

DÁIL ÉIREANN

AN COMHCHOISTE UM DHLÍ AGUS CEART AGUS COMHIONANNAS

JOINT COMMITTEE ON JUSTICE AND EQUALITY

Dé Céadaoin, 13 Meitheamh 2018

Wednesday, 13 June 2018

Tháinig an Comhchoiste le chéile ag 9.30 a.m.

The Joint Committee met at 9.30 a.m.

Comhaltaí a bhí i láthair / Members present:

Teachtaí Dála / Deputies	Seanadóirí / Senators
Colm Brophy,	Frances Black,
Jack Chambers,	Lorraine Clifford-Lee,
Clare Daly,	Martin Conway,
Jim O'Callaghan,	Niall Ó Donnghaile.
Mick Wallace.	

I láthair / In attendance: Deputy Donnchadh Ó Laoghaire.

Teachta / Deputy Caoimhghín Ó Caoláin sa Chathaoir / in the Chair.

Business of Joint Committee

Chairman: I remind members to switch off their mobile phones as they interfere with the recording equipment. We will go into private session briefly to deal with housekeeping matters.

The joint committee went into private session at 9.32 a.m. and resumed in public session at 10.04 a.m.

Garda Síochána Oversight and Accountability: Minister for Justice and Equality

Chairman: The purpose of today's session is to meet the Minister for Justice and Equality, Deputy Charles Flanagan, to discuss a broad range of issues, including progress on Garda oversight and accountability since the committee issued a report and recommendations on this matter in December 2016; issues surrounding the recording and classification of Garda homicide figures; the transposition of the European Union's reception conditions directive, which has been recast; the case of Aidan McAnespie and the efforts of the McAnespie family to have the Crowley report made available to them; and various other matters relating to the work of the committee of which the Minister has received notice.

I welcome the Minister and his officials as well as the other departmental officials seated in the Gallery. I remind the Minister and members that under the salient rulings of the Chair, members should not comment on, criticise or make charges against a person outside the House or an official either by name or in such a way as to make him or her identifiable.

Minister for Justice and Equality (Deputy Charles Flanagan): I thank the Chairman and the committee for accommodating me with a later start time than usual. I was keen to fulfil an invitation to launch the national crime victims helpline to raise awareness of the important statutory right that victims have under the Criminal Justice (Victims of Crime) Act 2017. I was pleased to convey the good wishes of the committee to those present.

I welcome this opportunity to meet the committee on this extensive list of topics. The breadth of matters the committee has indicated it wishes to discuss reflects the wide range of matters that come under the ambit of the Minister for Justice and Equality and the many different issues on which I and my officials are working. Members will be familiar with many of these as we have discussed them previously. In order to make full use of the reduced time available to us I will not address all the matters referred to in the letter of invitation. I will, however, briefly provide some context for some of the matters we are about to discuss.

One of the matters to which the Chairman referred is one which he has pursued in particular, namely, the Crowley report into the tragic and needless death of Aidan McAnespie. I know the Chairman has a long-standing interest in the matter and that he is very familiar with the McAnespie family. I would be happy to update the committee on the issues surrounding the family's desire to have the Crowley report published in full. As members are aware, this matter is not straightforward.

The committee has indicated a wish to discuss Garda oversight and accountability. Garda reform, including in respect of the architecture and operation of oversight, has been a major focus of this Government. An element already delivered in this regard is the Policing Authority. It is a sign of the success of the authority that in its short time in existence it has, as intended,

already become a central part of the policing landscape. Its establishment is one of the most significant policing reforms delivered since the foundation of the State. As in all democratic countries, it provides independent oversight of policing. Given that its mission is to drive excellent policing, I welcome its publication of the policing priorities and policing plan for 2018, as well as its role in the development of the new code of ethics that is being firmly embedded within An Garda Síochána.

The committee wishes to discuss homicide statistics. This issue highlights some of the areas where improvements are required in the Garda organisation, including data management. The Policing Authority is playing an important role in scrutinising how An Garda Síochána resolves these issues and records data and this scrutiny is necessary and welcome.

We also have the Commission on the Future of Policing, which is conducting a root-and-branch review of policing in Ireland. I look forward to receiving an extensive report in September which I expect will map out an ambitious future for An Garda Síochána for the coming decades. The commission's remit is to examine all aspects of policing in Ireland, including the full range of bodies that have a role in providing oversight and accountability for Garda activities, namely, the Policing Authority, the Garda Inspectorate, the Garda Síochána Ombudsman Commission, my Department and the Government. It is in that context and in the context of the opportunity that will present for reshaping and enhancing the oversight organisations that we have to look at proposals for new powers and changed roles in the future.

On penal policy, I welcome the opportunity to discuss the recommendations and conclusions of the committee's report on penal policy and sentencing. As the committee is aware through its long-standing interest in this subject and the extensive consultation it has undertaken on this and previous reports, a large amount of progressive reform and modernisation of the prison system has taken place in recent years. Many of the committee's recommendations are linked with and complementary to the current reform programme of penal policy which is being implemented, as set out in the report of the penal policy review group, PPRG. The report emphasises rehabilitation, reduced reliance on imprisonment as a sanction and an increased focus on alternatives. The implementation and oversight group for the penal policy review group report, under the chairmanship of Dr. Mary Rogan, has presented five reports to me, all of which have been published on the Department's website. The implementation of the PPRG recommendations constitutes the broad reform programme of penal policy currently being undertaken. The committee's report is comprehensive, detailed and has many implications for the services involved. It will take some time to examine the report in detail to ascertain how we might progress from here. I am happy to continue engagement with the committee. I am very open to discussing these recommendations in more detail and I look forward to doing so.

The final issue in the committee's letter that I intend briefly addressing is the matter of Ireland's participation in the recast EU reception conditions directive, which pertains to the procedures to allow asylum seekers to work. The Government responded to last year's Supreme Court judgment by deciding to opt in to the recast directive, which will result in a wide range of reforms in the protection system. This opt-in will allow for effective labour market access for protection applicants who have not received a first instance decision within a designated period. I am confident the decision to opt into the directive is a positive development for the entire protection system, including applicants, their families and communities while they await a final decision on their application.

In addition to labour market access, the directive also includes important provisions relating to children's rights, health, education and material reception conditions for applicants, which

include housing, food, clothing and a daily expenses allowance. In the period between the Supreme Court ruling coming into effect and the application of the directive, I introduced a temporary scheme allowing access to self-employment for protection applicants, and a number of people have successfully taken advantage of the scheme. In the intervening months, protection applicants have been treated in the same way as other third country nationals and have been allowed to apply for a work permit, as administered by the Department of Business, Enterprise and Innovation. The full application of the directive will allow for much fuller access to the labour market. It is unfortunate that there has been misinformation which has sought to present the interim arrangements as permanent.

I thank the committee for engaging in this process and I look forward, over the next weeks, to being in a position to announce the consequences of the application of the opt-in in Ireland. There has been close engagement with the European Commission over recent months with regard to our compliance with the terms of the directive. My intention is that the new labour market access arrangements will be in place by the end of the month. Given that a further Government decision will be required before then, there is a limit to the extent to which I can give precise details of the proposed arrangements. However, the committee will be aware of the terms of the directive with which we will comply. As such, what is being proposed should be clear in general terms. I thank the Chairman for inviting me today. I look forward to the committee's discussions and I thank it for its input.

Chairman: I thank the Minister. The three members indicating are Deputies Jim O'Callaghan, Clare Daly and Jack Chambers, who will contribute in that order. Other members may indicate.

Deputy Jim O'Callaghan: I thank the Minister and his officials for their attendance. I commend him on one issue which he has not mentioned. This committee had, for a long while, advocated that the Minister abide by the recommendations in respect of the Magdalen laundries made by the Ombudsman and in the reports prepared previously by Mr. Justice Quirke. I acknowledge that the Minister ultimately followed the recommendations of the Ombudsman and he deserves to be commended on doing so. Last week, he and I attended a very successful event in the Mansion House which was, I understand, funded by the Department. That deserves to be acknowledged because it was a very worthwhile evening.

On Garda oversight and accountability, since we last met the Minister, evidence was given to the committee by two civilian members of the Garda statistics office in which they indicated their work had been - this is putting it neutrally - obstructed or not fully supported by the investigative side of An Garda Síochána. Is the Minister aware of that evidence and was he concerned about what this committee heard?

Chairman: The Minister can respond now if he likes. Members have different styles of asking questions. Some group questions together, while others, such as Deputy O'Callaghan, ask a series of questions.

Deputy Charles Flanagan: I followed the proceedings as the meeting unfolded and I am concerned. I raised the matter subsequently and I am keen to ensure that any concerns are dealt with in a way that will lead to a satisfactory resolution and that there will be no need in future for any members of the Garda to report to this committee in the manner in which the witnesses did at the meeting in question.

Deputy Jim O'Callaghan: The main issue of concern for this committee and members of the public is that we want to know when we will have a completed homicide review and a

consequent report. Is that a matter of concern to the Minister? Does he know when that will happen? We have asked the Policing Authority and An Garda Síochána about the issue but the review does not appear to be forthcoming. I do not know if the Minister has any information in that regard.

Deputy Charles Flanagan: I am awaiting further clarification on the issue. It is important that we arrive at a point where there is full transparency and we have a process that the public can regard as satisfactory. I do not believe we have reached that point yet but we are working towards it.

Deputy Jim O'Callaghan: Does the Minister expect a new Garda Commissioner to be appointed before he receives the report from the Commission on the Future of Policing that is due in September?

Deputy Charles Flanagan: Yes. I expect, as was always the target, that we will have a Garda Commissioner in place by the end of the summer. Broadly speaking, I expect the appointment to be made in advance of the Dáil returning in September. I believe we are on target to achieve that and I would be happy to keep the Chair and committee informed. The process has been satisfactory. I am in regular contact with the Policing Authority which, in turn, is in contact with the Public Appointments Service. We are on target for appointing a new Commissioner. The report of the Commission on the Future of Policing is also on target. I expect to have the commission's report in or around the time the Dáil comes back in mid-September.

Deputy Jim O'Callaghan: I know it is difficult for the Minister to predict what will be in the report and I am not asking him to do so. If a report is produced and the Government supports its proposals and if the proposals involve legislative change, what will be the timeline for implementing the report?

Deputy Charles Flanagan: I do not want to move into the realm of speculation but I would expect that there will be some aspects of the commission's report that will require short-term actions on the part of the Government. Others may well require legislative change. I am conscious of the configuration of Parliament in that regard and the challenge in preparing legislation. I would be happy to receive a report from this committee, having regard to its response to the report. I expect the committee will have a meeting on it in September. I would be happy to engage and assist in any way possible.

Deputy Jim O'Callaghan: The committee produced a report on penal policy and sentencing, which referred to the Parole Bill that has completed Second Stage and Committee Stage. I know the Department is working on amendments for Report Stage. Could we expect that Bill to come before the Dáil prior to the recess or will we have to wait until the next session?

Deputy Charles Flanagan: I thank the select committee and Deputy O'Callaghan in particular for his work on the Parole Bill. We are working on the amendments. It is a source of regret that I am not in a position to present them this week. We are in a tight timeframe between now and the end of the session. Deputy O'Callaghan asked me if we could expect the Bill. My desire and wish is that we would have something concrete by the end of the session but my expectation is otherwise because of the challenge of the sheer volume of legislation. I know the Parole Bill is a priority of this committee, and that Deputy O'Callaghan has had a substantial input into it. In recognition of that, the best action on my part is to circulate the amendments. I hope to do so in the next few weeks.

