful, the council should be dealt with severely. One cannot treat people like that. Second, if somebody has complex disability needs and has a HSE report from a physiotherapist and doctors stating that the person needs something, it is not good enough for the council, which owns the house, to tell the mother that the council does not install such hoists, to hell with the application and it is closed. Incidentally, in the last line, it tells the mother that if she wishes to appeal the decision she can do so within 21 days and it provides the address to which the appeal should be made. That is wrong and I totally reject it. Much of the work the NOAC does is constructive, but one thing it could do, as a matter of urgency, is examine the letters that are sent by the councils, meet with the officers who deal with them, who I presume are the chief executive officers, and work out a language that is respectful, understanding and takes special care with people with disabilities.

I accept that often the local authority may not have the money to do the work required. It is the Government’s job to ensure the money is provided. However, within that, there must be far greater emphasis on the rights of people with disabilities and their families. Never again do I wish to visit a house and hear that a family with a huge issue is being completely ignored and left in a dreadful situation which must be dealt with now. I am not disrespecting the people who wrote that letter, but they must be trained in appropriate language. There must be a far more respectful and empathetic relationship. That is very important.

The other point I wish to make relates to NOAC’s reports. I am not nit-picking but we do not have a particular report to discuss with the witnesses today. If I understand it correctly, the NOAC has indicated its report will be available later this year. Perhaps the information I have

is incorrect.

**Mr. Michael McCarthy:** Our next report is due later this year but we are discussing the performance indicators report for 2017 at present.

**Deputy Fergus O'Dowd:** When it is ready the key issue is to have a meeting at that time.

**Mr. Michael McCarthy:** Of course.

**Deputy Fergus O'Dowd:** When it is ready we should meet straightaway and go through it because it will be hot, live, available in black and white and people will pay more attention to it.

My other point is on how people generally interact with their local authority. I have always believed that if somebody has an issue, he or she should be able to discuss it privately with the local council. Some councils have rooms available and some do not, but it is very important. Let us say there are four or five windows where people can ask for assistance. The person should be able to respectfully say, "I would like to speak to somebody privately about a matter". Otherwise, it is in a public place and other people can listen to everybody's problems and issues. Where somebody has a serious matter he or she wishes to discuss it is important that he or she can go into a room and talk to the person concerned. That is respectful of people. It is wrong that people should have to stand in line to discuss their business in a public place, where anybody within earshot can hear everything they say. We should address that. If it means making more rooms available to the public, we should do that. It would show respect for the individual at the point of interaction.

I wish to raise another point. According to the public press, there is a significant problem between the administration and the elected representatives. I am not referring to a particular place. Does the NOAC deal with that? If there are ongoing significant and serious difficulties between a manager of a county and its public representatives and they do not appear to be resolvable, what solutions, if any, can the NOAC offer for that? Is there a best practice the body could suggest? Let us say the NOAC is doing its audits of councils. In those audits it could perhaps review the press commentary for the previous six months to see what is happening and what the issues are. It might be able to sort out the issues that arise. There might be cases where senior officials or the senior official will not attend meetings in a particular town. There may be good reasons for this. I do not know because I am not on that particular council, but it happens and it is not acceptable that it should continue to happen. There should be a way to intervene. I am not necessarily saying it should be NOAC but somebody should be able to say it is the role of the manager and the council to work together, and, without attributing blame, state a council is dysfunctional if it is not working and then make it work. It is a serious issue. I know it may be a rare issue but it is happening and it needs to be addressed.

**Mr. Michael McCarthy:** I thank the Deputy for raising these issues. With regard to the first issue he raised, when I was a Member, I had a similar issue and it happened to be with regard to a local authority. It was quite a complex housing case. It did not involve the standard housing application and verification; it was very different and reflective of how fast society changes. I felt as aggrieved and angry as the Deputy does now regarding the outcome. It involved a family whose eldest daughter was on the autism spectrum and no additional consideration because of the specific needs was given to the application. Once it was interrogated it was obvious that it was not a run-of-the-mill case. To be fair to the local authority, there was nothing in its remit that could have resulted in the case being treated differently. The local authority was courteous and polite but there was no outcome. As a result, in 2012 I introduced the first autism-specific

legislation in the House, which the Deputy will recall. It won cross-party political support and I believe it is now being dealt with in the Seanad where Senator Reilly, the former Minister for Health, is pursuing it in all but name. The Bill would require organs of the State to adopt an autism strategy and, therefore, certain statutory legislative obligations would mean that if the same family went through the system following the enactment of the legislation, there would be a requirement for the local authority to act differently regarding the housing needs of the family because of the autism.

**Deputy Fergus O'Dowd:** While I accept and welcome this - and it is excellent and I praise it - in this case the authority is saying someone is a non-person who does not even have a name. It is stating it does not deal with the problem so the person should go somewhere else. I did not make this point earlier but the HSE is stating it is a matter for the local authority while the local authority is stating it is a matter for the HSE. Meanwhile, the poor mother is in a dreadful situation. I accept and acknowledge it is an exceptional case. I do not put the blame on any individual but the system is rotten if it cannot deal with it properly. If everything else is so perfect, why can we not have a process in a case such as this whereby the fundamental training of the individuals concerned in the local authority and health board would mean they pick up the phone to speak to each other about it? This is not happening. NOAC should audit this and highlight the need for constructive engagement that is respectful and gets the action that is needed. I appreciate the good work being done and I am not taking from it.

**Mr. Michael McCarthy:** My point related to a similar experience. I will go back to the full board of NOAC with this case and consider it in the context of the performance indicator to see whether there is anything the commission can do to monitor, audit or evaluate that particular channel.

**Deputy Fergus O'Dowd:** Audit the files and ask for them from the local authorities. Will NOAC ask for the files on those cases that have been refused? That is where the problem is. Those cases that are refused are what I am concerned about because they are exceptions. It is bureaucratic madness.

**Mr. Michael McCarthy:** I will give the commitment to take it back to the NOAC board to tweak the performance indicator to include it for this sector.

In my opening statement, I set out the functions of the commission. We do not have a role where there is conflict between the executive and elected members. I am not entirely sure there is an appetite for this. We have set out clearly what our role is. Today's agenda is the 2017 report and I believe members have copies of it. We are nearing completion of the 2018 report and we will come back in due course to discuss it. I will come back to the Deputy on the other issue.

**Deputy Fergus O'Dowd:** My next question is for Ms Maloney as an administrator. Could a mechanism be put in place to refer these cases automatically? If a case is refused, there should be a referral to somebody who may have greater knowledge of the specific area.

**Ms Martina Maloney:** The Deputy has raised a number of issues with regard to the particular case. The description he gave is of a customer service issue and customer service is one of the elements in which NOAC has a remit but we do not deal with individual cases. We have a remit to review the customer service provided by local authorities. NOAC has completed two surveys. One is a tenant survey conducted in December 2015, the outcome of which was quite positive. The other is the local authority satisfaction survey completed in 2018. Another survey has been completed with regard to 11 local authorities that will be brought forward this year.

My understanding is that local authorities in general have a strategy for dealing with people with disabilities and each local authority has a strategy. We could review the case in the context of customer service or with regard to the support provided by local authorities for people with disabilities. Our role is oversight and not looking at individual cases.

