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**Thursday,
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DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

SEANAD ÉIREANN

TUAIRISC OIFIGIÚIL—*Neamhcheartaithe*
(OFFICIAL REPORT—*Unrevised*)

Thursday, 2 November 2006.

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SEANAD ÉIREANN

DÍOSPÓIREACHTAÍ PARLAIMINTE PARLIAMENTARY DEBATES

TUAIRISC OIFIGIÚIL OFFICIAL REPORT

IMLEABHAR 185

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Chuaigh an Cathaoirleach i gceannas ar 10.30 a.m.

Paidir.
Prayer.

Business of Seanad.

An Cathaoirleach: I have notice from Senator Dooley that, on the motion for the Adjournment of the House today, he proposes to raise the following matter:

The need for the Minister for the Environment, Heritage and Local Government to examine the feasibility study for the construction of a river crossing at Killaloe, County Clare, and the associated bypass of Killaloe.

I have also received notice from Senator Browne of the following matter:

The need for the Minister for the Environment, Heritage and Local Government to indicate the number of one-bed dwellings built by local authorities over the past ten years; and whether the Minister will indicate current Government policy on same.

I have also received notice from Senator Feighan of the following matter:

The need for the Minister for Education and Science to clarify when it is envisaged that the site for the proposed new community college in Ballinamore, County Leitrim, will be pur-

chased; and the progress made on the project to date.

I regard the matters raised by the Senators as suitable for discussion on the Adjournment, and they will be taken at the conclusion of business.

Order of Business.

Mr. Dardis: The Order of Business is No. 1, a motion agreed by the Committee on Procedure and Privileges which sets out the arrangements for the address by the European Union ambassador to the United States, Mr. John Bruton, to Seanad Éireann on Wednesday, 8 November 2006, to be taken without debate; No. 2, statements on the sectoral plans in accordance with section 31(6) of the Disability Act 2005, to be taken on the conclusion of the Order of Business and to conclude not later than 1.45 p.m., with the contributions of spokespersons not to exceed 15 minutes and those of other Senators not to exceed ten minutes, on which Senators may share time and with the Minister being called upon to reply not later than ten minutes before the conclusion of the statements; and No. 3, Child Care (Amendment) Bill 2006 — Committee Stage, to be taken at 3 p.m. and to conclude not later than 5 p.m. There will be a sos from 1.45 p.m. to 3 p.m.

Mr. Finucane: On foot of a report in this morning's newspapers, I contacted Women's Aid to ascertain the actual position of the organisation. Women's Aid, which provides a helpline for women in distress, received approximately 26,000 calls last year. Regrettably, owing to a lack of manpower——

Mr. Norris: Manpower?

Mr. Finucane: —— and financial resources, only three out of every five calls were answered and, as a result, more than 10,500 people went unheard. It is interesting that 57% of calls made to the helpline related to emotional violence, while the remainder concerned physical violence. Despite the talk about the success of the Celtic tiger, the volume of calls has doubled over the past four years.

Last October, when the Minister of State at the Department of Justice, Equality and Law Reform, Deputy Fahey, was presiding over the launch of the Women's Aid statistics for 2004, the organisation indicated that it needed an additional €70,000 to continue its work. In response, the Minister of State promised to make the requested funding available through the Health Service Executive. I urge Senator Dardis, as Acting Leader of the House, to take this matter up with the HSE so that the funds can be released to allow Women's Aid to continue providing this valuable service. The sum in question is minuscule in the context of the HSE's overall budget and the spending excesses committed by the health services in the past.

Yesterday, I attended a meeting of the Joint Committee on Communications, Marine and Natural Resources on the salmon fishing industry, in the course of which a number of passionate contributions were made by Members representing coastal communities. Overall, we had a broad and enlightened discussion, although given that the Minister for Communications, Marine and Natural Resources had already made his decision on the industry, it was probably post-mortem. In October 2005, the joint committee produced a report on the fishing industry which had a degree of validity at that time, so it would be wrong of us to ignore its advice. There was a sense of realism at that meeting regarding the advice on banning drift net fishing and having a voluntary situation for draft net fishing.

We cannot ignore what is happening in our coastal communities, which are under siege. They are faced with less fishing at sea, quota restrictions and now the added burden of not being allowed to fish for salmon. It will put pressure on other fishing sources.

An Cathaoirleach: Senator——

Mr. Finucane: I am about to conclude and I ask for some latitude. It is a very important issue and I am trying to be balanced in my contribution. It

will put pressure on other fishing species such as lobster and crabs. The report has mentioned a compensation figure of €25 million and a further €5 million, which the Minister has accepted. The issue of compensation should be considered. The Minister of State, Deputy Gallagher, indicated it should be at least €50 million.

An Cathaoirleach: We do not have time to debate these issues on the Order of Business.

Mr. Finucane: I rarely hear the Cathaoirleach interrupt when Senator Brian Hayes speaks on the Order of Business.

An Cathaoirleach: That is not fair.

Mr. Finucane: It is a valid contribution. I was about to reach a natural conclusion anyway. The report has been published and the Minister of State, Deputy Gallagher, recommends €50 million in compensation. We should give serious consideration to this community, which is under siege. We ignore it at our peril.

Mr. Norris: I support my colleague in what he said about Women's Aid. It is a very valuable organisation, which has done tremendous work. The amount involved is negligible and the community gets a very good service from it. I also urge that this money be made available to it.

Regarding salmon, I unequivocally congratulate the Government and in particular the Minister for Communications, Marine and Natural Resources, Deputy Noel Dempsey, a brave, courageous and idealistic Minister who has a fine track record. He did the right thing on this occasion. I have spent the past few days castigating the Government side because I thought its nerve would wobble under the very understandable electoral pressure. I also congratulate the Acting Leader, Senator Dardis, who certainly fought this fight as we on this side also did. Well done and I am glad to have the opportunity to congratulate the Government.

However, in one final area I cannot congratulate any of us. I will give a few points which I would like taken up in discussion. I call for a debate on protection of consumers' rights. In my opinion the consumer has no real protection. For example, we have no proper telephone service. We cannot get our phones serviced. It is never anybody's responsibility. It is always franchised out. We are still paying foreign investors for landlines. It is a kind of absentee landlordism. How on earth are we putting up with it? The company tells us it is recording our phone calls. How dare it? It never asked my permission. I hear these bland announcements that the phone call will be recorded.

I opposed the lifting of the groceries order. However, there was a gathering rush by the so-called Competition Authority which could not even submit its views in time in a matter involving

the oil industry. It failed to meet the deadline. The head of the body previously advised one of the companies, which is an extraordinary business. It is led on the other hand by a television entertainer, who at the moment is answering questions about his, apparently, quite honourable involvement in a failed investment company, in which at the time it collapsed he retained 24% or 25% of the shares. How can people be pushed into this? We know now that there has been no reduction in prices despite the suspension of the groceries order.

The banks refuse to deal with their customers on a human level. Many of us pay the highest possible rates to the Voluntary Health Insurance and are entitled to free treatment. Do we get free treatment? No, we must pay by cash or cheque with a banker's card. We then need to do its paperwork to get money back eventually after it has invested it and got interest. There is no real protection. These are just a few areas. I am sure all my colleagues could produce other areas in which the consumer does not have his or her interests guaranteed or maintained.

Labhrás Ó Murchú: I read a very disturbing report today, which should be a source of great concern to all reasonable people. I refer to the case of the young pregnant woman in Limerick who was arrested and put in prison because she owed a few hundred euro as a result of a road tax court case. I am told that within the prison she was highly traumatised, was acting uncontrollably and was within days of giving birth. She was taken to hospital where she gave birth and then disappeared from the hospital. In this case common sense and compassion should have been used. I could not imagine this happening in the most repressive regimes in the world.

We need to ascertain how a young woman could be placed in prison over €200 for not having road tax. People who are in debt to the State for millions of euro are walking the streets and constantly thumb their noses at the courts, yet this woman with no one to defend her was placed in that position. It is unacceptable because, as legislators, in some way this eventually impacts on us as well. It is not a matter of suggesting that people should not be held accountable. However, for heaven's sake, surely common sense and compassion should have been employed in this case.

Mr. Coghlan: I fully support what Senator Finucane said about coastal and estuary communities. They are under severe pressure with a complete change of lifestyle forced upon them. I support what he said in echoing the thoughts of the Minister of State, Deputy Gallagher. It appears the compensation package is not nearly sufficient. I appeal to the Government to reconsider the matter.

Members may be aware of a very costly deer fencing programme. I am talking about the premier national park of course.

Dr. Mansergh: Of course.

Mr. Dardis: Is it around the cottage?

Mr. Coghlan: It is close to there as well. It is for the laudable purpose of regenerating the ancient oak and yew woodlands. The Acting Leader may be aware of questions being raised about the EU habitats directive and our UNESCO biosphere reserve designation. I would hope, as would everybody, that there would be no conflict inherent therein. Perhaps a Minister or Minister of State could come to the House for a debate on the matter.

I will briefly touch on what Senator Norris said about the Competition Authority and other matters in the past, so to speak. A television entertainer has commented thereon. It would seem that we have not achieved everything that was held out and promised in the interests of the consumer. It might be a useful matter for debate. That television entertainer seems to be getting mixed up between competition and competitors. Perhaps a case could be argued that he should stick to the knitting.

Dr. Mansergh: In a few weeks we will debate the budget. I am sure it will come as a great comfort to everyone to know that on the basis of a benchmarking of the 12 eurozone Finance Ministers in yesterday's *Financial Times*, the Minister for Finance, Deputy Cowen, was adjudged the most effective. He has been able to generate additional resources for worthwhile social purposes, which include those mentioned by Senator Finucane.

Many of us will have observed with interest the visit of the Northern parties to the British Chancellor of the Exchequer, Gordon Brown, yesterday, which emphasises the best economic future will lie with having a devolved Government and institutions restored. We will not be surprised, however, that a corporation tax rate like ours is only likely to be possible if it is lowered in the United Kingdom as a whole. It raises more fundamental questions as to whether, in terms of first-class economic opportunity, all the people of Northern Ireland would not be better served by a closer relationship with this part of the country.

Ms White: Hear, hear.

Mr. Quinn: May I comment on Senator Mansergh's reference to corporation tax? I agree it is a real reminder of the benefits we have enjoyed in this part of the country and of the disadvantage the northern part of the country has experienced by being connected to the United Kingdom. Whether devolved government would give them some ability to break that link in the future is interesting from that point of view.

I ask that we consider having a debate on privacy. I am not talking about media intrusion because legislation will be forthcoming on that

[Mr. Quinn.]

issue, but a conference is taking place in Britain today which has just published some papers the contents of which are frightening. They state that Britain is the most snooped upon nation in the world. I do not know whether that is true but they believe it is true. They talk about the number of closed circuit television cameras that intrude on people's lives, the DNA database of almost 3.6 million citizens in Britain that is available, understandably, to police and others in an anti-terror campaign, and the fact that we can detect where each of us have been because of the phones we carry on our person, even if we never made a phone call. When I inquired recently about somebody in the United States, I was interested to discover that one can find out what every citizen in the United States who pays tax earned last year. I am referring to these trends because there is another piece of information available to us, namely, patients' medical records which are available under certain circumstances to certain individuals.

We are in danger of a Big Brother attitude taking over in western civilisation. There may be great benefits to be derived from having the protection of information available to others about the way we run our lives, but it is something we should consider debating. The Data Protection Commissioner publishes a report every year. This House has not debated it. That would be a worthy debate to determine whether this is the direction in which we want to go.

Mr. Glynn: I want to raise two matters. Will the Acting Leader arrange for the Tánaiste and Minister for Justice, Equality and Law Reform to come to the House for a debate on vandalism? The recent feast of Hallowe'en is a time when a considerable amount of wanton vandalism takes place but an act that is perpetrated throughout the year is the vandalising of telephone kiosks. As a result, Eircom removes the kiosks but the victors are the vandals in that case, with the public being the losers. I ask that a special fund be made available to provide surveillance to ensure the perpetrators of these acts are caught and punished.

Will the Acting Leader convey my concerns and those of this House to the Minister for Health and Children arising from changes in the medical for the appointment of certain consultants? I understand there are certain difficulties in that regard arising from the Devlin report that was issued last year. Those difficulties are causing delays and other problems and I ask the Acting Leader to convey our concerns to the Minister because these difficulties are causing unjust and undue delays.

Ms Terry: On a number of occasions in this term I called for a debate on domestic violence. I do so again now, especially in light of the launch yesterday of the statistics by Women's Aid, and

to support what the Deputy Leader of the Opposition, Senator Finucane, said in highlighting the lack of funding available to Women's Aid in particular and to other organisations which deal with women in great difficulties. I recognise that a number of men suffer from domestic violence also, about which we are being constantly told.

Such a debate is timely and in light of the forthcoming budget, I ask the Minister for Finance to look sympathetically on the organisations which deal with women and men experiencing domestic violence and that these organisations be funded sufficiently to deal with the problems. It is not good enough that organisations like Women's Aid cannot deal with all the calls it receives in its office. We should take this issue seriously knowing, as we do, that many people are in difficult situations and need their problems addressed. I hope we would have such a debate shortly.

Mr. Lydon: I support Senator Glynn's call for the Minister for Justice, Equality and Law Reform to come into the House to discuss the question of vandalism. I also want to put to the Minister the question of the sale of fireworks, which I believe cannot be sold legally here, yet travelling from Monaghan yesterday morning I saw huge containers full of fireworks. They are also being sold in shops and from vans on the side of the road. Are these fireworks illegal or are they not? Why do the police not arrest the people selling them? We might ask the Minister about that if he comes into the House for a debate.

Mr. Browne: Will the Acting Leader find out whether more amendments will follow today's Committee Stage debate on the Child Care (Amendment) Bill arising from the Ferns Report? The Minister's speech last week was somewhat ambiguous. I hope we will take all the amendments today and that amendments will not be introduced in the Dáil which this House will rubber-stamp subsequently. Will the Acting Leader inquire whether further amendments will follow from the Ferns Report and, if that is the case, explain the reason they will not be dealt with today?

An Cathaoirleach: The debate later today is the time to inquire about that.

Mr. Browne: It is important to know in advance of the debate.

An Cathaoirleach: The Senator would have to get information in advance of a debate but I am just making the point.

Mr. Browne: The Minister did not refer to it last week in his speech on the Ferns Report. I understand there are no Government amendments and I am asking if amendments will be made in the Dáil, provided the Bill is passed by

the Seanad, which this House will have to rubber-stamp.

Mr. Coghlan: Forewarned is forearmed.

Mr. Browne: That is not the way to do business. This is the way it should be done from day one.

I understand TDs and Senators are due to get a pay increase today. I certainly do not——

Ms Feeney: The Senator does not want it.

Mr. Browne:—— oppose it but it is worrying to read in today's newspaper that the Taoiseach said yesterday there is a problem with a shortage of staff in the Bills Office, which is causing a delay in legislation coming forward. I ask the Acting Leader to investigate that matter. I have no difficulty explaining our expenses and our salaries but we should push as much legislation as possible through both Houses. It would be regrettable that because of a shortage of suitably trained staff legislation is not coming forward as quickly as should be the case.