Deputy Jim O’Callaghan: Two reports were produced recently. One was from the internal Garda audit, which carried out an audit on how many gardaí were on front-line duty on a particular day - obviously it defined what constitutes such duty - and established that only 44% of officers were out on front-line duty. The second report, from the Road Safety Authority, stated that when individuals were stopped by gardaí at the roadside, the latter did not have the ability to assess - by looking at licences - whether drivers had been disqualified. Will infrastructure be introduced to enable the Garda Commissioner to identify, on a particular day, how many gardaí are on front-line duty? The force had to carry out an audit to establish the figure. Will there be infrastructure to enable members of An Garda Síochána to determine whether an individual who has been stopped has been disqualified from driving?

Deputy Charles Flanagan: I share Deputy O’Callaghan’s surprise - if he did express surprise - regarding both of the issues he raised. I was surprised to learn that on any one day there may be fewer than 50% of the members of the Garda on front-line duty. I raised this issue with the Garda in the context of my regular meetings with the management of the force. A new rostering duty management system is being introduced and that should deal with the issue in a way that ensures a level of public satisfaction. I regard availability and visibility on the part of the Garda Síochána as being core to their duty. We have had a debate on Garda resources and numbers. I am pleased that we are on track in respect of Garda numbers. The overall strength of the Garda should be 21,000 by 2021. I am attending at Templemore on Friday next, 15 June 2018, to see a further complement of 200 new, ambitious, energetic gardaí coming on stream, all of whom will be stationed in posts throughout the country in two weeks or thereabouts. I acknowledge that the deployment of personnel is a function of the Garda Commissioner, but having fewer than 50% of gardaí on front-line duty is something that must be improved upon. The programme of civilianisation needs to be accelerated because the more civilians we have doing work that might be more appropriate to them in terms of bookkeeping, finances, accounts, form-filling and so on, the more that will allow for a greater level of availability of gardaí for front-line duty and service. I agree with Deputy O’Callaghan’s viewpoint.

On the question of infrastructure to allow the immediate detection of the status of a person’s driving licence in the context of whether he or she has penalty points or a disqualification, not having that vital piece of infrastructure is unsatisfactory. There is a role for the Road Safety Authority and the Department of Transport, Tourism and Sport in this regard but I am disappointed that this type of infrastructure is not available to An Garda Síochána, particularly having regard to the unprecedented level of funding - of the order of €1.6 billion - available for disbursement by the Commissioner and his team. I expect that the ongoing roll-out of IT services will facilitate, at an early date, the type of detection and scrutiny that is important, having regard to the fact that while the fact that a person is disqualified from driving might not be listed on his or her licence and thereby immediately known to the Garda, if he or she drives, he or she is effectively doing so without insurance. This is a very careless and dangerous practice for anybody who thinks he or she can evade the law. I would be happy to report to the committee on the matter because it is something I would like to see dealt with.

Deputy Jim O’Callaghan: I thank the Minister.

Chairman: I thank Deputy O’Callaghan.

Deputy Clare Daly: I thank the Chairman. I must apologise because I have a priority question to the Department of Children and Youth Affairs and I may have to leave for a short period. I intend no disrespect to anybody present.

It is regrettable that we do not have the names of all the officials. It would be nice to know who everybody is.

Chairman: Will the Minister introduce his team?

Deputy Charles Flanagan: I had that in mind. I expected that members would know my officials at this stage. I had been in the habit of introducing them but did not do so on the previous occasion or today. It was on my mind to do so, however. It gives me pleasure to introduce Mr. John O'Callaghan, Mr. Peter Mullan, Mr. Patrick Forsyth and Mr. Brian Merriman. The official sitting behind is Ms Louise Sansom.

Deputy Clare Daly: We might get a woman up front the next time.

Deputy Charles Flanagan: The Secretary General of the Department of Justice and Equality is Ms Oonagh McPhillips and she has been before the committee on a number of occasions. I am sure that, as the senior civil servant in the Department, she will be here again.

Deputy Clare Daly: I thank the Minister. I wish to raise a number of broad-ranging issues. If I do not get an opportunity to raise them before my priority question comes up in the Dáil, I hope to come back and do more at the end of the meeting.

On the issue of the right to work and the reception conditions directive, the Minister is confident that we will meet the deadline 17 days from now. I am not sure that will happen, but I hope he is correct. A number of matters flow from that. Is the Department concerned that, in the interim, it has been working in flagrant breach of the Supreme Court decision by, in effect, putting in place the temporary arrangement in a manner which has denied asylum seekers access to a right to work in everything but name? Was there concern about that temporary arrangement being in flagrant breach of the Supreme Court judgment? The Minister indicated that there will be much fuller access at the end of the month when the new arrangements come into play but can he inform us in more detail on the situation?

Will the final scheme do anything to address the fact that the hurdles which employers must traverse in order to get what might be temporary permission for asylum seekers to work are so high that in many cases they will not bother making that jump? I would be particularly interested to hear whether the Minister could address the point made to the committee at the beginning of May by the Irish Refugee Council, namely, that despite its efforts to liaise with the Department on how the directive is designed, it has been ignored. Has the position in that regard been rectified? Is the Department on a solo run or has it engaged with the civil society groups? It had not done so up to May. What assurance can the Minister provide in terms of the right to work? Will he provide details of what is involved?

Chairman: Will the Minister comment on that point?

Deputy Charles Flanagan: I have every intention of ensuring that these issues are dealt with by the end of June. I would expect to have a memo for Government in the next couple of weeks. Assuming that I have the approval of Government, I would be happy to come back to this committee at an early date or at least to ensure that it will be familiar with the new regime. The committee at least will be familiar with the new regime. The Deputy will be aware that the interim arrangements which applied from February were always interim on the basis of the striking down by the Supreme Court of the prohibition but I do not accept it was a breach. I accept that the interim arrangements reflected the current arrangements, which will continue to be in place in respect of regulation for applicants to work from outside the EU or third countries.

The same access was applied as is the case for all third country nationals.

I am unable to give details of the new scheme because I need to have approval from Government for it. Were I to project now aspects that might not receive final approval, I would stand charged with misleading the committee. However, the new scheme will not involve work permits. Many of the submissions, calls and observations of the NGOs were taken into consideration, which was important. At all times, the submissions of NGOs, all of which are subvented by public moneys to facilitate their work, are taken seriously by Government and my Department. INIS offered to meet the group in question and the submission was accepted. Many aspects of the submissions will be reflected in the final announcement.

Deputy Clare Daly: I am a bit unclear on some of that. The Minister is telling us he cannot give us any fuller details. The committee is adult enough to take on board fuller details with the health warning that Government approval is required. The fact he cannot even give us greater detail is a little concerning.

With regard to the point about the flagrant breach, I was referring to the fact the Minister chose to implement a system in the transitional period which effectively denied access to the labour market to asylum seekers, which the Supreme Court stated was unlawful. By choosing the method of access, he was, in effect, denying access and there was a sleight of hand in that regard.

I am not fully clear on what the Minister is saying about the NGOs. He is telling us that they were not excluded, they got that wrong, and they did not understand that point but that their views were taken into account even though they told us that they made efforts to contact the Department and they did not hear anything back. Is the Minister telling us that is not accurate and that they did hear stuff back? They were clear in May that despite their efforts to liaise with the Department on how the directive would be implemented, they had not been engaged with. Is that wrong?

Deputy Charles Flanagan: INIS offered to meet certain groups.

Deputy Clare Daly: Is that something the Minister cannot answer?

Deputy Charles Flanagan: I am not sure what group the Deputy is talking about.

Deputy Clare Daly: The Irish Refugee Council.

Deputy Charles Flanagan: We attended their conference. We receive their written submissions all the time. There was an offer of a meeting by INIS.

Deputy Clare Daly: When was that? The council's representatives appeared before the committee and gave an impressive presentation on the reception conditions. The committee welcomed their involvement and felt that they had a positive and worthwhile role to play. We would be particularly concerned if their views were not taken into account. I am not sure about an acknowledgement from the Department that it received their submission when the view they put to us was that they have been actively trying to engage with the Department and its door was not open to them. If the Minister cannot answer that now, we can park it. He can come back to us on it.

Deputy Charles Flanagan: We attended their annual conference. There is a positive avenue of engagement. The Deputy is particularising a wish on the part of a group to scrutinise

the statutory instrument with us. They may not have been fully accommodated on that particular point.

Deputy Clare Daly: They knew departmental officials were at their conference but the point they were making was precisely that their expertise could have assisted the Department, which, let us face it, has been found to be operating an arrangement that was unlawful by denying access. External advice to the Department would have been welcome, particularly by the IRC, but that did not happen. Based on what the Minister has said, they were not engaged with other than a note of thanks for the submission to be put in the drawer. They did not get the engagement that they wanted. They would have benefitted the work of the Department.

A feature of some of my other questions is that the Department - this is not personal - has been found wanting on a range of issues, including this, and taking advice from persons outside the net might help everybody in the future. We have many other issues. I will not dwell on that. The Minister has answered as best he can. It is somewhat related to the role of the Department. I will go into other aspects, the first being the coroners Bill. Without giving myself a heart attack, it is a year since we discussed with senior officials in the Department a legislative timescale to deliver through Report Stage prior to last summer. The Taoiseach told me in February the heads of Bill would be published and the Minister told me the same in March. We are still here and if we are lucky, we might get something at the end of July, which is incredible.

I will link to that the issue of the criminal negligence claims and the legal system in the UK. The UK introduced pre-action protocols for clinical negligence claims 12 years ago. Such protocols were introduced under the Legal Services Regulation Act in 2015. Two and a half years later, that section has not been commenced. It is directly relevant to the cervical cancer cases and all other clinical negligence claims. The judicial working group recommended protocols to the then Minister in 2011. Opinions were sought from the legal profession a long time ago. What is causing the delays at the heart of the Department? Why is it, on any issue, the next matter that will come up is delays or excuses? If one looks at these or if one looks at the Judicial Council Bill 2017, which I would include in this category as well, the theme is progress is slower on legislation than Ministers want. The Minister is on the record as saying he is behind this Bill. The former Minister, Deputy Frances Fitzgerald, definitely was. I believe the Minister is and his predecessor definitely was. The Minister stated he is behind the Judicial Council Bill 2017. Who is ruling the roost? Two Ministers have told a Department these were priority Bills and we are no nearer processing them. How can that be and how do we address that? For us, as a committee, that is incredibly frustrating. What is going on regarding the three Bills - the coroners (amendment) Bill, pre-action protocols and the Judicial Council Bill 2017? Who is ruling the roost?

Deputy Charles Flanagan: I certainly do not want to induce any heart attack for the Deputy. I want to assist the committee in any way possible. As far as the coroners (amendment) Bill is concerned, we are making progress, albeit at a pace that is regrettable. This is taking considerably longer than I anticipated. I may have been speaking about this issue to the committee previously. It was my intention that the Bill would be ready by now. However, it is not true to say we are where we were a year ago, because we are not. We have made a lot of progress. My office briefed the Deputy's office on the issue yesterday. There was a further engagement last Friday, when departmental officials met officials from the Office of the Parliamentary Counsel. There are outstanding drafting issues. I am keen to receive a full third draft as quickly as possible to allow us to proceed to publication. There is no lack of intent or willingness on my part or on the part of the Department. As the Deputy will appreciate, this has proven to be a complex

issue. I hope we can report greater progress over the coming weeks before the end of the Dáil term, if that can be used as a benchmark.

