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# DÍOSPÓIREACHTAÍ PARLAIMINTE PARLIAMENTARY DEBATES

# **SEANAD ÉIREANN**

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## SEANAD ÉIREANN

Dé Máirt, 21 Iúil 2015

Tuesday, 21 July 2015

Chuaigh an i gceannas ar 10.30 a.m.

Machnamh agus Paidir. **Reflection and Prayer.** 

### **Order of Business**

**Senator Maurice Cummins:** The Order of Business is No. 1, Children First Bill 2014 - Second Stage, to be taken at 11.45 a.m. and adjourned not later than 1.45 p.m., with the contributions of group spokespersons not to exceed eight minutes and those of all other Senators not to exceed five minutes; No. 2, Children (Amendment) Bill 2015 [*Seanad Bill amended by the Dáil*] - Report and Final Stages, to be taken at 1.45 p.m. and adjourned not later than 2.30 p.m., if not previously concluded; and No. 3, Environment (Miscellaneous Provisions) Bill 2014 - Report and Final Stages, to be taken at 2.30 p.m.

**Senator Darragh O'Brien:** I propose an amendment to the Order of Business that No. 70, motion No. 20, be taken without debate before No. 1. It relates to Taiwan and follows on from a resolution made on 22 May 2013.

I wish everybody a good rest over the summer recess. We have done quite a deal of work in the Seanad in the last session and it has been important work. I have been disappointed with the response from the Government to the Seanad reform proposals. I believe the Leader will agree that is a matter we need to get a handle on in the new term. To be fair to him, he has driven many positive changes in the running of the Seanad in the past four and a bit years. I found it very unfortunate that the Taoiseach decided in this context to meet the leaders of the parties as opposed to leaders of the parties in the Seanad, including the Leader. We are the ones who are working in the House and can certainly apply our experience to improve how things are done, particularly in the area of EU legislation.

I ask for a further debate on the commemorations that will take place next year. We have had debates on the issue previously, but I seek a debate with particular reference to families whose relatives were 1916 or War of Independence veterans. As the Leader knows, the Department of Defence does not issue replacement medals, which is unfortunate coming up to the centenary. I know the reason, but I have received many requests from families who have noted that all the Department will issue are certificates of military service. That is something in itself, but many families have misplaced or lost 1916 service medals or War of Independence medals

over the years. Given the centenary, the Department should consider issuing a new medal to relatives who no longer possess the family medals they previously had in order that they can wear them with pride next year on the centenary of the 1916 Rising.

One of the most urgent things we must do when we return is have a full, frank and honest debate on policing and Garda resources. Garda resources are at an incredibly low level. My brother-in-law will be passing out in Templemore tomorrow with the second batch of recruits and I wish him well. I am delighted there are new recruits. However, one must consider figures such as the 115,000 warrants currently outstanding. In addition, new Garda vehicles are being purchased for stations where there are not enough gardaí to drive them. That is not sustainable. We should have a debate on policing in early course on our return in September prior to getting into the budget and the real battle of the next general election. We probably will only have two to three weeks in September in which we can get some business done. After that, it will be a case of the budget and the general election.

I wish everybody well over the summer recess in whatever they are doing. I hope those who are taking a break will enjoy it and to those who are not, I wish them the best of luck on the canvass, although not quite so much good luck to those who are not members of my party. However, I hope everybody will enjoy himself or herself.

**Senator Ivana Bacik:** That was a slightly grudging good luck wish from Senator Darragh O'Brien.

I condemn the dreadful suicide bomb attack in Turkey yesterday, apparently by a member of ISIS, in which 30 young socialist activists were killed while they were trying to plan the rebuilding of the city of Kobane which had previously been overrun by ISIS militants. Following the dreadful attack in Tunisia, it is yet another attack that conveys to us the real threat of ISIS and that extremist terrorism. There is a big debate taking place in Britain about ISIS and how to counteract that threat within Europe. We should also have that debate in this House when we return.

On a brighter note on our last day, I welcome three recent initiatives of the Government. The first is the Bill on victims' rights which was announced last week and which we will debate in the autumn. It will provide for some welcome developments. For the first time it will place victims' rights in the criminal justice system on a statutory footing, which is hugely important. Among other things, it will enable victims of crime to track the sentences of offenders in the particular case in which they have been involved. That is very welcome.

I also welcome the announcement by the Minister for Justice and Equality that Ireland will take in 600 migrants from Syria and Eritrea. I hope their asylum claims will be processed very swiftly in order that they can be welcomed to our shores.

Although it is not a Government initiative, I welcome the recommendation that the minimum wage be increased. I hope it will be taken on board in the budget in the autumn. It is hugely important to see that recommendation being put forward by the independent body established by the Government. It follows the positive and important reforms in our industrial relations system which the Minister of State at the Department of Jobs, Enterprise and Innovation, Deputy Gerald Nash, has been promoting, particularly the legislation on collective bargaining. I welcome this.

I wish all colleagues a restful and restorative break. I will not moderate or qualify it.

#### Senator Darragh O'Brien: The Senator is always for equality.

**Senator Ivana Bacik:** I wish everybody on both sides of the House a restful break. Even if we do not return yet as a reformed Seanad, I hope we will return as a reinvigorated Seanad.

**Senator Sean D. Barrett:** I note with concern the report by Professor Alan Barrett on the national economic dialogue. He points to the considerable contradiction between people arguing for extra spending and being unwilling to pay for it. That is what got us into trouble previously. It is an echo of the past. In Dublin Castle last week, 140 people from unions, business, farming and the voluntary sector met. All of them want more and, presumably, this House is meant to borrow the money. Nobody is coming up with suggestions on taxation. Seamus Coffey, the other economist concerned, said there was little agreement about how the extra taxes would be raised.

Regarding low pay, the family income supplement is the instrument we use to combat low pay and it should be part of this package, in addition to the minimum wage that has been mentioned. It is being neglected. I often wonder why advocates for more income redistribution in Ireland rarely refer to family income supplement. It appears to be a blind spot, but it could be very important in helping the incomes of low income people who are at work.

I welcome the resumption of diplomatic relations between the United States and Cuba. As Ireland is friendly with both countries, it is most welcome.

I thank the Cathaoirleach, the Leader, the secretariat, the ushers and all those who help to serve this House. We are indebted to them. I hope we will return to this building. There are some stories that we will be moved because it is a fire hazard and so forth. I have been in some of the other buildings with the banking inquiry, but this is the best debating Chamber in Britain or Ireland. I hope it stays that way and if there are repairs to be done, I hope they will be done as quickly as possible.

**Senator Terry Brennan:** I condemn the unprovoked attack in our capital city this week on a visiting English family. The man was attacked simply because he was smiling. We try to make our visitors smile, but he was attacked on O'Connell Street. Can one imagine the mentality of the people who would do that? My family suffered an attack on the same street over 20 years ago by half a dozen thugs who, thankfully, came out the wrong side of it. I am proud to say that. However, this is happening too often in our capital city. The attacker in the latest case was accompanied by a beggar who was obviously begging for money and the visitor did not cough up. The visitor was attacked because he was smiling. I passed two beggars in two different parts of the city on my way here this morning. I cannot understand how it is allowed to continue on a daily and weekly basis. They stand or sit on the same streets. I was not attacked. I believe there should be a greater Garda presence. One can see and identify the people concerned. One is not expecting to be attacked but one can identify these beggars and thugs. It is also happening in many of our towns throughout the country. There is begging and attacks, particularly at weekends. It must be condemned outright.

**Senator Terry Leyden:** I second the proposal by Senator Darragh O'Brien that No. 70, motion No. 20 on the Order Paper be taken without debate before No. 1. I also welcome the re-establishment of diplomatic relations between the United States of America and Cuba, but it is most unfortunate that the Senate has vetoed the appointment of the ambassador in Washington from Cuba. It has the embassy opened, but it will not have an ambassador. It is an awful

insult to the President of the United States that he cannot have an ambassador approved from Cuba to the United States. I presume the American ambassador will be approved in Cuba. It is 54 years since the breakdown in diplomatic relations happened under Eisenhower. On "Morning Ireland" this morning the friends of Cuba complimented the leader of Fianna Fáil, the first European Minister for Foreign Affairs to visit Cuba despite the veto by the United States of America. It showed that Fianna Fáil has an independent approach to international affairs. It should be noted from the Order Paper today that this is a fact. I congratulate Deputy Micheál Martin on his courage and having the courage of his convictions to visit there.

Regarding wishing everybody well for the summer, I have read that there is a possibility the Seanad might not meet again in this building after the summer recess. I suggest we move to Farmleigh and that there should be a separation of both Houses of the Oireachtas. The Dáil can stay in its Chamber and as I have no particular wish to sit there for two days, we should move to Farmleigh. It has good facilities and good parking. I was never invited there but from what I see on the television it is very nice.

An Cathaoirleach: Is the Senator proposing an amendment to the Order of Business?

Senator Terry Leyden: Gosh, no.

An Cathaoirleach: It is a matter for the Board of Works.

**Senator Terry Leyden:** It is just my personal opinion. The Leader of the House may wish to stay here or he may want to come into the Dáil Chamber as a Deputy, which would be nice. I read in the newspapers that we may sit two days in the Dáil, Thursday and Friday. We are the last people to be informed of these things and somebody, such as the chairman of the Houses of the Oireachtas Commission, should have the courtesy to inform the Members of this House what the plans are for this building in order that we do not have to read it in the *Sunday Business Post*. I protest at the way we are being treated.

An Cathaoirleach: The Senator is over time.

**Senator Terry Leyden:** When I was here as a Minister of State, the Seanad sat in the antechamber for a period of time.

**Senator Denis Landy:** On our last day I wish to say I am delighted with the report card Senator Darragh O'Brien gave the Government today. It was honest and his recognition of all the work the Government has done and is going to do-----

Senator Terry Leyden: The Senator should have gone to Specsavers.

Senator Darragh O'Brien: I do not think Senator Denis Landy was listening to me.

An Cathaoirleach: Does Senator Denis Landy have a question for the Leader?

**Senator Denis Landy:** I have loads of things to say. Senator Darragh O'Brien has gone up in my estimation massively.

Senator Darragh O'Brien: Does the Senator have anything relevant to say?

**Senator Denis Landy:** I will be spending my time in Ireland on a staycation, but I will be relying on the geographical knowledge of my colleagues around the country to take me to the various boreens where councillors live. I hope Members will support me.

Senator Darragh O'Brien: As there are only 56 to go, it will not take the Senator long.

An Cathaoirleach: The Senator must not launch a campaign on the Order of Business.

**Senator Denis Landy:** I am delighted with the leaked announcement that the Government is moving towards increasing the minimum wage. It will mean an awful lot to a large number of workers. I cannot get over the crocodile tears from ISME and other organisations who state the sky will fall in on top of them if they have to give somebody an extra 50 cent an hour. What about IKEA, which has gone one better? It is about time workers were recognised in this country and got not just a minimum wage but a living wage, which is what my party is trying to and will achieve.

I wish everybody a good summer and look forward to meeting Members when we return.

**Senator David Cullinane:** I join the leaders of the other groups in wishing everybody a happy summer. I hope they get some rest, too. As people will be campaigning as we are six or seven months from an election, it will be a busy time for those who are candidates, as well as for those who are not.