**Deputy Fergus O’Dowd:** Notwithstanding this, and I accept that is what the role is, NOAC could review at customer level the type of letter that is sent, whether the person with the disability is always named, which is essential, and whether there is a referral. If the answer is “No”, there should be further referral in the system to see whether all aspects of the case have been looked at and whether the conclusion is fair and accurate. This is the type of oversight is essential.

**Ms Martina Maloney:** I understand.

**Deputy Fergus O’Dowd:** NOAC’s board is probably appointed by the Minister. Does it have an advocate or a person representing people with disabilities? If not, it would be useful to have such a member of the board. That person would give a perspective that is essential to the functioning of local authorities.

**Deputy Eoin Ó Broin:** I apologise for being late. I have a couple of comments and will then ask questions. I commend NOAC. I am a big fan and supporter of the work it does. Those of us on the committee who have spent a lot of time trying to get a read on what exactly is going on in local authorities value NOAC’s annual reports and wait for them with anticipation, which probably says we need to get out more often. It is very valuable information. Sometimes I think organisations such as NOAC, which put significant time into collating and publishing information, wonder whether anybody is listening or paying attention. Many members of the committee do so and if we could get more of this type of information more frequently, we would all be much better off. I genuinely compliment the witnesses on this.

It might be useful to bring NOAC before the committee soon after the 2018 report is out. Obviously this has been said. We have started to do this with a number of agencies. For example, the Environmental Protection Agency publishes important reports and it has given a commitment that when a report is published, it will let us know in advance and we will schedule a meeting with it. Normally, we schedule two or three months in advance. If we know the date NOAC intends to publish the 2018 report, we can try to schedule an appearance before the committee as early as possible. The 2017 report is great but it is a little dated for our purposes.

If we bring NOAC before us to discuss the 2018 report, it would be good to have an opportunity to flag issues that some of us would like to have addressed in the 2019 report. We are doing this with some of the agencies to see what information we think would be useful to track. I torture many local authorities with freedom of information requests to get additional information. For example, I am researching the number of houses being built and in stock that are fully wheelchair accessible. Most local authorities can tell me how many adapted houses they have but they cannot tell me whether houses are built and designed for people who live in them with wheelchairs. In fact, some cannot give me any information. I have some sympathy with what NOAC struggles with. My experience is there is a mixed bag of quality in the responses from local authorities to information requests in that some give good quality information and some very poor information. Is that fair comment? I do not ask the witnesses to name individual local authorities but is there anything we can do to assist in our engagement with the Department to improve the quality and consistency of information, which is key for NOAC? In either the 2016 or 2017 report, there was a problem with the return of data on household completions,

which meant NOAC did not feel in a position to authoritatively say what was the output of local authority houses. If the commission cannot do it, nobody else can. Is there anything we can do to assist in that regard?

Second, we have been having a conversation inside our party about the audit element of local authorities. For example, the Committee of Public Accounts has significant powers to hold Accounting Officers and Departments to account. No similar function exists for local authorities in respect of public scrutiny. Does NOAC have views on how to strengthen not just the oversight role and data publication but also that accountability role? There are audits of local authorities and they are published on the Department's website but they then just quietly disappear and nobody pays any attention afterwards. Does NOAC think there is a role for the Oireachtas? Could there be a stand-alone committee that would have functions similar to the Committee of Public Accounts but specifically looking at local authorities? Is that something NOAC has thought about or teased out? Can the commission give those of us who would like to see greater scrutiny advice? We would like to commend those local authorities that are doing a good job, and there are many doing good work, but also challenge them where there are some issues.

My final question concerns a sensitive issue, namely, how we deal with allegations of improper practice or fraud in local authorities. I will not outline any particular instance but serious allegations have been made against local authorities on planning matters, for example, or on payment of contractors and subcontractors. My understanding is that in those instances there is a kind of in-house process where the local authority investigates and if those matters then need to be handed on to other appropriate authorities, they are handed on. Where such allegations are made, does NOAC have views on what is best practice and whether there is need for legislative reform or institutional reform? There has been a high-profile case in one local authority in the north west, which has been widely reported in the newspapers. The Department has been investigating this for a number of years and the case was in the High Court. For somebody who is trying to get to a conclusion of a case like that, it is a very opaque and impenetrable process. Have the witnesses thoughts they would like to share with the committee in this regard?

**Mr. Michael McCarthy:** I thank the Deputy. I want to deal with the issue regarding the reports and I will then deal specifically with the issue of a Committee of Public Accounts-style audit process, and with the question of planning issues and allegations. Ms Maloney will deal with the quality of replies and data collection.

It is a very good exercise that we are in front of the joint committee and I had this discussion with Senator Boyhan. NOAC has a particular challenge to raise the profile of what we are doing. There is a very good board and a very good mix of skillsets. Our subgroup on performance indicators is chaired by Ms Maloney and it has burned the midnight oil in putting in the effort to collate the data to present in the reports. With regard to the Deputy's point on the upcoming 2018 report, I will contact the secretariat and let the Deputy know what chronological stage that is at, so he can tie that in with another visit by NOAC to the joint committee. It is good that we are having a conversation. Nonetheless, I take his point on the 2017 report, given we are now in quarter 2 of 2019.

A Committee of Public Accounts-style audit system reflects a number of viewpoints held by those of us in NOAC and those outside it. I spoke about the commission's functions in my opening statement. It is very much about scrutinising and the oversight role and there is no direct role in regard to sanctions. We take a very proactive approach. In terms of visits to local authorities, we find out what they are doing well. We know from similar visits that other local

authorities are not doing as well and we balance that information in the mix. Those reports become embedded in the local authorities and we put them up on the website and send them to the local authorities. This ties in to the challenge we have in terms of our own profile. The Deputy's question has a lot of merit, in particular in regard to a forum with a Committee of Public Accounts-type focus on that aspect of local authorities and the chief executive's role.

In many ways, NOAC was born out of that kind of discussion in the 2013-14 period. I had a discussion with the Minister on how we can progress that. We are at an embryonic stage in terms of a forum that can meet those demands and requirements. For example, something along the lines of the Policing Authority, which has public sittings that are televised and online, and having that element of oversight and transparency, would be good for the commission and it would also be good in terms of showing the outside world the discussions we are having with the chief executives. While that is at a conversational stage for the moment, it ties in with other issues and reflects the views of a number of people. There was a discussion in the Seanad last November where the prospect of such a forum was raised and, as a result, I had a discussion with the Minister along those lines.

We do not have a role in regard to sanctions or allegations. Suffice to say that the Office of the Planning Regulator has been established in recent times. I do not even profess to know whether they came within remit role of that office but, again, it is another layer of accountability by which people can pursue that. I share the Deputy's frustrations. I was that soldier. A Deputy puts down a parliamentary question looking for information and is trying to collate the data, but when a reply comes in there is still significant work to be done. NOAC is very open in terms of its interaction with the joint committee to provide that element of reporting. A finished report is a very important piece of work for someone like the Deputy who is building that knowledge in that sector and across local authorities. We work in conjunction with other stakeholders in collating and compiling that data. We want to be sure this is as widely available and widely read as possible. As members will be aware, people put a huge effort into putting together a piece of work and it is almost dismissed or ignored, which can be quite frustrating. With regard to the 2018 report, we will get a note back to the secretariat to give the committee an idea of the chronological stage we are currently at, so we can tie that in with a visit to the joint committee to discuss the report in a timely manner.