I asked the Leader yesterday about compensation for beet growers but she did not reply to my point. It is disgraceful that beet growers who, through no fault of their own, saw their industry wiped out overnight, like the drift net fishermen, still have not received any compensation and may be liable to tax on any compensation they receive. I understand that in the case of drift net fishermen, their payments could be made over a three-year period to lessen the tax burden. It is important therefore that we ask the Minister for Finance to come into the House to explain the steps, if any, he can take to assist beet growers who are now without work in the beet growing area, have not been compensated and are caught in the middle of a court battle between Green-core and the State. That is not fair.

I have a motion about MRSA on today's Order Paper. Yesterday, the Minister admitted there were 285 known cases so far in the first six months of this year, which is disgraceful. While she correctly points out that the overuse of antibiotics is a cause, that is not the only reason. Unfortunately, many of the State's health facilities are failing in their duty of care in ensuring that when patients arrive with an injury, they are not discharged with an injury unrelated to the one for which they were admitted. That is not acceptable in 2006.

Ms Tuffy: I want to raise an issue that was raised previously by Senator Hayes and other Senators and on which it is important we have a debate. The draft register of electors has been prepared by the various local authorities. In the South Dublin County Council area and elsewhere across the country, the system for preparing it has changed. A form was dropped in the letter-boxes of people who were not at home when the officials checking the register called around. If the

recipients did not return this form to their respective county councils, they were deleted from the register. I anticipate that thousands of people will have been deleted from the register by the time of next year's election, despite their having been on the register in previous years, during which they did not have to return a form to the county council.

This will become a major problem and we must address it. It is not satisfactory. The county councils will have information days to try to get people to check the register for their names and to have their names added if they have been deleted. This will not be enough. The officials will have to call to houses again and put people back on the register so they can exercise their democratic right to vote. We should have a debate on this urgently and have the Minister for the Environment, Heritage and Local Government in the House to tell us how he will deal with the problem. It will be a much greater problem than that outlined in the survey carried out by the Young Fianna Fáil group last year. We must act quickly.

Mr. McHugh: We need an urgent debate on the follow-up to yesterday's announcement on driftnet fishing for salmon. The process has been handled in a simplistic way, pitting driftnet men against anglers. This has done an unbelievable amount of damage to the whole fishing industry. I refer to an entire coastal community that has been completely alienated as a result of the decision. It was in no way consulted on it.

Mr. Norris: It has been going on for years.

Mr. McHugh: The decision was made before most of the fishermen from Donegal and Cork were able to set foot in Dublin yesterday to protest. It was made by Cabinet and not before the Joint Committee on Communications, Marine and Natural Resources. This is not indicative of consultation.

If an adequate compensation package had been put on the table, a voluntary buy-out would have worked. I discovered this on speaking to the fishermen, including driftnet fishermen.

We have alienated an entire coastal community that is otherwise alienated as a result of a decline in the industry, pelagic boats being tied up in Killybegs, crabmen in Downings having to go to Holland to fish——

Mr. Norris: As a result of overfishing.

Mr. McHugh: It was as a result of overfishing in the past but not everybody should be tarred with the same brush. We are talking about livelihoods, tradition——

Mr. Norris: They cannot exist if there are no fish left.

Mr. McHugh: We are talking about a way of life.

An Cathaoirleach: Order, please.

Mr. McHugh: I respect the views of Senators Norris and Dardis but the debate should be ongoing. The angler knows well that—

An Cathaoirleach: We will not debate it now.

Mr. McHugh: —it is a case of pollution in the rivers arising from raw sewage. There is an unsupervised cull of seals.

An Cathaoirleach: Senator, please.

Mr. McHugh: The angler knows that this debate must continue and that we cannot just starve an entire coastal community for the sake of a popular decision.

An Cathaoirleach: The Senator should resume his seat. He has made his point adequately.

Mr. Coonan: It is appropriate that the Deputy Leader is present because I read in *The Irish Times* yesterday a comment by the Minister for Health and Children, Deputy Harney, to the effect that it would be a betrayal of patients to give them inferior service for the sake of keeping local hospitals open. This is an alarming statement to make for any Minister responsible for health. Is she saying she will close local hospitals or that the service offered by them is inferior? Will the Deputy Leader arrange for the Minister to debate the health services in the House, particularly in respect of local county hospitals such as the one in Nenagh? This hospital provides an excellent service to the rural community.

Could we also have a debate on the number of people waiting to receive health services? We read that in Cork alone, over 10,000 people who are sick and in pain are waiting for appointments with consultants, yet we are told waiting lists have decreased or have practically been eliminated. Of course they have because we are not talking about the queue to queue.

The Deputy Leader should be concerned about the spin put on the health services by the Health Service Executive, which comes from none other than his Fianna Fáil colleague, who was employed by them Government. It is clear there is collusion with the HSE to massage the figures, such that we are not receiving the full truth. I call for a debate on this very serious issue and it is up to the Minister to clarify the position. She cannot have it both ways.

Mr. Dardis: Senators Finucane, Norris and Terry raised the issue of women's aid and the related issue of domestic violence. I am not *au fait* with the figures that have been circulated but I have no reason to believe they are incorrect. I accept the proposition made that emotional violence is a very significant factor and that it affects both men and women.

It is important that all the agencies concerned be funded adequately. The Government definitely attempts to do so. The agencies are obliged to ensure the moneys they receive are spent properly and wisely. I will undertake to take up the matter with the HSE and the Minister for Health and Children. This was the specific request made by Senator Finucane.

Senators Finucane, Norris, Coghlan and McHugh referred to the decision made by the Government with regard to the cessation of driftnetting at sea for mixed stocks of salmon. I have advocated this and I welcome the decision. I concur with the remarks made on the Minister for Communications, Marine and Natural Resources because he showed great resolve in making progress in the way he did. The so-called "three wise men", Professor Collins, Mr. White and Mr. Malone, did a very good job which the State should acknowledge. They have done the State a significant service.

Of course there is pain. There had to be because we were approaching circumstances in which there would be no salmon for anybody in five years, be they driftnet fishermen, anglers or others.

Mr. Norris: Hear, hear.

Mr. Dardis: One could not contemplate losing a species that has been so central to Irish life, culture and mythology. I recommend that Members read the report of the group because it is balanced and fair. It is important to state there is pain across the board. There is significant pain for driftnet fishermen and also for anglers and others. This has been pointed out in the report. It states there should be single stock management in rivers, which will involve the closure of several rivers to everybody who harvests the fish. It is therefore not just a matter for coastal communities.

Of course we are fully conscious of the impact on coastal communities and of the nature of such communities. However, we must also think about guides on rivers, who will be out of jobs and who will receive no compensation. Most of them are self-employed and not by the landowners or fishery owners. Let us be fair and acknowledge that the ban has an impact on entire rural communities.

Some years ago I heard game fishing was worth €10 million to the economy of Connemara. What did we do only destroy the sea trout? We are now in the process of destroying the salmon. There is a wider issue to be considered in terms of tourism and the environment and the Government's responsibility to the latter.

The expert group said the compensation scheme was "fair and proportionate". It involves a six-year multiplier on an average catch over five years. I do not have much sympathy for those who caught fish illegally and now expect to be

compensated as a result. There should be a verifiable catch on the basis of tags.

Mr. McHugh: What about the poachers?

Mr. Dardis: There is no difficulty about the poachers. Of course there are other factors involved. The issues of global warming, silting and forestry are also factors. There are many factors, but this is the dominant factor. If Senators heard Dr. Ken Whelan, who is one of the world's most eminent experts in this area, on the radio this morning, they would have heard him clearly explaining to anybody who is in any doubt why mixed stock fishing must end. Such fishing takes place at sea and nowhere else.

Mr. McHugh: We need to compensate the fishermen who are being made redundant.

Mr. Dardis: We have a compensation——

Mr. McHugh: We need to compensate the fishermen. That is all we are asking for.

Mr. Dardis: I am quite prepared to debate the issue with Senator McHugh outside the Chamber after the Order of Business.

Mr. McHugh: I can take the Senator to County Donegal this weekend so he can learn all about it.

Mr. Dardis: If the House desires to discuss the matter at a later point, I will be happy to participate in that debate.

I thank Senator Norris for his kind remarks, even if they make it difficult for me to respond to the next issue.

Mr. Norris: The Senator should not worry — I am sure he will find the courage.

Mr. Dardis: Senator Norris made a fair point about the protection of consumers. In recent years, a great deal of legislation has been introduced to protect consumers and enhance their rights. However, there are many gaps in the enforcement of that legislation. I am conscious of the decision that was made about the oil merger. The explanation that was given was that someone thought there were 31 days in the month in question, rather than 30. It was an administrative slip. I can understand how that might happen, but I accept it should not have happened. This matter was also raised by Senators Coghlan and Quinn. Perhaps we should try to arrange a debate on the issue.

I am not aware of the particulars of the case mentioned by Senator Ó Murchú. It seems extraordinary, on the face of it, that such a thing should happen in a modern society. It seems very insensitive and wrong. In the past, one could not get out of debtor's prison without paying back the moneys one owed. In other words, one stayed in prison until one's debt was discharged. Happily

we have moved on from those days. I will raise the matter with the Tánaiste and Minister for Justice, Equality and Law Reform.

Senator Coghlan highlighted the deer fencing programme that is being pursued to protect oak woodlands under the EU habitats directive and the UNESCO guidelines. I am not too familiar with the case in question. I will ask the Minister about it. Perhaps it could be usefully discussed on the Adjournment, with the permission of the Chair.

Senator Mansergh referred to the budget and the benchmarking survey. Senator Quinn raised a related matter. I agree with Senator Mansergh's comments about the Minister, Deputy Cowen, who has done a very good job. I am sure that will continue in the budget that will be introduced next month.

Senator Mansergh said that the Northern parties did a pretty good job yesterday when they received a commitment from the British Government that over £50 billion would be invested over ten years. We hope the commitment will be one of the factors that will lead to devolved government in Northern Ireland. On the issue of corporation tax, I am aware it has been argued that because it is a national aid, Northern Ireland cannot be singled out from the rest of the United Kingdom. In other words, there cannot be a different rate there. I would have thought that something of that nature could be done under the regional policy of the EU. If Northern Ireland can have devolved government, one would imagine that it could be treated in a sympathetic manner by the EU, which is anxious to facilitate peace and economic development there.

Senators Quinn and Norris spoke about privacy, which is an important matter, in the context of the installation of CCTV systems. It is a difficult debate. Basic infringements of civil liberties are taking place in many areas. On the other hand, the State has to use modern technology to eliminate vandalism and crime, as Senators Lydon and Glynn remarked. We need to strike a balance. The House could usefully debate this topic in a more extensive manner than it has done on the Order of Business this morning. We could reflect on the related issues of the protection of data and the use of the information about citizens that is held by various organisations. People have to register to act in this manner — they cannot do so willy-nilly. Perhaps we should consider this significant issue.

Senator Glynn spoke about vandalism. There has been an increase in the removal of telephone kiosks, but I understand that they are being closed because of a lack of use. I read about a telephone kiosk that was taking an average of €1 per month. The growth in the use of mobile telephones is an important factor in this regard. I do not think the vandalism of telephone kiosks is a good enough reason for the withdrawal of such services. There should be a way of overcoming such problems.

[Mr. Dardis.]

The use of fireworks, which was mentioned by Senator Lydon, is a serious issue. The Tánaiste was quite vocal about the matter last week, when he said that people who bring such materials across the Border can expect to have their vehicles seized, etc.

Mr. Browne: How many vehicles were seized?

Mr. Dardis: I do not know the answer.

Mr. Browne: I bet that no vehicles were seized.

Mr. Dardis: Senator Browne knows well I do not know the answer to that question. I will bring the matter to the attention of the Minister, Deputy McDowell.

Senator Glynn spoke about the medical for the appointment of consultants. I will raise that subject with the Minister for Health and Children. I know she will be quite happy to come to the House to discuss it.

Senator Browne raised several issues. As far as I am aware, no further amendments to the Child Care (Amendment) Bill 2006 are proposed, although I cannot give a guarantee of that. If more amendments are made in the Dáil, they will be referred back to this House. That is the way the system works. At this stage I cannot say what will happen.

The Senator also spoke about pay increases in the context of the difficulties we are having with Bills. In my experience, such difficulties have always arisen in the Office of the Chief Parliamentary Counsel, and not in the Bills Office itself.

Mr. Browne: Yes.

Mr. Dardis: That clarifies the matter. There have been problems in the past with recruiting people who have the expertise to draft Bills. The Senator has a point in that regard. The legislative process should not be delayed as a result of something like that.

Senator Browne also referred to the compensation to be given to beet growers. Yesterday the Minister said it is possible that the compensation scheme for salmon fishermen could be spread over three years. If there are tax implications for beet growers, that is something to be considered. I will bring the matter to the attention of the Minister for Agriculture and Food.

The Senator also spoke about MRSA, which is a serious problem. A great deal of progress has been made in that regard. The Minister for Health and Children has been very active in trying to provide that standards are high enough to ensure that this problem can be minimised. We should bear in mind that the use of antibiotics is an aspect of this difficulty. I will speak to the Minister about the issue.

Senator Tuffy made an important point about the draft register of electors, which has been highlighted by many people. It has been suggested that when officials from Kildare County Council visited houses in my home county to try to bring the register there up to date, it had a hit rate of approximately 20%. That has serious implications for the state of the register. I understand that the draft register has been available since yesterday, or is about to be made available. That will tell a story about this serious matter. Some people who have been on the register of electors for many years have been removed from it. One of the most basic rights in society is that citizens who want to vote should be able to do so. We have to pay serious attention to that. We should seek to have a debate on the matter in the House.

Senator Coonan spoke about local hospitals. There is no contradiction in the reasonable point that is being made by the Minister in this regard. If we are to avail of the best technology and the best people, we have to have centres of excellence. That does not mean that local hospitals will be unable to continue to do the things they have traditionally done very well. That is the position of the Minister and the Government, as far as I am aware.

Mr. Coonan: She is saying that for the sake of keeping them open.

Mr. Dardis: It is not good to engage in scaremongering about matters of this nature, which is what is happening.

Mr. Coonan: This matter was highlighted in yesterday's edition of *The Irish Times*. There is no scaremongering. The Minister said——

Mr. Dardis: The devil can cite scripture for his own purpose, as we all know. I do not think it is a useful contribution to the debate. I completely reject the proposition that there has been any collusion between the HSE and anybody else with regard to this matter. If Senator Coonan has evidence of such collusion, he should let us know what it is. He cannot allow statements of this nature to hang in the air if he cannot back them up.

Mr. Coonan: More than 10,000 people are waiting for appointments in Cork.

Mr. Dardis: Significant improvements have been made in terms of the waiting lists, as anybody who has been looking at the statistics will know. Public patients are able to avail of private operations.

Order of Business agreed to.

Address by EU Ambassador to the United States: Motion.

Mr. Dardis: The motion I am moving differs slightly from that on today's Order Paper, as the

words “; and normal business will resume at 2.30 p.m.” have been added to it.

I move:

That Seanad Éireann agrees with the recommendation of the Committee on Procedure and Privileges that, in accordance with the provisions for the address to Seanad Éireann by Distinguished Persons, Mr. John Bruton, European Union Ambassador to the United States, be invited to address Seanad Éireann on 8 November, 2006 and the proceedings, which shall commence at 11.00 a.m. and conclude no later than 12.40 p.m., shall consist of a speech by the Cathaoirleach welcoming Ambassador Bruton, the address by Ambassador Bruton, at the conclusion of which he will reply to questions from the Leaders of each group or their representative, and a speech of thanks by the Leas-Chathaoirleach for the address; and normal business will resume at 2.30 p.m.