I was in contact with the Office of the Attorney General and the Office of the Parliamentary Counsel recently to discuss the Judicial Council Bill 2017. It is intended that amendments of a pretty reformative nature in the Seanad will improve that Bill substantially. I am keen to report progress on that. I ask committee members to bear in mind that there is significant legislative activity.

I would like to mention in passing something that relates directly to the issues we are discussing. I received approval yesterday to proceed with legislation that will facilitate a constitutional amendment on the matter of blasphemy. In the normal course of events, I would expect to make that legislation available for pre-legislative scrutiny. In the circumstances, the committee might consider a waiver. I would be keen for the relevant Bill to be published, debated in plenary session of the Dáil and the Seanad and enacted before the recess to facilitate strict statutory deadlines. I am flagging it with the committee and I do not want an answer now. I would appreciate it if the committee would consider my request. If pre-legislative scrutiny is required, I would be happy to agree an early date between now and 13 July to facilitate that.

I have mentioned the Department's unprecedented volume of legislation not as a defence or an excuse, but as a reason. This legislation is compounded by the amount of work being done by Parliament under new politics in respect of Private Members' Bills, all of which I welcome but I do so in the knowledge that it presents a challenge. Deputy Jack Chambers has been the architect of many positive submissions. All of this work presents a challenge for me, for the Office of the Attorney General and for the Office of the Parliamentary Counsel. I acknowledge that the coroners (amendment) Bill is a priority. I hope we can do something in the next four weeks.

Chairman: We note the Minister's request regarding the blasphemy proposal.

Deputy Clare Daly: I do not think I have ever heard as brutal a response from a Minister at this committee. I do not mean it in a personal way when I say it was absolute and utter waffle and nonsense. Given that we are talking about legislation which has been prioritised by two Ministers, it is ridiculous to flag legislation that has not even been drafted yet. The legislation in question has been in the pipeline at this committee since the previous Dáil. I have asked the Minister why it has not been advanced and he has referred to legislation we have not yet seen. It is beyond disrespectful to those who have lost their wives in cases of maternal death to fail to deal with the issue of pre-action protocols. Women are before the courts today dealing with the HSE because the Department of Justice and Equality has not enacted legislation which has been passed by these Houses and put in place the necessary protocols.

I do not agree with the Minister when he says we realise and appreciate that the coroners (amendment) Bill is a complex issue. I know it is not a complex Bill. When the Chairman and I sat with officials from the top echelons of the Department of Justice and Equality almost a year ago, they assured us they had a strategy. That was the second time we met them. We also met them when Deputy Frances Fitzgerald was Minister for Justice and Equality. They assured us that they would deliver this in six weeks. It is of no solace to assure me now that it is a priority because I was given a similar assurance 18 months ago. It is really disrespectful to waffle on about other Bills that are not published. It is for this precise reason that the committee wanted officials from the Department to come before it. We are sick of being fobbed off with nonsense. Legislation that is being advanced by this committee and both Houses is being allowed to sit

there. It is expected that we will be satisfied by being thrown a few crumbs about something else. It is disgraceful. I am not going to comment on it further.

In the committee's report on penal policy, we recommended that resources should be made available urgently to ensure appropriate mental healthcare for all prisoners. Will the Minister indicate what action the Department is taking to implement this decision? Deputy Wallace and I have received a letter from a seriously ill long-term prisoner in one of our prisons. He told us that he feels he is being sedated, dulled and kept in his place for a period of time. He is not getting the help he needs. It is indicative of the situation throughout the Prison Service. What has been done since we made our recommendation in our report?

What is the position with the Prisons (Solitary Confinement) (Amendment) Bill 2016? In its report on penal reform, the committee called on the Government to facilitate without further delay the passage of that legislation. I am not talking about getting a promise that something might be drafted before the summer; I am talking about a Bill that has been passed by the Dáil on Second Stage and referred to this committee. A money message was requested by this committee and the Houses in February 2017. More than 15 months later, nothing has happened. Is the Department content to ignore the democratic wishes of the House and the committee? Is the Minister okay with this? What is he doing to facilitate it? There are people in these conditions in prison now, and they need assistance.

What is the story with these two Bills? When the Minister is responding to my questions, I ask him to deal with the point I have made about pre-action protocols, which is linked to the claims and the cases before the courts at the moment.

Deputy Charles Flanagan: I want to make it clear that I mean no disrespect to any member of the committee, the Chairman or the committee as a whole. These are not simple issues that can be dealt with without due and proper consideration. I regret that the coroners (amendment) Bill has taken such time. My new target in this regard is to proceed to publication as a priority within the next four weeks before the end of the current Dáil session. I acknowledge the Deputy's frustration. I am happy to have ensured that the Deputy and her office have been taken through the process. Nobody is sitting back or fobbing anybody off. Nobody is saying this is not a priority. We are anxious to get the legislation through. In spite of what the Deputy said, this is a complex issue. Many of these legal reforms derive from the comprehensive 1962 Act. The 2007 Bill proved that this is a legally and technically complex area. I expect that we will be in a position to advance it along the lines suggested by the Deputy over the next four weeks.

Similarly, I am keen to report progress on the pre-action protocols. I understand the importance and the urgency of this matter, which is being examined by senior counsel. The Deputy will agree it is important to have external consultations. I will set a benchmark of 13 July, which is the indicative date for the end of the parliamentary session, on that. I am sure we will have a further opportunity to engage on it.

I acknowledge the importance of the committee's report on prisons and penal policy in the context of the relationship between this committee and the Department of Justice and Equality. The contents of that report are being fully examined by my departmental officials. We have not enjoyed sight of it for a considerable time. However, aspects of it are both interesting and attractive where policy issues are concerned, and I am happy to make a more formal reply on that in the autumn.

The provision of appropriate mental health services is a challenge, but it is important that we have an effective programme of healthcare in prisons. I have had the opportunity over the past 12 months to visit a number of prisons and speak to prisoners. I speak with prison representative groups and members of visiting committees. There are some challenges, one of which is the health and welfare of prisoners. The use of imprisonment for people with enduring mental illness is inappropriate and unacceptable, especially having regard to the fact that prisons are not therapeutic environments. I accept that there is work to be done, and the Irish Prison Service is keen to ensure these issues are dealt with in a satisfactory way. I have not seen the letter from the person who has written to Deputy Daly, but it is symptomatic of the challenge that we need to work on addressing. I hope to be in a position to prioritise these issues in the forthcoming budget in the context of my engagement with the Department of Public Expenditure and Reform.

Deputy Clare Daly: I refer again to the Prisons (Solitary Confinement) (Amendment) Bill 2016, and the money message to the House.

Deputy Charles Flanagan: I will get back to the Deputy on that.

Deputy Clare Daly: I just want to set the record straight on the Minister's liaison with my office, and to acknowledge my staff's work. The liaison between my office and the Department on the coroners (amendment) Bill 2017 has been driven by my office, and fair play to my assistants for constantly sitting on the Department and making sure that it is not forgotten about. I do not accept that as a great bonus. It has tied us in a huge amount of work, chasing something that should have been delivered by now. The Minister can answer by talking about challenges, complexities and issues being examined, but we know they are challenging and complex. That is why we have come up with recommendations concerning all of them as a committee. We wanted to hear from the Minister how they are being implemented, and not excuses about why they are not being implemented, which is a key feature. Regarding the pre-action protocols, the Department circulated a draft set of proposals but that was months ago. They have not been implemented yet. One of our key points is that the Department of Justice and Equality clearly operates in a different time zone to most other people when it comes to delivering change. Something has to give on that. It is a feature of every legislative issue, and victims are suffering as a result of that delay.

Regarding the Garda, we touched on some issues last night in the debate on the appointment of the new Garda Commissioner. I refer to the Bill we recommended as part of our 2016 report that would give the Garda Síochána Ombudsman Commission, GSOC, more powers. Where is the Bill that was promised 18 months ago? The Minister keeps telling us he has been pushing it, but we have not seen it yet. I also refer to the business case that GSOC submitted for additional resources more than four months ago. That does not seem to have been decided upon. Where is that at the moment?

Deputy Charles Flanagan: I can confirm that the pre-action protocols will be completed by the date upon which the Dáil rises for the summer, 13 July. In respect of the mental health and well-being of people in prison, I acknowledge progress in a range of Departments. People with mental illness coming in contact with the criminal justice system is an issue that involves more than just the Prison Service. I acknowledge the importance of the engagement on the part of the Department of Health, the Health Service Executive, An Garda Síochána and others involved in an interdepartmental group. I stress the importance of ensuring mental health and well-being are a priority when persons with mental health issues come in contact with the criminal justice system or are given prison sentences. In that regard, I acknowledge the dedicated

wings, namely the D2 wing in Cloverhill Prison and the high-support unit in Mountjoy Prison, which are working towards that.

We have been engaging with GSOC over the few weeks since the business plan was delivered to my Department. A formal business plan is essential. A further submission was received from GSOC yesterday on resources. We are now also engaging with the Department of Public Expenditure and Reform as well as the commission. As I said earlier in the year, I am positively disposed to the provision of resources to the commission that will allow it to do its job. We are making progress on that with the commission and actively engaging with it. I regard as entirely unsatisfactory any public commentary that might suggest that GSOC is prohibited from doing its work, or restricted from doing some of its work, because of resources. I am anxious to ensure sufficient resources are available.

As far as legislation is concerned, work has been done on that. I wish to return to Deputy O'Callaghan's earlier observation on the forthcoming report of the Commission on the Future of Policing in Ireland, which is important. I expect that consideration will be given to the matter of oversight, as that is included in the commission's terms of reference. I expect there will be recommendations on changes and management of oversight. I do not want to bring forward legislation now that will cut across the report, but we will have the report by mid-September.

Deputy Clare Daly: The problem is that again, the Minister said that he does not want GSOC to be in a position where it does not have the resources to do its work. However, it does not have those resources. On 8 June 2017, GSOC was given a commitment that it would be given the resources by the Minister. We are in June discussing the annual budget. More than half of the year has gone, and the commission has not been given the resources. It is a simple fact that it is not able to do its job. The Minister says he regrets or does not like to hear public commentary saying that it might not have the resources to do its job. It is not just us saying that. Ms Justice Mary Ellen Ring has been clear on the resources that GSOC needs. This problem is the same as with legislation. The Minister is working on it, but the year will be over before anything happens.

Deputy Charles Flanagan: No, that will not be the case. I do not wish to be in any way critical of the independent body, respecting as I do the independence of GSOC. However, in the context of resources, it is entirely reasonable that we work on a business plan and a set of projections. That is what I am doing and that is what I will do to ensure that GSOC is properly resourced.

Deputy Clare Daly: The business plan was submitted in February. I have other questions about the Garda. I am leaving to ask my question in the Chamber. If we have time at the end of the meeting, I will deal with the other Garda stuff. The Minister did not deal with the Prisons (Solitary Confinement) (Amendment) Bill 2016.

Deputy Charles Flanagan: It is subject to a money message. A number of Bills are the subject of a money message which is an issue for the Government. I will check out where we are on the provision of the money message to facilitate that Bill going forward.

Deputy Clare Daly: I know there are loads of Bills subject to money messages, and I know it is a matter for the Government. What I asked was whether the Minister had a problem with that being used to delay the passage of important legislation such as this, and whether it was appropriate for that to be the case.

Deputy Charles Flanagan: I am keen to ensure national best practice in our prison system. I acknowledge over recent times the manner in which single-cell accommodation in Mountjoy, for example, has become a thing of the past. I am keen to ensure that will be the case right throughout the prison system. We can move towards a position where solitary confinement can be something that is very much of necessity but against the background of having regard to the needs of individual prisoners and their own safety.