**Ms Martina Maloney:** I will deal with the Deputy's questions on data quality issues. I have a certain sympathy for local authorities, which can be working on archaic systems at times. As the Deputy has identified, the provision of data that are accurate and timely is very important to us. We have put in place a system over the past four years that is now working quite well. I am much more confident in regard to the quality of the data we are getting in for the performance indicators. It has been a journey for us. The way we approach it is that, every year, we issue guidelines to the local authorities regarding how to calculate the particular indicators we are looking for. If we have any queries in regard to interpretation, the secretariat deals with them. We also do a random audit of different local authorities in regard to data gathering. We select a number of indicators each year and we go to six local authorities to go through the indicators with them to make sure the processes underpinning them are accurate and to verify the data we are getting is accurate. That has certainly been very beneficial for us in improving the quality of the data.

The issue with the housing data in the 2016 report arose because of the changes associated with the implementation of Rebuilding Ireland, changing requirements and changing definitions. That is why, when we tried to balance the figures independently against departmental

figures, some issues were thrown up for us regarding what category each aspect was in. It took us a year to resolve that but we are now very satisfied with the robust system we have in place for the gathering of housing data and, hence, they were published in the 2017 report.

**Deputy Eoin Ó Broin:** I thank the witnesses. This committee would like NOAC to have a higher profile in the debate because of the information it provides. A couple of issues for future reports, particularly given some of the new requirements in terms of the nearly zero energy building, nZEB, requirements, is to start providing some data on that and on the BER ratings of the public housing stock. The Central Statistics Office, CSO, does some of that work but it is not necessarily as clear as some of the reporting of the commission. That would be helpful. We have the 2018 and the 2020 requirements in terms of public buildings and the nZEB requirements. I tabled questions to both the Departments of Housing, Planning and Local Government and Communications, Climate Action and Environment and both replied that it is not their job to monitor compliance with those legal requirements of the EU legislation. It is not clear whose job it is to monitor it. The Department of Housing Planning and Local Government produces the planning guidelines, whereas the Department of Communications, Climate Action and Environment produces some of the supports, but nobody tracking them. It might be a useful role for NOAC.

Likewise, we on this committee have done a great deal of work on the underspend on Traveller accommodation. Deputy O'Dowd raised disability issues and I referred to wheelchair accessibility. While the headline figures are important, we need to start tracking those sections of society. Even as housing output is increasing, although not as fast as many of us would like, groups in society could still get left behind. The more information we have about those sectors, the better.

The other major gripe that many of us have is voids. NOAC produced an important report, published in 2017, which exposed the scandal of long-term voids. The great aspect of that report was not just the headline figures but NOAC was able to outline a timeline for how long these properties had been void and so on. We have ended up in a dispute with the Minister over what the Department is now calling voids. Mr. Brendan Kelly from Dublin City Council came before the joint committee and told us that in last year's housing output figures, no long-term voids were returned to stock, but what they had were standard relets or casual vacancies, some of which came under the €40,000 refurbishment figure. Others cost more than €40,000, but in his view they were all casual relets.

According to the Department's figures, 500 voids were returned to stock. The important distinction is that a casual relet is not an addition to stock and, therefore, in the annual output figures there is no net increase in casual relets, whereas casual relets are reclassified as voids, they are classified as additions to stock. When we questioned the Minister on this after Mr. Brendan Kenny's attendance at the joint committee, he said that the Department had given extra funding, and if it had not done so, the units would have become long-term voids. From a statistical point of view, that is a peculiar way of counting. I am very clear on this. For something to be considered a long-term void, it would have had to have fallen out of stock for quite some time and require significant money and work to be brought back into stock. The value of the NOAC report was that we could see short-term, medium-term and long-term voids. That is one area where some clear independent data from NOAC would be helpful. I tabled a number of parliamentary questions asking about the time the units were vacant, because that is a key determinant. The Department will not give us the data, as it states that it does not collate them at departmental level but it would be useful for NOAC to examine this, if not in the upcoming

report, in future reports.

I am finding an increasing number of anomalies between how local authorities and the Department categorise units. I will not ask Mr. McCarthy to comment on this but I am clear that at departmental or some other level political considerations are infecting classifications which should be done statistically. We had it with the house completions. It was given to the CSO so now we have a good dataset through which we know the annual number of completions in the sector. There are other streams of housing data in which we need to do that and NOAC is well placed to provide some of that information.

**Mr. Michael McCarthy:** I thank the Deputy. I share his frustration on the voids issue. We had this discussion earlier. I agree with the Deputy's definition of a void, which is a property that has been vacant for a long time and has fallen out of stock. That is my 100% definition of a void. In a previous incarnation, we had a number of issues in the electoral area that I represented on a local authority at one stage. It went on for years. There was no doubt that in the local community one could see the structure, which had not changed in appearance bar its deterioration. There was lost revenue in terms of the differential rent that should have been collected and a number of tenants or a family were not being housed because of that inertia. It is particularly good work on the part of NOAC that we have concentrated on the voids issue. The Deputy knows my definition of a void. The figure has reduced over a period of years from 3.8% to 2.8%. That is not the silver bullet but at least it is heading in the right direction. I want to give a commitment regarding how we progress that work. We will continue in our data collection to make it easily discernible to other people who are in that space to build a sufficient bank of knowledge on that topic in an objective and accurate manner.

The responses to the parliamentary questions tabled to the Departments of Communication, Climate Action and Environment and Housing, Planning and Local Government are an issue. Again I was that soldier. It can be utterly frustrating. That is a point I will take on board in how we tweak the performance indicators. As we go forward, the circumstances will change, some issues will become topical and others will become less topical but we are going to tweak and add the performance indicators as we make that journey.

NOAC is here to do the job it has to do. I am particularly encouraged to see somebody of Deputy Ó Broin's standing as both as a researcher and writer but also as a Deputy who has a very strong interest in building that data reflect what we are doing. We are available to him in that capacity in any way that can be constructive and that can add to the outcomes in building the data. We will get that note to the secretariat on where we are at with the 2018 report so that we can get it to the Oireachtas in a more timely fashion. If one sees a report dated from two years ago, circumstances will have changed in the meantime and there will have been developments. It is in all our interests to be more timely.

**Vice Chairman:** I acknowledge the valuable work of the NOAC reports. I wish they were acted on more quickly than what they are. The commission has provided a significant database of information, which we are allowed to access and get a better understanding on the workings of the local authorities.

On the specific area of commercial rates, NOAC states there is an improvement in the commercial rates collection across the country and I ask Mr. McCarthy to elaborate on that. An issue that has arisen in my county, which recently went through a revaluation process, is a slight anomaly where the utilities are globally valued in the same year and the local authority does not get the benefit of the global revaluation because they cannot increase the revenue generated

from the commercial rates. It is having an effect on us. Is there a policy that we could look at for the future?

I found out that local authorities report on bad debt provisions differently. Some local authorities present the commercial rates as the total that is available for collection and then at the end of the year one sees how much one collects compared to that figure, whereas for social housing rent, some local authorities give a figure that has bad provision built in and the collection rate is slightly skewed because the figure that one is presenting in the estimates is net of a bad debt provision whereas in commercial rates in some local authorities it is the full 100% and one can then see the exact figure they are providing for bad debt. When one looks at collection rates, one sees high social housing rent collection rates but that is because the headline figure includes the bad debt provision.