I wish to raise the issue of support for people with disabilities. The Disability Federation of Ireland has launched its pre-budget submission which makes some very reasonable proposals and calls on the Government to invest more in services supporting people with disabilities. The document is entitled, No Recovery Without Us. It puts into sharp focus the need to reverse many of the very harsh cuts which were put in place. The Government will state these were justified because of the economic crisis and the challenges the Government faced in the past four years when adjustments had to be made to the public finances. We on this side of the House disagreed and came up with alternative proposals but the Government said there was no further choice. We are now told some extra income is available to the State and the Minister for Finance and we need to use whatever flexibility and added income there is to give back to those who are most deserving and most in need. Calls to reverse the cut to the respite care grant, to increase the disability tax credit and to grant medical cards based on medical need are reasonable. This is an important issue but when we come back after the summer recess we should have a series of alternative pre-budget debates with the key Ministers, the Minister for Finance and the Minister for Public Expenditure and Reform in order that we can discuss all the submissions we are getting on a daily basis. There was a very expensive photoshoot in Dublin Castle when people were invited to hear debates on the budget, but we cannot seem to have them in this Chamber

#### Senator Darragh O'Brien: Did the Senator go to it?

**Senator David Cullinane:** I did. It was a wasteful exercise as this is the place in which to have such debates. I ask that they be held after we come back.

**Senator Colm Burke:** First, I thank all the staff in the House for their dedication and commitment to their jobs and the assistance they give to each one of us throughout the year.

I have a question on the role of access officers in local authorities. Today is 21 July 2015. Seven years ago a family, who have contacted me in the past 12 months, received a letter from Cork City Council advising them that work would be done on their house to accommodate their daughter who has both an intellectual and a physical disability. Today is the seventh anniversary of the letter and not one piece of work has been done to the house. The child is now 20 years

old and I have referred the matter to the Ombudsman as it is a disgrace. On the one hand, we talk about disabilities but, on the other, we have no joined-up thinking on how we co-ordinate services for them. The local authority is passing the buck. The Disability Act 2005 set out that each local authority must have an access officer to deal with these issues but many do not have an officer in place and are in breach of the Act. It is a matter we need to discuss when we come back after the break. It can no longer go on like this. We have been passed from one department to another with no one taking responsibility. I have a number of these cases and have referred them to the Ombudsman and it is important that this House send a clear message to everyone involved that we need to provide services and backup support. If this person was in State care it would be costing us  $\in 2,500$  a week. We have a mother and father who are committed to looking after this child and to providing the services for her, but the State is not giving them the support they require. I ask the Leader to put this matter on the agenda for when we return.

Senator Denis O'Donovan: I ask Members and the public, through the Leader, to advocate safety in our waters during the summer. The summer has not been great so far, but, unfortunately, we hear of appalling tragedies with people jumping into lakes and into the sea in hot weather and not being aware of the dangers. I urge Irish Water Safety to redouble its efforts to ensure, through programmes of education and interaction with coastal communities,

*11 o'clock* that we reduce the incidence of people being drowned. We say it every year but four

or five times more people are drowned in our rivers and lakes and around our coasts and seas than are killed in farm accidents. I appeal to this House to sincerely request that people be cognisant of the dangers of water and the sea and not to take them for granted. I also hope the media will pick up on it.

I wish the Cathaoirleach, Members and all the staff a good recess, with time for reflection. I hope they come back with a new lease of life.

I urge the Leader to indicate the date of the next general election. He was unable or unwilling to do so, but I hope we will see the Seanad into the new year. The Government has a mandate and should see out its full term. The general election should happen in the spring when everybody would be fully prepared for it. I wish everybody a good summer recess. They should be safe and careful and not get too much sun.

**Senator Aideen Hayden:** I ask the Leader to accede to Senator Darragh O'Brien's request for a change to the Order of Business, noting the fact that it refers to a previous resolution of the Seanad on the matter. Trade and trade matters generally are important to the country and the motion should be considered seriously.

While the House is in recess, a number of very anxious parents will be awaiting the results of the leaving certificate examinations that will, unfortunately, determine the futures of many children and young people. I seek a debate early in the new term on student grants. I have raised the issue in the House previously, but we have dragged our feet on it for several years. When I examine the level of student grants, it is a mystery to me how anybody can possibly be educated at a third level institution. A Higher Education Authority report will soon be published on student accommodation. I have raised the issue previously on the Order of Business. Access to accommodation impacts on access to education. The lack of affordable accommodation is preventing a number of young people from accessing third level education.

I agree with the statements made on funding for disability services. In my area respite care services have suffered a 20% cut and there have been greater cuts in disability services. In

the new term we should have a broad-ranging discussion on the budget and what the priorities should be.

I wish all colleagues a very good and restful break. There is much commentary in the media about how Fine Gael would like to return to government with the Labour Party. Given the very nice comments made by Senators Darragh O'Brien and other colleagues, I am beginning to wonder if we are heading towards a national coalition.

Senator Darragh O'Brien: I will have to clarify my remarks.

An Cathaoirleach: The record will speak for itself.

Senator Darragh O'Brien: I am sure it will. I am worried about it.

**Senator Gerard P. Craughwell:** I, too, thank the Seanad staff, particularly for the help, assistance and mentoring, to some degree, I received when I came here.

In recent days I have received a number of telephone calls from councillors around the country, all referring to three basic issues, namely, entitlement to sick pay, the negative impact on household incomes of full-time councillors with no other income and the unfair treatment of lone parents and child care issues.

Last week we were told the councillors' representative bodies, the Local Authority Members Association, LAMA, and the Association of Irish Local Government, AILG, had met the Ministers. Councillors were e-mailed by Members of this House advising them that the meetings had been constructive and that a get-together was planned between the AILG and the LAMA in advance of further engagement. The Minister for Finance, Deputy Michael Noonan, advised the representative bodies that budgetary issues were always present, but that the briefing he had received from the representative bodies would inform his position when proposals were received from the Department of the Environment, Community and Local Government. Regarding the class K PRSI issue, the Minister of State at the Department of Social Protection told the representative bodies that PRSI classification was a complex issue and asked the AILG for proposals which would give his staff a basis on which to negotiate on the regulatory and financial issues involved. In all of the reports from the various meetings that took place I cannot see any record of a discussion on the key issues involved. What is the status of office holders who are not elected representatives and how does it compare with the treatment of councillors? There is no sick pay for councillors, whereas there is for most office holders, including Members of the House. Class K PRSI is a tax. Can anybody show me one benefit that derives from the figure of 4% that councillors pay? I ask the Cathaoirleach to indulge me for a few moments, given that this is an important issue. Unlike many in this House who will walk away after the next general election well provided for, to what can a councillor look forward? Do we even provide a contributory old age pension for them? We do not. From the recent talks, I see no plan of action, only vague language and soft talk to pacify. Why is the councillors' representational payment subject to tax when, in theory, it should be treated in the same way as the Senators' parliamentary standard allowance of €12,225 which is tax free to cover various expenses?

An Cathaoirleach: There is a motion on the Order Paper dealing with that issue.

**Senator Gerard P. Craughwell:** I realise that, but the motion has not been taken. I am receiving calls from people who are sick and have no income because they are councillors. Last night I received a call from a councillor who, as a lone parent, had lost all of her welfare pay-

ments because she was a councillor. It is not good enough and all we are offering is soft talk. Everybody in the House has been in contact with councillors telling them how committed we are to dealing with their issues, but action speaks louder than words. It is time for us to put up or shut up. I have asked for the Minister to come to the House. Negotiating in a back room or in silence is nonsense. We need the Minister to come here. He writes the regulations and can change them at the stroke of a pen. We need this to happen. I, therefore, ask the Leader to arrange it immediately after we return in the next session. We will all seek the support of councillors during the next election and I sincerely hope I am not one of the Senators who will walk away with a lump sum having failed to secure their votes.

**Senator Michael Mullins:** We all echo Senator Gerard P. Craughwell's sentiments and every Member is working hard to ensure the Minister will take the issue on board and address some of the Senator's points.

I join in the condemnation of the appalling act of terrorism that took place yesterday on the Turkish-Syrian border. The young people killed were doing nothing more than working for their community in trying to rebuild the city of Kobani. It was a real community effort. It is beyond time the international community and world leaders addressed the ongoing threat posed by ISIS. The appalling situation in Syria, the unfortunate people of which are being barrelbombed on a daily basis and starved into submission by the Assad regime, must be addressed as a matter of urgency. I am pleased that the Minister for Justice and Equality, Deputy Frances Fitzgerald, announced yesterday that Ireland would take in 600 migrants as part of the European Union's response to the Mediterranean migration crisis.

I commend the Irish Farmers Association, IFA, for designating today, 21 July, as National Farm Safety Awareness Day. It is a call to action to farm families to take time out to review their farm safety measures and undertake a farm safety risk assessment. I call on every farmer and farm family to review the risks on their farms and put in place control measures to deal with them. The IFA has published a very fine farm safety risk assessment planner which every family should examine, given that far too many families have been bereaved in recent years as a result of farm accidents of various type. Let this be the day farm families take the issue of farm safety seriously. It follows on from the excellent work done in the Seanad to highlight it. I hope we can continue to keep it on the agenda in order that no more lives will be lost as a result of carelessness on farms.

**Senator Brian Ó Domhnaill:** I support Senator Gerard P. Craughwell's comments on the need to have a proper debate on councillors' remuneration, their role in public life and representational role in Irish democracy. For people to pay PRSI contributions and have no entitlement to sick pay, any other form of social welfare payment or a pension in later years is wrong. The position must be clarified. We should have the Minister here in the autumn to discuss this very important issue. I would go further and say an opportunity was missed during the crisis of the past three to four years to reform the way we do politics in this country. There is a need to move national politicians away from local issues and give councillors more autonomy, proper resources and secretarial backup in order to carry out their duties on the ground. We should allow national political oversight that so many who are now in government spoke about when things went belly-up as a result of the building boom. I believe we missed an opportunity and are depriving councillors of the real and substantive role they should have.

I ask that we have a debate in advance of the budget. We might even come back one week

early and have a number of debates on spending and income in each Department. We should be able to come up with some novel ideas on where we can generate additional income for the State, given what we are looking to spend. Whether we are contemplating a levy on the profits of the banks or the multinationals, or dealing with the issue of generic medicines within the Department of Health, which is costing millions of euro, we should have a debate on some of those issues ahead of the budget. I ask the Leader that, if we cannot come back a week early, we at least sit additional days in September and get the respective Ministers into this House well ahead of any budget decisions by the Minister for Finance. I hope this request will be facilitated. If the Leader indicates today that he was amenable to this, at least Members who want to contribute could do some preparatory work over the summer recess.

I wish the staff and all Members a lovely summer. I hope we get the sunshine. I wish them all a nice break, as I am sure it will be a busy autumn when we come back.

Senator Tony Mulcahy: Senator David Cullinane called for a debate on the costs associated with disability, in view of the paper we received yesterday from the Disability Federation of Ireland. We have failed the disability movement and disabled persons in recent years. The Government was to bring in a "money follows the client" approach, whereby we as parents would not get the funding but would get a call on where we could buy services and what agency we could buy them from. I was never one for saying we should just fire lumps of money at service providers, many of which are already bloated and overloaded, particularly because we do not get value or accountability as to how they spend the money. The cost of respite for my own child works out at about €180 per night, but the agency would be getting €380 a night, which is €200 on top of the cost of physically minding the person for the night, and I am sure that happens across many agencies. That is a lot of money as a top-up to the actual cost, given that they would also get the accommodation.