Chairman: As Deputy Daly is leaving, it would be a mistake to think the Deputy is a unique voice with concerns about the coroners (amendment) Bill 2017. It is a shared and reflected position in the committee and I wanted to make that clear. We met departmental officials about that Bill, as she said. The Deputy brought in a Private Members' Bill and a commitment was made by the Minister's predecessor to the committee about that, which is why there is a relationship between her office and the Department. The expression of exasperation that she has correctly shared with the Minister is also felt by this committee on that matter.

The Minister recently requested the committee to address the designated new commissioner to GSOC arising out of the transfer of Mr. Toland to the Garda Inspectorate last October. We were willing to do that but we find the new designated commissioner is in the United States and not available to come before us.

Deputy Charles Flanagan: I accept the Chairman's comments about the coroners (amendment) Bill 2017. It is a matter of concern to this committee, as it is to me.

Deputy Jack Chambers: I thank the Minister and his officials for coming before us. He mentioned the Secretary General and her absence. Is she still an acting Secretary General or has she been made permanent?

Deputy Charles Flanagan: She is acting Secretary General.

Deputy Jack Chambers: Is there a process under way to appoint a permanent replacement in the post?

Deputy Charles Flanagan: Yes, I expect the process to be formally under way over the summer. I acknowledge the change and implementation group working on future reforms in the Department and I expect the report in the next few weeks. That will have a bearing on the position of Secretary General.

Deputy Jack Chambers: Why has there been a delay in filling the vacant position permanently for months? When did the previous Secretary General retire?

Deputy Charles Flanagan: It was just prior to Christmas. I do not accept there is a delay, rather I am awaiting the first report of the change and implementation group, which I expect in the next few weeks.

Deputy Jack Chambers: Is it appropriate to have an important senior position on an acting basis? There is a pattern within the Department and its agencies.

Deputy Charles Flanagan: I do not accept that comment if it is tendered as a criticism of the Department. I acknowledge the full powers and authority of the-----

Deputy Jack Chambers: I asked about the position.

Deputy Charles Flanagan: -----Secretary General.

Deputy Jack Chambers: It is important to note that a process should have been initiated when the previous Secretary General retired. To wait eight months and still say there is not a formalised process to replace the Secretary General is disappointing. This relates to my next point, which concerns the Toland and EY report into the Department and change management and the recommendations flowing from that. Will the Minister update the committee on the report and the recommendations that have been implemented over the past six months?

Deputy Charles Flanagan: The change and implementation group, under the external chairmanship of Mr. Pádraig Ó Ríordáin, has been working and engaging actively over the past few months. It will present its report within the next four weeks. That will chart an exciting course of reform within the Department for the foreseeable future.

Deputy Jack Chambers: Has the Department initiated any recommendations from the EY report of its own volition without waiting for the report of the change and implementation group?

Deputy Charles Flanagan: The changes in practice and procedure to ensure the effective and efficient running of a substantial Department are ongoing. A specially designed committee within the Department meets on a regular basis. It ensures the process works in tandem with the externally chaired change and implementation group. The recommendations of the Toland and EY report will be implemented over a period and will result in substantial reform within the Department of Justice and Equality. I am awaiting delivery of the Ó Ríordáin report, which I expect within the next four weeks.

Deputy Jack Chambers: There is an internal committee, an external group, an EY report and the Toland report. There is an absent permanent Secretary General. That is a summary of the Minister's comments. I will ask questions specific to the EY report. It seems there will be another report, group or recommendation. Perhaps some of the officials can advise on this basic question. Have some of the management board meetings been split into two groups, as recommended in the EY report, to negotiate different agendas? Has that simple change happened - "Yes" or "No"?

Deputy Charles Flanagan: There is a management group meeting every week in the Department. I attend many of them, schedule permitting. The group considers many of these reforms, some of which are in place. We are awaiting the first report of the change and implementation group, which will chart wider reform within the Department. I reject any suggestion by the Deputy that there is an absent Secretary General, as he termed it. It is very unfair-----

Deputy Jack Chambers: The Department lacks a permanent one.

Deputy Charles Flanagan: -----to the acting Secretary General, who appears before this committee and is in a position to answer for herself on her stewardship. I have every confidence in the acting Secretary General. Nobody is absent.

Deputy Jack Chambers: In the running of a Department of this State, when someone retires, a recruitment process should be commenced when an interim or acting Secretary General is in place. The delay for eight months is unacceptable. There is no personal charge against any individual but this demonstrates an absence of speed by just leaving it while another group or implementation process is put in place.

The Minister did not answer my question. Has the management board meeting been split in two? It is a simple reform so the answer is "Yes" or "No".

Deputy Charles Flanagan: Yes.

Deputy Jack Chambers: That is good. It has been split in two as per the EY report.

Deputy Charles Flanagan: Yes, it has been split into subgroups.

Deputy Jack Chambers: Has an organisational design unit been established?

Deputy Charles Flanagan: Yes.

Deputy Jack Chambers: That is fine. Have timelines been set for the implementation of the recommendations in the report?

Deputy Charles Flanagan: We are awaiting the report under the external chair of Mr. Ó Ríordáin. There is no delay in the appointment of a Secretary General. If the Department is going to be subject to the type of reform expected, it is entirely reasonable that we would await the report of the change and implementation group prior to embarking on appointing a permanent Secretary General. In the meantime, the acting Secretary General has full power and authority.

Deputy Jack Chambers: Has a culture audit been commenced within the organisation?

Deputy Charles Flanagan: It is under way.

Deputy Jack Chambers: Has the Minister assessed or provided external oversight to the process for recruiting agency staff within the Department?

Deputy Charles Flanagan: I again point to the change and implementation group, which has external engagement.

Deputy Jack Chambers: Has the Minister introduced a formal communications protocol for use in the disclosure of information to and from the Department?

Deputy Charles Flanagan: Yes, I have.

Deputy Jack Chambers: Has a review of the recruitment strategy within the agencies been performed?

Deputy Charles Flanagan: It is under way but probably not complete. It is under way.

Deputy Jack Chambers: Has a protocol been created for agencies to provide feedback for suggesting amendments to the governance arrangements?

Deputy Charles Flanagan: That is also under way but I am unsure if it has been completed.

Deputy Jack Chambers: Is there an external review of the effectiveness of the governance frameworks within the Department?

Deputy Charles Flanagan: Yes.

Deputy Jack Chambers: That is good. Has there been a review on the progress bedding from the new structures in the Garda Síochána (Amendment) Act 2015?

Deputy Charles Flanagan: I will have to revert to the Deputy on that question.

Deputy Jack Chambers: Has information sharing between the crime and security section

and policing section been reviewed in regard to matters affecting An Garda Síochána?

Deputy Charles Flanagan: That forms part of the remit of the change and implementation group which has been meeting since last January on a regular basis.

Deputy Jack Chambers: There is no point in us talking generally about issues. The Minister is head of the Department. Issues within the Department have been identified in various reports and unless he knows what actions are being delivered by the change and implementation group, there is a concern that change will not happen. We know from the Toland report that there was a difficulty in terms of the pace of reform within the Department. It would be worthwhile for the Department to give a quarterly review to the committee on the issue of change management and progress on the various key actions recommended in the EY report.

Deputy Charles Flanagan: I have no difficulty with that being done on a quarterly basis but I point out that it is very difficult for me to go through all of the action points mentioned by Deputy Chambers when the group has not yet reported. I do not sit on the change and implementation group. I have met its chair and am satisfied that the chair has indicated to me that, it having engaged in extensive work over the past few months, we will be presented with a report within the next four weeks which will deal with many of the important issues raised by the various reports to which reference has been made.

Deputy Jack Chambers: Exactly. Part of the problem is that many of the reports have not been acted upon. Will this be another report that sits and gathers dust? We need to know that this is-----

Deputy Charles Flanagan: That is not a fair comment.

Deputy Jack Chambers: It is a fair comment. The Minister should consider all of the reports with recommendations on change management, as well as other reports, because of the absence of progress on those changes. We need more regular updates in that regard and I would like to see movement in terms of the pace of report delivery.

The Minister was recently quoted as saying that there is a substantial threat from terrorist activities within the State. I ask him to update the committee in that regard.

Deputy Charles Flanagan: I receive regular security briefings. The recently inaugurated Cabinet committee F chaired by the Taoiseach involves all agencies with a national security role. The greatest threat to the national security of the State still comes from dissident republicans in the Border area. I am not prepared to enter into any detail with the committee on issues of national security as that is a long-standing practice which I intend to continue to observe.

Deputy Jack Chambers: *The Sunday Business Post* recently reported on interference by the Department in the operation of the Legal Services Regulatory Authority and the perception of an erosion of its independence from the Department. I ask the Minister to comment on that matter.

Deputy Charles Flanagan: I am very keen that the Legal Services Regulatory Authority, established by an Act of Parliament two years ago, will be fully functioning at the earliest opportunity. I am very keen to ensure that it is properly resourced and I am satisfied that that is the case. I look forward to the early commencement of many of the uncommenced sections of that legislation, in particular the complaints system, which will be of great benefit to users and members of the legal profession. In that regard, officials from my Department engaged with

the independent authority. I intend to meet members of the authority over the next few weeks. However, my priority is to ensure that there is no delay in commencing very important aspects of this reforming legislation which was passed by Dáil Éireann over two years ago.

Deputy Jack Chambers: The Minister earlier smiled about new politics and that many submissions have been made. Fianna Fáil has tried to progress the Gambling Control Bill. We tabled it in Private Members' time and it has passed this committee and awaits a money message from the Minister's Department. Will the Minister engage on that Bill in terms of amendments or drafting changes or does he intend to go ahead with his own legislation and duplicate the process? We need serious progress in this area. The Bill was left for over five years by the Minister's Department without any progress being made. It is not on the Government's legislative priority programme. Will the Minister work with that Bill and allow it to go to the Select Committee on Justice and Equality in order that it can be progressed?

Deputy Charles Flanagan: The Minister of State, Deputy Stanton, has responsibility for that area. As Deputy Chambers is aware from the Minister of State's public utterances and engagements on the issue, it is very much his priority. It is a complex area of law that has not been updated or addressed since the 1950s. There was a substantive piece of legislation that has not been fully enacted. We hope to take aspects of that with particular reference to independent regulation and see how best that could be established. I welcome input from the committee, Deputy Chambers or any other Deputy who has expressed an interest in that. It is very much a priority of the Minister of State, Deputy Stanton. There are resource issues involved that we would be keen to ensure are covered in the context of preparation for the next budget. However, it is an area that is long outstanding as being in need of reform. The absence of reform in the area is reflected in a problem of gambling abuse across society which we have not fully recognised. The Minister of State, Deputy Stanton, is committed to so doing.

Deputy Jack Chambers: I agree that the Minister of State is committed to it. My question was whether the Minister will facilitate the progression of the Gambling Control Bill by allowing it to go to the Select Committee on Justice and Equality and beyond. I did not ask him about legislation which relates to a technical problem that has nothing to do with regulation of gambling.

Deputy Charles Flanagan: It may be subject to a money message in terms of its current disposition.

Deputy Jack Chambers: What is the Minister's disposition in that regard?

Deputy Charles Flanagan: If that is the case, it is not under my immediate control but I am very keen to assist the Minister of State, Deputy Stanton. We meet bilaterally on this issue on a regular basis and he is intent on reporting a level of progress on this and I am sure he would be happy to discuss that directly with Deputy Chambers.