In the 2017 report, there are variations in how the local authorities recorded the Part V units. Will Mr. McCarthy expand on that?

I have an issue in respect of the fire certification process. It states clearly that many local authorities do not deal with the issue within the two-month period. What happens if it is not dealt with within that timeframe? Is this because there is no statutory timeframe for dealing with it? Does it prevent building work commencing? What are the implications of it not being dealt with within the two months? Do we have any figures on that? Perhaps the witnesses have figures. Do we have any figures on how many inspections of properties are carried out with regard to fire certification after building has been completed? That feeds into the other matter of improved planning inspections. When the witnesses talk about planning inspections, are they referring to building control or planning itself because there are two different parts to that? Could the witnesses give me an insight into that?

I wonder whether compliance with the drinking water regulation should continue to fall within the remit of the local authorities. It is still in their remit when it should be the responsibility of Irish Water at this stage. Could the witnesses comment on that? In its reports, NOAC says that the number of inspections of properties is inadequate and insufficient. Of those that have been inspected, 79% were non-compliant. It is staggering to think that we are not inspecting enough properties and 79% of the ones we are inspecting are non-compliant. Could the witnesses expand on those few points?

**Mr. Michael McCarthy:** I will address the last point first. As members are aware, Ms Maloney is chair of our performance indicator subgroup. She will explain the terms of the indicator and the remit we have around that indicator, for example, in the areas in which we are constrained. Regarding compliance with the drinking water directive, there is merit in much of what the Vice Chairman said but our role is, again, an oversight one. While we have a role in terms of the implementation of national policy, that is really an issue for the Minister or Government of the day. I can see the merit in that.

Before I call on Ms Maloney, who will talk about rates, we did go to one particular local authority, which recorded an improvement in its collection of commercial rates. It was just after the economic crash. It was a county that had not done as well during the boom as other counties on the eastern seaboard and down in the south west. Therefore, when the recession came, it has hit particularly badly. Many businesses struggled - if they were lucky enough to stay open - while the vast majority of them closed. The local authority's finance unit met those who were still in business. Its *modus operandi* was to keep the doors of the remaining businesses open on the basis that if they closed, there would be a loss to the local area, an economic loss

and the outstanding commercial rates would never be collected. There was a discussion with the finance department, which entered into arrangements with businesses whose accounts had fallen into arrears and which were just about keeping their doors open. That was at least in part responsible for some of the upturn in the collection of commercial rates in that local authority area. The point is important. Across the 31 local authorities, we will see some local authorities doing business very differently from their neighbouring local authority. The Vice Chairman's experience in Kildare or someone else's experience in Kerry or Galway would vary greatly. This is why, in collecting the data, we try to understand how they arrive at that. We present the data in a way that is easily discernible. We can use those data to improve service provision in other areas. Again, the role is prescribed in the Act, which prevents us from having certain functions around that other than expressing a point of view. It is venturing out of our zone.

**Ms Martina Maloney:** To clarify matters with regard to the collection of commercial rates, the local government sector implemented a comprehensive debt management programme that involved improved processes, alignment of reporting methods and training for staff with regard to the collection of debt because during the recession, a significant amount of debt had built up in the area of rate collection. To be fair to local authorities, the collection percentage continues to improve. The 2017 report revealed that 21 out of the 31 local authorities had shown an improvement on previous years. The mean level of commercial rates collection increased from 82% in 2016 to 83.6% in 2017 so there is evidence of improved performance. Regarding the position on bad debt and the figures we utilise for this process, we are very clear in the guidelines we issue with regard to how bad debts are utilised in calculating the percentage collection. Bad debts must be excluded, in other words, they are written off in advance of the calculation we have here.

Regarding the fire certification process, the indicator we have is trying to identify the level of certification that is achieved within two months. In the event that it is not achieved within two months, there is a statutory provision that allows for an extension of time from the applicant because, on occasion, the local authority will need to go back to the applicant looking for further information. That accounts for some of the reasons they are not all delivered within the two-month period. We have no indicator with regard to post-inspection. After the building is constructed and the fire safety certificate has been issued, we do not have an indicator to measure performance in that area.

Building control was mentioned. NOAC has highlighted this area in the report in that the level of inspections in some local authorities does not meet the minimum one would hope for. Certainly the issue raised around the 79% level of non-compliance is significant. From our interactions with individual local authorities, it has emerged that some non-compliance is relatively minor in nature and is resolved within a reasonable period. It might be related to the absence of smoke alarms or fire extinguishers. The inspection brings what needs to be done to the attention of the owner of the property. According to the information we have been given in interactions with the local authorities, the issues tend to get addressed.

As the drinking water performance indicator is for the schemes that have not transferred to Irish Water, it involves the group schemes, which remain the responsibility of the local authority.

**Vice Chairman:** As there are no further questions, I thank the witnesses for attending and engaging with the committee. I propose we suspend the meeting briefly to allow the next witnesses to take their seats.

*Sitting suspended at 11.07 a.m. and resumed at 11.10 a.m.*

### **Local Government Audit Service: Discussion**

**Vice Chairman:** At the request of the broadcasting and recording services, members and visitors in the Public Gallery are requested to ensure that, for the duration of the meeting, their mobile phones are turned off completely or switched to airplane, safe or flight mode, depending on their devices. It is not sufficient to put phones on silent mode as that will maintain a level of interference with the broadcasting system.

The next business is an overview of the work of the Local Government Audit Service in 2017 and related matters. On behalf of the committee, I welcome Ms Niamh Larkin, director of audit, and Mr. Richard Murphy, both of whom are from the Local Government Audit Service.

I draw witnesses' attention to the fact that, 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, however, they are directed by the committee to cease giving evidence in respect of a particular matter and they continue to do so, they are entitled thereafter only to 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 asked to respect the parliamentary practice to the effect that, where possible, they should not criticise or make charges against any person, persons or entity by name or in such a way as to make him, her or it identifiable. 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 Larkin to make her opening statement.

**Ms Niamh Larkin:** The Local Government Audit Service, LGAS, performs the independent, external audit of local government, as established by the Minister for Housing, Planning and Local Government. The LGAS audits the annual financial statements of local authorities, including regional authorities, motor taxation offices and other bodies.

The Minister for Housing, Planning and Local Government appoints auditors, known as local government auditors, to carry out or assist in the carrying out of audits of local authorities and other bodies. All local government auditors are qualified accountants and recruited following open public competitions. Each local government auditor is assigned an audit district under warrant of authority from the director of audit. Local government auditors are independent of the Department when discharging their professional functions. This independence is protected in legislation in accordance with section 116(2) of the Local Government Act 2001. The Act sets out the primary duties of the local government auditor as follows:

In the course of the audit of accounts of the local authority or other body, the local government auditor shall carry out such audit tests as he or she considers appropriate in order to be satisfied as to—

- (a) whether the annual financial statement is prepared in accordance with section 107 or with the accounting requirements otherwise applicable to the body concerned,
- (b) whether the annual financial statement presents fairly the financial position of

the authority or other body and of its income and expenditure for the period in question,

(c) whether the transactions of the audited body conform with the statutory or other authorisation under which they purport to have been carried out.