I second Senator David Cullinane's suggestion that we invite the Minister of State, Deputy Kathleen Lynch, to the House before the budget for a discussion about the costs of disability and the position with the "money follows the client" concept, which I believe is a key point. Without doubt, the first thing we must do is recognise the fact that to have a family member who is intellectually or physically disabled, or effectively disabled by old age, puts an extra cost on a household. Whether this is recognised in the form of a grant or a tax credit, it must be addressed.

I agree with much of Senator Gerard P. Craughwell's contribution on the position of councillors. I make the point that, as Senators, we are not going to walk out of here with a big pension after five years and we contribute in a pretty hefty way to our pensions. Having served 12 years on a council, I agree with the Senator that this is a debate that we need to have. I would have had no difficulty contributing to a pension while on the council, which would effectively be a service pension, but we were not afforded that opportunity. As I said to the former Minister for the Environment, Community and Local Government, Mr. Phil Hogan - I have no qualms about saying this - we have left a massive democratic deficit up and down the country. One can travel from Clonlara or Meelick to Ballyvaughan and still be in the Killaloe electoral area, which covers over 100 miles and even has a coastline. We reduce the size of the councils, their representation and their income, yet we expect the same degree of service. Although Senator Gerard P. Craughwell and I argue on some points, he is right on this issue. We should have a proper debate on this matter and not just pay lip service to the people from all parties who do a damn good job.

**Senator Labhrás Ó Murchú:** I am glad that Senator Gerard P. Craughwell has again raised the case of the unfair treatment of councillors. The mere fact that he has stood up to speak means that people outside who have a jaundiced view of democracy will suggest we are only doing it because we are electioneering. That is one of the reasons this debate has gone into a cul-de-sac over many years. It is important that the Minister come to the House for a proper debate on this matter.

Those of us who work on the ground understand full well the work of councillors and the responsibility that attaches to their work. There are many councillors who are now full-time at that job and those who are not are finding it particularly difficult to give the same time to the work that they have given in the past. If we study the way they are treated, we must conclude that there is no other section of society who find themselves in that position. Therefore, we must ask ourselves why that has happened and why it is allowed to continue. I would say we are leaning over backwards to satisfy and pacify a very small section of the media who present a particular caricature of county councillors which is totally at variance with the reality on the ground. We should also remind ourselves that councillors are elected. Is it not particularly interesting that the voter turnout in local elections is the highest of any election at any time, well up into the 70s in percentage terms? That shows quite clearly that the community and the people on the ground want councillors, respect them and appreciate the work they are doing. Do we appreciate that work with legislation? Do we respond to what we know is wrong and look after the councillors in the manner to which they are entitled? I am glad the matter has been raised because there are some very cogent arguments. I am not asking that we make a decision here this morning to do A, B or C, but that we have a fair and open discussion on this. Let us put the facts on the table. Let us have the Minister present to justify or otherwise the position in which councillors find themselves. However, it is most unfair to let this continue in the manner in which it is continuing.

Senator Martin Conway: I acknowledge and commend the Irish Farmers Association on organising National Farm Safety Awareness Day today, 21 July. The IFA is not looking for anything from the Government. The campaign is totally focused on asking farm families to take a little time out today to look at their practices and take an overview of their farms in order to see what steps, whether minor or major, can be taken to make sure their farms, which are also their homes and workplaces, can become safer and thereby minimise the risk of a tragedy. This is a phenomenally positive campaign by the IFA. It is not crying to the Government or accusing the Government, the system or the establishment of not doing enough, even though we are clearly not doing enough. Instead, the IFA is focusing on its own organisation and on the 400,000-odd people who live and work on farms. It is a campaign that will save lives. I sincerely hope it becomes an annual campaign and that 21 July each year will be designated National Farm Safety Awareness Day. I call on other organisations in the farm sector, whether those supplying products or otherwise, to get behind National Farm Safety Awareness Day and perhaps 21 July 2016 might see even more organisations involved in this very important initiative. Seanad Éireann has certainly led the way and played its role in highlighting farm safety. It is incumbent on all organisations engaged in farming through providing insurance, products or farm education to rally around on 21 July 2016. I send my very best wishes to the IFA and those involved for what they are doing today.

**Senator Paul Coghlan:** I endorse the call of Kerry County Council, initiated by Councillor Michael Gleeson, that common sense prevail on the issue of gorse fires. We all know of the potential damage which can be caused. The practice has been continued for hundreds of years.

Landowners and farmers burn at certain times to encourage regrowth. The Department of Arts, Heritage and the Gaeltacht, landowners and the fire service should come to an agreement to have controlled burning at specific times. That would solve the problem.

On the matter referred to by Senator Gerard P. Craughwell, it is not helpful for any of us at this time to refer to specific items that we know are the subject of ongoing discussions between the AILG, LAMA and two Ministers. It could be misinterpreted that we were seeking publicity. We can all make individual representations, as I am sure many of us have done, and we can all hold a watching brief, which is the important role we play. I genuinely do not believe having a debate on the issues involved would be helpful.

Senator Gerard P. Craughwell: We were promised open and honest government.

**Senator Paul Coghlan:** Let us await and outcome and see what happens. We should allow the talks the oxygen they need and councillors and the executives of the Local Authority Members Association, LAMA, and the Association of Irish Local Government, AILG, who represent 1,000 councillors and have been elected by their peers the time required to deal with the issues. I plead with Senators to let this continue.

**Senator Maurice Cummins:** Senator Darragh O'Brien has proposed an amendment to the Order of Business which I will agree to take without debate. He also raised the issue of replacement medals. I will certainly take up the matter with the Minister for Defence. It has not been the practice to replace medals, but I will certainly bring the matter to the attention of the Minister.

Senator Darragh O'Brien called for a debate on policing and the issue of Garda resources. I will certainly try to arrange such a debate with the Minister for Justice and Equality, Deputy Frances Fitzgerald, early in the new session. As the Senator rightly pointed out, more and more recruits are coming onstream and more divisions throughout the country are receiving extra gardaí. We are coming from a very low base of approximately 12,000. I hope the strength of the Garda will return to the level it was at a number of years ago.

Senators Ivana Bacik and Michael Mullins spoke about the suicide bomb attack in Turkey and the threat posed by ISIS and other terrorist groups and called for a debate in the new session. Senator Ivana Bacik also welcomed the Government agreement under which the Minister for Foreign Affairs and Trade will accept 600 migrants. This will be welcomed by all rightthinking people in the country. The Senator also welcomed the Bill on victims' rights.

Senators Ivana Bacik and Denis Landy, among others, referred to the minimum wage, a matter about which I am sure we will hear more in the budget in October.

Senator Sean D. Barrett welcomed the national economic dialogue and stressed the importance of family income supplement, something which is not mentioned on many occasions. He also welcomed the renewal of diplomatic relations between the United States and Cuba. On this matter, Senator Terry Leyden outlined the difficulties surrounding the appointment of the Cuban ambassador to the United States.

Senator Terry Brennan referred to the unprovoked attack on a tourist. Such attacks certainly send the wrong message to potential tourists. This is seen as a welcoming country, but, unfortunately, such incidents happen. They are not too frequent and let us hope we can eliminate them totally.

Senator Terry Leyden asked where the Seanad would meet. As the Cathaoirleach mentioned, this is a matter for the OPW. It has been discussed by the Committee on Procedure and Privileges and when we have deliberated on it, we will report back to the House. I have no intention of moving and do not believe there will be any intention to move to Farmleigh. The last thing people want is a flood of cars, be they State cars or others, to Farmleigh. They did not welcome it in the past and would not welcome it now.

Senators David Cullinane and Tony Mulcahy raised the issue that was raised yesterday by Senators Michael Mullins and Mary Moran of the provision of support for people with disabilities and assisting the most deserving and in need. We would all like to see this issue addressed in the budget. Senator Tony Mulcahy spoke from personal knowledge, as did Senator Mary Moran yesterday. We all appreciate where they are coming from.

Senator Colm Burke spoke about the role of access officers in local authorities. I do not understand the case about which he spoke. It is absolutely disgraceful that such a person should have to wait seven years to have a house upgraded. Local authorities have been given quite an amount of finance to attend to these issues. I am not aware of the full circumstances of the case, but I cannot understand a seven year wait to have such work carried out. It is totally incomprehensible.

Senator Denis O'Donovan highlighted the need for water safety during the summer and asked Irish Water Safety to redouble its efforts. I am aware that it does an excellent job. I know that many people are involved and I am sure they will do everything possible in that regard. As public representatives, with the Senator, we should highlight the need for people to take great care when entering the water. The Senator agreed with the Taoiseach that the Government should complete its full term and I agree with him. It is what will happen.

Senator Denis O'Donovan: Is that meant to provide reassurance?

Senator Maurice Cummins: I cannot assure the Senator. Only one man can do so.

Senator Aideen Hayden spoke about the leaving certificate results, student grants and the HEA's report on the issue of student accommodation. I agree that we should debate the report and the issues of student accommodation and student grants. I will ask the Minister for Education and Skills to come to the House for a debate early in the new session.

Senator Gerard P. Craughwell referred to the pay and conditions of councillors. LAMA and the AILG requested the political parties to arrange a meeting with the Ministers involved, Deputies Alan Kelly and Kevin Humphreys. All political parties, including Fianna Fáil, Fine Gael, Sinn Féin and the Labour Party, arranged the meeting. It was quite productive, but we must wait and see what will come from it. All of the issues mentioned by Senator Gerard P. Craughwell were raised with the Ministers. In the case of PRSI, there are 25,000 others in the same category; it is not just a matter, therefore, of dealing with councillors, as others would also have to be dealt with. I have no problem in having an open debate, but when the Senator was president of the TUI, were the negotiations in which he was involved ever held in public? Did he ever have an open debate?

#### Senator Gerard P. Craughwell: All the time.

**Senator Maurice Cummins:** Most of the debates were held directly with the Department and officials. There is a way of negotiating and doing so in public is not the right approach.

Councillors have nothing to hide and are treated appallingly. I hope we will see action being taken by the Minister and the Minister of State in this regard. Recent circulars issued by the Department on attendance at conferences should be withdrawn. I have asked for this to happen, but there is no sign of it happening as yet.

Like Senator Ivana Bacik, Senator Michael Mullins called for a debate when we return after the summer recess on terrorist attacks and the situation on the Turkish-Syrian border.

Like Senator Martin Conway, Senator Michael Mullins also mentioned National Farm Safety Awareness Day. The Irish Farmers Association has issued a risk assessment planner. I have seen it and it is excellent. Last week the House held a good debate with the Minister for Agriculture, Food and the Marine, Deputy Simon Coveney, on the report of the Seanad Public Consultation Committee on farm safety. There is a need for greater vigilance by farm families, as too many people are killed in farm accidents. As last year was particularly bad, let us all be vigilant. I compliment the IFA on organising National Farm Safety Awareness Day.

Senator Brian Ó Domhnaill called for pre-budget debates. Yesterday I mentioned that I would ask the Minister for Public Expenditure and Reform, Deputy Brendan Howlin, to attend such debates in the House. It had been suggested by another Senator that the Minister would be prepared to do so. We will put that to the test.

Senator Paul Coghlan raised the issue of gorse fires and the need for common sense in that regard. It is a serious issue. There are many gorse fires throughout the country, some of which get out of control. All agencies must become involved if they are to be controlled.