Deputy Jack Chambers: A person was recently killed or nearly killed - I am unsure of the outcome - in an incident involving a scrambler in the city of Dublin. I do not ask the Minister to comment on a specific case but there is a legal lacuna which I have raised in questions to the Minister in the Dáil. The Minister has stated that he has a working group on the issue with various local authorities and the Garda. Will he address the issue that the Garda has identified in terms of a gap in the legislation which allows recklessness to continue in our public parks because the Garda does not have the support of the law in this regard? We need to fill the gap very quickly because someone has been very seriously injured and may even have passed away.

The incident is a reminder that real progress must be made. A very small technical change will rectify the matter.

Deputy Charles Flanagan: I am addressing the issue because I believe it is one of concern to communities located right across the city of Dublin and in other urban areas. The issue has been raised with me directly by many Dublin Deputies. I was very keen to convene, as I did earlier this year, a meeting of interested parties because it appeared to me that previously there was a reluctance to accept responsibility on the part of many of the agencies involved. My Department, the Departments of Transport, Tourism and Sport and Housing, Planning and Local Government, Dublin City Council, the Garda Síochána and the Road Safety Authority have got together a view to seeing how this issue might be addressed as a matter of urgency. I have discussed the matter with An Garda Síochána in the context of the precise point of legislative change. I have drafted a letter to the Attorney General seeking legal advice on the interpretation of the existing legislation in terms of definitions. The draft letter was circulated to the attendees at the cross-agency meeting for their observations. I have also mentioned this to the Minister for Transport, Tourism and Sport, Deputy Ross, who has responsibility from a transport point of view.

I wish to respond to Deputy Jack Chambers by saying that this is an urgent issue. I am very sorry that there has been an accident. For example, the supply of a scrambler or a quad bike to somebody under 16 and 17 years of age, depending on how the vehicle is defined, is an offence under the Road Traffic Acts. The Garda Síochána is aware of that. To return to the earlier point regarding the availability and visibility of gardaí, during the summer months many of our parks are attractive locations for the people who abuse these vehicles and I hope that those individuals could be subject to the rigours of the law.

Chairman: I thank Deputy Jack Chambers for his questions. The next speaker is Senator Ó Donnghaile and he will be followed by Senator Conway.

Senator Niall Ó Donnghaile: I hope to be significantly brief. I welcome the Minister. I do not want to pre-empt the supplementary questions that the Chairman may ask.

The Minister has touched on the issue of the Crowley report. Obviously, he is aware of the calls to publish the report by people in this House, by the McAnespie family, and by very eminent and respected figures in the GAA. I ask him to update us on the current status of the report. I am sure he will agree and concede that the delay, despite all of the complexities to which he alluded, has caused further trauma for the McAnespie family. What measures, if any, is he exploring to overcome the complexities in order to ensure that the McAnespie family and their legal representatives have access to the findings of the Crowley report? I know, because we have spoken about the matter previously, that the Minister is personally committed to doing all that he can to assist the McAnespie family. Does he agree that it is both untenable and unjust for the State, which appointed then Deputy Garda Commissioner Crowley to carry out an inquiry, to deny access to and publication of the report? I ask the Minister to update the committee on the current status of the report and answer my two questions.

Deputy Charles Flanagan: I am keen that progress be made on this issue. The Department has been in contact with the Office of the Attorney General. Advices have been received. The Attorney General's office set out certain issues that arise in respect of what still is a legitimate expectation of confidentiality by the people who co-operated with the inquiry and, indeed, the rights of others who are referred to in the report, whether in statements from the people who co-operated or otherwise. This is not an easy issue. Officials are also in ongoing contact with the

Garda to see how best the question of people setting aside their anonymity might be properly addressed in light of legal issues arising. I have spoken to the Chairman about this issue and I undertook that certain representations he made to me would be followed up on. That is what I am doing. I am very keen that we could advance matters from where they currently stand. However, I must be frank and say that these are not straightforward issues to which to find a resolution. It is not a question of simply asking somebody if he or she is prepared to set aside his or her anonymity. As members might be aware, there remains material in this report that it is likely it would not be possible to release. However, efforts are being made. I have indicated that I am prepared to meet the family. I intend to do so at an appropriate date during the summer, perhaps during the recess when we are somewhat more free in terms of time. There are further concerns that the Department of Foreign Affairs and Trade is pursuing in conjunction with the authorities in Northern Ireland. I am anxious to help. However, I am conscious of the complex legal issues which mean that any assistance we can give to the family may not be as immediate as might be anticipated in some quarters.

Senator Niall Ó Donnghaile: I welcome the fact that the Minister has given a commitment to meet the family. That is a positive move and it is the right one. I am sure he will appreciate that, equally, in terms of everything that he has said about the complexities, there has already been a 30-year wait for the report. I have no doubt that he is doing all he can in this regard. Even though I take him at his word, I do not know that it is sufficient at this stage for him to simply say that he hopes to reach the point where this matter is resolved. Is he minded to call this at a particular point? What is the timescale? When will he reach a point where he can say to the family what will be done, one way or the other?

Deputy Charles Flanagan: I am very conscious that over three decades have elapsed and that some of the McAnespie family are senior in years. I am very keen, therefore, to ensure that an element of progress can be made. However, I want to acknowledge the political means by which issues, such as those that befell the McAnespie family, may be dealt with. I am sure the Senator will be aware that dealing with the legacy of the Troubles in Northern Ireland is a complex and challenging task. I am also sure he sees that on a daily basis at home.

I want to highlight the important measures set out in the Stormont House Agreement which chart a way forward for many of the victims' families. I refer, in particular, to the commission on information retrieval. The latter will allow families direct access to information in confidence. The Senator will be aware of the persistent political stalemate in Northern Ireland that has had the effect of delaying the putting in place of these vital institutions. They comprise a framework of measures that will facilitate parties to seek the truth. I hope we see every effort made to re-establish the Northern Ireland Executive. Senator Ó Donnghaile has a role to play in that and I exhort him to do so. The institutions agreed under the Stormont House Agreement amount to the best means by which many families across the island of Ireland may find some solace and healing.

Senator Niall Ó Donnghaile: May I comment?

Chairman: Yes, please.

Senator Niall Ó Donnghaile: I agree with the Minister entirely, insofar as he knows where the delay is on the lack of fulfilment of the mechanisms of the Stormont House and Fresh Start agreements. They chart the most progressive and positive way forward on legacy and victims issues. We are, however, where we are. I concede what the Minister has said but it goes back to what Deputy Clare Daly said earlier. There are mechanisms there but we have the report here

that was initiated by this State and undertaken by Deputy Commissioner Crowley.

It is not as if this family is calling for the beginning of an inquiry mechanism or pathway. This is something that exists but, unfortunately, is unavailable to them for all of the reasons outlined by the Minister. As I said at the beginning, that is not just untenable as a position, it is unjust and unfair that the family is aware the investigation been undertaken - rightly - and yet does not have access to same. I am sure the Chair will have questions, in addition to mine, when it comes to his own participation.

Senator Martin Conway: Coming sixth or seventh in the queue means much of what I would have asked has already been asked. I want to reiterate a few things. I met the McAnespie family at a briefing facilitated by the Chair. I welcome that the Minister is engaging with this. From the outside - I am not privy to the complexity of the issues - the request for access does seem straightforward. I welcome the fact that the Minister has committed to meeting the family during the recess. As he noted, some members of the family are getting old. It is progress that the Minister for Justice and Equality is meeting the McAnespie family. That should be welcomed by all of us.

On the Coroners (Amendment) Bill 2017, and the interaction between the Minister and Deputy Clare Daly, I have sympathy for the Minister in one sense but I also understand the frustrations of Deputy Clare Daly. I am now the longest-serving member of this committee, going back to 2011. This reform has been discussed *ad nauseam* over the last seven years or so. I accept the good faith of the Minister on this. He has given a solid assurance that we will see progress before the end of the term. I welcome that. It is delayed, which is regrettable but we now have a definite timeline - I acknowledge we have had them before - given to the committee by the Minister. It is only three or four weeks. That is not too bad when one considers the length of time this has taken.

I was going to go down the line taken by Deputy Jack Chambers in his questions on the reform of the Department of Justice and Equality. A Minister can only perform if his Department is up to standard. When Deputy Jack Chambers went through the various aspects of the EY report and the recommendations, I was reassured because it seemed as though a significant number of them either have been actioned or are in the process of being actioned. That is also welcome. The Minister has also assured us today that the report of the change and implementation group set up under Mr. Pádraig Ó Ríordáin will be finalised by the end of this term. It is reasonable that there should be a quarterly update on change management within the Department. I believe the Minister is doing as good a job as he possibly can but I certainly would not have believed that his Department was up to standard. That is changing, however, and that is positive.

It is the right decision to hold off on appointing a permanent Secretary General until this report is available. Is the Minister hoping to make a permanent appointment to the position of Secretary General by the end of the year? We want to get the best person into this job. Were it advertised now or had it been advertised before now, people would be or would have been reticent to apply, given that this report was uncompleted and imminent. It is wise to wait until this report has been made available to the Minister. At least then we will know the change management that is going to happen and the new person will oversee that change. I also welcome that we are going to have a new Garda Commissioner in place by the end of the summer. That is important as well.

Deputy Charles Flanagan: I assure Senator Conway and all members of the committee

that the change reform group report, once given to me and the Government later this month, will be acted upon expeditiously. I expect we will move towards the appointment of a permanent Secretary General during the summer and that the position will be filled by the end of the year. That is subject to recommendations that may be made in the change report.

Chairman: I thank the Minister.

Deputy Charles Flanagan: If the Chair is not going to come back on the McAnespie issue, I will respond to Senator Conway. If he is, however, I will wait.

Chairman: I intended to. I smiled when Senator Conway said he was the fifth person to speak because the Chair is always last, at least on this committee. I call Deputy Donnchadh Ó Laoghaire.

Deputy Donnchadh Ó Laoghaire: As Senator Conway said, many questions have already been asked. I note - other people have a contrary view on this - that with regard to the Commission on the Future of Policing in Ireland report, due to be published in September, an opposite approach is being taken to that taken with the Secretary General. We are awaiting a report to see what recommendations are made before deciding to move ahead with an appointment. The appointment of the Garda Commissioner is being proceeded with in advance of the report coming back. In any event, that process is well under way, as I understand it.

While I included this point in my submission to the Commission on the Future of Policing in Ireland it is both a matter for its deliberations and one for the Minister. How does he intend to ensure that the recommendations coming out of this report - I hope they will be radical and substantial - are implemented? I proposed previously that somebody independent would be permanently responsible - at least in the early years subsequent to that report - for overseeing the implementation and monitoring of that. Is that something to which the Minister has given any thought?

Deputy Charles Flanagan: Yes, I expect to have the report by September, which is the recommended date upon which the commission would complete its work. I have no doubt that it will be most reforming and radical in terms of its recommendations for the future of policing and its assessment of the current situation. I would be very keen to ensure, as the Deputy said, that it raises something of an implementation person, or a small body, perhaps a couple of people, who might be in a position to accept responsibility for the delivery of that change. I am not fixed on that yet but I believe the Deputy made an important point in that if there is a certain number of recommendations, it would be important, therefore, that there would be a mechanism for ensuring the implementation. I do not have a fixed mind as to whether that is an external person or not. I am very keen to ensure that there is from the very beginning a pathway or avenue for change, with somebody who will be charged with the responsibility of overseeing the implementation of the commission report.