There are a number of outputs from the audit. Following the audit, each local government auditor issues an audit opinion, an audit report and a management letter to the chief executive of the local authority. It is the local government auditor's main statutory duty, following completion of the financial audit, to give his or her independent audit opinion on the annual financial statement of the audited body as to whether it presents fairly the financial position of the audited body and of its income and expenditure for the period under audit.

In addition to the audit opinion, it is custom and practice to issue statutory audit reports covering any matter or matters that the auditor considers should be reported. The chief executive of a local authority is required to respond to this report and his or her comments shall be included, if of material significance, as part of the final report. This procedure has enhanced public scrutiny of local government as management responses to address the issues raised at audit now form part of the published audit reports.

In accordance with international standards on auditing, an auditor may issue a management letter drawing attention to any weaknesses in financial procedures and-or internal controls identified during audit and make appropriate recommendations.

This report provides an overview of the work of the Local Government Audit Service in delivering on its statutory remit of providing the external audit of local government, in accordance with sections 114 to 126 of the Local Government Act 2001, as amended by the Local Government Reform Act 2014. The report is divided into three sections. Section 1 covers the role of the Local Government Audit Service and the legislation that governs it. It details the various relationships the Local Government Audit Service has with other bodies, including local authorities, their audit committees, the National Oversight and Audit Commission, NOAC, and the Office of the Comptroller and Auditor General. It also highlights the role the value for money unit plays in assisting local authorities to learn from best practice.

Section 2 summarises the financial performance of the 31 local authorities audited for the year ended 31 December 2017. It details the main sources of both revenue and capital income and expenditure, together with historic data, so that comparisons can be made. It details the value of assets under the control of local authorities and the liabilities that they face in both the short and long term.

Section 3 outlines some of the findings included in some of the local government auditors' audit reports and opinions. The findings are set out under the following headings for the purpose of the overview report: financial standing; income collection; unfunded capital balances; capital projects; loans payable; development contributions; fixed assets; transfer of assets to Irish Water; procurement and purchasing; local authority companies; and governance, internal audit and audit committee. The findings included in the overview report are not an exhaustive list of all findings but a summary of the main areas. The audit reports for each local authority deal with the findings in detail. Auditors continue to issue unqualified audit opinions on local authorities' audited financial statements, with one report, concerning 2017, containing an emphasis of matter. Our primary sources of information for the overview report are local authority audited financial statements and the annual audit reports.

I hope this overview report gives an insight into the work carried out annually by the Local

Government Audit Service. I look forward to discussing it with members in detail. As director of audit, I thank the committee for inviting me and my colleague, Mr. Richard Murphy, to today's meeting.

**Deputy Fergus O'Dowd:** I apologise in advance because I will have to leave to go to another meeting at 11.30 a.m. I welcome the auditors and their work, which is important. The auditors keep a proper, professional eye on the activities and functions of local government to make sure there is total transparency and accountability, books are kept properly and well and any issues that arise are brought to the attention of the individuals and councils concerned. Everybody benefits as a result.

I made a query to the Local Government Audit Service last year or perhaps it was the year before in respect of a former student of mine who claimed he had been defrauded. I am not naming names or even the council concerned; I want to be very clear on that point. There was a court case and a person was deemed to have committed a criminal act and suffered penalties as a result. The issue that arose was how the county council found itself in the position that it did. There is a question in regard to what due diligence was done on the contract to ensure the company which was awarded the contract was actually the same company that had secured it previously. Part of the issue was that the same notepaper and letterhead were used in both cases. The basic detail is that a person was defrauded of money and the criminal justice system dealt with the matter. How did the Local Government Audit Service deal with the case, however? As it took place in 2009, I acknowledge that it was not a recent audit. However, it was the outcome of a criminal case. I do not expect the witnesses to comment on any criminal issues or matters that could impinge on someone's rights were any such things to happen in the future. Having said that, how was that case dealt with?

**Vice Chairman:** Deputy O'Dowd is referring to a specific case. The witnesses do not have to answer that question because we are here to discuss the broader work done by the Local Government Audit Service.

**Deputy Fergus O'Dowd:** I accept that totally.

**Vice Chairman:** It may not be appropriate for the witnesses to make any comment on this issue.

**Deputy Fergus O'Dowd:** I accept that. It is entirely fine if they do not wish to comment. I advised them before the meeting that I intended to raise this issue. I want to know how the audit of a county council did not pick up this issue. People have to be deemed to have been treated fairly and properly. If somebody feels aggrieved, he or she has every right-----

**Vice Chairman:** Deputy O'Dowd is raising a particular case. We are here to deal with broader issues.

**Deputy Fergus O'Dowd:** No, we are dealing with all of this.

**Vice Chairman:** We are not dealing with specific cases.

**Deputy Fergus O'Dowd:** I am asking questions regarding audit reports and-or management letters in respect of a matter I brought to the attention of-----

**Vice Chairman:** There can be a question on the broader context but not on a specific case.

**Deputy Fergus O'Dowd:** I brought this matter to the attention of the director of audit.

That is what I am dealing with. I am looking for accountability regarding the narrative of what actions were taken in respect of this case. That is all.

**Vice Chairman:** The witnesses may not have that information.

**Deputy Fergus O'Dowd:** They do have it.

**Vice Chairman:** Nobody was aware this issue was to be raised today. We are here-----

**Deputy Fergus O'Dowd:** The witnesses have the information. I raised the matter before the meeting with one of the persons present.

**Ms Niamh Larkin:** I am aware of the case because we have spoken about it previously. We looked at it as part of the 2017 audit and we wrote to the person concerned as part of the audit.

**Deputy Fergus O'Dowd:** That is fine.

**Ms Niamh Larkin:** As has been said, it is an ongoing criminal investigation and An Garda Síochána is dealing with the case at the moment.

**Deputy Fergus O'Dowd:** I accept that totally.

**Ms Niamh Larkin:** That is the correct course to follow in such instances. If Deputy O'Dowd wishes to know about the wider issue-----

**Deputy Fergus O'Dowd:** Yes, on the wider issue.

**Ms Niamh Larkin:** -----of how we deal with issues in audit reports, we have a mechanism - involving audit reports and our management letters - whereby anything raised in those letters is carried forward to the following year and forms part of our risk profile for that local authority for that year. We do, therefore, have a mechanism to deal with an issue with a local authority and for tracking and following it up. It is dealt with as part of the overall audit. Regarding the incident mentioned by Deputy O'Dowd, I am aware of what he is talking about and we have responded.

**Deputy Fergus O'Dowd:** Is there a duty on a local government authority, wherever it might be, whether Wicklow, Louth or elsewhere, to-----

**Vice Chairman:** In fairness, this is a matter that is before the courts.

**Deputy Fergus O'Dowd:** No, it is not before the courts. It has been dealt with by the courts. There has been a conviction and I am not talking about that aspect. I am only talking about the audit and I am being very careful with my words. The question I am asking is whether there is a duty of care on a local government authority to inform the auditor that there has been a criminal case during the period being examined, regardless of the outcome.