I join other Senators in wishing all Members a good summer break. I thank the Cathaoirleach, the staff of the Seanad, the ushers and all other staff of the Houses for their help and courtesy at all times. Please God, we will be back suitably refreshed in September.

An Cathaoirleach: Senator Darragh O'Brien has proposed an amendment to the Order of Business: "That No. 70, motion No. 20, be taken before No. 1." The Leader has indicated that he will accept the amendment and that the motion will be taken without debate. Is the amendment agreed to? Agreed.

Order of Business, as amended, agreed to.

#### **Trade Agreements: Motion**

#### Senator Darragh O'Brien: I move:

That Seanad Éireann, having regard to its resolution of 22nd May 2013:

- whereas foreign direct investment is crucial to the Irish economy and job creation;

- whereas Taiwan is one of the largest importers and exporters in the world, the world's largest investor in mainland China, and the EU's 21st largest trading partner;

- welcomes the constructive approach adopted in recent years by both Taipei and Beijing to strengthen economic co-operation, thereby continuing to improve cross-strait relations and general stability and prosperity in the Asia-Pacific region;

- notes with approval that, while both Ireland and the EU as a whole have a trade deficit with Taiwan, EU exports to Taiwan have increased;

- recognises that Ireland's trade with Taiwan is still far below its real potential;

- expresses concern that opportunities for investment and job creation should not be missed;

- believes that the legal framework for EU-Taiwan investment should be enhanced;

- calls on the European Commission to consider the potential for a bilateral investment agreement to improve market access and investment protection; and

- urges the Oireachtas to continue to promote economic and cultural cooperation between Ireland and Taiwan and friendship between our peoples.

Senator Denis O'Donovan: I second the motion.

Question put and agreed to.

#### **Requests to move Adjournment of Seanad under Standing Order 30**

An Cathaoirleach: I have received notice from Senator Paul Bradford of a motion he wishes to raise under Standing Order 30. I call on him to give notice of the motion.

**Senator Paul Bradford:** I seek the adjournment of the Seanad to discuss a specific and important matter of public interest, the concerns raised by a whistleblower that the Department of Finance and the Central Bank were treated in a different manner than other witnesses who had appeared before the Oireachtas Joint Committee of Inquiry into the Banking Crisis. On this the last day of the session before the summer recess, I genuinely believe this matter requires public ventilation. There is grave concern that some witnesses who have appeared before the banking inquiry appear to have been treated differently from others. There is a concern that certain members were made aware of this allegation before all members of the committee were made so aware. In the interests of equality and transparency, we need to have the matter clarified in this House immediately on behalf of the people.

An Cathaoirleach: Having given careful consideration to the matter raised, I do not consider it to be one contemplated by Standing Order 30. I regret, therefore, that I must rule it out of order.

**Senator Paul Bradford:** I appreciate the Cathaoirleach's decision, but is he in a position to advise me of any other manner by which the matter could be clarified? It is crucial that the banking inquiry be seen to act in a fully fair, transparent and open fashion.

An Cathaoirleach: The matter has been in the public domain since last week. A motion on it could have been tabled earlier. I do not know of any other way by which it may be raised at this point.

Sitting suspended at 11.35 a.m. and resumed at 11.45 a.m.

# Seanad Éireann Children First Bill 2014: Second Stage

Question proposed: "That the Bill be now read a Second Time."

**Minister for Children and Youth Affairs (Deputy James Reilly):** I am pleased to have the opportunity today to introduce the Children First Bill 2014 to the House and look forward to engaging in a constructive debate as the Bill proceeds through the various Stages. The Bill represents an important and necessary extra protection in the child welfare and protection area. It meets the commitment in the programme for Government to put key elements of the Children First guidance on a statutory footing and will operate side by side with the existing non-statutory obligations provided for in the Children First guidance. The Bill also forms part of a suite of child protection legislation, including the Criminal Justice (Withholding of Information on Offences against Children and Vulnerable Persons) Act 2012 and the National Vetting Bureau (Children and Vulnerable Persons) Act 2012.

The Bill has three key elements. The first element obliges certain professionals and others working with children to report child protection concerns to the Child and Family Agency and to assist the agency, if requested to do so, in its assessment of a child protection risk. The second key element of this Bill obliges a provider of services for children to undertake an assessment of the potential for risk of harm to a child while that child is availing of its services and to prepare an appropriate child safeguarding statement in accordance with the Bill. The third element provides statutory underpinning for the Children First interdepartmental implementation group which will promote cross-sectoral implementation and compliance with Children First guidelines. This group, which comprises a representative of each Department and a representative each of the HSE, An Garda Síochána and the Child and Family Agency, will be required to keep the implementation of this legislation under review and to report annually to the Minister for Children and Youth Affairs. On the whole, this Bill represents an important addition to the child welfare and protection measures already in place and will help to ensure child protection concerns are brought to the attention of the Child and Family Agency without delay.

I now turn to the provisions of the Bill. In Part 1, sections 1 and 2 provide for the Short Title, commencement and definitions of the Bill. I brought forward an amendment to the definition of "harm" on Committee Stage in the Dáil to qualify that the threshold for reporting by a mandated person is where a child's health, development or welfare is seriously affected. There was concern that without the introduction of this threshold, the child welfare and protection system could become overwhelmed which could, in turn, delay the response to reports of serious concern.

Section 3 provides for a general regulation-making power for the Minister.

On Committee Stage in the Dáil I brought forward an amendment to section 4 with the purpose of setting out in the Bill the manner in which a notice is to be served to a provider who has, following a request, failed to provide a child safeguarding statement to the Child and Family Agency.

Section 5 provides that expenses incurred in the administration of this Bill will be provided by the Oireachtas.

Section 6 provides that the Minister may issue and publish guidelines for the purpose of providing practical guidance in respect of the protection and welfare of children, and such

guidelines in force at the time of commencement of this section are deemed to be guidelines issued by the Minister under the Bill.

Section 7 provides that the Child and Family Agency shall, in performing a function under the Bill, regard the best interests of the child as the paramount consideration. It is of the utmost importance that in legislation such as this, the best interests of the child be given paramount consideration.

Section 8 provides for the definition of terms used within Part 2. Consequential to the provision of a non-compliance register, a number of new definitions were added on Committee Stage in the Dáil, namely, "advance notice", "non-compliance notice" and "register of non-compliance", about which I will speak more. The definition of "provider" was amended to provide greater clarity and to ensure the obligation to prepare a child safeguarding statement falls solely on the provider of the service as opposed to those who commission the service. This is to ensure there is no scope to misinterpret the obligation for the provider to prepare a child safeguarding statement under this legislation.

Section 9 provides that Part 2, regarding child safeguarding statements, is not applicable to an individual who undertakes any work or activity in the course of a family relationship, where the work or activity is undertaken solely for the benefit of his or her child or a family member. Equally, where the work or activity is undertaken in the course of a personal relationship or where assistance is given on an occasional basis without payment, there is no obligation to prepare a child safeguarding statement. This is a practical arrangement given that the requirements of the child safeguarding statement include recruitment, vetting and training of staff and the procedures in place for the reporting of harm by staff. These exemptions are to ensure onerous statutory responsibilities are not placed on persons in circumstances where arrangements are in place as a result of personal rather than commercial relationships. Occasional assistance in local and community events is also exempted in order not to discourage participation in such activities.

Section 10 provides that a provider of relevant services is to ensure that, as far as practicable, a child, while availing of its services, is kept safe from harm.

Section 11 provides that where a person proposes to operate as a provider of services to children, he or she shall, within three months of the commencement of the service, carry out a risk assessment and prepare a child safeguarding statement. A person operating as a provider of services to children immediately prior to the commencement of the Bill must carry out a risk assessment and prepare a child safeguarding statement not later than three months from the date of commencement of the Bill. The section provides that a child safeguarding statement shall include a written assessment of risk, including an outline of the procedures in place to manage any risk identified. The section also provides that a child safeguarding statement must specify procedures in place in respect of any member of staff who is the subject of an investigation in respect of a child availing of the service; for the selection or recruitment of staff with regard to suitability to work with children; and for the provision of information and, where necessary, instruction and training in the identification of the occurrence of harm. The child safeguarding statement should also include a list of the mandated persons working in the service.

Section 11 also provides that a child safeguarding statement is to be made available to staff and, on request, to parents, the Child and Family Agency and members of the public. The child

safeguarding statement is to be displayed in a prominent place related to the service. This section also provides that the Minister may make regulations in regard to child safeguarding statements. In response to concerns from stakeholders regarding the lack of sanctions for non-compliance with the provisions relating to child safeguarding statements, I brought forward an amendment to section 12 on Committee Stage in the Dáil to set out the process to be followed by the agency if it becomes aware that a provider of relevant services may not have prepared a child safeguarding statement.

I also brought forward an amendment on Committee Stage in the Dáil to section 13 to provide for the agency to establish and maintain a publicly available register of non-compliance, that is, a register of organisations that provide services for children that fail to provide a child safety statement to the agency when requested to do so. This section also sets out the criteria by which a non-compliance notice may be removed from the register, namely, on receipt by the agency of the child safety statement or the agency being satisfied that the statement is no longer required.

Part 3 deals with the reporting aspect of the Bill. Section 14 provides that certain professionals and other persons in specified occupations, as listed in Schedule 2, are mandated persons for the purposes of the Bill. The persons who have been identified as mandated persons are those whose professional education, training, expertise or the nature of their specific role in certain organisations prepares them to be aware of the risks to children and their responsibilities in that regard. The section provides that where a mandated person knows, believes or has reasonable grounds to suspect that a child is being harmed, has been harmed or is at risk of being harmed, he or she shall, as soon as practicable, report that belief or suspicion to the Child and Family Agency. Where it is the case that a child makes a disclosure to a mandated person that he or she believes he or she is being harmed, has been harmed or is at risk of being harmed, that mandated person shall, as soon as practicable, report that disclosure to the Child and Family Agency. Where it is the case that a child makes a disclosure to the Child and Family Agency. Second as practicable, report that disclosure to the Child and Family Agency.

A mandated person shall not be required to make a report to the Child and Family Agency where a young person aged 15 years or more but less than 17 years is engaged in sexual activity with a person who is not more than two years older than the young person, and where the mandated person knows or believes there is no material difference in capacity or maturity between

*12 o'clock* the two parties, and where the child has made known his or her view that a report should not be made to the Child and Family Agency. I brought forward an amendment on Committee Stage in the Dáil and the Bill now provides that a mandated

person must also be satisfied that the relationship is not intimidatory or exploitative before deciding not to make a report in the circumstances I have just described.

Also, a mandated person is not required to make a report where the sole basis for his or her knowledge, belief or suspicion of harm to a child is as a result of becoming aware that another mandated person has made a report to the Child and Family Agency in respect of the child concerned. A mandated person is required to make a report if he or she becomes aware of the information after the commencement of this section, irrespective of whether the harm occurred before or after the commencement of the section.

The report is to be made to the agency on a mandated report form. It can be made by one mandated person or jointly with one or more mandated persons. I introduced an amendment on Committee Stage in the Dáil and, as a result, the Bill now provides that a joint report can be made by a mandated person together with another person, regardless of whether that person is mandated to report. While a report may be made other than on the mandated report form, if

a mandated person has reasonable grounds to suspect that a child may be at risk of immediate harm, the mandated person must provide a report to the Child and Family Agency on a mandated report form in respect of that child within three days. The Bill provides that the Minister may make regulations regarding the procedures for the making of reports to the Child and Family Agency. This section also provides that the reporting obligations under it are in addition to and not in substitution for any other obligations of a mandated person to disclose information to the Child and Family Agency.