Question put and agreed to.

Disability Act 2005 Sectoral Plans: Statements.

Minister of State at the Department of Justice, Equality and Law Reform (Mr. Fahey): Motions seeking the approval of six sectoral plans under the Disability Act 2005 were presented to Dáil Éireann and Seanad Éireann on 17 and 18 October 2006 respectively. These motions were approved by both Houses of the Oireachtas, thereby enabling the plans to take effect.

Sectoral plans were prepared by the Minister for Health and Children, the Minister for Social and Family Affairs, the Minister for Transport, the Minister for Communications, Marine and Natural Resources, the Minister for the Environment, Heritage and Local Government and the Minister for Enterprise, Trade and Employment under sections 31 to 37 of the Disability Act.

These sectoral plans set out the programme of measures, to be taken by each of the Ministers' Departments and public bodies under their aegis, designed to provide services to people with disabilities and are perhaps the most important element of the Government's national disability strategy launched in September 2004. At that time, outlines of these plans were published and a comprehensive consultation process followed with stakeholders. The completed sectoral plans were then required to be laid before each House of the Oireachtas within one year of the commencement of the relevant provisions of the Disability Act, and this deadline was met in July of this year.

The national disability strategy builds on existing policy and legislation, including the Equality Acts and the Education for Persons with Special Educational Needs Act 2004. Its aim is to strengthen and support the contribution of people with disabilities in Irish society and it has been endorsed in the new social partnership

agreement, Towards 2016. The national disability strategy is the agreed focus for disability policy over the lifetime of the agreement and it consists of four key elements. They are the Disability Act 2005, the Citizens Information Bill 2006, the multi-annual investment programme in disability services and the sectoral plans for service delivery by six Departments.

Since the launch of this strategy, the Government has made significant progress in implementing it in all its aspects. This progress has not been confined to the preparation of these Departmental plans. All sections of the Disability Act 2005 have been commenced, with the exception of Parts 2 and 6 of the Act. Arrangements for the implementation of Part 2 are set out in the sectoral plan of the Minister for Health and Children and I will refer to this issue again in a few moments. Part 6 provides for the establishment of a Centre for Excellence in Universal Design in the National Disability Authority, NDA, and will commence on 1 January 2007. The NDA is preparing the groundwork for the operation of this new Centre from early next year.

Since 31 December 2005, all public bodies, subject to certain considerations, must meet a number of criteria under the Disability Act in the area of improving accessibility. They must ensure that the provision of access to their services by people with and without disabilities is integrated. Services and goods supplied to public bodies must be accessible to people with disabilities. They must ensure that the content of communications with people with disabilities is provided in an accessible format. Procedures must be in place in all public bodies for the making and investigation of complaints from people with disabilities and public bodies must make their buildings accessible to people with disabilities.

To assist public bodies, the Code of Practice on Accessibility of Public Services and Information provided by Public Bodies, SI No. 163 of 2006, was developed by the National Disability Authority and launched by the then Tánaiste in July of this year. The Act provides a legal basis, for the first time, for the requirement of public bodies to take all reasonable measures to promote and support the employment of persons with disabilities. It gives the NDA important new powers to monitor the implementation of the provisions across the public service.

There are other important elements of the strategy. The Citizens Information Bill, published on 13 October 2006, will provide for a personal advocacy service for people with disabilities and is currently progressing through the Oireachtas. The Government has a €900 million multi-annual investment programme for 2005 to 2009 for high priority disability support services and there are other ongoing initiatives that complement the national disability strategy. A major national post-census Central Statistics Office, CSO, survey on disability is currently underway and results are expected next year.

[Mr. Fahey.]

The Cabinet Handbook is to be amended to incorporate a requirement that all substantive memoranda submitted to Government take account of the impact on people with disabilities and appropriate guidance is being developed to assist with the new proofing requirements. Investment programmes such as the enhancing disability services project fund have been developed and funding has been made available under the dormant accounts programme.

It is agreed in *Towards 2016* that future policy in relation to people with disabilities will be progressed through the National Disability Strategy with particular expression being provided through these six sectoral plans. Section 31 of the Act provides that in preparing and publishing plans, each Minister is required to consult with representatives of persons with disabilities. The national disability authority and the Departments concerned conducted a nationwide series of public consultation meetings on the draft plans.

The Act requires that the plans contain information on relevant codes of practice and regulations, complaints procedures, monitoring and review procedures and the level of access built in to the services to be provided. The Act also requires that progress reports must be prepared on each plan within three years of their publication and that these reports be laid before the Houses. The Act makes specific provision for each sectoral plan, detailing key areas to be addressed. The implementation of the sectoral plans will be monitored and reviewed and a high-level group of senior officials will report directly on progress to a Cabinet committee chaired by the Taoiseach.

Now that the sectoral plans have been approved, arrangements are being put in place to strengthen the monitoring of these plans by the inclusion of key stakeholder interest groups in the formal monitoring process. This is in line with a commitment to this effect set out in *Towards 2016*. Delivery of these plans will be supported by an effective Government approach and each plan contains specific commitments to cross-departmental co-operation.

The sectoral plan of the Minister for Health and Children covers the initiatives to be taken by the Department, the Health Service Executive and some 27 statutory bodies. The plan was developed through an extensive consultation process and one of the most important aspects of the health sectoral plan is the arrangements for commencing Part 2 of the Disability Act 2005, which involves assessments of need and service statements for people with disabilities.

Part 2 will commence for children aged under five years with effect from 1 June 2007. The Act will then be commenced for those children aged from five to 18 in tandem with the implementation of the Education for Persons with Special Educational Needs Act 2004. The EPSEN Act is being implemented over a five year timeframe

from October 2005. Services for adults and children will be enhanced progressively over the next number of years.

The HSE will promote the practice of assessment of individual needs and the provision of service statements for all service users as capacity permits. The HSE intends to appoint assessment officers and liaison officers around the country based on estimated need, as indicated by population profiles over the next 12 months. The statutory requirements of Part 2 of the Disability Act will be extended to adults as soon as possible but no later than the end of 2011.

Significant capacity building to support the delivery of the plan is underway. Additional resources have been and continue to be made available to the HSE to build capacity in services for people with disabilities through the multi-annual investment programme 2005-09. A total of €130 million in revenue and capital in 2005 and €155 million in revenue and capital in 2006 has been provided, along with over 1,000 frontline posts associated with 2005 developments and in excess of that number associated with 2006 developments.

A major objective of the sectoral plan of the Minister for Social and Family Affairs is the development of services that give persons with disabilities financial security and encourage maximum participation in society. Initiatives include the transfer of income maintenance payments from the Health Service Executive as well as a service delivery modernisation programme. The plan identifies the key actions which will be underpinned by co-operation across agencies to develop service provision for persons with disabilities.

The sectoral plan for the Minister for Transport has been developed to accord with the concept of transport for all and will make an important contribution to addressing issues of disadvantage and social inclusion. The plan is underpinned by a series of policy objectives and specific targets for accessible transport across all modes of transport — measures to make trains, buses, taxi and hackney services, as well as air and marine transport, accessible to persons with mobility, sensory and cognitive impairments.

The plan promotes the principle of mainstreaming by making accessibility an integral element of the public transport services. Mainstreaming will operate in conjunction with the ten year investment programme of Transport 21. This will be achieved principally in two ways. First, accessibility will be built into new transport infrastructure projects and second, the acquisition of accessible vehicles and funding will continue to be provided to enable the phased adaptation or retrofit of existing transport facilities. Transport projects will be monitored for compliance with accessibility principles. The public transport accessibility committee, comprising the Department of Transport, transport operators and the

disability sector, including the NDA, will be fully involved in the implementation process.

The broadcasting and energy supply sectors are the focus of the sectoral plan of the Minister for Communications, Marine and Natural Resources. It addresses the role of the independent Broadcasting Commission of Ireland and its responsibilities for regulating the sector, including RTE. It also deals with the Commission for Communications Regulation, including its roles in respect of Eircom and An Post. The plan also covers services provided by energy suppliers in the context of the role of the independent Commission for Energy Regulation.

The sectoral plan of the Minister for the Environment, Heritage and Local Government will support the participation by people with disabilities in all aspects of economic, social and cultural life of the community. Priorities in the plan include the building and planning code, local authority accessibility plans and a housing strategy for people with disabilities.

The building and planning code initiative reflects the importance of accessibility in the built environment in enabling people with disabilities to achieve a quality of life comparable with that of other citizens. A review of Part M of the Second Schedule to the building regulations, on access for people with disabilities, was initiated in December 2005 and the Department will prepare draft proposals to amend Part M. The Building Control Bill 2005 has been published and, when enacted, will strengthen the enforcement powers of building control authorities in implementing the building code.

Each local authority will, within six months of the approval of this plan by the Oireachtas, carry out an accessibility audit of all roads and streets, pavements and pedestrian crossings, public buildings, public parks, amenities and open spaces, heritage sites, public libraries and harbours within its control and identify the remedial action necessary to make them accessible. Each local authority will, within three months of completing the accessibility audit, draw up an implementation plan in consultation with organisations representing persons with disabilities.

To bring a new focus to addressing the needs of people with a disability, a national housing strategy for people with disabilities will be developed. New protocols will be established for inter-agency co-operation for all special housing needs. Legislation will be introduced that will result in a new means of assessing housing need to ensure that all people can live with maximum independence within their community.

The sectoral plan of the Minister for Enterprise, Trade and Employment contains a number of initiatives that are aimed at promoting equal opportunities for disabled people in the employment market. This includes the development of a comprehensive employment strategy aimed at enhancing the effectiveness of employment and vocational training programmes for dis-

abled people, and further developing supports for the employment of disabled people. Effective cross-departmental collaboration will be a key element of the implementation of this strategy. The Department will establish a consultative forum on the employment strategy representing key stakeholders which will provide a channel for members to contribute to strategic development on issues that directly, or indirectly, impact on vocational training and employment. The Department and FÁS will continue to review and assess the scope for increasing employer awareness to encourage increased participation by people with disabilities.

These sectoral plans are an integral part of the national disability strategy and will mark an important advance in implementing the strategy as a whole. They represent significant social partnership commitments under Towards 2016. I acknowledge the considerable contribution the various stakeholders have made to shaping these plans.

Our open, constructive relationship with the stakeholders does not end here. The implementation of the sectoral plans will be monitored by the stakeholders and the Government, and progress on implementing the plans will be reviewed at the latest after three years, although I emphasise that the review can take place sooner than that if necessary. These sectoral plans represent a landmark in the roll-out of frontline public services to people with disabilities under the national disability strategy.

Ms Terry: I welcome the Minister of State to the House. On 21 July, the Taoiseach introduced the six sectoral plans that were to be submitted to the Oireachtas in accordance with the Disability Act 2005. The Tánaiste and Minister for Justice, Equality and Law Reform, while speaking at the launch of the plans, encouraged Members of both Houses of the Oireachtas to engage in a full debate on the plans in the context of each House passing a resolution to give effect to them. It is regrettable, therefore, that we did not have a full debate before the plans were passed; the resolution was taken without debate.

It is unfortunate that the House was treated in such a shoddy fashion. Today's debate is welcome but it is taking place after the event and we should try to avoid that in future. There was widespread consultation on these plans but it would have been better if we had been given an opportunity to discuss them. It is noteworthy that apart from the Minister of State's contribution to this debate and a brief contribution he made in the other House last July, no other Minister has spoken about the sectoral plans in the Houses. More important, they have not addressed the committees on the plans. Where is the accountability? This anomaly must be rectified, even at this late stage, and I ask the Minister of State to make arrangements for the appropriate Ministers in the six relevant Departments to appear before

[Ms Terry.]

the relevant committees to discuss the plans. An annual review must also take place.

Mr. Fahey: That is a matter for the committees.

Ms Terry: I ask the Minister of State to ensure these steps are taken because to date they have been absent. Meetings with the appropriate committees must be scheduled at an early stage. I request that the Minister of State arrange for reviews to be held to determine what, if any, progress has been made in implementing the sectoral plans. If this debate achieves nothing else, it would be an achievement to secure a commitment from the Minister of State in this regard.

The Government, the social partners and people with disabilities have high expectations of the sectoral plans. While I welcome the work done to date, action is now required to ensure progress is made. As part of the national disability strategy, it is intended that the sectoral plans will act as a detailed road map for the development of supports and services for people with disabilities in the coming years. It is essential the plans are viewed as strategic enablers to ensure each of the six relevant Departments addresses the needs of its clients with disabilities through direct policies and a review of its structures and activities.

The delivery of commitments under the six sectoral plans needs to be progressed, monitored and evaluated in a co-ordinated manner. A number of mechanisms to secure delivery on commitments have been also identified through the sectoral plans. While some of the Departments with responsibility for the plans recognise the need to embed in their business plans and strategy statements the actions outlined in the plans, this is not identified across all the plans. The Disability Federation of Ireland, DFI, commends the Department of Social and Family Affairs on its sectoral plan and proposes that other Departments mirror its approach in their plans.

The purpose of the national disability strategy, of which the sectoral plans form a part, is to ensure greater inclusion and participation of people with disabilities. To achieve this, however, the strategy will need to target the exclusion of people with disabilities in two specific ways. It must address the significant exclusion experienced by people with disabilities. The sectoral plans are a key mechanism in this regard and it is expected they will detail how Departments will address the specific services and developments needed to secure the participation of people with disabilities. However, it is also expected the national disability strategy will ensure people with disabilities will be able, where appropriate, to access mainstream services and supports. This places responsibility on Departments to include the needs of their disabled customers in the strategic planning process and the development of

services. Linking sectoral plans to departmental statements of strategy will mean Departments will develop a holistic response to the needs of people with disabilities through the development of mainstream and disability specific policies and practices.

I welcome the decision to amend the Cabinet handbook to ensure interdepartmental co-operation take places and services are delivered at the highest level. This commitment was given to the disability legislation consultative group in May 2005 and repeated in 2006. When will the handbook be amended?

Who is in charge of monitoring the implementation of sectoral plans and to whom are the six Departments answerable if they fail to deliver on their respective plans? Which Cabinet Minister has ultimate political responsibility for the co-ordination of the national disability strategy?

On the health sectoral plan, the draft national standards proposed by the National Disability Authority have been in gestation for a number of years. In March this year, the report of the Comptroller and Auditor General pointed to the need for clear standards of care for people with disabilities. The sectoral plan for the Department of Health and Children promises that national standards will be in place in April 2007 under the health information and quality authority, HIQA. Is the Minister of State certain this timeframe will be adhered to given that the Bill to establish the HIQA and the social services inspectorate on a statutory footing will not be even published, not to speak of enacted, until some time in 2007? Is the Government satisfied with the current position given that no agreed national standards for services to people with disabilities are in place? What safeguards have been introduced to protect service users and providers?

A report by the Comptroller and Auditor General on the provision of services by non-profit organisations emphasised that clear accountability and financial monitoring systems need to be established. A key objective of the sectoral plans is to ensure a process of financial accountability is in place. Do the Department of Health and Children and the Health Service Executive intend to address the absence of any reference to a new method of financial accountability for service provision in the Department's plan? How does the Department intend to ensure that such a committee will be truly representative of people with disabilities and that the voices of service users are heard? Will it be modelled on the DLCCG which was, by and large, representative of service users and providers?