**Ms Niamh Larkin:** We have two systems for dealing with that. At the start of each audit, we meet the chief executive and each of the directors of services and go through anything that has happened during the year. We go through all of the minutes of senior team management meetings and the council. We would, therefore, be aware of any matter arising. We also specifically ask the chief executive if there has been any fraud in the local authority during the year. We deal with this issue under the remit of fraud. We also speak to people such as the head of internal audit and head of finance about fraud. If there was an incident of fraud, or a case like that, the local authority would, therefore, bring it to our attention.

**Deputy Fergus O'Dowd:** I think the case I referred to occurred in 2009. I am not sure of the exact year. Was that case brought to the attention of the Local Government Audit Service before I raised it?

**Ms Niamh Larkin:** I would have to go back and check the files as 2009 is before my time with the Local Government Audit Service.

**Deputy Fergus O'Dowd:** I accept that.

**Ms Niamh Larkin:** We only keep records for about seven years, so the earliest I could go back now is probably about 2012.

**Deputy Fergus O'Dowd:** This particular case has been dealt with. Has it changed the view of Ms Larkin's organisation in any way? I am talking about audits, checks and balances and the transparency of assessing applications for contracts, etc.

**Ms Niamh Larkin:** No, because we have always had a robust system in respect of procurement. It can be seen in the overview report that procurement and purchasing feature heavily within audits. A sample of items procured is picked from each local authority every year and we make sure that the relevant legislation, procurement guidelines and the guidelines of the local authority itself have been followed. We only pick a sample rather than checking every single contract.

**Deputy Fergus O'Dowd:** Regarding the case I referred to and the local authority concerned, were any audit reports written or any management letters issued as a result of what happened?

**Vice Chairman:** Deputy O'Dowd is coming back to the individual case.

**Deputy Fergus O'Dowd:** I will ask a question then. Were any audit reports or management letters issued to any councils in that year?

**Ms Niamh Larkin:** Every local authority receives an audit report and a management letter each year. The items would be-----

**Deputy Fergus O'Dowd:** Are they available to view? Could I see them?

**Ms Niamh Larkin:** Yes, all of the audit reports are on the Department's website and they include those of the past number of years.

**Deputy Fergus O'Dowd:** Would Ms Larkin help me out by sending me a copy of the report for the county to which we are referring?

**Ms Niamh Larkin:** Yes, I will.

**Deputy Fergus O'Dowd:** That is fine. I thank Ms Larkin.

**Ms Niamh Larkin:** Is it for any particular year?

**Deputy Fergus O'Dowd:** We will start with 2009 and then for every year after that. I am only trying to ensure that something similar does not happen again, just as the Local Government Audit Service is trying to do. I am trying to ensure that a situation does not arise again where a person is placed in a position in which he or she loses a significant amount of business. That is what happened in the case I mentioned, through no fault of the Local Government Audit

Service. The person's entire business is now gone. It is a very sad case.

**Ms Niamh Larkin:** I will certainly make a note of that and we will pull together the relevant audit reports.

**Deputy Fergus O'Dowd:** I have to excuse myself now. I bet there is relief I am heading out the door.

**Vice Chairman:** I look forward to hearing from Senator Boyhan now.

**Senator Victor Boyhan:** Can Deputy O'Dowd not wait for the next part?

**Deputy Fergus O'Dowd:** I am sorry but I have to meet someone else. I apologise and thank the committee.

**Senator Victor Boyhan:** I thank Ms Larkin and Mr. Murphy for attending today. I am a great supporter of the Local Government Audit Service. It carries out an amazing function. During the engagement with Deputy O'Dowd, I heard mentioned that the Local Government Audit Service reviews the minutes of councils. This is the first I have heard of that and it is an important message to disseminate because councils will raise many issues in any particular year. I was a councillor in Dún Laoghaire for many years. I used to raise issues and wonder if I was mad for doing so. I derive great comfort from hearing Ms Larkin state council minutes are examined as part of the audit process. I state that because there are diligent councillors and some will always be involved in specific areas. As was said to me, there will always be a small group of councillors who want to get under the bonnet. I refer to those who want to know about governance issues and the really important issues that the public will not necessarily know much about. They will always be a cohort of people interested in that-----

**Vice Chairman:** Then they become Senators.

**Senator Victor Boyhan:** -----and I am one of them. I looked at the report, which is excellent, and the combined report, which I downloaded from the website. Then, as auditors do, I looked at ten local authority reports at random. A few issues kept jumping out of the pages. Before I delve into those in more detail, I have a general comment that might be taken on board. The timelines for public engagement with the auditing process are very tight. Ms Larkin will be aware that statutory notices are placed in most of the national and provincial newspapers informing people when an audit is taking place. It could be next Monday, for instance. I saw one such notice last week - I think it was in the *Meath Chronicle* - which stated that due notice was being given that an audit was taking place and that it would commence the following Monday. That newspaper came out on the Thursday. There was a ten day period, which is far too tight. I ask that the witnesses look at this again. People may buy a weekly provincial newspaper, such as the *Wicklow Times*, which will tell them on a Saturday that on Monday one can go in, within a very tight timeframe, pay a few euro and look at the accounts. Most people, however, would not quite understand the whole thing. Perhaps the witnesses might send a message to look again at this. If we are serious about public engagement, about engagement with the finances and the corporate governance of authorities around transparency and about seeking the public's opinions and views, which is all very positive, then we must assist them. Many of these people are lay people. They are not financial experts. I have heard where people have presented to the council and copies have not been made available, or the person asking for it is made to feel a bit of a nuisance. It is not encouraged, which is a pity. I would ask the representatives to look at this.

Reference was made to the management letters and I picked up on this from Deputy O'Dowd's engagement with the witnesses. Every local authority gets an audit report, but does every local authority get a management letter? It does. The witness confirmed that. Are these management letters sent directly to the councillors? We are aware from the audit reports that they are usually sent to the chief executive or the cathaoirleach of the local authority but are not sent to the local authority members. The chief executive invariably will tell the local authority members that it cannot be made public until he or she has discussed it with the audit committee. In many cases, their audit committees only meet four times a year so if, for example, it is not to meet for another three months, there is a situation where it is running late and councillors are looking at 2017 audit reports in 2019. I am aware it does not take two years but it takes some 15 months and there can be another deferral. There is not a proactive response. Some local authorities do not like engagement.

I was informed about two councils and I took the time to look at the webcasts of the meetings where the councils only discussed these reports briefly, sometimes just for ten minutes. We need to look at the situation of how the audit reports are circulated. I want the witnesses to confirm this to me. I see no reason, when the Local Government Audit Service sends the report to the chief executive and the cathaoirleach or the mayor of the council, that all the councillors should not have it also. At that stage, it is all done. The audit committee cannot adjust or tweak any element of the audit report so there is no good reason all elected members of the council could not have the report. I ask the representatives to consider this and take it on board. It is feedback.

I now turn to the issue of the fixed asset register. I will give an example of some comments that are in some of the audit reports. I will not identify the councils because it would be unfair. A review of one council's fixed asset register of lands and buildings indicates that it has not been properly maintained. The report identifies that council assets have been incorrectly registered to a third party rather than to that particular council or were never registered in the names of the council. The Local Government Audit Service stated that a council needed to:

Review its historic assets, as issues highlighted above identify assets that were either unregistered or registered to an incorrect party. The Council must ensure that it has recorded appropriate title to all its assets. [This had not happened] Identify all way leaves or permissions pertaining to these assets, and record and register all its assets with the Property Interest Register [which were incomplete].