Section 15 provides that the chief executive officer of the Child and Family Agency shall authorise a member or members of staff for the purpose of receiving reports made by a mandated person. This section also provides that an authorised person shall be deemed to be a designated officer within the meaning of the Protections for Persons Reporting Child Abuse Act 1998 for the purposes of that Act.

Section 16 provides that a mandated person may be requested to assist the Child and Family Agency and to give such information and assistance to the agency as is reasonably required by the agency. This section also provides that a mandated person shall comply with such a request. Assistance by a mandated person includes the provision of verbal or written reports, attendance at meetings arranged by the agency and the production of any documents to the agency. This section also provides that the Child and Family Agency may share information concerning a child who is the subject of a report with a mandated person who is assisting the agency, but the sharing of that information shall be only as considered by the agency to be necessary and proportionate in the circumstances of the case. I introduced an amendment to this section on Committee Stage in the Dáil to ensure the agency may only request such assistance from mandated persons as is reasonable and proportionate in the circumstances of the case.

Section 17 provides that information shared during the course of an assessment shall not be disclosed to a third party and that it is an offence if a person discloses such information.

Section 18 provides that the Child and Family Agency is a specified body for the purposes of the National Vetting Bureau (Children and Vulnerable Persons) Act 2012. The effect of this provision is that the agency is an organisation required to notify the National Vetting Bureau of information in respect of a person if it has a bona fide concern that the person may harm a child.

Section 19 amends section 9(4) of the Child and Family Agency Act 2013 to include a reference to the Children First Act 2014. This will provide for the views of the child to be taken into account by the agency in performing its functions under the Children First Act.

Section 20 provides for the establishment of the Children First interdepartmental implementation group to perform functions assigned to it under the Bill. Section 21 sets out the membership of the implementation group. Section 22 provides that the functions of the implementation group include the promotion of compliance with the legislation and monitoring of the implementation of guidelines under the legislation. Section 23 provides that the interdepartmental group may be given a direction by the Minister to comply with a policy of the Government as specified in the direction. The terms and conditions for the appointment of members of the interdepartmental group are set out in sections 24, 25 and 26, as are details relating to the conduct of meetings and the provision of annual reports.

Section 27 provides that each Minister shall publish a sectoral implementation plan concerning relevant services provided by or on behalf of the Department concerned.

I look forward to a productive debate on this important child-centred Bill which endeavours to improve the care and protection of children in the State and will, for the first time, put key elements of the Children First guidance on a statutory footing. I commend the Bill to the House.

**Senator Terry Leyden:** I welcome the Minister, Deputy Jame Reilly. Fianna Fáil is concerned about the shortcomings in the long-awaited and long-delayed Children First Bill. In our view, the legislation, as drafted, will not deliver the protection needed by vulnerable children. The Bill does not set out the necessary sanctions for people who fail to report child protection concerns. This amounts to a major watering-down of the legislation we were promised. My colleague, Deputy Robert Troy, proposed amendments on Report Stage in the Dáil to strengthen this legislation. These amendments would have made the non-reporting of child abuse concerns a punishable offence and imposed sanctions on a provider who continued to provide services to children in the absence of a child safety certificate, having been on the register of non-compliance for 30 days. The Minister has refused point blank to accept these constructive Fianna Fáil amendments when the Bill is brought before the House again in the autumn. We will probably take Committee Stage on our first sitting day back in September. I hope the Minister will reflect on these issues over the summer.

The Bill aims to make better provision for the care and protection of children, to raise awareness of child abuse and neglect, to provide for the reporting and management of child protection concerns and to improve child protection arrangements in organisations that provide services for children. I wonder whether much of this has been watered down since we amended the Constitution in November 2012. It is difficult to believe this is the best legislation the Minister could come up with, three years on from when this issue was described as a top priority. Three years is a long time to deal with a top priority. I do not think the Minister was in the Department of Children and Youth Affairs three years ago. His predecessor made this a priority. The Minister is continuing the work he was doing in the Department of Health. When this law was first envisaged, it was to be designed as a line in the sand that would end the culture of turning a blind eye to child abuse and other child protection issues. We welcome the fact that professionals working with children will be legally obliged to report concerns under this legislation. However, the failure to provide for penalties if they do not report such concerns weakens the strength of the law we are introducing. It is astonishing that the Minister has said he does not want to overburden the Department and the Child and Family Agency with policing penalties. We should not be limited by questions of administration when we are responding to child protection concerns.

The heads of the Bill published two years ago included robust sanctions, including up to five years in prison, for failures to comply with the Children First legislation. After two years of protracted delays, we appear to have ended up with a watered-down version of the Bill. There will be no sanctions for mandated persons who do not report child protection concerns or for organisations that fail to have child safety statements in place. To date, the Minister has failed to appropriately explain this serious U-turn. According to the heads of the Bill published by the Government two years ago:

Head 20 provides for offences under the Bill and for the liabilities attaching. A person is guilty of an offence if he or she is required to report concerns or allegations of abuse under the proposed Bill to the HSE and fails to do so ... A person guilty of an offence will be liable, on summary conviction, to a class A fine or imprisonment for a term not exceeding

12 months or both, or on conviction on indictment, to a fine or imprisonment for a term not exceeding 5 years or both.

The making of a report to the Child and Family Agency in respect of children in certain circumstances requires certain persons to assist the agency in carrying out risk assessments in relation to potential harm to children and preparing child safeguarding statements. This legislation establishes a Children First interdepartmental implementation group and sets out guidelines for the provision and preparation of sectoral implementation plans by Departments. The Bill sets out the obligations of two distinct groups of people: mandated persons and service providers.

I do not doubt that the motivation of the Minister and that of his colleagues and his senior officials, whom I welcome to the House, is to introduce the best possible legislation for the protection of children. I know they want to ensure that will happen. It is not before time that this issue is being brought to the forefront of Irish life. For a predominantly Christian country of this size, we have an appalling record on the protection of children, not only in institutions but also in the home. Far too many cases have been highlighted involving extraordinary difficulties experienced by children, including some who were raised in the most appalling conditions. It is impossible to appreciate the effects this experience will have on the children in question and their futures. The home is the one place in which a person should expect to be guaranteed protection, but this has not been true in too many cases that have come before the courts in recent years, some of which have resulted in the imprisonment of the people involved for their conduct. These facts are sometimes overlooked when abuse in institutions and schools is being discussed.

Children are vulnerable. In school, for example, they must rely on and have confidence in teachers. My experience of school was good and I was taught by the Christian Brothers in Roscommon. However, the order has acquired a poor reputation in recent years, although it provided an education when no one else in the State provided it. It should also be recognised that the Sisters of Mercy and other teaching orders provided an education when the State was not in a position to provide educational facilities. Both the Christian Brothers and the Sisters of Mercy were exemplary in that regard, although some members of both orders failed dismally, as we have learned in certain institutions and schools. Having said that, at least we have recognised what took place.

I hope the Bill will go a long way towards ensuring no child is ever abused again. Abuse is completely unacceptable and my party will co-operate fully with the Minister in doing every-thing possible to strengthen the legislation.

**Senator Catherine Noone:** I welcome the Minister to discuss the Children First Bill 2014. As he indicated, this legislation will place on a statutory footing elements of the report, Children First: National Guidance for the Protection and Welfare of Children. Published in 2011 by the then Minister for Children and Youth Affairs and current Minister for Justice and Equality, Deputy Frances Fitzgerald, the report underscores the Government's commitment to the rights of children. As the Minister stated in the foreword to the report:

No childhood should be shattered by abuse. No young life should be lived in the shadow of fear. While it is not possible to prevent all violence, nor possible to guarantee that no child will ever be harmed by neglect or aggression or exploitation or predation, it is our duty to do everything in our power as a Government and as a society to prevent such harm.

This begins by ensuring that children are safe and protected in all aspects of their lives – where they live, learn, pray and play.

I wholeheartedly endorse these sentiments and the Bill provides a necessary and overdue statutory basis for achieving this outcome.

The introduction of this legislation is in line with a key commitment in the programme for Government. As the Minister indicated at the time, Children First: National Guidance for the Protection and Welfare of Children and the accompanying child protection and welfare practice handbook set out clearly how child protection was to be placed at the core of any organisation working with children. This is a basic requirement and the document details what is to be done to protect children, how it is to be done and who are the key people in each organisation to do it.

The Bill contains four key components, namely, the facilitating of reports on child protection concerns by mandated persons to the Child and Family Agency; a requirement on mandated persons to assist the agency, on request, in respect of children who have been the subject of reports to the agency under the Bill; a requirement on organisations to produce a child safeguarding statement; and provisions placing the Children First Interdepartmental Implementation Group on a statutory footing.

On the issue of mandated reporting and the requirement on mandated persons to assist the Child and Family Agency, under the Bill mandated persons will be required to report child welfare and protection concerns above a specified threshold to the agency. They will also be required to report to the agency any disclosure of harm made to them by a child. Mandated reporters will also be required to assist the agency, on request, with children who have been the subject of reports to the agency under the Bill. The list of mandated persons is set out in Schedule 2.

With regard to the requirements on organisations, the Bill provides that organisations providing services for children will have to consider the potential for risk to children availing of their services and prepare and publish a child safeguarding statement which addresses that risk. This type of audit should have been undertaken as a matter of course and formalising and standardising the practice can only be a positive development. The statement must be made available to staff and, on request, to parents, the Child and Family Agency and members of the public. This level of transparency and accountability can only be a positive development. The list of relevant service providers is set out in Schedule 1.

Committee Stage amendments in the Dáil made provision for a register of non-compliance to be administered by the Child and Family Agency. Service providers which fail, following a number of steps, to provide for the agency a copy of their child safeguarding statement will be named in a register of non-compliance. This is a useful development and will contribute to ensuring full accountability and transparency. There is nothing wrong with publishing such a register because parents have the right to know.

In addition, the Children First Interdepartmental Implementation Group, chaired by the Department of Children and Youth Affairs, is in place and includes representatives of relevant Departments, the Child and Family Agency, the Health Service Executive and An Garda Síochána. The Bill includes a provision to place the group on a statutory footing and expand its membership to include representatives of all Departments. The purpose of the group is to promote the importance of Children First compliance across government and ensure a consistent approach is

adopted. Departments will be obliged to produce a Children First sectoral implementation plan to address their compliance with the legislation and Children First guidance. This is a worth-while step which will be important in ensuring Departments are held to account in this respect.

The Bill will operate side by side with the Children First national guidance which will continue to be the basis for all citizens to report concerns. It is intended that the guidance will be revised and updated to take account of new legislative obligations so as to provide in one place a comprehensive reference resource for individuals and organisations. This will provide clarity and ensure consistency between the proposed legislation and existing non-statutory obligations which will continue to operate administratively for all sections of society. Once enacted, the legislation will provide that everyone working with children will have a statutory duty to comply with the Children First national guidelines. This is a significant step in enshrining the right of protection for children and fulfils a promise made in the programme for Government. The Government has worked at all times to guarantee and protect the rights of children, as exemplified in the referendum on children's rights in 2012 and the Bill before us which I commend to the House.