I am asking questions about the various sectoral plans in the six Departments without knowing whether the Minister of State will have ultimate responsibility for the implementation of the plans. For this reason, it would be preferable to have an opportunity to question each of the relevant Ministers. I ask the Minister of State to arrange for each Minister to come before the

House on an annual basis to respond to questions. Unfortunately, due to time constraints, I am unable to ask questions on the sectoral plan of each of the six relevant Departments.

Mr. B. Hayes: I welcome the Minister of State, Deputy Fahey, to the House and thank Senator Terry for generously allowing me to contribute to this debate during her time. I will discuss the sectoral plan in the Department of Enterprise, Trade and Employment, specifically its provisions on training and employment opportunities for people with disabilities. Twenty-five years ago, the State gave a commitment that 3% of employees in the public service would be people with a disability. Given that this key commitment has not been fulfilled one quarter of a century later, how are we to ensure the commitments being entered into in the various sectoral plans will be met?

I regularly hear about the need for cross-departmental implementation groups, an issue raised by Senator Terry. Often this is an excuse for doing nothing. In the early 1990s there was a new management buzz in the public service whereby matters would be implemented on a cross-departmental basis. I believe it is much easier to give specific Departments specific responsibility to implement certain matters. As Senator Terry correctly asked, are we sure the commitments being entered into by the various Departments will be delivered? If not, there will be serious difficulties in this area and people with disabilities will be let down again.

This issue must be on the agenda of each Department every month. I understand the MAC group in Departments, comprising the Minister and senior personnel in the Department, meet each month. This issue should be first on the agenda of those meetings — what is being done under the sectoral plan, if results were achieved in the previous month and how the plan is performing in comparison with other sectoral plans. If Ministers embrace this issue and make it their own, progress will happen. The only time we see change in politics is when Ministers decide to run with an issue, not accept excuses for results not being achieved on deadline and push forward the issue. That is the only way this issue will be dealt with and we need to see that happen.

With regard to training, it is crucial the timeframes set out in the sectoral plan of the Department of Enterprise, Trade and Employment are met. They are rigid timeframes and if there is any slippage in one area, it will have a knock-on effect on another. Will the Minister comment on that? The employment rights and industrial affairs division, including the labour inspectorate, has a huge impact on people with disabilities. It is important the proposed training and employment strategy is successful in getting and keeping more people with disabilities in employment.

One of the key issues in this area is the question of benefits. Too often in the past there was

a rigid approach from one Department to another in terms of closing down opportunities for people with disabilities due to them losing key benefits to which they are entitled. If a training opportunity is being given through a sectoral plan, it is important people are not losing out in terms of social welfare provision and their fundamental rights in terms of benefits. We must keep our eye on this aspect. With regard to training, it is important to monitor closely the Health and Safety Authority. In the past, many of the authority's regulations have mitigated against people with disabilities in terms of getting them into employment and ensuring that commitments are upheld.

I recently received an e-mail from a constituent, Ms Audrey Whelan from the Greenhills area, and had the opportunity to meet her. She knew I intended to speak in this debate and asked me to put three points to the Government. She is a person with a disability and is confined to a wheelchair. The first point she asked me to make is that disability awareness training should apply to all aspects of business and enterprise in this country. We have a responsibility to fund training programmes to inform employers and employees about the issues surrounding disability. It is the lack of awareness and education that often leads to prejudice.

Her second point was that more funds should be available to allow employers make their workplaces accessible not only for wheelchair users but to people with all types of disability. A key issue in this area is ensuring accessibility. We must ensure that all public and commercial buildings adhere to the guidelines. Finally, she stated that each building should be assessed and adapted in order everybody can use its services. This is a fundamental right for people with disabilities. She told me in her e-mail that, in her experience, the problem is a lack of education, particularly with regard to training.

In these sectoral plans we must ensure the commitments we undertake are adhered to rigorously and that there is political accountability for them. Otherwise, we will disappoint people with disabilities as shamelessly as we did in the past, particularly in terms of the 3% employment commitment in the public service.

Mr. Kett: I welcome the opportunity to speak on the sectoral plans. We have reached a significant milestone in our efforts to achieve the full inclusion of people with disabilities in society. Too often and for too long people with disabilities have been marginalised and have suffered serious inequality.

As the Minister of State said, many groups should be congratulated on arriving at this point, particularly the advocates for people with disability who know the business and who have suffered the inequalities we have discussed. They have had a major impact in framing current policy. In addition, the Government should be

[Mr. Kett.]

applauded for tackling this issue. The Minister of State, Deputy Fahey, has played a major role and I congratulate him on that. I hope he continues to give this area the same attention he has given it previously as we proceed with the implementation of the sectoral plans. The work on fulfilling the aspirations envisaged in the plans now begins and, hopefully, we will succeed.

The plans are an integral part of the national disability strategy. That further indicates the Government's commitment to the implementation of the strategy. I hope that when the sectoral plans are up and running there will be a major involvement for people with disability in society generally. People will be surprised at the contribution people with disability, when given the chance, can make to society. It is also a historic opportunity for the Government to move the disability debate to a new level and to significantly increase resources, which will be required as we proceed with the strategy.

I understand that within Departments the disability heading will be one of the major considerations when framing their budgetary requirements each year. Heretofore, that was not the case. The disabled sector tended to get what was left when every other area in a Department had been catered for. Now, the disability heading must be part of the budgetary framework of each Department, which will be necessary if the sectoral plans are to mean anything. Hopefully, there will now be a truly integrated system of planning and policy making across all levels that is informed by disability.

If the aspirations in the sectoral plans are to be achieved there must be meaningful changes in the way disability issues are addressed across a range of policy areas. To ensure that happens, the progress of the sectoral plans must be evaluated and monitored carefully. Timeframes and targets must be set and levels of achievement must be monitored. That must happen if the evaluation process is to be meaningful.

Some of the organisations have told Members that they are a little perplexed that the Department of Social and Family Affairs is the only

12 o'clock Department to have interlocked its business plan with its statement of strategy. This appears to copperfasten the commitment. People in the organisations believe the Department of Social and Family Affairs has committed itself in a greater way to the process. Perhaps this is something other Departments should examine with a view to finding a way to commit in a real and meaningful manner. I am not suggesting they have not done so but perhaps they could copperfasten it in this statement.

Who is best placed to carry out an audit on these sectoral plans or even the entire strategy? The DLCCG and some of the people who brought about the overall success of this had a monitoring role with the Government in the strategy. Senator

Terry and others suggested that the Oireachtas committee related to the Departments should monitor the progress annually. That may not be a bad thing, but an independent body may also do it. However, it must be monitored annually because Departments must be brought to account.

Senator Terry asked questions about various elements of the sectors and I support those questions, but today is not the time to ask them. Trial and error should be allowed and the questions she is asking today will have much more relevance in one year's time if certain things have not been achieved. It is to be hoped we will have that opportunity under the system that is to be put in place.

Different Departments cut across each other in many areas and it would concern me if one Department were less enthusiastic about its level of achievement than another. The Department of Transport and the Department of the Environment, Heritage and Local Government spring to mind in this respect. We can have the best transport system in the world, but if the environmental issues are not dealt with in tandem with transport issues, problems will arise. We need to see how related programmes fit together. For Departments to work in tandem, it may be necessary for departmental officials, in advance of decision making, to discuss issues that may intertwine. There is no point in finding out that one is in trouble when another is six months ahead in the planning process. Planning together must occur in areas where cross-cultivation exists.

The Government has done tremendous work in education, especially in the age group of four to 18 years. I often deal with special schools and there are very few that have not been dealt with meaningfully. The Government is committed to all the processes that these schools need to carry out their work. Special needs assistants, computers, bus escorts and so on have all been put in place and this is the starting point for any disabled person's education. However, the greatest aspect of a disabled person's independence is his or her ability to hold down a job. That is why I welcome the commitment by the Minister, Deputy Martin, to the development of a comprehensive employment strategy for people with disability. Employment, independence and education have a great deal of meaning for people with disability and I will focus my energy on these areas in future.

As a society, we must focus on the ability of each disabled person and we must focus on giving disabled people the confidence they need. Many disabled people lack confidence and it is no wonder. They have been put down for many years and the boosting of their confidence is a major issue. Their abilities must also be utilised to the fullest extent. Creating a more equal labour market is essential and we must look at new and more innovative ways of bringing that about. It requires an appreciation of the wide range of

skills that people with disabilities can bring to any workforce. It will require a serious attitude change. We can change many things with resources, but we must change the attitudes of employers towards people with disability. We must create an awareness that people with disabilities have a major contribution to make in the workforce. The Government must provide the necessary incentives in the initial stages to bring that about.

We must also reduce the levels of poverty suffered by people with disabilities. Anecdotal evidence tells us that a major percentage of families headed by a disabled person live in poverty. Senator Hayes pointed out that one can lose benefits if one gets onto a scheme, which is outrageous. There is so little money for people with disabilities, they should not lose out on benefits when they avail of an opportunity to improve themselves.

We should not forget the people who are unable to be mainstreamed and are not yet ready for day care services. I refer to people in sheltered employment workshops. People entered sheltered employment 25 years ago and continue to work in meaningful jobs as far as they are concerned, but there is no pressure on them to produce. They get their disabled payment and they also get a small extra amount of money which is limited because they could lose their benefits.

In 2004, guidelines for sheltered occupational services were published under the abbreviation, SOS. If implemented, they will force the closure of these enterprises and they have perplexed and excited the people working in them. The guidelines basically state that these sheltered workshops can no longer exist and that the people involved must be employed in an enterprise set-up that is self-financing. This is ridiculous because the people involved are non-productive in a sense. They have a job which gives them a meaning but there is no pressure on them. They come into the sheltered employment, they work and they receive a little payment for it. They are very happy in that environment and they are institutionalised in the nicest sense of the word.

These guidelines will force them out of this employment and into a day-activity centre, for which they are not ready because some of them are too young. A day-activity centre is also limited in how it can assist such people. If that does not happen, the guidelines insist that the voluntary organisation that holds them must set up some form of enterprise which is self-financing. I hope these guidelines are seriously examined before they see the light of day.

The needs of people with disabilities have been ignored for too long. We have now begun to tackle these injustices step-by-step. Our objective must be to move this agenda and bring about a situation which matches any other country in the world. We would not be as advanced if it were not for the fantastic contribution of the advocates

that came on board and if the Government had not grasped the issue.

I hope we will have many days to rejoice as we see the contribution people with disabilities will now make to our society. It is to be hoped that when employers see the contribution such people can make to business, people with a disability will be unrecognisable, so to speak, in general society.

Mr. Quinn: I welcome the opportunity to speak on this matter and I welcome the Minister for State, Deputy Fahey, to the House. He is taking a step towards the achievement of a very worthwhile goal.

I was especially impressed with the point made by Senator Kett that we would be surprised at the contribution which people with ability make. I use the word "ability" because of my acquaintance with the Aisling Foundation and the O₂ awards, where they refer to people with abilities. The message to be put across, particularly in the area of employment, is that those who have a disability usually have an ability in some other area that far exceeds their disability. If employers can be convinced of this then people who might not have been regarded as being capable of doing a particular job are capable of doing a different job with ability and skill. The benefits of employment rub off in many ways. Customers feel good as do colleagues. Somebody who was not given a chance before is given a chance and is able to do more than was thought possible.

The sectoral plans will ensure that a building will be accessible because a person often may not be employed because the building was not suitable. The achievement of accessibility in public bodies is the first step which will serve as an example for private bodies to follow.

I was travelling in a taxi last week and I noted that the new taxi regulations or price list was displayed also in braille. This means that someone who in the past was unable to read the price list is now able to decipher it.

The main goal of the sectoral plans will be to change the attitude of the public, employers, those who are not disabled and those who realise an attitudinal change is required and that there is a personal responsibility on us all to ensure we do something.

I speak so frequently in negative terms about how we run our country that I feel an obligation to say something positive when the occasion arises. The sectoral plans are a very useful step forward in creating what people call "joined-up government". Too often when that phrase is used, it means people are bemoaning the absence of it. This initiative is a useful step towards what we should be doing in this particular area.

The sectoral plans address at least two serious problems in how we run the administration of this country. The first is the lack of follow-through after laws have been passed in these Houses. A significant effort is expended on the process of passing new measures into law. In some cases,

[Mr. Quinn.]

such as our tax laws, these have an immediate effect. New tax laws are fallen upon by the Revenue Commissioners and implemented immediately in the pursuit of their objective, which is to collect that money. However, in far too many other cases, this immediate follow-up does not take place. In some cases the laws, although passed by these Houses and signed into law by the President, are never commenced by the Minister concerned. There is often a partial commencement with parts of the law having to wait for years to be brought into effect, if indeed they are commenced at all.

One can imagine how an ordinary citizen feels about this. He or she looks at the text of a new law, that has been passed by these Houses and signed into law by the President, with the reasonable expectation that after all that palaver, the law is now fully in effect. Often, however, this is not the case. The entire law, or significant portions of it, awaits commencement. I have always argued against this practice but I am ready to acknowledge that some measures may need considerable preparatory work before they are commenced. However, these should be very much the exception. In general, the case should be that if we are ready to legislate, we should also be ready to put that legislation into effect. A Legislature exists to make laws of the land, not to stock the shelves of Ministers with measures they can implement in their own time and according to their whim.

However, even when laws are properly and fully commenced, the problem does not end there. We can pass laws and they are properly commenced, but they are not enforced. This was referred to on the Order of Business today. Sometimes it seems that people think passing a law is enough to make things happen automatically. The sad reality is that perhaps most laws must be enforced if they are to work properly. Laws do not usually enforce themselves. It requires a considerable effort of will to make them work and, all too often, that effort and will is lacking. As a result, too many of the measures we pass in this House end up being dead letters.

I have often suggested in my years in this House that some kind of follow-up mechanism to our passing of laws is required. It is remarkable how infrequently we revisit legislation to inquire if it is achieving the purpose we intended for it. I have often drawn attention to the fact that we seem to wash our hands of measures as soon as they have passed through our scrutiny in the legislative process. That is certainly something the House should consider.

In the world of business, this would be a mad way to carry on. People in business make plans all the time and this is the equivalent of the laws we pass in this House, but they would be extraordinarily foolish if they thought that making plans was the whole of their job. Watching over how one's plans work out and changing course to

take into account the inevitable problems that arise are essential parts of governance in the commercial sphere, as Senator Brian Hayes said in his contribution. In the public sector it seems these two things have become detached from each other with the result that we huff and puff over the details of the laws we pass but we concern ourselves very little with what happens to them after they leave our scrutiny. The notion of watching what has been done and measuring it and putting deadlines on what has been done to ensure they happen is not evident.

One problem is the lack of follow-through which I see as being addressed for the first time in a serious way by this device of sectoral plans. The sectoral plans are all about implementing the framework set out in the Disability Act 2005. Their object is to nail down the various Departments' commitments under the Act. The idea is to take the necessarily vague aspirations of a broad, general law and turn it into specific acts and specific commitments that will have a real meaning locally. This process is a major step forward.