Another report said that a council should "Complete the process of transferring title to IW [Irish Water] for assets removed from the books of the Council totalling €300m." This is in a Local Government Audit Service report and is common in relation to the transfer of assets to Irish Water. Another report says that a council must ensure that "the insurance register needs to be reconciled with fixed assets", which is not happening in some cases. This is to ensure that all the assets are properly insured at year end. The report on corporate estate governance and management of local authorities shows that a number of local authorities are not carrying through on those audits. The audit service said that the follow up progress reports identified by a certain number of councils did not have such plans in place but would commence and have given an undertaking that they would do so. The standard chief executive response in all the audit reports I read was that they had a resource problem. We cannot have a situation where chief executives tell the audit service that the local authority has a resource issue. Millions of euro of real estate should be properly registered.

I commend the Local Government Audit Service on its work. It has identified that assets

are not on insurance registers and are not on proper asset registers of local authorities. This has been going on for years. I am not going to ask the witnesses more about this because the audit service accepts this and knows it to be the case, a true account of which it has given in its reports. It is, however, an area that I would ask about. The audits are not one of my functions and I am only giving the feedback but we need a real focus on this. We need more training, more assistance and more IT skills. The mapping of our real estate is very important across the 31 local authorities.

This brings me back to Rebuilding Ireland, the land development agency, and all the various agencies that are now challenged with tapping into the potential of the State's real estate. Clearly, the remit of the Local Government Audit Service is the local authorities but there are also Irish Rail properties, the ports and many other places. There are vast tracts of land. In the case of my own local authority there are parklands that are not even registered. No one even seems to know them. There is a massive amount of work to be done.

Another area that needs to be looked at is the issue of companies associated with the councils. We aware that many local authorities have wholly owned subsidiary companies, of which the local authority is the sole shareholder. Substantial money is involved. The chief executives of those local authorities act as the agents on behalf of the shareholders. The companies are wholly owned by the local authorities and deal in millions of euro of real estate, yet we do not seem to know how the agent is accountable to the shareholder. This is a real challenge for local government auditing. There is now a situation where vast numbers of assets and properties are being put at arm's length away from the elected members. The witnesses will be familiar with section 83 and how we can dispose of properties. We cannot altogether blame the councils because the councillors themselves do not always have the expertise. They have the willingness and the desire to keep control as part of their elected mandated, but now we have these companies that are at arm's length and where the council executive is making the decisions unknown to the elected members of the council. The executives propose to dispose of the assets of these companies and in some cases are disposing of assets that are zoned for residential purposes or potentially for residential development. There is an issue there. Is the Local Government Audit Service planning to look at this? I would suggest that this is an area of focus, perhaps in a future audit, for the Local Government Audit Service and that it would look at these wholly owned subsidiaries and companies. I note in every audit report that the Local Government Audit Service has a section in the back. This goes from sports and leisure companies to arts, theatres and so on. There are a lot of problems around these issues with accountability and good governance. This is not to suggest that there is any other thing wrong, although the audit service has mentioned that. I do not want to get into those specifics here.

Does the Local Government Audit Service believe it has sufficient resources to carry out what is a very onerous task? Much work is required and the witnesses might want to comment on that. Do the witnesses have a view on the Committee of Public Accounts? Perhaps they have a view and do not want to share it, which I understand. Is there some format in which we can bring the Accounting Officers to account? It is all about accountability. From the Local Government Audit Service audit reports over the years, I have picked up that the service is doing excellent work and it is identifying weaknesses, but it is getting the usual old message from the chief executives saying "We do not have the resources." I do not believe the Local Government Audit Service has enough teeth to sanction. While the service can identify the problems and weaknesses, somehow this is about accountability also. The chief executives are very well paid and they have an onerous task, but they do not take personal responsibility. They are not personally held accountable for issues around this whole area. In private sector business they

would be held accountable because there are consequences when people fail in the private sector. I am not convinced there are sufficient consequences for chief executives for failures that may be found, having gone through due process - I am not judging anyone. Would the Committee of Public Accounts or the Office of the Comptroller and Auditor General be the format? I would be very interested to hear the relationship the Local Government Audit Service has with the Office of the Comptroller and Auditor General.+ Is there a mechanism with which we can elevate the Local Government Audit Service's work? I am thinking of a means to bring chief executives to a public forum and hold them to account on the key issues, the recommendations the service makes and the areas it deals with. Indeed I would suggest going beyond that. I would be really interested in helping. I congratulate Ms Larkin on her agency's really important work. My concern is with following up on it and holding the right people to account on behalf of the public.

**Ms Niamh Larkin:** I will take each of those points in sequence. I have raised the issue of the circulation of our audit reports. We work under a very tight deadline to have all our audits finished by 31 October each year. The audits for 31 December 2018 are now ongoing. They are all expected to be finished by 31 October. We work under a very tight schedule to achieve those deadlines and get those reports out. As the Senator notes, we have a mechanism whereby we send them to the chief executive and the head of finance of the local authority involved. Different local authorities follow very different plans after that. Some local authorities put the audit report on their own website the minute we send it to them, give us permission to post it on the Department's website and circulate it to the council in the next council pack. Other local authorities, as was said, wait until the report goes to the audit committee. Then there is a time delay because the audit committee has to prepare a report which must go back to the council. That is not satisfactory for us because then we are looking at accounts for December 2017 in December 2019. They are too far out of date. The issues have become dated for the councillors. Ideally, we would like to see it circulated.

There are two pieces of legislation that cover the issuance of our audit reports. Legislation requires us to send our audit report to the chief executive. There is also legislation under which the audit committee must consider our report. The problem is that the two pieces of legislation each stand alone. They do not outline a sequence which local authorities must follow. To resolve this issue, I have raised it with the County and City Management Association, CCMA, and the heads of finance. The Department is now looking to put together some guidance for local authorities on what should happen on receipt of our audit reports. Ideally, I would like for the report to be circulated within a very short time of us issuing it so that the issues can be actioned in a timely manner.

The second point the Senator raised concerned the management letters. When an issue is raised as part of the audit, it either ends up in the audit report or the management letter. We decide where it ends up based on the priority rating we assign it. We rate all our issues as high, medium or low priority. We also rank them. The most important issues end up in the audit report and the other issues end up in the management letter. The format of the management letter is such that we set out the issue, its implications and our recommendation on it. We rank that issue and then ask management for a response and a timeframe within which it will address the issue. We then follow up on that timeframe in the next audit. I know that a lot of the audit committees receive the management letter. From speaking to the audit committees, I know that they use our issues, put them into a template and track them as part of their audit committee meetings. Some audit committees now call in members of the senior management team to talk about issues in our audit report or management letter and see what progress has been made. We

welcome that. That is another means of looking at the issue in order to resolve it.

Fixed assets are an area we would look at. As the Senator said, a lot of value is contained in assets. Some of the fixed assets consist of things like roads and parks, but our main concern is land and buildings. Those are the areas on which we concentrate. All the issues are listed on page 39 of our summary report. It is important to note that while some of the issues come up year after year, some progress is being made on them. This progress can be seen in audit reports as well and it is summarised on page 39. The problem is that many of these are legacy issues. As the Senator said, there is a legal issue. The local authority must find a legal title and map the site. Many local authorities are using things like geographic information systems, GIS, and technology to help make progress on that, but there is still a lot of work to be done in that area. We welcome any progress local authorities can make in that area.