**Senator Jillian van Turnhout:** I welcome the Minister and warmly welcome the arrival of the Bill in the Seanad. I actively participated in the pre-legislative scrutiny of the Bill at the Joint Committee on Health and Children which produced a report on the matter in July 2012. I thank all of the organisations and individuals that participated in the pre-legislative scrutiny process and provided expert advice for the joint committee. I also thank the Children's Rights Alliance, the Irish Society for the Prevention of Cruelty to Children, Barnardos and Empowering People in Care, EPIC, for giving me their updated views on the legislation which has changed and improved significantly as it has progressed through the Houses. I hope the Seanad can make some additional changes to further ensure the Bill will achieve its stated aim.

Legislation to place child welfare and protection on a statutory footing is urgently needed and long overdue and it is essential, to solidify our good intentions, that we get it right. Before I consider the Bill, I will focus briefly on the importance of resourcing the Child and Family Agency which continues to be overstretched as a result of insufficient budget allocations. The implementation of this legislation will most certainly result in an additional workload for the agency. It is essential that financial and personnel resources are made available to ensure implementation of national policies on the ground. It is feared that the system will be overwhelmed when the Bill becomes law. The more pressing fear is that there are overwhelming numbers of children at risk of harm and abuse. This legislation must shine a bright spotlight and ensure there will be no hiding place for vile abusers. It is our job to ensure the system works, come hell or high water.

I am also concerned about the preparedness of other State agencies, which is imperative to the success of Children First, for example, the Department of Education and Skills and the HSE to name probably the two most prominent that interact with children. There is much to welcome in the Bill, but given the time constraints on us, I will outline the concerns I need to be further addressed. However, the Minister should take it that I welcome most of the provisions.

I agree with the Council of Europe and echo its call for a culture of zero tolerance of violence towards children. It is for this reason that I have advised successive Ministers for Children and Youth Affairs of my intention to table an amendment to the Bill to repeal the defence of reasonable chastisement. I look forward to formally tabling this amendment which I sent to the Minister's office last year when we take Committee Stage.

The Minister is aware of my disappointment that children are not included in the Gender Recognition Act. Last Wednesday, the Minister of State, Deputy Kevin Humphreys, stood where the Minister now stands and, in response to my speech, stated this was now an issue for the Minister's Department. He said, "I would be quite happy for the Minister, Deputy Reilly, to lead on this because he is the Minister for Children and Youth Affairs, and that Department has a wider remit than the Department of Social Protection on this issue." I, therefore, ask the Minister to include within the Children First Bill a provision to amend the Gender Recognition Act in order that the exemption process for 16 to 18 year olds is depathologised in a manner similar to the application process for adults and to include the creation of a process for interim gender recognition certificate for those under 16 years in order that their rights are fully realised in that process.

In the committee hearings the majority of organisations and experts said emotional abuse needed to be included in the definition of welfare. Emotional abuse is a form of neglect and should be explicitly stated as such. We need to broaden our definitions to include emotional abuse.

I have a specific issue about Schedule 3. I will be seeking to amend the current term "child pornography" and replace it with a more apt and reflective description, namely, "child sexual abuse material". I know that this is related to another, Bill but we need to take these steps. According to Interpol:

A sexual image of a child is "abuse" or "exploitation" and should never be described as "pornography". Pornography is the term used for adults engaging in consensual sexual acts distributed (mostly) legally to the general public for their sexual pleasure. Child abuse images are not.

I have been saying this since first tabling a motion on blocking child abuse material on the Internet in February 2012. Later, in my report, Online Child Abuse Material - Effective Strategies to Tackle Online Child Abuse Material, in September 2013, I note that a child abuse image is a crime scene. It is a digital record of sexual abuse being perpetrated against a real child in the real world. I will be seeking to have child pornography in this Bill and across the Statute Book amended to say "child sexual abuse material" to better reflect the seriousness of the offence.

Section 11 deals with risk assessment and child safeguarding statements. Subsection (5) suggests the agency can request a copy of the relevant service provider's child safeguarding statement. This enables the agency to monitor compliance, which is welcome. However, it does not specify how quickly this is to be furnished to the agency. We need to provide for specific time limits and tighten up on this issue. I am aware the Minister may issue regulations and guidance for the purpose of providing practical guidance on how to adhere to the Bill, but in the absence of a firm commitment that this will be done, how will organisations and mandated people be fully aware of their new duties, such as drafting the child safeguarding statement? Section 11(5) also specifies that the child safeguarding statement should be made available to the public on request. Part 6 goes on to state it should be displayed in a prominent place. Why are we saying "on request"? Surely we want all organisations to be open and transparent about the protection of children. We should be asking for statements to be publicly available, including online, as a matter of course.

That brings me to section 13(5). The section deals with the register of non-compliance

which is only available to the public for inspection at reasonable times. If I am a mother or father in Kerry, am I to come to Dublin to try to inspect the register at the agency? Surely it should also be online. One of the best incentives for compliance would be a public list, on the agency website, of the organisations which are non-compliant. We need to change the culture of services for children in Ireland to be one of openness and transparency.

On section 12(8), a right of appeal is critical, but should the avenue of appeal not be proportionate and remain within the agency? I am fearful that if it goes to the District Court, it could be tied up for months, if not years. I do not believe anyone wishes safeguarding children to be caught up in court delays. Can we re-examine that matter?

I remain concerned that childminders are still exempt from the provisions of the Bill. Only those providing an early years service under the meaning of the Child Care Act 1991 are included, namely, those who are looking after four children or more. This is a serious omission given the number of children placed in the care of childminders. We can find a way to define it. Childminders should have been included in the National Vetting Bureau (Children and Vulnerable Persons) Act 2012. The childminders organisation, Childminding Ireland, came to me. It supports my stance. Organisations such as Barnardos are saying we need to ensure we bring childminders into the net.

I welcome the Bill, but I will bring forward amendments on the points I have raised. I have raised them specifically here today to allow the Minister to consider them. I will give further consideration to the Bill during the recess and look forward to working with the Minister to ensure the Bill achieves its stated aim. I know that is what the Minister wishes too.

**An Leas-Chathaoirleach:** Before I call Senator Aideen Hayden, I welcome to the Distinguished Visitors Gallery our former colleague and former Cathaoirleach Liam Cosgrave and his guests who are more than welcome.

**Senator Aideen Hayden:** I welcome the Minister. I am pleased we have finally reached the Seanad stage of this Bill. It seems to have been a long time since we first came into the Chamber to discuss the issue of Children First. None of us could ever disagree with the purpose of the Bill which is to make further and better provision for the care and protection of children, including raising awareness of child abuse and neglect, to provide for reporting and management of child protection concerns and to improve child protection arrangements in organisations providing services for children. As the Minister said, the Bill will operate side by side with the existing non-statutory obligations provided for in Children First. One of the things we must do is assess the Bill against that statement of purpose.

On Part 2, the Bill is providing for relevant services to ensure each child is safe from harm while availing of that service, to carry out a risk assessment and the development of a child safeguard statement. Part 3 deals with mandatory reporting, which is something that has been controversial. It does however provide the safeguard for all concerned that information shared with the mandated person by the Child and Family Agency during the course of an assessment shall not be disclosed to a third party by that mandated party unless it is done in accordance with the law or where the disclosure is authorised in writing by the Child and Family Agency. Any person who fails to comply with this provision is guilty of an offence.

I welcome in Part 4 the establishment of the Children First interdepartmental implementation group and welcome further, as I understand it, that the ISPCC and Childline have agreed

to work with the Department in supporting developments in the area of child protection. This will include exploring the enhanced use of technologies to assist with the statutory roll-out of the Children First Bill.

On some of the commentary on the Bill, it has been broadly welcomed, as stated by Senator Jillian van Turnhout. However, some campaign groups and Opposition members, including Senator Leyden today, have voiced concerns about the lack of sanctions in the legislation. I note the comments of the Minister's predecessor, Deputy Frances Fitzgerald. She said the law aimed to make best safeguarding practice the cultural norm for anyone working with children. She stated that our focus was on who was mandated to report safety concerns in the Bill, which is in accordance with international best practice. She said she believed it struck the correct balance in achieving high quality reporting with high substantiation rates while avoiding overwhelming the child protection system with inappropriate reports. This is a key criticism of the operation of mandatory reporting in other countries. Senator Terry Leyden said a lack of sanctions for those who failed to report cases was a watering down of the legislation. While it is something which should be kept under review, it is important that we do not have a culture of fear among those who work with children but rather a culture of concern. My concern would be that were we to introduce sanctions, we would have serious over-reporting which would overload the system and make it inoperative. However, I ask the Minister to keep the matter under review.

Mandatory reporting has been widely accepted in other countries, particularly the United States, Australia, New Zealand and Canada. While research has indicated that legislation for mandatory reporting has resulted in significant increases in cases being reported, more substantiated cases of abuse have come to light as a result. There are difficulties within the HSE child protection services to take into account. The increase in reporting, which will occur as a result of mandatory reporting, will put pressures on the child protection system. In 2012 the HSE reported that it had received over 30,000 reports of child protection welfare concerns. Of these, 16,000 were deemed to need further assessment to be completed within 21 days, yet only 20% met the required target.

In 2012 over 13% of those children, approximately 785, had no care plan and of 6,332 children in care, more than 8.1% were without an allocated social worker. Strides have been made in the appointment of social workers and I understand there are 193 additional social work posts, recruitment for which has been achieved or is under way. There are several factors that must be in place to ensure that mandatory reporting will work effectively and will not result in a system which would be unable to function. These include, well defined guidelines of reporting thresholds and adequate resourcing and the recruitment and training of additional social workers. We need support structures such as information technology and systems, comprehensive training for front-line staff, support information and training for designated persons, public education and the implementation of an efficient system of intake screening and assessment of reported cases. The Irish Association of Social Workers noted that there was a lack of resources leading to a crisis driven service with a lack of early intervention and support for children in care and so forth.

We must ensure we do not overload an already stressed system and if we are to effectively protect children the resources must be in place. It is good to note that in 2000 the number of cases reported to child protection services was just over 9,000. By 2009, the number of reported cases had almost tripled to more than 26,000 and the rate of substantiation was at 10% of those cases. As Senator Jillian van Turnhout said, no level of child abuse is acceptable in any system. While I have no doubt that when mandatory reporting is introduced the numbers

of reported cases will rise, if mandatory reporting discloses the abuse of even one child it is well worth it. Carl O'Brien reporting in *The Irish Times* in September 2014, noted the volume of children reported as being at risk to social services had increased by 98% over the previous seven years, from 21,000 to 41,600 cases. He said "much of this was linked to increased awareness over child-protection issues and high-profile care scandals." That is something we must welcome as a society. We have gone from being a society that hid its children under the carpet and locked them up in institutions and threw away the key. Every additional case that is reported is a victory for child protection. However, budgets and staffing levels are nowhere near what is required to reflect the increased demands in the system. I welcome the efforts made in respect of funding, but this has to be a priority for our society and the Government.

I agree with Senator Jillian van Turnhout. I ask the Minister to take very seriously her amendment on the chastisement of children. I agree that the physical chastisement of children, whether anything from a light slap to a clip across the ear is not acceptable in any civilised society.

**Senator David Cullinane:** I welcome the publication of this important and long-awaited Bill and the opportunity to address it. The topic of the mandatory reporting of knowledge or suspicions of the harm or abuse of children has been an issue in Ireland since the early 1990s. It was first recommended by the Law Reform Commission in 1990 and later by the Kilkenny incest inquiry in 1993, slightly more than 20 years ago. In 1999 the Department of Health introduced the Children First guidelines which aimed to help in identifying and reporting child abuse and to improve professional practice in State and voluntary agencies that support children and their families. The duty to report abuse was identified as a societal one that is owed by all who work with children, including members of the Garda, HSE personnel, public agencies, voluntary and community organisations and individuals. However, the guidelines did not place a statutory duty on these people, on all of us, to report suspicions of abuse or harm. I emphasise that it is the duty of all.