The second flaw in our administration that the sectoral plans attempt to address is what I might call the "silo effect" of individual Departments. All my colleagues in this House will be familiar with this phenomenon. If a problem falls neatly and completely within the ambit of a single Department, then dealing with that problem is relatively plain sailing. However, as soon as the problem crosses the boundaries of more than one Department, problems immediately arise. If, perish the thought, a problem is a shared concern between as many as five or six Departments, this is a recipe for total chaos.

A reasonable person might be inclined to think that the more people concerned with a problem, the more likely it is that the problem will get the attention it deserves. Unfortunately, the very opposite is true. The sad reality is that as soon as a problem is shared by more than one Department, a considerable amount of the energy that should be devoted to resolving the problem is devoted to fighting turf wars. In fighting each other, too many of those involved tend to forget about the real job on which they should focus. This is why we need a Taoiseach. The real achievements of the past 20 years have been made in areas where the Taoiseach of the day, no matter who is in office, has exercised strong leadership. Unfortunately, in our system, we seem to need someone to knock people's heads together and keep them focused on the real job in hand.

The Taoiseach cannot do everything, and that is why an approach such as sectoral plans is so important. This is a device that forces people in their departmental silos, so to speak, to focus on the job they should be focusing on. It concentrates each of their minds on doing what is needed to achieve an overall national objective, instead of wasting energy on in-fighting and terri-

torial disputes. Today the Minister of State set out an objective that will not be achieved until 2011. I can understand the reason for setting out the timeframe. The plan has been set in motion, even though we recognise that it will not be achieved this month or this year.

In addressing both endemic problems in our administration, the sectoral plans initiative is a major step forward. It offers people with disabilities real hope that the actual deliverables from Government will match the promises made. Only time will tell whether this is a real step forward or another false dawn. At this stage I am inclined to be optimistic about the outcome. I sincerely hope I will not be disappointed.

I congratulate the Minister of State on the content of his speech. It will take effort and commitment to ensure that what he intends to happen will be achieved. If that happens we will have done a very good job.

Mr. Hanafin: I welcome the Minister of State, Deputy Fahey to the House and thank him for his speech. The progress that has been made to date is most welcome. The Seanad can play a very important non-partisan role in the debate on the framework for social partnership agreement, specifically dealing with disability. I look forward to seeing each sectoral plan being integrated into the business plan and statements of strategy of all the Departments. I would like to see also an annual report to a committee that would measure and quantify progress, and the Seanad and the committee system working together on identifying the progress of the social partnership agreement.

The Government and the social partners agree on the special place that the sectoral plans enjoy. It is worthwhile to reiterate what the programme, Towards 2016: Ten-Year Framework Social Partnership Agreement 2006-2015 states:

The parties to this agreement share a vision of an Ireland where people with disabilities have, to the greatest extent possible, the opportunity to live a full life with their families and as part of their local community, free from discrimination.

To achieve this vision, the Government and the social partners will work together over the next ten years towards the following long-term goals with a view to continued improvements in the quality of life of people with disabilities:

Every person with a disability would have access to an income which is sufficient to sustain an acceptable standard of living;

Every person with a disability would, in conformity with their needs and abilities, have access to appropriate care, health, education, employment and training and social services;

Every person with a disability would have access to public spaces, buildings, transport,

information, advocacy and other public services and appropriate housing;

Every person with a disability would be supported to enable them, as far as possible, to lead full and independent lives, to participate in work and in society and to maximise their potential, and;

Carers would be acknowledged and supported in their caring role.

The Government and the social partners agree that the National Disability Strategy represents a comprehensive Strategy for this aspect of the life cycle framework and that implementation of the Strategy should be the focus of policy over the lifetime of the agreement.

The Government [in implementing] the National Disability Strategy, will also take account of linkages with other relevant national strategies and policies.

The Strategy includes the Disability Act 2005, six Sectoral Plans, the Education for Persons with Special Educational Needs Act 2004, the Comhairle (Amendment) Bill 2004 and a Multi-Annual Investment Programme of close to €900m over the years 2006 to 2009.

It provides the framework for delivery of the long-term outcomes outlined ... A series of sectoral plans are being developed by the following Departments:

Health and Children;

Social and Family Affairs;

Environment, Heritage and Local Government;

Transport;

Communications, Marine and Natural Resources, and;

Enterprise, Trade and Employment.

Each plan will set out for each of the Departments and the public bodies under their aegis, the programme of measures to be taken in relation to the provision of services for people with specified disabilities. The plans are to be laid before [the Houses] of the Oireachtas.

The Plans include specific targets, where practicable, and timescales against which progress will be measure. They will also address cross-departmental issues in a coherent manner.

The parties agree that future policy in relation to people with disabilities will be progressed through the National Disability Strategy with particular expression being provided through sectoral plans being developed and other relevant mechanisms. Key issues which will be addressed in these sectoral plans and other aspects of the Strategy include:

Assessment for, and access to, appropriate health and education services including resi-

[Mr. Hanafin.]

dential care, community based care and mental health services within the framework of the Disability Act, 2005 and the Education for Persons with Special Education Needs Act, 2004. Developments will include:

Implementation of Part 2 of the Disability Act 2005 and implementation of the Education for Persons with Special Educational Needs Act 2004;

Person-centred supports will continue to be developed for long stay residents in psychiatric hospitals, with a view to their movement back into community living;

Central to the successful implementation of the National Disability Strategy will be a process of financial accountability. Clear guidelines will be developed to ensure that the investment in the Strategy delivers value for money and real tangible benefits to people with disabilities;

Person centred supports will continue to be provided to adults with significant disabilities, having regard to the range of support needs which they require, e.g. nursing, personal assistance, respite, rehabilitation, day activities, etc.;

In its consideration of the core funding requirements of agencies providing services for people with disabilities, the HSE will be asked to take into account the appropriateness of core funding essential health and person social services;

Establishing on a statutory basis the Social Services Inspectorate (SSI) (which currently inspects children's residential and foster care services on an administrative basis) through the legislation for the establishment of the Health Information and Quality Authority (HIQA) which is expected to be published during the 2006 Autumn Session, and;

Developing a strategic integrated approach to rehabilitation services within the context of the Multi-Annual Investment Programme with a view to supporting back into employment, as appropriate, through early intervention and enhanced service provision.

The elaboration of a comprehensive employment strategy for People with Disabilities including a range of measures to promote education, vocational training and employment opportunities for people with disabilities, including:

Consolidation and progressing vocational training and employment services for people with disabilities;

Exploring the potential for extending the NEAP FÁS referral process to people with disabilities in the context of their special needs and the Government's commitment to mainstreaming. This will include exploring issues of health and welfare entitlements and benefits and examining and addressing the disincentives for people in receipt of income maintenance or secondary payments who wish to participate in training or employment initiatives;

Public service employment in accordance with the provisions of the Disability Act 2005;

Promoting awareness regarding the employment of people with disabilities and promoting employment retention, and;

The suite of materials developed under the Workway initiative will inform future policy and best practice in relation to the employment of people with disabilities.

National standards will be introduced in respect of specialist health services for people with disabilities, taking into account the draft standards already prepared by the National Disability Authority, together with the report of the Working Group on the development of a Code of Practice for Sheltered Workshops.

In terms of ensuring adequate levels of income for people with disabilities, we will work for the continued enhancement and integration of supports in line with overall social welfare commitments and targets. This will include a rationalisation of existing allowances for people with disabilities in the context of the Government's policy of mainstreaming and the proposed transfer of functions from the HSE to the Department of Social and Family Affairs. Other issues around the cost of disability will be considered following the development of a needs assessment system provided for under Part 2 of the Disability Act 2005.

Evolving building standards and the potential for advancements in design in the future should lead to general improvements in the accessibility of the Irish housing stock over time. However, it is recognised that people with a disability often have fewer choices in terms of providing for their housing and accommodation needs.

To bring a new focus to addressing these needs, a National Housing Strategy for People with Disabilities will be developed, as recommended in the NESC 'Housing in Ireland' Report in order to support the provision of tailored housing and housing support to people with disabilities. This would have particular regard for adults with significant disabilities and people who experience

mental illness. It will be progressed through the establishment of a National Group under the aegis of the Housing Forum headed by the Department of Environment, Heritage and Local Government, and involving the Department of Health and Children, the Health Service Executive, social partners and other relevant stakeholders.

The development of information adequacy services for people with disabilities, in particular, legislative provision for the introduction of the new personal advocacy service will provide for the assignment of a personal advocate to a person with a disability who is unable or who has difficulty in obtaining a social service without the assistance or support of the personal advocate. This will complement, in a balanced way, the other advocacy and support functions of Comhairle in relation to people with disabilities.

The question of accessible public transport services will be addressed in the Sectoral Plan being developed by the Department of Transport. The Plan will deal with the accessibility of the range of transport services, including the continued introduction of accessible vehicles, the provision of accessible infrastructure, and travel information systems.

Progress reports will be prepared on sectoral plans after 3 years and the Disability Act will be reviewed after 5 years.

Detailed consultations have been undertaken with stakeholders in relation to each of the sectoral plans being developed. Arrangements will also be put in place to ensure a continued constructive relationship with stakeholders in relation to progress on the Strategy as a whole. This will include bi-annual meetings between senior officials and other stakeholders.

In addition, each sectoral plan will include monitoring and review procedures. Departments are also required to set out in sectoral plans the arrangements that will be put in place to monitor the compliance of state bodies and other relevant service providers with the provisions of the Disability Act, 2005.

Departments have published Customer Charters which include commitments in relation to equality and access and are required to report on performance in their Annual reports.

Inclusion of service accessibility and sectoral plan measures where relevant in the strategy statements of all Departments will be considered in the context of the updating of guidelines for the preparation of Departmental Strategy Statements.

The Government has agreed to amend the Cabinet Handbook to incorporate a requirement that all substantive memoranda submitted to Government take account of the

impact on people with disabilities. Appropriate guidance will be developed to assist with the proofing requirements in the context of proposals being developed in relation to equality proofing more generally.

The Minister has outlined the Government's progress in achieving these objectives and I look forward to seeing all them being achieved.

Ms O'Meara: I welcome the opportunity to contribute to the statements on this important matter. I thank the Minister of State for his speech and for attending the House for the entire debate. In his opening remarks he referred to the fact that the sectoral plans were approved by both Houses of the Oireachtas, having been presented on 17 and 18 October. The Minister of State will know, however, that the motion to pass the sectoral plans appeared on the Order Paper and was not debated. We are, therefore, now in a *post hoc* situation, debating sectoral plans after they have been passed. Other Senators have said that this is not in the spirit of the legislation. The legislation has received detailed scrutiny, dedication and commitment from many Members of both Houses. It is clear to us that the sectoral plans constitute an important part of the spirit and implementation of the legislation as envisaged.

It was disappointing, to say the least, that the sectoral plans were not debated before they were passed. Senators should have been given an opportunity not only to express their views but also those of people who have made representations to us on these issues. The Minister of State says the plans were passed by both Houses, which is true, but he may or may not be aware that we voted on that matter last week because the Opposition was not happy to have the plans passed without debate. We are now commenting on plans that have already been passed and while that is useful, it is by no means as powerful, representative or important as debating such plans beforehand. A process is required whereby Members can comment on sectoral plans before they are passed.

The Minister of State rightly says that these plans have been the subject of major consultations with a broad number of people, including the stakeholders involved. Be that as it may, a key part of the process went missing. It is now time to move on, however, and examine where we are. The sectoral plans are the nuts and bolts or the meat on the bones of the Disability Act and will make the legislation work in practice. As the Disability Federation of Ireland has pointed out, the plans represent the roadmaps for the six Departments to ensure that the needs of people with disabilities, and disability issues generally, are not only prioritised but also become part of those Departments' daily operations. That must be the aim of the legislation.

Let us examine the delivery and effectiveness of the sectoral plans. Those of us who have con-

[Ms O'Meara.]

tact with Departments, whether as public representatives, former departmental employees or representatives of lobbying organisations, will know that aspiration is one thing but delivery is another. I would not question for one minute the commitment of any member of the Government or Opposition to dealing with disability issues. Every Member of the Oireachtas is fully committed to advancing the cause of people with disabilities. I commend the Disability Federation of Ireland on being an effective lobby group in that regard. It has made a major contribution to the entire process by ensuring, *inter alia*, that Members of the Oireachtas are kept fully informed of developments in the sector. In that way, we can hold the Government to account in this respect. The views of groups such as the Disability Federation of Ireland need to be taken on board and I am sure the Minister of State has had meetings with its representatives.

How will these sectoral plans go beyond being just plans and become reality? This is where the Government's commitment is tested because it must become a practical and solid reality. One way of achieving this would be to integrate the plans with various Departments' strategic plans. I note that this has already been done in one case involving the Department of Social and Family Affairs, which is to be commended on that. To my knowledge, however, it is the only Department that has done so.

The situation will not be ideal until those sectoral plans become enmeshed and embedded with the existing strategic plans of all Departments. Otherwise, each Department will have a daily "to do" list, while every now and then the sectoral plans will arise with people asking where we are in relation to disability or how this impacts on disability. In that case, such issues may be considered regularly if we are lucky but they should be acted upon all the time. There should be a standard, learned response to disability issues, whereby people will ask how decisions impact on people with disabilities. We need to consider whether decisions, actions and policies are disability proofed in every case. We must continue campaigning until that happens. It should be taken for granted that in meetings of high level strategic management groups, Department officials and Ministers discuss the impact of their policies on people with disabilities. If that does not happen on a daily basis, we have to ask whether integration is really taking place. It will not be easy to make it happen in respect of every group because a high level of commitment will be required. This is but one example of how the sectoral plans need to be stitched into strategic and operational management at senior departmental level.

Today's debate, which is being held thanks to the generosity of the Leader of the House and the Minister of State, Deputy Fahey, is important in that regard. However, while this House has

shown its commitment to the issue, who knows when we will return to it? Issues pertaining to the sectoral plans and disability in general should form a larger part of the business conducted in these Houses by, for example, Oireachtas committees. Every year, the Committee on Communications, Marine and Natural Resources has opportunities to discuss communications issues with representatives of An Post and other major organisations. It would be useful if committees, on an annual or ongoing basis, were also to hold Departments to account for their implementation of sectoral plans. Without a specific focus on accountability by a body such as an Oireachtas committee, a drift is inevitable. Departments should have ownership in terms of implementing these plans.

Members regularly assist people with disabilities to surmount the disadvantages and exclusion they suffer in terms of employment, housing and services. The legislation we have introduced is designed to transform this situation, so that people with disabilities receive the support they need to fully participate in the community at whatever level they choose. I am reminded in the context of this debate of somebody I know, who because of the nature of his disability is forced to live at home and is unable to work because he does not have a personal assistant. He is virtually blind, so he finds it difficult to go out on his own, even though he is a very capable and confident person. His life has narrowed to his home because he does not have a personal assistant and cannot go out without support. His rights, therefore, are being radically impacted by his disability. He is not the only one to face such a challenge. We have a long road to travel to ensure that people with disabilities are able to participate. For many people, that means working, so employment is an obvious place to start meeting public targets.

It is one matter to introduce legislation or to show the determination to meet commitments but the test of these plans will be evidence of the delivery of these commitments to the people on the ground. I commend the Minister of State and the Government on their commitment in that regard but their promises will have to be measured in terms of quality of life for people with disabilities.