The Senator's fourth point concerned companies. This comes up every year. There is a separate appendix at the back of the annual financial statement, AFS, appendix 8, in which the local authority has to list all the relevant companies. We audit that as part of the process. We ask for the audited accounts of those local authorities. We look at the audit report and any guarantees given by the council. We have raised all those issues and obviously we have several concerns about those companies. As the Senator said, there is sometimes a lack of governance or control where these companies are concerned. They may be operating at deficits in situations where the council has guaranteed their funding, or they may owe large amounts to councils. We have concerns, which we raise. Some of these are small companies that might be set up to run a swimming pool, for example. Some are very substantial companies that hold real estate. In those cases we do a lot more work on the figures behind the accounts. The auditors sometimes meet with the boards of those companies and look at board minutes to make sure that any concerns are reflected in our audit reports.

The Senator asked about our resources. We have 32 members of staff at the moment. We are currently running four or five vacancies. We find it difficult to attract staff because of the economic conditions in the major cities. We faced this problem last year and this year. We deal with it through the use of seconded staff from accountancy firms. However, that is not something we want to continue and we are working with the Department of Housing, Planning and Local Government and the Department of Public Expenditure and Reform to address those shortfalls. Our priority is audit, so our focus each year is on ensuring that all the audited financial statements are completed by 31 October. If we have extra days we use them to examine value for money. If we do not have enough staff we do not undertake as much value for money work as we would in years when we have a full complement of staff.

The Senator asked about accountability. I know the National Oversight and Audit Commission, NOAC, also spoke about having more oversight and accountability. There are mechanisms that work, such as the audit committees, which have been up and running for a few years. I refer particularly to their approach to tracking the issues in the last two or three years. We are very closely linked with the NOAC. We agree our programme of work on value for money in advance with NOAC and it informs us of the areas it is looking at. We undertook four reports last year on what we consider to be audit issues. We looked at unfunded balances, rates, loans and the cost of pensions to local authorities. We consulted with the NOAC on areas it wished to focus on and on audit issues we had seen coming up. We ask for input into our planning for work on value for money issues.

In regard to our relationship with the Comptroller and Auditor General, I note that we are part of a group called the Public Audit Forum, PAF. It is made up of audit bodies in the UK,

Scotland, Wales and Northern Ireland as well as the Comptroller and Auditor General. We get together and share thinking on emerging trends such as data analytics. We look at best practice in our areas of work. On top of that, I meet periodically with one of the directors from the Office of the Comptroller and Auditor General to talk about things like training and work practices.

**Senator Victor Boyhan:** What Ms Larkin has said is very helpful. To wrap up, I would like to suggest three things that her agency might consider in its next audit. These are only suggestions, because I have no statutory function in all of this. The value and cost of pensions to local authorities is a ticking bomb.

That is something on which a special report is needed. I refer secondly to the issue of the lands and assets register and whether there is a need for additional training and resources. It is a specialist area and technology will crack it in time to a great extent. There are multiple agencies doing this work and it is an area which needs a special report. I refer also to the issue of these wholly-owned private companies associated with local authorities in terms of their governance and accountability to the elected members who are ultimately charged with responsibility. Having read many of the service's audit reports, those are three areas which jump off the pages as areas in which alarm bells should be rung. While it is a matter for the audit service as to how it does its work, those are three areas I would like to look at again. Certainly, I will keep a keen eye on the next reports. They are three areas on which we need work and, perhaps, special reports. The audit service does special reports and in that context, these are areas it might consider. In any event, I say "Well done" and thank the witnesses for coming in.

**Ms Niamh Larkin:** I draw the Senator's attention to a specialist report we compiled on pensions which came out just before Christmas. I can send the Senator a copy. It looked at the number of pensioners, the sums paid out each year in pensions and the actuarial review carried out by the Department of Public Expenditure and Reform for local authorities as to overall viability. We have done a very detailed report on pensions and the pensions gap in local authorities regarding income and expenditure. Land and asset registers and local authority companies are areas we are already looking at as part of the 2018 audit and they will appear again for 2019.

**Vice Chairman:** If that report is sent to the secretariat, it can distribute it to all members. It is a valuable report.

**Ms Niamh Larkin:** Four reports were done and I might send copies of all of them.

**Vice Chairman:** We can give reports to the members. Having served on an audit committee in Wicklow, I confirm that we were always shown the management letter from the auditors. In fairness, it gave one a greater insight into what the thinking behind the report was. It was always a valuable piece of information. Pensions have been mentioned. The cost of pensions is a recurring issue in every budgetary process in every local authority. I have not read the report referred to and I look forward to doing so.

When one looks at the report before the committee, there is not much of concern that is not covered. It covers almost everything from unfunded capital balances to capital projects, loans payable, development contributions and so on. Is there a trend whereby one or two of these issues arise across all local authorities or is each authority unique? Are there specific areas of concern on which the committee should focus? Having gone through 12 Estimates processes - it is in late November since the property tax has come in - I note that we still sit during the last week waiting for the phone call from the Department to say the local government fund will be in or about the same as last year. The huge area that local authorities take a gamble on relates

to grants, whether for roads or whatever. We always take a punt on that and think we will get what we got last year or budget for a 5% increase in the hope that we get it. Is that the right way to do business? Is there a more transparent way to deal with that issue?

I have a concern that once again we have kicked the local property tax review down the road. Wicklow is currently going through a rates review for the first time in 40 years. The implications for some businesses are unbelievable. We have not carried out a local property tax review for more than five years and seem to be going the same way in that regard. There are thousands of properties which pay absolutely nothing in property taxes which could help to fund local authorities. Can Ms Larkin give a view on those few items?

**Ms Niamh Larkin:** On issues that arise in each local authority, we ask that local government auditors comment on certain things in each audit report. We always ask that financial standing is commented on and we always ask that income collection is commented on. Those are massive areas in a local authority. The transfer to Irish Water is another and then we ask for consideration of governance arrangements around internal audit, audit committees and local authority companies. Outside those areas, the local government auditor can deal with the issues he or she feels are relevant. There are items that occur in many local authorities, simply by virtue of their nature. For example, fixed assets, procurement and purchasing will usually appear. Usually, there is something in the area of unfunded balances or development contributions. One sees those in the majority of audit reports. That is simply the nature of the topics.

I was asked about budgeting. We look at the budgets local authorities prepare each year and then we look at the actual turn out compared to budget. Looking at how local authorities go about preparing their budgets is outside our remit. However, I would have thought finance would have built up a great deal of knowledge on what comes in. Those people are working with the different Departments that award the grants and would have a history there.

While it was not in the area of LPT, one of the special reports we prepared was on properties not being captured for rates, to which the Vice Chairman has just referred. There are properties also awaiting valuation, which means there is a loss of income to the local authority. We looked at that area. LPT is a policy matter and we only look at how accurately it is reflected in the financial statements. On LPT and properties being revalued, we look only at how the policy is implemented.

**Vice Chairman:** I thank Ms Larkin and Mr. Murphy for attending and engaging with the committee today.

The joint committee adjourned at 12 noon until 9.30 a.m. on Wednesday, 15 May 2019.