The implementation and operation of Children First were reviewed several times during the years after its introduction, most recently by the Office of the Minister for Health and Children in 2008. The revised guidelines published in 2011 took into account a number of recommendations in the Ryan report. One of these recommendations was that Children First should be placed on a statutory basis. The Bill before us sets out to make further and better provision for the protection of children and places the Children First guidelines on a statutory footing, which is to be welcomed. As the Minister indicated in his opening remarks, it is part of a child protection framework that includes the Criminal Justice (Withholding of Information on Offences Against Children and Vulnerable Persons) Act 2012 and the National Vetting Bureau (Children and Vulnerable Persons) Act 2012.

It will require certain persons or service providers to carry out specific functions, including the making of reports to the Child and Family Agency in respect of children and to assist the Child and Family Agency in certain circumstances. It also will require them to carry out risk assessments regarding potential harm to children and to prepare child safeguarding statements.

Provisions of the Bill also establish the Children First interdepartmental implementation group and provide for the preparation of sectoral implementation plans by Departments. As for the distinct provisions of the Bill, I note that a number of stakeholders particularly welcomed aspects of it, including the statement of the best interests of the child as the paramount consideration; the requirement for all organisations providing services for children to have a child

safeguarding statement that outlines policy and procedures with regard to child protection; the establishment of a Children First interdepartmental implementation group on a legislative basis, the purpose of which will be to promote compliance and monitor implementation by various Departments and the requirement for the authorised person within the Child and Family Agency to respond in writing to all reports made. It needs to be emphasised that additional resources to give practical effect to this legislation are essential.

I want to raise some additional points of concern, the first being inter-agency co-operation. What assurances can the Minister give that the Child and Family Agency can depend on the level of co-operation that will be forthcoming from the health, justice, education and social protection services in order that the Children First Act can function effectively when passed through these Houses? Second, training is of concern. Research indicates that child protection training at basic and post-qualifying levels is essential for professionals working with children. Irish research indicates that not only is child protection training almost wholly inadequate at foundation level but it is also deficient at post-qualification level. The absence of training prevents the development of a culture of responsibility for child protection in an agency and leaves staff lacking confidence and unsure of the correct steps to take. The business of identifying and addressing child protection concerns is not straightforward and practitioners need a strong base of knowledge and information before they are competent to respond. Recent cutbacks have resulted in training being curtailed in many children's services and this is likely to have a serious impact on the positive aspects of the proposed legislation. This needs additional Government attention, but I wholeheartedly support the Bill and welcome its introduction in and speedy progress through the House.

**Senator Terry Brennan:** It beggars belief when one thinks of abuse in one's own home by parents or other family members, or by trusted or well known people. We are told the figure is in excess of 90%. It endorses what I said before. This is a major issue which we must all try to address. It is a significant challenge for each of us. The Rape Crisis Network Ireland report shows that a child under 13 years is most likely to be targeted for abuse by a family member rather than an acquaintance. It is an utter disgrace that a child under 13 years would be targeted in holy Catholic Ireland and it is a major challenge to deal with it. All too easily we talk about stranger danger when, in reality, a child is far more likely to be abused by a relative or someone trusted by the family. As I have remarked, we have a major challenge.

My grievous concern is children suffering in silence and fear, afraid to tell their brothers, sisters, mothers or fathers. I would know to look at some of them, although I am not a judge. They are out there, reluctant to report abuse. The stage comes when they can leave their home and emigrate to some foreign city in the United States, Great Britain or wherever to get away from it all. It is sad to say they are glad to be able to leave. They are fearful to report because of the risk involved. I do not know if it is quite the same, but I know one young teenager who took her own life and left a note as to why she did it. She was being abused by her father. It is tragic. Even where it is a family member who is responsible, there must be no hiding place from the law. We all have an obligation, a duty and a part to play, whether we are teachers, politicians or ordinary people.

I commend the Minister for this long-awaited Bill and fulfilling the promise of the Government. The protection of children and putting children first was part of the Government's agenda. As the Minister said, "this important child-centred Bill ... endeavours to improve the care and protection of children in the State and will, for the first time, put key elements of the Children First guidance on a statutory footing." I commend the Bill to the House and congratulate the Minister and his staff.

**Minister for Children and Youth Affairs (Deputy James Reilly):** I thank Senators for their contributions and general support for the Bill. We will have the opportunity to discuss it further on Committee Stage. I note that several issues have been raised, some of which I can address today and some of which I will remark on today although they do not form part of the Bill.

The issue of criminal sanctions on mandated persons has been raised. Taking into account legal advice and the need for a reasonable and proportionate approach, it was decided that it was unnecessary to impose a criminal sanction on mandated persons in the overall context of meeting the policy objectives of the proposed legislation. There were concerns that unfounded or misplaced fears of attracting a criminal sanction would result in over-reporting, thereby placing the child welfare and protection system under pressure. Some low level or inappropriate reporting could have the unintended consequence of delaying the prioritisation of higher risk reports if the ability to process reports was compromised. International comparisons indicate that this has been the case in other jurisdictions, for example, New South Wales, where the introduction of mandatory reporting precipitated a large increase in reporting rates with little or no improvement in child protection overall.

There are a number of administrative sanctions or consequences available if it transpires that a mandated person has failed to comply with his or her statutory obligations. The option to report a mandated person to an employer or to the fitness to practice committee of a professional regulatory body remains open to the Child and Family Agency in the event that a mandated person has failed to make a report.

The Bill includes a link to the National Vetting Bureau (Children and Vulnerable Persons) Act 2012, and the Child and Family Agency will now be a scheduled organisation under that Act. In cases where a mandated person has failed to make a report, the agency, following an inquiry, will pass this information to the National Vetting Bureau. The Criminal Justice (Withholding of Information on Offences against Children and Vulnerable Persons) Act 2012 provides for the reporting of relevant information to the Garda. This Act will operate in tandem with the Children First legislation. A person who fails to report to the Garda under the Criminal Justice (Withholding of Information on Offences Against Children and Vulnerable Persons) Act 2012 could be subject to criminal sanction.

I envisage opportunities for administrative arrangements to support the implementation of the legislation and legislative requirements. For example, mandated reporting should be incorporated into codes of conduct and contracts of employment for relevant persons. As it stands, many providers of children's services consider failure to report to be a disciplinary matter. As has been mentioned by others, I will be keeping the operation of the legislation under review. If it transpires that mandated persons are failing to comply with their legal obligations to report, I will be prepared to revisit this issue. I echo the words of Senator Aideen Hayden that what we need is a culture of concern, not a culture of fear and a system overrun with reports because people are, perhaps, more fearful for themselves than they are concerned about the child.

Senator Terry Leyden spoke about a punishable offence not to have a statement. The truth of the matter is that we covered this in quite considerable detail on Committee Stage in the Dáil. I made it very clear that the rationale behind this is sound legal advice to the effect that if we were to have a criminal sanction for not having a statement, we would have to have a very

comprehensive inspection regime. The Senator will not be oblivious to the fact that this country is only recovering from the most serious financial setback it ever endured and the resources we have must be used to provide services to children rather than diverted to a complex inspection system. In our current situation it is only proper and right. As time passes and we have experience of this system, we will keep it under review and modify it.

On the issues raised by Senator Jillian van Turnhout, I have already asked Tusla to review its unallocated cases on a countrywide basis and I received the final report of that review late last week. I met Tusla and Mr. Gordon Jeyes. I welcome the report as it gives a comprehensive overview of the position across the services and I am mindful of the scale of the challenge in addressing this backlog, but I am even more conscious that there are children who require a service and I have instructed my officials to advance the case for increased resources in the Estimates budget and negotiations to enable Tusla to address this and other issues of concern. The business case will be worked on.

On childminders not being mandated, the categories of persons set out in Schedule 2 to the Bill will include, on the basis of their professional qualifications and ongoing contact with children, a focus on a small, qualified cadre of mandated reporters which will, based on evidence, improve the quality of reports made to the agency. The receipt by the agency of better quality reports from persons who, by virtue of their training, qualifications and professional experience, are well equipped to recognise harm to a child is likely to have a positive effect on the process of assessments of risk for a child. The list of mandated persons was developed following detailed consideration of the objectives of the Bill and the research paper on how mandatory reporting is dealt with internationally.

As indicated, the persons included in the list have been selected on the basis that their qualifications, role and professional expertise means that they are aware of the risks to children and their responsibilities in that regard. It is anticipated that reports from these persons are likely to be of a high quality which will assist the agency in carrying out assessments of risk in a more effective and efficient manner. The childminding sector is not homogenous and a wide variety of arrangements, including personal family arrangements, pertain. In that context, it was considered overly onerous to impose a mandatory requirement on such a heterogenous group of providers. However, it is important to note that while not required to do so under this legislation, any person can and should report any concerns about a child to the agency in accordance with Children First national guidelines which will operate in tandem with the Bill. This position applies to childminders as well as any other person who has contact with a specific child or children, whether in the context of service provision or otherwise.

In comparison, the formal childminding sector, that is, crèches will be covered by requirements relating to child safeguarding statements and mandated reporting. The Senator's concern about protecting this group of children should be alleviated by the fact that there are many other professionals in contact with this group of children, including nurses, who are mandated persons, and GPs. In this regard, the recent extension of GP medical cards to children aged under six years should ensure greater contact between this group of children and their GPs who are mandated persons under the Bill. Child safety is everybody's concern. I cannot imagine that any right-minded, right-thinking citizen who saw a child in danger would not take action to protect that child.

Senator Jillian van Turnhout also raised some other issues around corporal punishment and her intention to table an amendment. We are examining this issue. The State has assured the

European Committee of Social Rights of its full commitment to working towards the elimination of corporal punishment, specifically in regard to the defence of reasonable chastisement. We have undertaken to initiate an examination under Irish law to remove that defence. Examining the matter is not a proposed initiative but rather a work in progress in my Department. We have to ensure that any legislative measures taken are legally and operationally sound. We know this has worked regarding teachers and its broader application is something of which I am strongly supportive. However, we need to be mindful of the legal implications and, therefore, need to have the advice of the Attorney General.

The Senator also referred to gender recognition. I suggested two amendments in writing to the Tánaiste who did not accept them, but it is open to me to bring forward amendments in the autumn in this area to another Bill and I fully intend to do so. I want my Department to make available to children a role and voice in that regard through the new participation hub.

I thank Senators for their very constructive comments and look forward to Committee Stage of the Bill in the autumn.

Question put and agreed to.

Acting Chairman (Senator Michael Mullins): When is it proposed to take Committee Stage?

Senator Catherine Noone: On 23 September.

Acting Chairman (Senator Michael Mullins): Is that agreed? Agreed.

Committee Stage ordered for Wednesday, 23 September 2015.

Sitting suspended at 12.55 p.m. and resumed at 1.45 p.m.