Deputy Donnchadh Ó Laoghaire: I do not want to comment on the high-profile court case in Belfast, or to comment on the outcome of it, but subsequent to it, I wrote to the Minister on the need to reconsider our legislation on sexual assault and sexual crimes. Given the speed of his response, I am sure he had arrived at that conclusion himself. As he said, he announced a review of same and I have a number of questions on that. What is the timescale for that? I was unable to find online, and I may be mistaken, any call for submissions or anything like that. If there is such a process, could the Minister outline what it is?

There is a similar process - I raised this with the Minister in the Dáil recently - although not identical, happening in the North at the moment under direct rule. What is the level of communication or co-ordination? This is a unique opportunity to ensure that legislation North and South on sexual crimes is well aligned and that there is as much consistency as possible across the board. Has there been communication with the relevant authorities in the North on their review of sexual crimes and sexual offences?

Deputy Charles Flanagan: I am at something of a disadvantage in that regard insofar as I do not have a Minister with whom I can discuss these issues. That is a consequence of the failure of the parties to agree to put together an executive in accordance with the wishes of the people. I enjoyed engagement with my Northern counterparts in the past but I am at something of a loss now. Had I a Minister with whom I could engage, this is precisely the type of issue I would like to deal with. I would welcome a submission from Deputy Ó Laoghaire and I am very anxious to hear from people. I had a number of meetings with stakeholders involved and advocacy groups which I thought was very worthwhile, and I hope they did too.

I am very keen the review will be a speedy one and that progress will be reported by the end of the summer with a view towards having a more concrete path forward in terms of change by the end of the year. However, I would see the issues in two baskets. The first basket would be court practice and procedure and how best to reduce the trauma and, indeed, the vulnerability of many complainants, witnesses and victims before our criminal justice system and the interaction with the Garda Síochána to ensure continued roll-out of the new obligations on engagement. The second basket would be to consider any proposed legislative change, which would be more medium term. I would hope to be in a position to produce items from both baskets, some of which could be dealt with fairly speedily, by the end of the year. I have met advocacy groups, victims' groups and An Garda Síochána and I intend to formally meet members of the legal profession.

The Deputy is correct about engagement with Northern Ireland. I know there is engagement between the legal bodies, for example. There is contact between our respective Departments and officials will meet next Friday. There is ongoing engagement between PSNI and An Garda Síochána. I would welcome any submission that the Deputy, his party or, indeed, this committee might like to make. I am anxious that this does not become a body of work that takes years to complete. In terms of the two baskets, on the one hand, there is practice and procedure and the Garda Síochána while, on the other hand, there is any proposed legislative change.

The fallout, or the consequential adverse public opinion or anxiety, from the Belfast case has got to be set against the background of this case taking place in another jurisdiction. Our law is different and many of the anxieties in Northern Ireland would not be reflected here in terms of the manner in which we run our cases, with particular reference to anonymity or screen-based procedures, for example.

Deputy Donnchadh Ó Laoghaire: I am aware of that and that not all the procedures would be the same but there are issues of concern that exist here and in the North. I am not totally satisfied with the Minister's response because we can have debate around the Executive and the Assembly *ad infinitum* but there is a process happening. I think it is being chaired by Sir John Gillen. There is no reason the Department of Justice and Equality cannot engage with that process to ensure there is as much commonality in the process here as there and that there is co-ordination. This is a real opportunity to try to ensure as much consistency as possible across the Border. Will the Minister commit to making contact with Sir John Gillen's review body to ensure there is some kind of co-ordination and communication?

Deputy Charles Flanagan: I would be happy to do that and to communicate with the Deputy. We meet regularly on the management of sex offenders. There is that official level engagement, which will continue. I would be happy to drop a note to the Deputy on exactly where we are in that regard. I certainly would welcome a bilateral engagement at ministerial level, which I hope might be the case in the not too distant future.

Deputy Donnchadh Ó Laoghaire: I want to move on to policing issues. Could I have an indication from the Chairman as to a conclusion time?

Chairman: No, you are okay. The Deputy is not the last to speak. I know that the Deputy is conscious of others.

Deputy Donnchadh Ó Laoghaire: Yes, Chairman, that is why I am asking.

I want to move on to policing issues. There have been reports recently and parliamentary questions have been tabled to which I do not believe direct responses have been received. Parliamentary questions have been tabled by Deputy Broughan and others on the capacity of front-line gardaí to give chase. That is a very serious issue in rural areas, in particular where people might be a significant distance from a station, in terms of response times to burglaries and so on. My understanding is that those questions have not been fully answered but the Garda Representative Association believes that almost 50% of front-line gardaí, that is, the core units of gardaí attached to district stations as opposed to specialist units - do not have the required competency based driving, CBD, level two training that would allow them to give chase. This is a serious concern. I believe that the person on the street, and most of the Members in the Houses, would assume that the vast majority of gardaí would be in a position to give chase whenever they see a crime being committed and where they feel there is a need to do so. I do not believe that the Minister or An Garda Síochána have released the figures in full. If they have, I have not seen them. Perhaps the Minister could outline the figures and what he intends to do so that members of An Garda Síochána, or the vast majority of front-line members of the Garda, are in a position to give chase in such instances.

Deputy Charles Flanagan: I have seen those issues. When I was criticised by Deputies in the House for an absence of training, it coincided with a visit I made to Tralee Garda station, where I attended a continuing professional development, CPD, class with up to 25 ordinary rank and file gardaí from Kerry who were engaged in ongoing CPD on the day of my arrival. It is fair to say there is an ongoing programme of continuous professional development, which is only right when having regard to the legislative change we introduce here on a daily basis.

The Senator referred specifically to driver training. Of course it is absolutely essential that members of An Garda Síochána are in a position to give chase. I am very keen they would have the appropriate resources to do so. The Garda fleet has seen a significant cash injection in recent times to allow for state-of-the-art vehicles to come on stream.

I have raised the issue of driver training for An Garda Síochána. Members will appreciate the fact that not all 13,500 members of the Garda need full training in rapid chase expertise. If there are four gardaí in the car, for example, then one is a driver and three are gardaí. I have, however, raised the issue with the Garda Commissioner and I expect that it will be addressed in the context of training and there will be greater concentration on specific, expert driver training. That level of expertise has been attained by just under 3,000 members of the Garda in the past four years. I will be happy to communicate further details once I have a response from the Garda Commissioner about the current driver situation.

Deputy Donnchadh Ó Laoghaire: Does the Minister have the figures for release?

Deputy Charles Flanagan: I would be happy to release them if I had them.

Deputy Donnchadh Ó Laoghaire: Garda visibility, which I raised with the Minister previously through parliamentary questions, is a problem all over the State, but I will refer to the stations in my constituency. Every Garda station in and around Cork city district has had its numerical strength reduced since 2010. This is a fact. Some of the stations have had their numbers reduced substantially. Mayfield Garda station went from 51 gardaí down to 42 in the past 12 months alone. I believe the situation is the same in Dublin. Assistant Commissioner Pat Leahy said the situation in Dublin has hit “rock bottom”, or at least that was the case in January. I am not sure if much has changed in the past four or five months.

I understand that probationers are coming out of the Garda College in Templemore but because of the increased importance being placed on vital specialist units - the Garda National Protective Services Bureau and some of the other specialist units do a vitally important job - they are increasingly taking the focus. From speaking with members of the Garda, I gather that experienced, qualified gardaí are being moved into these specialist units and the probationers are, essentially, only taking the place of those senior gardaí in the core units. Therefore, the numbers in the core units and Garda districts have not increased and while they might be at the same numerical levels, they have lost quite a lot of experience. This is having an impact on their ability to focus on community police work. This is combined with a 40% decrease in the number of community gardaí over the same period, which is particularly acute in areas such as Donegal and Limerick but which is having an impact right across the board. Perhaps the Minister will comment on this point.

It seems as though there is a commitment to have 15,000 sworn members in An Garda Síochána by 2021 - and we are almost at that figure already - but units are barely keeping pace with the position that obtained six or seven years ago before the significant reductions in numbers. Does the Minister believe there is now a need to reconsider whether that figure of 15,000 for sworn members needs to be revised to ensure the complement of core units of district gardaí out on the beat can be restored to a reasonable level to re-establish visibility in order that people can have confidence in the visibility of the Garda in their communities?

Deputy Charles Flanagan: The question of numbers is a subject matter of ongoing monitoring by Government. I am very pleased that the targets are being observed. I am looking forward to the passing out ceremony at the Garda College in Templemore on Friday. By the end of 2018, we will have seen a further 500 gardaí come on stream, similar to last year’s figure. The moneys allocated will facilitate the recruitment of 800 new recruits per year. When one takes into account retirements, which is in the region of 270 to 300 members per year, there is a net intake of 500 members of the Garda per annum. These are well-trained gardaí, albeit subject to gaining some experience. This is why supervision across the stations is so important. I am keen that these targets remain firmly on track and I am confident they will. I seek, however, a greater level of progress on the matter of civilianisation. I seek to have 4,000 civilians assisting the 15,000 sworn members by 2021. I also want to see an enhanced Garda Reserve with an increase in its numbers up to 2,000 by that point.

I acknowledge the importance of the specialist units. There is some lacking of appreciation of community gardaí. I have been told that some Garda divisions have considerably fewer community gardaí than others but much of that stems from designation. One could justifiably state that all front-line gardaí are, in effect, community gardaí. I visited Cork recently and had

the opportunity to speak with some members of the Garda in the metropolitan area. While the issue of the deployment of gardaí is a matter for the Garda Commissioner, I am sure that Garda management is aware of needs in certain areas.

From my perspective as the Minister, I wish to ensure we have the resources to facilitate increased numbers, for training and supervision and for the provision of equipment. I do not intend to review the numbers of recruits immediately, as the Deputy has asked. I am, however, very keen to see a greater level of accelerated progress on the process of civilianisation. I am sure that Deputy Ó Laoghaire will agree with me that availability and visibility of members of the Garda is what communities want. I believe it is also what this committee wants and what we all want, and that we can work together towards this goal.

Deputy Donnchadh Ó Laoghaire: Yes, that is what we want but I am flagging the issue because the Minister referred to targets and so on. I understand the Garda is not far off reaching the current target and when that target is reached, the Minister still will have a situation where sergeants and superintendents will be crying out for core unit gardaí. I believe this is very likely to be the case.

I have a few questions on legislation and wish to ask a question on the reception conditions directive. The Minister might address these questions together. Can he give an update on when he expects Committee Stage of the Judicial Council Bill to be taken? An amendment to the Data Protection Bill, which prohibited micro-targeting at those under 18 years of age, was passed. The Minister outlined in the debate on the legislation in the Seanad that it required the attention of the Attorney General. Can he give a timeline for that and how he intends to move forward with that? Will he indicate if and when the Government intends to ratify the optional protocol to the UN convention against torture?

Deputy Charles Flanagan: On the Judicial Council Bill, we are proceeding with working through the amendments. There are a number of specific amendments on the matter of sentencing information, to which the Deputy referred. If I do not have the full suite of amendments ready by the summer recess, I will have prioritised the work on the sentencing issue and I would be happy to share those amendments with the Deputy, which may at this stage be separate from the overall body of amendments to the Judicial Council Bill. We are working on the amendments, in which the Deputy expressed an urgent and active interest. I will have something on that by the end of the recess.

On the Data Protection Act, I referred a section to the Attorney General. I do not anticipate any great delay in that. A matter of weeks was anticipated and that was two or three weeks ago. I will provide the Deputy with an update on that but it is not something that will endure right throughout the summer months.