Ms White: I wish to add to the comments made by Senator O'Meara with regard to quality of life for people with disabilities by referring in particular to the issue of pre-school children with disabilities. Next Tuesday, I will make available my updated report, *A New Approach to Childcare*, November 2006, in which I discuss care for children and babies with special needs. When a child is known to have a disability, it is essential that he or she receives all the help required to reach his or her full potential. Unfortunately, some parents of children with special needs face particular difficulties in securing adequate child care.

In some cases, the degree of expertise and level of care required means that one-to-one care is the only viable option. In the majority of cases, however, there is scope for the provision of care for children with special needs within the formal child care sector.

In 2004, the Dublin city based Childcare Focus Group published a report, *Accessible Childcare for All*, which identified and promoted solutions designed to ensure equality of access and opportunity in child care provision for children with additional learning, sensory, physical and emotional needs. The report, which was funded by the National Disability Authority, focussed its research on areas in north-west Dublin and found that 70% of child care providers looked after one or two children with special needs. The most commonly diagnosed special needs were speech and language at 76%, and emotional behaviour at 64%. Other additional needs included autistic spectrum, developmental delay, physical and ambulatory, Down's syndrome and learning disabilities. More than two thirds of child care providers stated they never turned away children on the basis of additional needs. In almost every case of providers turning away children, the decision to do so was made because the child's needs were beyond the ability of the facility or its staff to cater for them. In one case, the facility was not wheelchair accessible. However, responses from parents did not paint as positive a picture.

The report set out 14 key recommendations to the Government and child care providers which, if implemented, would radically improve the supports available to children with special needs. It recommended that the Department of Health and Children should provide for an increase in the number of occupational therapists, clinical psychologists, speech and language therapists, public health nurses and other personnel involved in the diagnosis, treatment and support of children with special needs.

The report also recommended that concessions should be made to the extra cost of early years services for children with special needs. For example, a community or private crèche should be eligible for a grant for special needs assistants in early childhood education. Localised special needs training already in place should be built upon and new initiatives introduced. Current links between disability and child-care stakeholders should be strengthened. The findings of the report represent an excellent starting point for Government policy on child care for children with special needs.

The document I will give the Minister of State next week contains 16 recommendations on child care. Building on what the Government did in last year's budget, I am analysing what was done and I am making new proposals. I am trying to get the needs of pre-school children with disabilities on the agenda. We need to talk about the issue and address it. The primary aim of my recommendation is to ensure equality of access to

and opportunity for child care provision for children with learning sensory physical and emotional needs. This approach is similar to what is now the policy in national schools. Specific additional funding should be made available to child care providers to achieve this aim, for example, grants towards the employment of special needs assistants. At the heart of my document is that every child born here should have an equal chance to develop his or her potential.

Minister of State at the Department of Justice, Equality and Law Reform (Mr. Fahey): I thank all the Senators for their very positive contribution to the sectoral plans. I also thank them for the recognition they have given to the great work done by the public servants in all the Departments involved with the plans. I express thanks to the officials in my Department and each of the other Departments who have put enormous work into the preparation of these plans and have had considerable consultation with the stakeholders and the public. This aspect has been especially useful and very satisfying. We are often accused of not having sufficient consultation. However, the response I have received from people in the disability sector is that they are very pleased.

Senator Terry referred to a holistic approach in linking each sectoral plan to the strategy statement and business plan. I agree with her comments in that respect. In addition to the monitoring and review mechanisms put in place by various Departments, it has been suggested that the sectoral plans' actions should now be embedded in the business plans and strategy statements of each sectoral plan Department. Such statements and business plans are prepared periodically and all the Departments intend to incorporate these commitments into their plans when preparing their next strategy statements and business plans. It will happen.

Senator Terry also referred to the need for a detailed debate in various committees, which is a matter for the relevant committees to advance. I will make her views known to the various Ministers. I am sure some discussion will take place at various departmental committee levels. There are arrangements for the involvement of stakeholders centrally in the monitoring of sectoral plans. The national disability strategy will be debated on an ongoing basis and a consultative process will be established. Discussions are taking place on the matter. It was raised in the Towards 2016 partnership discussions. We will shortly make an announcement on the arrangements for ongoing monitoring and consultation. Senator Kett also raised those issues.

Senator Terry also asked about the Education for Persons with Special Educational Needs Act and the issue of standards. The standards are to be addressed by HIQA, which is in the process of being established. Pending the establishment of HIQA, the Department of Health and Children has started to work on the development of stan-

[Mr. Fahey.]

dards in conjunction with the interim HIQA, the National Disability Authority and any other relevant stakeholders, including the Department of Education and Science, the Mental Health Commission, etc. That work is ongoing and the Department of Health and Children is making progress on the formal establishment of HIQA.

Senator Brian Hayes mentioned enforcement of the 3% employment target. Under Part 5 of the Disability Act, the monitoring and enforcement of the provision has been vested in the National Disability Authority. Departments, public bodies and the NDA are progressing the transfer of these responsibilities and the general implementation of Part 5. I agree with the sentiments expressed by the Senator. It is vital to ensure that not alone are these employment targets adhered to, but that every effort is made to exceed them.

The Minister for Finance is responsible for the policy on the employment of people with disabilities in the public sector. He is also responsible for the collation of figures on various Departments and other public bodies, which is underpinned by the provisions of Part 5 of the Act. In other areas of the public sector, each Minister is responsible for compliance with and reporting on the target as set out in the Act for the employment of persons with disabilities in public bodies under his or her aegis. Ultimately, we will depend on the growing good will and sense of public duty to be found across the public and private sector for ensuring that the greatest effort is made to employ people with disabilities across the public and private sectors. The legislation exists to underpin this requirement if it is not happening to the extent we would like to see.

Senator Brian Hayes also spoke about timeframes regarding vocational training and education. The Department of Enterprise, Trade and Employment sectoral plan sets out clear action timeframes for the various elements of its overall comprehensive employment strategy, particularly regarding the FÁS strategy for vocational training provision and will work closely with other Departments, agencies and other stakeholders to ensure that these timeframes are met.

Senator Hayes also referred to the Health and Safety Authority. This year the Minister of State with responsibility for labour introduced the workplace safety code, which
1 o'clock reinforces approaches of responsibility and voluntary commitment to ensure that individual places of work are safe and secure for all. The Health and Safety Authority will be asked to prepare guidelines by the end of 2007 on promoting safe and inclusive workplaces for people with disabilities. In addition, the workplace and well-being strategy being developed by the authority will include guidelines for employers to facilitate those who have workplace accidents, including acquired disability and illness, to return to work.

Senator Kett emphasised the question of interlocking Departments and having Departments pull together. We agree with that holistic approach. The Disability Act requires Departments to have joined up implementation, so to speak, and the sectoral plans make provision for that. For instance, there are overlapping responsibilities in the transport and environment areas, as Senator Kett said, and every effort is being made in the implementation process to ensure a synchronised approach, which we all agree is vital to the success of the plan, is taken.

From a practical point of view and dealing with people in various agencies, the Disability Act and the disability strategy have focused people's minds in a much greater way than has been the case previously. That type of inter-agency co-operation is beginning to yield significant results, which is to be welcomed.

Senator Kett also mentioned the question of the social and family affairs plan including matters such as examining the incentive effects of disability payment levels, addressing the benefit traps, the employment disincentives within the structure of welfare disability schemes and examining the potential for extending, improving and rationalising schemes to better support people in their efforts to take up training opportunities and employment. We fully concur with the Senator's comments. I am aware the Minister, Deputy Brennan, is anxious to ensure that in particular the benefit traps and the employment disincentives are overcome. They are now being supported by protocols agreed by various Departments. The Minister is actively examining that whole question.

Senator Quinn mentioned the commencement of the various initiatives under the legislation. As I indicated in my opening remarks, most of the provisions of the Disability Act have already commenced. The two remaining, Parts 2 and 6, will commence by 2007. Part 6 commences on 1 January 2007 and provides for the establishment of the centre for universal design in the National Disability Authority. We had much discussion on that area during the passing of the Bill. Some of the professions and experts were not as happy as they might be with our proposals but I can give an assurance to the House that there will be continuing negotiation by the NDA in the context of the setting up of the centre for universal design. I am anxious to ensure people's views are taken on board as this process is rolled out.

The rolling out of Part 2 will commence on 1 June 2007. The assessment of the needs of children under Part 5 will take place. Already, the Health Service Executive is working apace on putting in place a good, solid investment process in the most cost effective way. Assessments are taking place as we speak, although not in a formal way, but I am pleased about some of the innovative approaches now being taken by the HSE to the assessment process. I am confident that by June 2007, when the formal assessments will take

place, we will have in place a good assessment procedure which will be a much more unified approach to the assessment process than what is taking place currently within individual service organisations.

The question of capacity was mentioned by a number of Senators, including Senator White in respect of pre-school children. It is generally accepted — Senators Kett and Terry mentioned it also — that there is a need to build capacity within these services to enable the HSE meet its obligations. The process is under way but it will have to be built up over a number of years. It was also accepted, when the legislation was being drafted, that it would not be administratively feasible to introduce the implementation of this Part for everyone at the same time. Part 1, section 3, therefore, allows for a phased introduction of this Part. We are all anxious to see improvements in assessments as quickly as possible and I am satisfied those are taking place. As I mentioned, up to 1,000 extra posts are being created to enable that rollout take place as effectively as possible.

Senator Hanafin mentioned the focus of disability policy and programmes in the new social partnership agreement, Towards 2016. I concur with the points the Senator made in that respect. It is notable that the agreement places the sectoral plans at the centre of the Government's delivery on the social partnership commitments in the 2016 plan. Much good work took place in the context of the preparation of the partnership agreement, Towards 2016, in involving unions and employers in the partnership process in the rollout of the disability strategy. I was pleased to see the amount of attention that was paid to the rollout of the strategy.

On the comments made by the last two speakers, I concur with what both Senators have advocated, especially on the question of pre-school children and the need for us to respond quickly and in a satisfactory way. It is a frustrating experience for parents when they discover their young child has a disability or needs to be assessed for the possible extent of a disability. We would all concur with the need for the educational needs of the child to be determined immediately and a response put in place.

The question of speech therapy is probably the issue that hits us all initially. We agree with the need for more speech therapists. Senators will be aware that serious problems are occurring in terms of the number of speech therapists that are available and because of that new courses are being commenced in universities. We are unable to recruit a sufficient number of speech therapists in time. A programme is being rolled out currently by the HSE to actively recruit speech therapists in any part of the world. It remains a difficulty and while money is always an issue, the availability of people with the required expertise is an issue also.

To return to the question of the assessment of needs, any child with a disability may be assessed under the Disability Act 2005 or under the Education for Persons with Special Educational Needs Act 2004. Health needs identified in an assessment under the Education for Persons with Special Educational Needs Act 2004 will be dealt with in a service statement under the Disability Act. This is very important because duplication has occurred in the past. There often have been considerable gaps, perhaps as a result of the lack of co-ordination between the health and education sectors. This is now addressed in both Acts and priority is accorded in this regard under the Education for Persons with Special Educational Needs Act 2004. A strong attempt is being made to ensure a co-ordinated approach to the implementation of the provisions of both Acts.

Having dealt with the legislation in both Houses, the one point that struck me more than any other concerned the need for proper, quick and effective assessments of needs, on foot of which the various services, including speech and language therapy, occupational therapy and physiotherapy, could be put in place. This is clearly the main challenge for the Health Service Executive. We all accept these services cannot be put in place quickly enough. When put in place, they need to be successful. Parents, especially parents of young children with a disability, must be satisfied that they can obtain responses quickly and effectively. That is the thrust of the legislation.

Sitting suspended at 1.15 p.m. and resumed at 3 p.m.

Child Care (Amendment) Bill 2006: Committee Stage.

Section 1 agreed to.

SECTION 2.

An Cathaoirleach: If amendment No. 1 is agreed, amendment No. 2 cannot be moved. Amendments Nos. 1 and 2 overlap and are addressed to the same part of the Bill. If they are not discussed together, amendment No. 2 will fall after a decision is made on amendment No. 1. In such circumstances, there would not be any opportunity to debate amendment No. 2. As amendment No. 2, which is a technical amendment, is an alternative to amendment No. 1, and amendment No. 3 is related to amendments Nos. 1 and 2, amendments Nos. 1 to 3, inclusive, may be discussed together, by agreement. Is that agreed? Agreed.

Mr. Browne: I move amendment No. 1:

In page 3, line 30, to delete "five" and substitute "3".

I welcome the Minister of State, Deputy Brian Lenihan, and his officials to the House. Before I

[Mr. Browne.]

speak about amendment No. 1, I would like the Minister of State to clarify something. He indicated on Second Stage that he would consult with the Office of the Attorney General about the possibility of introducing amendments to this legislation on foot of the Ferns Report.

An Cathaoirleach: We will deal with that.

Mr. Browne: No Government amendments have been tabled.

An Cathaoirleach: We will deal with that when we come to the relevant section of the Bill.

Minister of State at the Department of Health and Children (Mr. B. Lenihan): If the Senator speaks on amendment No. 1, I will deal with the matter he has raised in my response to him.

Mr. Browne: I ask the Minister of State to clarify whether he will introduce the amendments in question on Report Stage in this House, or in the Dáil.

Mr. B. Lenihan: I will deal with that.

Mr. Browne: I thank the Cathaoirleach for allowing me to refer to the matter now. The amendment I have proposed seeks to replace the reference to “five years” with a reference to “3 years”. While five years is a short time, it is also a long time if one thinks about it as the full length of one’s secondary school education. Senator Henry’s amendment proposes that the relevant amount of time be reduced to “four years”. I suggest that if foster parents have been taking care of a child for three years, they should be entitled to benefit from increased freedom and autonomy, separate to the Health Service Executive, in that regard. The Bill currently refers to five years out of the 18 years of a child’s life, which is a huge percentage of that life. Three years would be a more suitable timeframe. If someone fosters a child who is aged 14, five full years would have to pass — the child would be 19 by that time — before the foster parent would have a full say in decisions about medical and other matters relating to the foster child. The foster child would be an adult by that stage, of course, having passed the age of 18. I am trying to be helpful by suggesting that we provide for a period of three, rather than five, years.

Dr. Henry: Like Senator Browne, I feel that five years is a long time in the life of a child. Five years go by in a flash for an adult, but five years can be one third of a child’s life, by the time he or she is fostered. I had hoped to get on the side of the angels by proposing a reasonable reduction, whereby the relevant period would be four years. At the same time, I recognise the Minister of State’s concerns about being sure the child is in a stable position. I have proposed in

amendment No. 3 that we should provide for a period of five years in cases of placements which have been interrupted. When children are placed in foster care, one always hopes the time will come when they can be returned to the care of their parents. They sometimes go back to the care of their parents. I am aware of cases of children going into the care of other relatives. It does not always work out, unfortunately, which means the children have to go back into foster care a few months later. I would not like people to feel that cannot happen because a five-year period has to be adhered to before anything can happen. The Bill takes into account the fact that the wishes of the child must be considered, which is welcome. I was interested in the figures the Minister of State gave last week about the length of time for which children have been fostered. A significant number of children have been fostered for a considerable length of time. People think that fostering lasts for a short duration, but many cases of fostering last more than one or even three years. I suggest that many children would be covered by this proposal. We need to ensure children, in whom we are interested here, can feel they are in as stable a position as possible. Therefore, I hope the Minister of State will accept my amendments.

Mr. B. Lenihan: I have considered carefully the amendments which have been tabled by Senators Browne and Henry, which propose to reduce the period of time for which a child should be in the continuous care of a foster parent or relative before a court order can be sought. The requirement in the Bill that a child be in the care of a foster parent or relative for a continuous period of five years is appropriate. After five years have elapsed, foster parents, or relative foster carers, will be experienced and will have a sufficient level of understanding of the needs of the foster children. If there are instances of instability or interruption in the placement, it is not appropriate for foster carers to have increased autonomy in respect of the child. When an order is granted under this Bill in respect of a child, that means the State delegates its responsibilities for that child to a foster carer. Under the terms of the legislation, all of the current rights and obligations of the State in respect of that child can be transferred to the parent. That is not something that can be done lightly. The State has to be satisfied there is an unblemished history of care on the part of the foster parent or relative in respect of the child.

I am satisfied that, on balance, five years is the right period of time to provide for. I have listened to the views of Senators. I note that a period of three years has been proposed — I would not entertain such a short period, in the context of such a far-reaching delegation. I will take note of what has been said in this House and I will reflect on it when matters proceed elsewhere. I will listen to what is said in the other House and take account of the views of the national organisations.

I am not disposed to depart from the period of time that is currently provided for. I accept the principle underlying Senator Henry's amendment No. 3, which relates to interrupted placements. I am willing to consider introducing an amendment on Report Stage which would allow a short interruption in the placement of a child, with the same foster parent or relative, to be disregarded in calculating the continuous period. I would concede that, but making that concession strengthens the argument for allowing a relatively long period of time.

Mr. Browne: The Minister of State's post is a difficult one because it could be divided into three sections. The infants' section could cover from birth to four years, four to 12 year olds could be classified as children and 12 to 18 year olds as adolescents. Five years is a short time in terms of an infant being fostered but it could be of far greater significance for those fostered later in life. Could we consider an amendment whereby, instead of a five year rule for all foster children, allowances are made for teenagers or children over ten years of age who could wait a shorter period of, perhaps, three to four years? Will the Minister of State consider my proposal that the older the child, the less time a foster parent should be compelled to wait to apply for a court order giving more autonomy?

Mr. B. Lenihan: I am not well disposed to that suggestion. One of the great difficulties regarding foster placements is that difficulties tend to arise in the categories with older children. That a person aged 13 to 16, for example, was in a stable relationship with a foster parent or relative carer does not guarantee they will remain so at age 17. Unfortunately there are many examples of this in the system.

Dr. Henry: I thank the Minister of State for stating he will reconsider amendment No. 3 for Report Stage. Did the Minister of State and his officials consider the Medical Council's ethical guidelines on medical practice? They advise extreme care in getting the consent of older children and I do not wish to see a situation where the consent of everyone else is considered because much of this relates to medical consent. We must be very careful regarding how the child feels about the procedure that is to be undertaken. It is important that the treatment be explained carefully. We have discussed child and adolescent psychiatric disease previously in this House and I hope the Minister of State can consider the Medical Council's points on this along with ancillary advice he might receive.

I am worried that there might be a conflict of interest in this area. Foster parents may be well able to listen to the child and at the same time the medical practitioner is advised to take cognisance of what the child says. Everyone can do their best for a child and try to return him or her

to the family unit from which he or she came, but a month later that child may be back with his or her relatives or unrelated foster parents.

Mr. Browne: Surely this Bill has two purposes, to protect the foster child and also make life easier on the foster parents on routine issues such as visits to the doctor, school tours and so on. This is straightforward for infants but as children get older they have more needs. My proposal to allow for the age of a child would make daily activities less of a burden for foster parents.

Mr. B. Lenihan: I accept the spirit in which Senator Browne tabled this amendment, but the children in question are in the care of the State. The State has accepted responsibility for these children, the State, not the parents, has gone to the District Court to obtain an order. The children are in the care of the State, through the Health Service Executive, which we all know and love so well. We cannot lose sight of this in devising the appropriate balances in this legislation.

Senator Browne is correct from the point of view of convenience, but the state has assumed responsibility for these children, therefore, it can only delegate its powers when there is a well-founded presumption that it is safe to do so. The State's point of view is that a substantial period of time must elapse for this to happen. A parent does not apply to have a child taken into care, though a relative carer may voluntarily surrender a child into care. Under this legislation the foster parent will have the right, for the first time, to go to court and obtain these rights over the child, notwithstanding the fact that the original parent does not agree. The original parent must be put on notice of the application unless untraceable.

Under this legislation foster parents will be able to obtain a court order giving rights in respect of a child taken into care. This is a fundamental change to the existing arrangement and this is how the period of five years was arrived at. The figure was not simply plucked from the air. I appreciate the practical problem outlined by Senator Browne but we cannot legislate only for that; if we did, we would give every foster parent the power to make these decisions all the time. We are going a step further by giving the foster parents real powers through delegation by the State. I have mentioned children taken into care, but in the case of those voluntarily surrendered into care the parent must have a veto.

Senator Henry raised the issues of medical treatment and ethics. We have been careful in this regard and if the Senator looks at section 2(8) she will see that the issue is addressed. Nothing in this legislation puts a foster child in a position different to any other child. Subsection (8) states:

Nothing in this section or section 18 shall be construed as making ineffective any consent that, by virtue of section 23 of the Non-Fatal Offences Against the Person Act 1997, would otherwise be an effective consent.

[Mr. B. Lenihan.]

That section provides that in the case of a 16 or 17 year old, a medical practitioner can, of his or her own volition, treat the patient. That provision is also transposed to foster children, so nothing in this Bill will compromise the law as it applies. As Senator Henry knows, parental consent is always a difficult issue when it arises regarding children under 16 years of age and it will be addressed for these children as it would be for any other child.

Dr. Henry: I thank the Minister of State for his explanation because it is important that foster children be granted the same position as other children and if this is achieved then I am satisfied.

Amendment, by leave, withdrawn.

Amendments Nos. 2 and 3 not moved.

An Cathaoirleach: Amendments Nos. 4, 5 and 10 are cognate and may be discussed together by agreement.

Ms Tuffy: I move amendment No. 4:

In page 4, lines 8 to 10, to delete all words from and including “a” in line 8 down to and including “time” in line 10 and substitute “the parents of the child”.

I raised the issue of how we define parents in this legislation on Second Stage. The legislation, as it stands, refers to the consent of the parent having custody of the child at the relevant time.

The Minister of State refers to equality in other legislation, but this provision is discriminatory. It starts from the premise that the person with custody of the child is the mother — it does not specifically state that but it is obvious from the text. Our system discriminates against fathers. The housing and social welfare systems act to keep unmarried couples apart and often the people involved are vulnerable. There could be many reasons for a father not having custody at the time, such as housing, the mother living with her parents because the whole family cannot be accommodated or other reasons. Why should that father not be consulted? This legislation makes a judgment on fathers’ roles with the wording “a parent having custody of the child”.

The wording of the Bill is also a problem if the mother does not have custody. If she does not have custody but is guardian by law, she should be consulted. If we presume the parent without custody might be awkward or missing and it is not possible to get his or her consent, that is addressed in section 2(3)(a) and (b) because there the court can be satisfied that a non-custodial parent or custodial parent is missing and cannot be found and can make the decision anyway having regard to the child’s welfare. There is no reason not to include both parents in the section. The same point can be made for amendment No. 5.

Amendment No. 10 is slightly different because it deals with going back to court and bearing or discharging an order. Under this legislation the people who can apply include a parent having custody of the child concerned at the relevant time. What about the father? What if he can go back to court to say he has accommodation and a job? If he can become active in the child’s life, why should he not be able to say that equally with the mother? Perhaps the father has the custody of the child and is the person allowed under the legislation as it stands. What about the mother who is not custodian but is a guardian of the child by law? Why can she not go to the court to ask for the discharge of an order?

This legislation is discriminatory. As there are many safety nets to ensure a child’s welfare is looked after, why should a parent be excluded because he or she does not have custody of the child? If a father is excluded it is bias and if a mother is excluded it is a breach of her legal rights as a guardian. I ask the Minister of State to consider the three amendments.

Dr. Henry: I listened to Senator Tuffy and the more we talk about this issue the happier I am that the Minister for Justice, Equality and Law Reform has appointed someone to report on the family courts. Senator Tuffy as a solicitor has more access to them than the rest of us. We have had to go on anecdotal evidence for so long on custody cases that we are in a situation of great ignorance. If the father’s name appears on the birth certificate it might be possible for both parents to have rights, as Senator Tuffy suggested.

Mr. B. Lenihan: I am prepared to revisit this issue. There are sections in the 1991 legislation which use the same formula as this legislation, where a person having custody or acting *in loco parentis* for the child is the person who is put on notice. That, however, is in the context of interim and emergency applications. I am not prepared to stand over this section and I see merit in the points that have been raised. If it is the case that the primary care application is made to other parties then this application should be also on notice to other parties. I will examine this and respond to the legitimate concerns raised by Senators. The position of the natural father in the context of care proceedings is not clear from the 1991 Act. Clearly this legislation is derived from the 1991 Act and anything we do must conform with its spirit. I will check this issue.

Ms Tuffy: I thank the Minister of State. Even in the case of the mother who does not have custody, there is an issue because she would be the legal guardian. We should take that into account.

Mr. B. Lenihan: We should be aware of a circumstance where a child is abandoned and taken into foster care. There are circumstances where it

is impracticable in any context to contact the original parent. I will examine the issue and come back to Senators about it.

Amendment, by leave, withdrawn.

Amendment No. 5 not moved.

Mr. Browne: I move amendment No. 6:

In page 5, between lines 18 and 19, to insert the following:

“(7) Where a consent is given under subsection (6), the foster parent or relative of the child shall inform the Health Service Executive as soon as may be reasonable.”.

In this Bill we are giving foster parents more autonomy. They do not have to report to the HSE that medical or psychiatric assessments or examinations have been carried out. There should still be an onus on the foster parents to inform the relevant authority that an examination of a serious nature is to be carried out. It would do no harm to keep a record on their behalf. It would be dangerous to go from the scenario where the HSE must be informed about everything to not informing it about anything at all. The foster parent, depending on the examination, should inform the HSE that it took place.

Mr. B. Lenihan: I understand the spirit of the amendment because it makes sense but it is not addressed in a practical way. Each foster child has a care plan and that continues in force after the order is made. The issue raised by the Senator is, therefore, addressed through the care plan, which ensures a level of contact between the foster parents and the social workers.

If I accepted the amendment this would be written in as a legal requirement, undermining the purpose of the legislation, which is to do away with that requirement when the parent is found to be sufficiently trustworthy. In effect the legislation states that after the designated period of years the parent can be trusted to make these decisions but that does not mean a care plan is not in place. That is why the HSE has the power to come back and revoke the parent's powers if necessary. We must, however, recognise the trust we repose in parents under this legislation by virtue of the length of time they have looked after a child.

Mr. Browne: I appreciate the Minister of State's point but I am still concerned. The unlikely event could arise where a foster parent had a child who received unnecessary psychiatric or medical treatment. The purpose of my amendment is to ensure all matters are in order and reduce the potential for abuse taking place. I recall a recent case in Britain where a foster parent was charged with involvement in the murder of a foster child. I hope such an extreme case will never occur here. It is important to introduce

checks and balances and to ensure that, in the event of a foster parent deciding not to record a medical examination or psychiatric treatment, the relevant authorities become aware of it before it is too late.

Dr. Henry: While I understand the Minister of State's position that the amendment would alter the status of the care plan, there have been examples, at least in Great Britain although I am not aware of examples in this country, of care plans falling down badly. Social workers are increasingly overburdened with their caseload. I ask the Minister of State to consider the amendment because I can understand Senator Browne's anxiety to introduce the provision given that the children in question will still be in the care of the State.

Mr. B. Lenihan: Senators are making my argument as to the reason I settled on the period of five years in the first instance, namely, that parents are being extended trust and there was a demonstrated capacity to make decisions. People think of the annual visit to Torremolinos but there is no more important decision than a medical decision and it takes time for a parent to demonstrate a capacity to make that type of decision.

I would be concerned if the provision were inserted in the legislation as a legal formulation and separate matter from the care plan. After all, the position on consent is clear-cut in the Bill and we would muddy the waters if we inserted a provision under which parents could have consent but such consent must be notified to the Health Service Executive and social worker. Would this mean the doctor must inform the parent that he or she must notify the HSE? Would the doctor then not be at fault? The insertion of this provision would create a significant difficulty. The five year period — or four year period if that were to be so decided at a later stage — addresses the issue raised in the amendment.

Amendment, by leave, withdrawn.

Ms Tuffy: I move amendment No. 7:

In page 5, line 30, to delete “Any” and substitute the following:

“Section 37 applies to any child who is the subject of an order under this section and in particular any”.

The purpose of the amendment is to make clear that in addition to existing orders to the child continuing, new access applications, for example by the natural parents, can be made after the making of an order under the legislation. While I am substantially *ad idem* with the Minister of State on this matter, I seek to ensure it will still be possible for an order to be made subsequent to the making of the order provided for in this section.

Mr. B. Lenihan: Section 37 of the Child Care Act 1991 relates to access to children in care. It provides that where a child is in the care of the Health Service Executive, either under a care order or otherwise, the executive will facilitate reasonable access to the child by the parents, any person acting *in loco parentis* or any person with a bona fide interest. It provides that a person who is dissatisfied with the arrangements made by the executive may apply to the court and the court may make an order on access and vary or discharge this order. The HSE can also apply to the court for an order authorising the executive to refuse a named person access to a child. These provisions are already in the 1991 legislation.

This Bill provides that any arrangement in place under section 37 at the time of the making of an order under this section will remain in place until the court orders otherwise. Having examined the precise wording in the Bill and notwithstanding the fact that it contains a provision that the new sections are without prejudice to any other provisions of the Act which assign functions to the Health Service Executive, I am prepared to consider this issue further and make explicit what is implicit in the legislation with a view to introducing an amendment on Report Stage. Any such amendment would make a specific provision for new access arrangements to be made or existing access arrangements to be altered after an order under this section has been made. In short, the Senator raises a fair point which I will address.

Amendment, by leave, withdrawn.

Mr. Browne: I move amendment No. 8:

In page 6, line 2, to delete “section,” and substitute “section or otherwise,”.

The purpose of the amendment is to recognise that in circumstances where a child is fostered by a grandparent or other member of his or her family, as opposed to being formally placed in care, it may not be possible to determine an exact commencement date for the fostering arrangement. For example, if the parents of a child divorce and one or other parent remarries, the child may not like the parent's new partner and may decide to live with his or her grandparents. In such circumstances, there may not be a formal date at which the child began staying with his or her grandparents. The insertion of the words “or otherwise” would give the authorities latitude when applying the five year rule currently envisaged by the Minister of State. The grandparents in the case I outlined would have some degree of flexibility in demonstrating that a child has been in their care for a five year period because the provision makes an allowance for scenarios in which children stay with family members and the commencement date of the arrangement may be difficult to prove.