On the fraud convention, I do not have an immediate response on that-----

Deputy Donnchadh Ó Laoghaire: The Minister appears to have referred to the wrong convention. I asked about the optional protocol to the UN convention against torture.

Deputy Charles Flanagan: I expect we will be able to move on to conclude that within the next few weeks. We received submissions in April, which have been under consideration. That consideration will be completed in June or early July and we will then be back to the newly-appointed Inspector of Prisons, whose appointment I welcome. I recently had an opportunity to meet her. After that, we will be in a position to develop a policy position. I hope we could

then proceed with the drafting of legislation, which would allow for ratification. We will make progress between now and the end of the year. As to whether that would be sufficient to allow for ratification, I will have to communicate with the Deputy on the actual timelines.

Deputy Donnchadh Ó Laoghaire: Very well. It would be appropriate to communicate with the committee as whole on the ongoing process because other Deputies also have an interest in this.

On the issue of the reception conditions directive, other speakers have touched on it and I am under no illusion about it. As the Minister said, there has been some confusion regarding people presenting the interim solution as the long-term solution. I understand it is not the long-term solution. My concern is that the long-term solution would far too closely resemble the interim solution. Regarding the threshold being asked in terms of the interim solution, self-employment has been marginally better but of the number of people who have sought employment permits, I understand only two or three people have successfully done that. The threshold required would be very high for most Irish citizens; people born, raised and educated here would have difficulty reaching it. It cannot be the case that the long-term solution would resemble anything like that. I ask that it be addressed in as short a period as possible. The nine-month period is too long and there should be as minimal restrictions as possible.

The Irish Refugee Council raised the point that asylum seekers have had difficulty seeking readmission to direct provision centres in circumstances where they may have been living with a friend and so on. Obviously, they are not entitled to social housing. I understand the directive provides for a humanitarian basis, for a floor to avoid destitution - I believe that is the phrase referenced in it - requiring that asylum seekers would be entitled to readmission to direct provision centres. Is the Minister aware of this issue and does he intend to address it?

Deputy Charles Flanagan: As far as the right to work is concerned, there will be no restriction on that right for those who are in direct provision; it would involve everybody who has an engagement with the system. I am keen to ensure the new regime will be open, broadly based and will not merely acknowledge any skills deficit we might have in our labour market but will acknowledge the expertise and experience of those in the system. In that regard, I am keen to ensure it is broadly based.

I note the point the Deputy made about readmission to direct provision for asylum seekers. That is important in terms of essential food and accommodation. Direct provision currently is at 99% capacity, which is a challenge. It is one, which, in the context of my deliberations with my colleague, the Minister for Housing, Planning and Local Government, is ongoing in terms of ensuring there is an appropriate level of accommodation available for everybody in this State and, of course, I include those who have an entitlement. I acknowledge the fact that the directive allows for a readmission. Our current practice allows for readmission and that will continue but it will continue against the background of a very challenging scheme of direct provision where we are at 99% capacity. As the Deputy and Chairman will be aware, we have obligations as a State, from a humanitarian point of view, to people entering our shores, as they do on a daily basis.

Deputy Donnchadh Ó Laoghaire: I corresponded with the Minister recently about a number of queries I have regarding the Garda Síochána Ombudsman Commission, GSOC. One of those queries related to a report prepared for the GSOC directorate regarding work practices and case management in the Longford office. Did the Minister read that report? Is he satisfied that the issues raised in it have been resolved? Is he confident that the work practices in the

Longford office are currently up to scratch and satisfactory? Is he confident that any investigations that went through the Longford office in that period were of a satisfactory standard?

Deputy Charles Flanagan: That matter is currently before GSOC. I am aware of the contents of the report but would not wish to comment on anything that is before GSOC. However, I hope the issue can be advanced at the earliest opportunity, having regard to the concerns raised.

Chairman: Does Deputy Ó Laoghaire have a final supplementary question before he concludes?

Deputy Donnchadh Ó Laoghaire: Briefly, has the Minister confidence in the work and output of that office and of GSOC generally over the period to which I referred?

Deputy Charles Flanagan: I would rather not make any comment on the details of the matter in terms of confidence or otherwise until such time as matters are investigated.

Chairman: We will have to let the matter rest there. I call Senator Frances Black.

Senator Frances Black: I will try to be brief. I commend the Minister on his work recently with the Magdalen women, which was phenomenal. I welcome the fact the Minister will meet the McAnespie family. I cannot imagine what it must be like for them.

I have specific questions on the right to work for asylum seekers following the points raised by Deputy Clare Daly. I share her concerns and the restrictive interim right to work scheme. The directive outlines the bare minimum of standards, but Ireland has discretion on this. It states, for example, that asylum seekers must be allowed to work after nine months awaiting a decision, but most EU states afford this right at six months or less. Will Ireland meet this better standard, especially as under the International Protection Act 2015, applicants should receive a decision within six months? I will ask all my questions together, a Chathaoirligh, if that is okay.

The directive contains provisions on ensuring respect and dignity for asylum seekers. Will this affect how direct provision is run? Is the Minister satisfied, for example, that €21 a week is enough money to ensure dignity, even though it makes it almost impossible to pay for clothes, books, travel and other vital aspects of daily life? I know of a woman who was heavily pregnant who had to walk five miles to the local hospital in labour because she could not afford a taxi.

The directive states that especially vulnerable asylum seekers will have access to special reception conditions more tailored to their circumstances. Are systems being put in place to identify and support especially vulnerable asylum seekers, such as those with disabilities? I pose those questions to the Minister and I will then come in on something else.

Chairman: Has the Minister taken note of the Senator's questions?

Deputy Charles Flanagan: We have allowed access to self-employment and I have granted 484 applications for self-employment permission. I want to acknowledge the point that Senator Black made in terms of the period of time under which the application is for consideration. It is important we continue to work on minimising that delay to ensure there is no inordinate delay, having regard to the fact there needs to be an element of due process. My expectation is that under the new regime there will be a reference to the nine-month period, but it may well be possible that applications for consideration under the scheme can be taken at an earlier stage. As I said earlier, until such time as Government approves the new regime, I do not intend to speculate, but my expectation is that this will be a very positive measure and a very broadly-

based scheme in order to meet the needs of those currently seeking asylum and who are enduring delays.

The direct provision allowance will be considered in line with any income from employment and it is an issue that will need to be considered in the context of people in receipt of that allowance going out into the labour market.

Ultimately, I believe the new scheme will be broadly-based. I am confident that it will be well-received and I look forward to the continuing cross-party support that this measure has received since we decided to opt in to the directive.

Chairman: Does the Senator want to-----

Senator Frances Black: I refer to penal policy and the urgency around the mental health issue in the prison service. I want to highlight the urgency of this issue and how important it is. From my own experience of working in the prison service with those in addiction and with family members who have loved ones in addiction, I believe there is a huge urgency around this issue. Addiction problems in the prison service is one of the main issues and if more money was put into intervention and addiction treatment services in the prison service, it would probably save the Department and the Government a phenomenal amount of money, in particular in the context of crime. Perhaps the Minister might consider this at some point; I just wanted to flag the urgency around this issue.

Deputy Charles Flanagan: I very much accept what the Senator has said and maybe it is a matter we might revisit by way of a Commencement matter in the Seanad or at some further opportunity. I am very keen to ensure that those who are in the prison system receive an appropriate level of treatment, be it medical, psychiatric or psychological, from the health authorities. In the course of my visits to prisons, I have been impressed by the work being done in that regard. However, there are still gaps in the system and I share the Senator's concern. It is important the prison service continues to engage with other agencies to ensure the best possible results are achieved from resources as applied.

Chairman: I have a number of questions I want to pose, but at the outset I would like to address the Crowley report and the murder of Mr. Aidan McAnespie. I carefully noted the replies the Minister gave. He stated, and I welcome what he said, that progress can be made on this issue. The Minister went on to say that there was material in the report that it was not possible to release. I have been mulling this over while following the rest of the debate. I also note that the Minister has indicated that he will hopefully meet with the McAnespie family during the summer recess, which I welcome. I find it hard to understand that there would be material in this report that it is "not possible to release". This is what I have scribbled down and the Minister can correct me if I got it wrong. It poses the question as to whether Assistant Commissioner Crowley confined his engagements with witnesses to his brief. I was one of those witnesses. Did he confine his engagement with witnesses to his brief on the murder of Mr. Aidan McAnespie and what Mr. Aidan McAnespie had been subjected to in the period leading up to his death? I find it hard to understand that if Assistant Commissioner Crowley focused only on Mr. Aidan McAnespie and his story that there could be any difficulty in publishing this report. Did Assistant Commissioner Crowley stray from his brief in any respect? I know, and can absolutely attest, that Mr. Aidan McAnespie was a young, innocent and nationalist male. That is universally accepted. He did not deserve to die when he did, and how he did. What can it be about this report that poses such questions and such difficulties? I very genuinely and sincerely put the proposition to the Minister to write to all 40 odd of us who appeared before As-

sistant Commissioner Crowley. I can still recollect the opportunity I had. I cannot for the life of me believe that the report cannot be published, particularly if it related to the murder of Aidan McAnespie and all that led up to it. I was only able to give an account of my meeting and subsequent engagement with the late Cardinal Tomás Ó Fiaich. Again, I would like to acknowledge the latter as a most open and sincerely concerned representative voice at that time. Although I was an elected representative, I did not have access to the Minister's predecessor in those days.

I am concerned. I am of the view that John McAnespie, at 83 years of age, is entitled - as are all the members of his family and all who have worked so hard over the years - to get the full truth. We need all the truth in respect of the murder of Aidan McAnespie. If Deputy Commissioner Crowley strayed from the matter being addressed, I hope that, as the Minister indicated in his first response, progress can be made on this issue. I am only interested - and I would expect that most anyone else is only interested - in what was relevant and pertinent in respect of the murder of Aidan McAnespie and all that he had been subjected to in the years leading up to his death. Would the Minister like to respond?

Deputy Charles Flanagan: I respond by saying that my aim is to do all I can to make as much information from the Crowley report as possible available to the McAnespie family. I will continue to work with that aim in that regard. However, it is important that we recognise the fact that Deputy Commissioner Crowley's report made clear, as the Deputy will recall, that many in the local community feared harassment by the security forces in Northern Ireland.

Chairman: That is the truth.

Deputy Charles Flanagan: Members of the community who co-operated explicitly requested anonymity and were given assurances in that regard. It is fair to say that many only co-operated with Deputy Commissioner Crowley on the strict understanding that their contributions would be confidential and that what they related was not going to be made public or passed on to others involved. I acknowledge the helpful suggestion the Deputy made some months ago that contact be made with the 40 or so witnesses, but it is not only about persons named in the report. Throughout the report, evidence given and information tendered refers to third parties and involves other people. This causes a difficulty with any publication. Looking back - and the Crowley report was compiled some years ago - there still remains a very heavy burden on Government and a very strict legal duty on the State that cannot be easily set aside or surmounted, even having regard to the changed circumstances and the passage of time. I say that against the background of my desire to be as open and helpful as possible. I will continue to engage with the Chair and with other parties in order to see how best we can deal with this vexed issue.

Chairman: I thank the Minister for his frank reply. Sitting through this meeting, perhaps my eyes are opening to the possibilities in respect of the Crowley report for the first time. I cannot speak for the McAnespie family but I have no interest in references to third parties of any description. What is crucially important is-----

Deputy Charles Flanagan: The Chairman will acknowledge that there are references to third parties, however.

Chairman: Only because the Minister has just told me of their existence. I would not have been conscious of that but I hear what the Minister is saying. I cannot speak for the McAnespie family or their legal advisers who, I have no doubt, would find this exchange very interesting. As one of those who presented, I think it is crucial to note that all of the relevant and salient

information relates to what I have already said was my clear understanding of the purpose and intent of Deputy Commissioner Crowley's report, which was to investigate the matter of Aidan McAnespie's murder and the series of events over a protracted period leading up to that terrible event. I will say no more at this point.

Deputy Charles Flanagan: I will just add something which may be of benefit to the Chair and to members of the committee who have an interest in this matter. I accept what has been put to me, which is that, as an initial step, consideration might be given to seeking the views of those who co-operated and to seeing how they now stand in the context of what was said at the time and what has been produced in the report with a view towards seeking out their consent and finding out whether, because of the passage of time and the changed security circumstances, they might be amenable towards certain sections of the report being made available.

Chairman: That has always been my belief. I acknowledged earlier the point the Minister made. It was my very definite understanding that at the time of the report people would have been afraid. Why would they not have been afraid? A young man had just been shot dead going through a checkpoint that I have no doubt was part of daily life for many of them. That has all changed. Thankfully, there has been an utter and total transformation.

Deputy Charles Flanagan: As a second point, which is perhaps for later on but which is not insignificant, contact would have to be made with everybody who has been mentioned in this report in any way. That would involve many more than the number of witnesses who came forward to give evidence. It would involve people to whom reference was made. That leaves us in a challenging position. We have been in contact with the Garda Commissioner and the Attorney General. I will meet with the family. I would have done so in recent weeks were it not for the very full schedule I have had here but I will make time for that opportunity over the summer months. I would hope to do that in a way that might progress this issue.

Chairman: We are into a slightly new area here in terms of what the Minister has indicated. I note it very carefully. I absolutely concur that a meeting with the family is important. Such a meeting is essential. I hope that it will still be possible to do as the Minister said at the outset in his first reply to Senator Ó Donnghaile and that progress can be made on this issue. That is what I would like to see.

Moving on from that, my questions are in no particular order but I will go straight to An Garda Síochána and an area which has not been addressed with the Minister at all, namely, the issue of gardaí who retired before 1 October 1976. The Minister will remember that we corresponded with him and we met with representatives of those gardaí. We have done an exercise on correspondence and replies to this committee. It took five months to get a response from the Office of the Garda Commissioner to correspondence that I issued on this matter. Describing it as anaemic is putting it very mildly indeed. As the Chair of this committee, any correspondence I issue is on behalf of the committee. I will give the Minister the statistics in respect of his own Department shortly. They cover a nine-month period. The poor co-operation and response times - and no responses in many cases - have frustrated me. On the case of this group of former gardaí, it took five months to get a reply that could have been written the following day. It offered nothing as a response - it was not a reply. These gardaí were not represented in the engagement that took place and which was signed off on the arbitrary date of 1 October 1976.

We have met some of them. Some have been more fortunate in life than others who are now in very stretched financial circumstances. It was not going to break the Bank of Monte Carlo to exercise outreach in this instance. There were fewer than 20 people. There was an instance

where a garda had received the pension. He had taken a particular course before that 1 October date. Why was fish made of one and flesh of another? I feel angry that they are in that position given their service. It is a significant number of years in some cases yet they were left high and dry. It is wrong. That was a unanimous position supported by the colleagues of the Minister representing his party on this committee. We were of one voice, *una voce*. On behalf of the committee, I appeal to the Minister - even if his first response is that he may not be able to do anything - to look at it again.

Deputy Charles Flanagan: The Chair is right on both counts. I will look at it again. My recollection, however, is that it involves people other than my Department. I will certainly have a look at it and I will also revert early.

Chairman: Will the Minister come back to us?

Deputy Charles Flanagan: Yes, I will.

Chairman: That is no more than these former members deserve. I know the Minister has been in the dock on the case of Mr. Shane O'Farrell, both last evening and last week. I did not expect it back so quickly. It would, however, be remiss of this committee not to reflect on it. His mother has been one of the most regular correspondents with this committee. We do not, however, as a committee, deal with stand-alone individual cases. We could not cope with that. In respect of the full public inquiry and the whole idea of transparency, I do not know where the Private Members' Bill from last evening will go when voting decisions are made tomorrow. Leaving aside some of the Minister's positions from last evening and just looking at it here, this is a very serious matter.

I refer not only to the tremendous hurt of the O'Farrell family but the litany of failings added to that. That is the mildest way to describe what led up to that terrible event on 2 August, the day of Mr. O'Farrell's tragic death. There is a societal requirement to address properly all of these failings. Will the Minister give us any hope or expectation? Aside from GSOC continuing to address it, will the Government consider the case of Mr. O'Farrell? It will inform us of where the clear fault lines are in the practices of An Garda Síochána and, indeed, the judicial system.

Deputy Charles Flanagan: It is over five years ago since I met Mrs. O'Farrell. I acknowledge her sincerity, her sense of determination and, of course, her deep sense of loss and grievance. I am now subject to a vote of the Dáil, which is under consideration. That vote will take place tomorrow. I am also conscious that an independent body, GSOC, is continuing an investigation which could well result in disciplinary proceedings being taken against members of An Garda Síochána. I acknowledge, however, that there have been a number of failures across the criminal justice system. A means to address these failures must be found. I am keen that GSOC would conclude its work as early as possible. I acknowledge that the previous unrelated investigation did take a number of years. I would, however, like to see these remaining investigative procedures and practices take a much shorter period of time. I would like to see it completed soon for a number of reasons, not least of which is the public interest, as the Chair himself stated. I would be happy then, in conjunction with my Government colleagues, to see what further steps would be appropriate, given the circumstances and subject to Dáil votes and any direction I might be given by Dáil Éireann.

Chairman: I thank the Minister. We will hope. I will address three items of legislation because they have not been flagged. There is delayed legislation on the family law courts.

The Disability (Miscellaneous Provisions) Bill 2016 also comes before this committee. It was flagged initially as part of the reason that we had not ratified the UN Convention on the Rights of Persons with Disabilities, CRPD, and perhaps also why we have not now ratified the optional protocol. Elements of the capacity legislation in respect of the decision support service have also not been commenced. That is also relevant to-----

Deputy Charles Flanagan: Pardon?

Chairman: -----the capacity legislation-----

Deputy Charles Flanagan: Oh yes.

Chairman: -----in respect of the decisions support service. It is an Act now but some elements have not been commenced. When the Disability (Miscellaneous Provisions) Bill 2016 was first presented here it was the Equality-Disability (Miscellaneous Provisions) Bill. We corresponded, initially, with the Minister's predecessor and the Department of Justice and Equality on that on a number of occasions. Will the Minister give us an update on those three items of legislation? Two are pending and one has elements that have yet to commence. Representatives of the Minister's Department have come before this committee in respect of the latter two items of legislation. I can confirm that.

Deputy Charles Flanagan: I note, from the committee's programme of business, that the Minister of State, Deputy Finian McGrath, is due here in two weeks.

Chairman: That is correct.

Deputy Charles Flanagan: This is an issue within which he has officially designated responsibilities. I would rather leave these matters for that meeting, at which Deputy Finian McGrath would be in a position to provide the committee with his stated timeframes. In the context of his ministerial responsibility, I have acknowledged the designated role he has under law, and I have been happy enough to allow him to proceed. I suggest that that might be a better course of action.

Chairman: I understand that and will accept that in respect of the latter two items but can the Minister give us an update on promised legislation in the area of the family law courts?

Deputy Charles Flanagan: One of my priorities in the Department of Justice and Equality is that we move towards a dedicated family law unit within the current Courts Service structures. This will involve capital investment, dedicated judges and something of a transformation of what is a less than satisfactory regime in which the State manages its family law issues. The Act is at a very early stage of preparation. I do not wish to raise the expectations of the committee. I do not expect anything over the course of this summer but I expect we will be in a position to move matters forward somewhat by the end of the year. On the capital side, I am very keen that we proceed on the new family law headquarters in Dublin. A site has been identified. I am anxious to ensure an appropriate level of funding to allow that to commence. In the meantime, I engage regularly with the Courts Service to ensure that people engaged in family law cases can have their matters dealt with expeditiously and effectively. I am a little concerned about the fact that oftentimes, in both Circuit Court and District Court, there is a less than dedicated family regime. I would like to see a dedicated regime rolled out across the country. I would be happy to drop the committee a note in the autumn on the progress made.

Chairman: Please do. It is an issue we have identified as part of our priority programme

and we would welcome such an update.

The last-----

Deputy Charles Flanagan: I wish to acknowledge progress, though, in respect of specialist family judges and specialist family lists. However, having acknowledged progress, I would like to see a separate division within the Courts Service in our law.

Chairman: I made reference earlier to slow replies. Is the Minister himself or are his officials aware that there is a requirement on each Department to reply to a committee regarding recommendations contained in a report submitted for the Department's attention and address within a three-month period? This has only recently been confirmed by the Taoiseach himself. The matter came before a meeting of the Working Group of Committee Chairmen, which I attended. We highlighted the difficulties that this and other committees have in this regard and this was the Taoiseach's confirmation. We have submitted a number of reports over the period since this committee was established this time two years ago, immediately prior to the summer recess of 2016. That three-month requirement in respect of a detailed, considered response to recommendations made has not been adhered to. I am not looking to go back in time over anything; I am urging the Minister's address of this matter into the future. That is the purpose of my highlighting it. I have reflected on an earlier period but I am looking at the list of correspondence over the same two-year period in respect of individual case referrals, confirmations of engagements with chairpersons designate, reports sent and matters forwarded for attention. We received ten replies and six acknowledgements. Where an acknowledgement at least was due in 22 cases, none issued to the committee. I am only reflecting this to the Minister. It is an exercise that the secretariat carried out at my request in advance of today's meeting. I am not interested in pedalling back over all that. What I am asking is that, as Minister, and with his senior officials with him today, Deputy Flanagan take on board that there is a frustration within the committee. We do not want to have that frustration with him and his Department officials. It is easily addressed, and I ask him to note it and accept it in good faith, in the way in which it is intended, because I am not going back over all this.

Deputy Charles Flanagan: That is okay, and it is important that the Chairman makes these points. I will do more than note it. I would be very happy to take a copy of the list prepared by the secretariat. I go back to the points I raised earlier with Deputy Jack Chambers. I would be pleased to put something in writing to the committee in respect of the extent of reform within the Department and the timeframe for the various reform recommendations and reports. I will drop the committee a note on that matter of reform and I will make reference to the responses I gave to Deputy Jack Chambers. I will just add that there are many issues in the Department that are the subject of change and specific groups charged with the implementation of that change, some external, to which I have referred. I believe it is important that the engagement between the Department of Justice and Equality and parliamentary committees is mutually beneficial. I would be keen to have a look at issues that the committee might regard as unsatisfactory and issues that I might see as being obstacles to replies. I will be happy to receive the list after this meeting. Let me once again assure the committee that my departmental officials and I are very keen to ensure there is a relationship with the committee that is constructive and positive and that recognises the sovereignty of Parliament on many of these issues. I hope the list the secretariat has made will not be repeated in future.

Chairman: It only remains for me to thank Senator Black for holding course with me and again to thank the Minister and his officials for attending. If there is nothing further - and I am exhausted - then that is that.

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The joint committee adjourned at 12.48 p.m. until 9 a.m. on Wednesday, 20 June 2018.