Mr. B. Lenihan: I am not being kind to the Senator because I cannot find an amendment in his name which I am prepared to accept. The insertion of the expression “or otherwise” would not be appropriate because the Bill makes a fundamental distinction between the conditions which apply to the granting of an order under this section in respect of a child in voluntary care and a child in care under a care order. This distinction relates to the consent of the parent or person *in loco parentis* being sought by the Health Service Executive in relation to the granting of the order where the child is in voluntary care and the parent or person *in loco parentis* being given notice by the Health Service Executive when the child is in care under a care order made by the court.

Section 4 of the primary Act provides for a child to be taken into care if he or she requires care and protection. Such a child cannot be taken into care against the wishes of the parent having custody of him or her or persons acting *in loco parentis*. Children taken into care under section 4 are in voluntary care. As such, one must make specific provision regarding the granting of an order under this section in respect of such children because they are in a unique position, whereby they are placed in care voluntarily by a parent or person acting *in loco parentis*. However, where a child is in care under section 18 and the subject of a care order, the court and Health Service Executive have autonomy in the case. I do not know if my reply addresses the question raised by the Senator.

Mr. Browne: I ask the Minister of State to clarify whether, in the event that a child opts to live with his or her grandparents, the grandparents are obliged to inform the authorities that they have care of their grandchild.

Mr. B. Lenihan: As I understand the position, the case the Senator outlines would be a private arrangement which stands outside the care system. This system relates to two categories, namely, persons taken into care or persons surrendered into care. The circumstances described by the Senator relate to a third category, one on which he touched in his Second Stage contribution. While there is a third category of persons who are minded informally by someone else, there is no suggestion of any risk or requirement that a child in such circumstances have care and protection. A person would simply have custody of the child in question and would not fall within the scope of the legislation.

Mr. Browne: Initially, in such circumstances, the child may enter into an informal, private arrangement and thereafter the grandparents may apply for fostering rights. The purpose of the amendment is to make allowance for cases in which grandparents or other persons, primarily family members, foster a child informally for a

period, perhaps of a year, prior to the formal commencement of a fostering arrangement.

Mr. B. Lenihan: While I accept the Senator's point, special consideration would not be given to a pre-existing period of voluntary custody in the event that a child became problematical. The reason is that if the child has become difficult, the State must measure the parent's capacity against the period of time the parent parented a difficult child. Therefore, we stick to the five year period.

Amendment, by leave, withdrawn.

Mr. Browne: I move amendment No. 9:

In page 6, between lines 5 and 6, to insert the following:

“(12) In this section, “missing”, in respect of a parent, means a parent who has had no contact whatsoever with either the child or the Health Service Executive for a continuous period of at least 1 year.”.

This amendment seeks to clarify what “missing” means. That provision of the Bill should be tightened. Does missing mean they did not reply to a text message, answer the door or reply to a letter? In respect of a parent it should mean the parent had no contact with either the child or the Health Service Executive for a continuous period of at least one year.

Mr. B. Lenihan: Senator Browne has raised an interesting question. It is normal in legislation not to address this issue. Whether a person is missing is a matter for the courts, not for primary legislation. If the proceedings are served on the relevant parties and they are missing, they will not show up at the court. We must give some guidance to the courts because it is a fact that quite a few foster parents are missing and it will put a huge burden on applicants if the court insists on the full rigours of the law in tracing a missing person for every application. That is the reason the word “missing” has been included.

The courts are used to dealing with these matters and it is best left to them at that stage. Section 43A provides that the court will have to be satisfied that the parent or other person is missing and cannot be found by the Health Service Executive. It will then be a matter for the court to decide, based on the information provided to it by the executive on the efforts made to contact the person, whether it is satisfied that the parent or other person is missing and cannot be found. We have relaxed the system somewhat for the applicant under this legislation. However, it would reduce the power of the court too much to provide for the specificity Senator Browne suggests. That would be telling the court that the person is missing. It is better for the court to be empowered to conduct a complete review of the HSE file because the court might have a reservation about this.

We are dealing with the rights of parents. Senator Tuffy pointed out this earlier and it is a matter I will return to in terms of rights. It is important the courts be left with discretion to decide whether somebody is missing and not simply be told the HSE has not heard from the person for a year or two and, therefore, he or she is missing. We must be a little more protective of the rights of the parties. That is the thinking behind the provision. I welcome the amendment because it highlights an issue that caused difficulty during the drafting.

Amendment, by leave, withdrawn.

Amendment No. 10 not moved.

Ms Tuffy: I move amendment No. 11:

In page 6, between lines 18 and 19, to insert the following:

“(e) a person who, in the opinion of the court, has a *bona fide* interest in the child.”.

This amendment is suggested because the section is far more limited than section 37(1) which allows a broader category of interested persons, for example, relatives, if they are not the natural parents to apply for conditions to be added to the order under the Bill. There should be similar flexibility in this section. An obvious relative is the grandparent.

Given how society has developed, grandparents are playing a greater role in children's lives. There are many reasons for this. It can occur in different circumstances, including when there are problems in the relationship between the children and the parents. Often the grandparents are there for the children. This could include grandparents on the non-custodial parent's side. One cannot make a judgment on why a parent is or is not the custodial parent because there can be many reasons for it. Again, the grandparents fit into that picture. Non-custodial grandparents could play a large role in the child's upbringing and might have an interest in seeking an order under this section.

I do not know the extent to which one should legislate with regard to grandparents but this issue is being examined in other jurisdictions and it should be considered here. When families break down or, for some reason, a parent is not available, it is often the grandparents who step in to look after the child. We must provide in the legislation for where they might undertake a role.

It will be probably necessary to re-examine the definitions relating to parents. What if the parents are married and the father is the guardian by law but is not the custodial parent? Where do his guardianship rights stand if he is not included in this legislation? This relates to what I said on Second Stage. Senator Henry is correct that we will have to do what other countries have done and re-examine all these areas. Australia, for example, has conducted studies and consultations

[Ms Tuffy.]

and produced White Papers and subsequent legislation dealing with these matters. Society is changing and is very different from what it was ten or 15 years ago. We must respond to that.

I agree with the suggestion regarding unmarried fathers, that we introduce the legislation that is due to be introduced in Britain whereby if a father is named on the birth certificate, and he must get the mother's consent to be so named, he should have automatic guardianship rights. Fathers automatically have guardianship if they are married.

Dr. Henry: I am always fascinated when people describe a breakdown in a marriage or relationship as "amicable" because I have not yet encountered it. Frequently, children are the big losers in these situations. Grandparents have no rights but they might be the only stability left for the child or children. The Minister and Senator Tuffy will have seen instances in the courts where visiting and access rights for children are really used as weapons, while grandparents have no rights. Perhaps the Minister will consider Senator Tuffy's suggestion because these might be the people who have the best interests of the child at heart at that time.

Mr. B. Lenihan: I have already undertaken to address the issue of the parties who should be served with notice of the application. I note the wording relating to the discharge of the order follows the wording in the application. The amendment refers to persons who have a bona fide interest in the child's welfare. That is a vague formulation. I will take it into account in my review but I prefer to be more precise in a categorical list of individuals who should be served with the proceedings.

Amendment, by leave, withdrawn.

Section 2 agreed to.

Question proposed: "That section 3 stand part of the Bill."

Dr. Henry: Like Senator Browne, I was disappointed that following the Minister's speech on Second Stage, in which he said he would put down amendments on Committee Stage regarding the Ferns Report, the amendments were not dealt with here. They will be dealt with on Committee Stage in the Lower House and when the Bill returns to the Seanad we will be only able to pull our forelocks and agree to them. We have no power to do anything unless something appalling is included. The Seanad addresses Bills such as this very seriously and it is a great disappointment that we did not have the opportunity to discuss those amendments today.

Mr. B. Lenihan: I should have dealt with that. Senator Browne raised it earlier and I would like

to address it now. The amendments are very complex and they relate to the whole question under consideration. The Ferns amendments relate to two particular recommendations in the Ferns Report about which much work has been done by my own office and that of the Attorney General. The first recommendation deals with the interagency groups that have substantial dealings with vulnerable children or have unsupervised access to children. The recommendation outlines the legal scaffolding that should be erected to give them protection from libel, freedom of information legislation, data protection legislation and all other immunities they enjoy when assessing the necessary soft information. We are working on a draft and it seemed that this would be a convenient vehicle for it, but I regret the fact that it is not yet available for Senators.

The second recommendation made by the Ferns Report was to examine if it is possible to give power to the High Court to make an injunction restraining a person from having access to children, following an application by the Health Service Executive. That also raises complex issues because it represents a civil remedy to injunct the person from dealing with children in the absence of a criminal conviction. There is some precedent for this in the resolution of matrimonial disputes and the exclusion of parties from the matrimonial home. In the context of the Bill, it is a new power to be conferred on the HSE and one that must be formulated with great care and in a way which continues the responsibilities of organisations for their own staff in regard to the care of children.

Mr. Browne: I am not sure when Report Stage is to be taken, but I would like it to be deferred until those amendments are ready. It is not ideal that they go before the Dáil for scrutiny and then come before this House to be rubber-stamped. The issues raised in the Ferns Report are very complex and it would be better if both Houses scrutinised them fully.

Mr. B. Lenihan: I appreciate the point but the Senator must appreciate that in the last year of the current Dáil, the Seanad will have considerably more time to consider this Bill than the Dáil. I understand the Seanad has 90 days to consider it. I am anxious to get on with this and I will give the Seanad ample time to consider the Bill. I do not consider the revising function of this House to be a rubber stamp.

Dr. Henry: With all due respect, we can stand up and speak only once. That is the rule of the House. It is not the Minister of State's fault it is the standing order of the House.

Mr. Browne: If an amendment was to be changed on Report Stage in this House, the Bill would have to go back before the Dáil. The Minister of State hit the nail on the head when he pointed out that the Dáil has less time to consider

the Bill. It is an election year and the Minister of State could be promoted next year.

Mr. B. Lenihan: I hope the Senator is not throwing in the towel on the next general election.

Mr. Browne: All I know is that we are guaranteed much uncertainty in the next few months.

Mr. B. Lenihan: We have plenty time available to deal with this Bill.

Question put and agreed to.

Title agreed to.

Bill reported without amendment.

Acting Chairman: When is it proposed to take Report Stage?

Mr. Glynn: Next Wednesday.

Report Stage ordered for Wednesday, 8 November 2006.

Adjournment Matter.

Social Housing.

Mr. Browne: I welcome the Minister for Education and Science to the House, although my question does not relate to her Department. I hope she will pass on my concerns to the Minister of State, Deputy Noel Ahern. I plead with the Government to start rebuilding one-bed dwellings. This was the practice in the past, but it has been phased out in favour of two-bed dwellings. An unfortunate aspect of that has been that single people and childless couples are finding it impossible to get housed. The reality is that if a two-bed house is being given out by a local authority, a couple with a child will get it every time ahead of a single person. Building one-bed units will positively discriminate in favour of single people and childless couples.

There have been problems in the past with building one-bed units as they were small and somebody could not stay over if one of the dwellers was sick. I would solve that issue by building the one-bed apartment and make the sitting room a bit bigger than the norm to allow for a sofa bed. An extra person could then be accommodated if that person needed to stay over. Single people, including gay people, are finding it very difficult to get housed by local authorities. I look forward to the Minister's reply.

Minister for Education and Science (Ms Hanafin): I am taking this debate on behalf of my colleague, Deputy Noel Ahern, Minister of State at the Department of the Environment and Local

Government with responsibility for housing and urban renewal. I am happy to address the Senator's concerns about the Government's commitments to meeting social housing needs.

The results of the 2005 assessment of housing needs undertaken by local authorities indicated that of the total of 43,413 households in need of housing, 43% or 18,902 were single person households. The previous assessment in 2002 indicated that 32% or 15,522 households were single person households. The Government has acknowledged this increasing housing need for single persons and has responded actively by expanding social and affordable housing output very significantly. A record allocation of €942 million for the local authority housing construction and acquisition programme has been provided in 2006. This should allow for the completion of over 5,000 housing units in the year, many of which will be one and two bedroom units. These are being delivered under local authority building and acquisition programmes and dwellings acquired under Part V. However, one bedroom dwellings will not always be suitable for a single person. In some situations an extra bedroom is required to accommodate visiting family members or carers in the case of an elderly person. I will pass on Senator Browne's comments about constructing a larger living room.

Figures on the number of bedrooms provided in newly built or acquired local authority dwellings are not readily available in the Department of Environment, Heritage and Local Government. The Minister has urged the local authorities to accelerate progress on the implementation of their programmes in order to begin construction and secure completion on as many social housing schemes as possible in 2006.

It is not just the local authority housing construction programme that serves to meet the needs of those on the waiting lists. This year it is expected that 1,350 units will be provided by the voluntary housing sector. This will also assist in meeting the needs of those households on waiting lists, including single people. The rental accommodation scheme also uses a range of measures to provide good quality, secure accommodation and is particularly suited to dealing with the needs of single person households, the elderly and the long term homeless. It has also provided a solution to the problems of poverty traps in the rent supplement scheme.

In the social design guidelines, the Department has advised local authorities of the need to provide a reasonable mix of dwellings suited to the different kinds of households already on the waiting list and to plan their future programmes taking account of the estimated size and type of households likely to be seeking housing in the future. In the past there may have been an over-emphasis by local authorities on the provision of three bedroom houses and larger. In many circumstances this may have militated against the pros-

4 o'clock

[Ms Hanafin.]

pects of obtaining local authority housing by single persons on waiting lists for long periods. Local authorities have been reminded of the need to ensure the profile of house types in proposed new housing schemes should take greater account of the actual housing needs position of households on waiting lists. The action plans on social and affordable housing for the period 2004-08, drawn up by local authorities and agreed with the Department, lists the number and bedroom type of local authority dwellings to be built over the period and which should reflect the various categories of needs on their waiting lists.

It is ultimately a matter for individual local authorities to decide on the allocation of houses to single persons and other categories on their waiting lists in accordance with their schemes of letting priorities. The guidelines issued by the Department to local authorities indicate that schemes of letting priorities should be equitable and balanced in dealing with different classes of housing need. The aim must be to promote equality of opportunity in accessing local authority housing based on relative housing needs; to ensure a dwelling, if suitable, is let to the person in greatest need; and that no category of need is at a permanent disadvantage *vis-à-vis* other categories.

The Department continues to monitor the matching of local authority house building and

acquisition programmes to the range of household needs on waiting lists. In recent years local authorities have provided a wider range of house types, including an increasing number of one and two bedroom dwellings which are more suitable to single people. Local authorities must also ensure the allocation of houses has due regard to the objective of achieving good social integration and estate management.

Mr. Browne: I thank the Minister for her reply on behalf of the Minister of State, Deputy Noel Ahern.

Many single people find it impossible to get on the housing list in some local authority areas. When a separated man goes to court to ask for custody of the children, either partial or full custody, the judge is very quick to ask him whether he has suitable accommodation for them. In most cases these fathers live in bedsits which are not suitable. They will not be housed by the local authority because they still have a share of a family home and in theory they still own part of a house. It is a vicious circle and they are caught offside. This leads to the crazy scenario where many men have to see their children in a shopping centre for an hour or two on a Saturday afternoon. They do not have the appropriate accommodation and they are caught no matter where they turn.

The Seanad adjourned at 4 p.m. until 11 a.m. on Wednesday, 8 November 2006.