## Children (Amendment) Bill 2015 [Seanad Bill amended by the Dáil]: Report and Final Stages

An Leas-Chathaoirleach: This is a Seanad Bill which has been amended by the Dáil. In accordance with Standing Order 118, it is deemed to have passed its First, Second and Third Stages in the Seanad and placed on the Order Paper for Report Stage. On the question, "That the Bill be received for final consideration," the Minister may explain the purpose of the amendments made by the Dáil. This is looked upon as the report of the Dáil amendments to the Seanad. For Senators' convenience, I have arranged for the printing and circulation of the amendments. I have also circulated the proposed groupings of amendments. A Senator may contribute only once on each grouping. I remind Senators that the only matters which may be discussed are the amendments made by the Dáil.

Question proposed: "That the Bill be received for final consideration."

An Leas-Chathaoirleach: I call on the Minister to speak on the subject matter of the first group of amendments.

Minister for Children and Youth Affairs (Deputy James Reilly): Amendment No. 1 proposes to substitute the words "what other" for "whether another" in the proposed new sec-

tion 88A(2) of the Children Act, as contained in section 6 of the Bill. The purpose of section 88A is to introduce a new power to transfer children between remand centres, where the remand centre to which the child is being transferred caters for that class of child or where the Minister for Children and Youth Affairs considers that the transfer is necessary in the interests of the good governance of remand centres.

Section 88A(2), as drafted, requires the Minister to consult the director or board of management of both remand centres involved in the proposed transfer "so as to ascertain whether the transfer would be in the child's best interests, or if the transfer would not be in the child's best interests, whether another course of action should be adopted in respect of the child". The use of the words "whether another" was intended to lead to consideration of other options for the child, in a situation where the proposed transfer would not be in the child's best interests. I am advised that if a transfer is not approved by the Minister, other courses of action would be considered depending on the individual circumstances.

In the course of considering draft opposition amendments on the Bill at Committee stage in Dáil Éireann, I raised the issue of the substitution of "what other" for "whether another" in the proposed new section 88A(2) with the Office of the Attorney General. I was advised that the inclusion of the phrase "what other", which has the effect of narrowing the Minister's position to deciding what other course of action should be adopted if the transfer would not be in the best interests of the child, rather than "whether another" would be appropriate in this case. This is the basis on which I bring forward amendment No. 1.

An Leas-Chathaoirleach: As there is nobody offering on that issue, I ask the Minister to proceed and speak on the subject matter of the amendments in group 2.

**Deputy James Reilly:** Amendment No. 2 proposes to insert the words "in language that is appropriate to the age and level of understanding of the child" into section 143(2) of the Act.

Section 143(2) already provides that where a court proposes to impose a period of detention on a child, it shall give its reasons for doing so in open court. It should be noted that the amendment proposed to section 143 is in Part 9 of the Children Act providing for the powers of courts in relation to child offenders. Part 9 of the Children Act falls within the remit of the Minister for Justice and Equality. We have close co-operation on criminal justice matters relating to children.

I have consulted the Minister for Justice and Equality on the proposed amendment to provide that where a court imposes a period of detention on a child, it shall give its reasons for doing so in open court in language that is appropriate to the age and level of understanding of the child. It is important that where a lengthy period of detention is imposed on a child, the child fully understands the reasons for it.

The amendment to section 143 will provide safeguards in terms of the reasons being stated in open court in age-appropriate language in the case of all children appearing before a court who have a period of detention imposed upon them by a court. This amendment will ensure consistency with the amendments that have previously been adopted in this House and in Dáil Éireann on section 149 of the Children Act 2001, as contained in section 9 of the Bill.

**Senator Terry Leyden:** I welcome the Minister and his officials and commend them for bringing these amendments that ensure clarity. That is the benefit of a Bill going through both Houses and being returned here for consideration. I fully support the amendment.

#### An Leas-Chathaoirleach: I call the Minister to speak on the amendments in group 3.

**Deputy James Reilly:** Amendment No. 3 which I proposed will provide for an amendment to section 201A(7) of the Bill. The amendment proposed relates to an important issue regarding an explanation to the child of the processes and procedures to be followed where there is an adverse finding of a disciplinary breach only without the imposition of a sanction. The amendment will provide that the director will inform the child of the provisions relating to a petition to the Minister where a finding of a disciplinary breach has been made regardless of whether a sanction is imposed. It will also provide that the director will inform the child of the appeal procedure to an appeal tribunal where a sanction of forfeiture of remission is made.

**Senator Jillian van Turnhout:** I support this amendment and all of the amendments tabled. The group 2 amendments came out of the debate in the Seanad on the Bill. The Minister is making the Bill consistent and I thank him once again for accepting my amendment in the Seanad.

I wholeheartedly support the Bill. The amalgamation of the three detention schools on the Oberstown site into one legal entity is essential for the success of the child detention system. I look forward to the publication of the prison Bill which will facilitate the complete closure of St. Patrick's Institution.

On the amendment, ending the detention of children in the adult prison system in Ireland is a most significant improvement, albeit long overdue, in the promotion and protection of children's rights in Ireland. However, the change of policy whereby those aged 16 and 17 years are being remanded and committed to the new facility will not be without its challenges. In fact, they are pre-empted in numerous places in the St. Patrick's Institution visiting committee report for 2014.

The reality is that the new cohort, particularly those aged 17 years, are physically bigger, present with more challenging behaviour and are detained on more serious charges. It would be useful if we tracked trends and changes in the profile of offences children are being placed on remand and committed for detention. I understand the changing dynamic between staff and the younger children in the units because of this increase in the age cohort whereby they cannot be seen to be complying with or buying into the programme. I refer to the influence of the 17 year old on the younger child and they are from the same area. There are issues in that regard of which we need to be mindful. I believe we need a risk assessment, with specific and ongoing training for staff to deal with these new challenges. I am using the opportunity presented by the amendment to reiterate my concerns. What the Minister is doing is excellent, but I advise him to ask for a risk assessment on this new challenge.

Question put and agreed to.

Question proposed: "That the Bill do now pass."

**Senator Terry Leyden:** I compliment the Minister on bringing the Bill forward. My party was concerned about children who were on remand but not convicted mixing with other children who had been convicted and that an effort be made to try to separate them in Oberstown. I look forward to the visit to Oberstown. Perhaps it has happened already.

#### Senator Jillian van Turnhout: It has.

**Senator Terry Leyden:** I was not told of it. It was kind of them to notify me that it was happening. I was not invited on the trip to Oberstown.

Senator Jillian van Turnhout: I invited the Senator's party colleagues on the committee.

An Leas-Chathaoirleach: Senator Terry Leyden might be deviating slightly.

**Senator Terry Leyden:** I am the Fianna Fáil spokesman on children. That would not stop the Minister and I visiting there together.

**Senator Jillian van Turnhout:** The Joint Committee on Health and Children visited the Oberstown site and all parties were represented.

I commend the Minister for the Bill. It is a heavy burden to carry that we need this detention facility because it means we have failed children in so many ways, but the reality is we need it. What the Minister is doing in creating the one site is important. We need to ensure the policy of detention as a last resort goes through, but I have faith in the Minister.

As I stated, I have concerns about the age cohort and the need to look at the impact. We all need to be open about this. That is where we have failed children in every other aspect where they end up in Oberstown. These are the most challenging and most difficult cases that any of us would face individually but while it is welcome to have them all together on the one campus, we need to be mindful of the challenges that will present. As legislators, we need to be ready to deal with these challenges and the policy issues.

**Senator Michael Mullins:** I join my colleagues in complimenting the Minister on successfully steering this legislation through the Houses of the Oireachtas.

It is a difficult topic. The Bill is designed in the best interests of children. It is unfortunate that we must resort to detaining children, but that is a reality. Thankfully, we will have it at one location. I can see the challenges and difficulties highlighted by Senator Jillian van Turnhout.

2 o'clock These are something of which we must be conscious. From our own communities we will all be aware of children in the 16 and 17 year age group with serious challenging behaviour. I certainly have concerns for younger children in detention. We must strive to ensure it is as a last resort that any child is in detention. Much child-centred legislation has been brought through these Houses since the formation of the Government four and a half years ago.

Earlier today we passed a very significant Bill, the Children First Bill, which has been designed to ensure children are safe and protected and that we have processes and procedures in place to deal with difficulties that children encounter. I compliment the Minister on the Children (Amendment) Bill and urge him to keep his eye on the issues referred to by Senators Jillian van Turnhout and Terry Leyden and me in order that younger children will be well protected in such institutions.

**Senator Mary Moran:** I thank the Minister and his officials for their hard work, which I appreciate. I thank Members in both Houses who contributed to the Bill. As my colleagues have stated, it is a positive step forward. Senator Jillian van Turnhout pointed out that there are and always will be challenges. We can work together once we are aware that there are challenges. The considerable difference between younger children and older children of 16 or 17 yeras is a particular concern of mine. This legislation represents a very positive step for young

children. As my colleagues have stated, it is unfortunate but a fact of life that we need the centre in question.

**Senator Colm Burke:** I thank the Minister and his officials for the work they have done in this area. I was part of the delegation that went to Oberstown. By visiting an institution, one can see the challenges everyone faces. The best thing we can all learn in this process is that prevention is better than trying to provide a cure after the event. While this legislation goes a long way towards dealing with the issue, we need to ensure we have adequate procedures in place at a very early stage to deal with children who are going down the wrong road and getting involved in criminal activity. I thank the Minister and all the staff involved in drafting the legislation.

**Minister for Children and Youth Affairs (Deputy James Reilly):** I thank all the Senators for their very constructive approach and comments. The amendment process in both Houses has helped to improve the Bill.

All 16-year-olds who need to be detained are to be in Oberstown from 2016. We have been moving incrementally towards this point. This is a very important Bill. It will end the legislative process required to ensure children no longer end up in adult prisons. That was a real challenge and issue for us. One of the big problems in Oberstown was that some children were coming back to that campus from the prison system and bringing with them knowledge that we might prefer they did not have. It was quite disruptive, considering the ethos of rehabilitation and education in Oberstown. Therefore, I really welcome the development today. I thank everybody for his or her support. I reassure Senators that this is dynamic. As Senator Mary Moran stated, it will continue to evolve and there will be new challenges. We will continually learn more and refine the process as we learn.

With regard to Senator Jillian van Turnhout's concerns about 17-year-olds being bigger physically than young children, very often the younger children can be more problematic than the older children. Age is no guarantee of physical prowess either. There are, of course, many issues that result in children finding themselves in positions in which the courts have no option but to send them into detention and some of these issues spring from mental health problems that have not been addressed or family crises and circumstances that might have been avoided had there been earlier intervention. We are examining the whole range of community facilities and supports to ensure detention is truly the last resort. Detention centres are not places we want children to be if we can avoid it. I hope there will never be any need to expand the current capacity of the institution as we focus on ensuring that children who find themselves in trouble or receive the supports they need in the community.

Again, I thank Senators for their support. I am very glad that the Bill is to be passed.

An Leas-Chathaoirleach: I thank the Minister and hope he has a nice summer break.

Question put and agreed to.

Sitting suspended at 2.05 p.m. and resumed at 2.35 p.m.

#### **Requests to move Adjournment of Seanad Under Standing Order 30**

An Cathaoirleach: I have received notice from Senator Fidelma Healy Eames of a motion

she wishes to raise under Standing Order 30. I call on her to give notice of the motion before I give my ruling.

**Senator Fidelma Healy Eames:** I the seek the adjournment of the Seanad to discuss a specific and important matter of public interest which has arisen suddenly in recent days. Seanad Éireann should call on the Minister for Health and-or the Minister for the Environment, Community and Local Government to give top priority accommodation status to women who find themselves pregnant and homeless in order that the relevant agencies can provide them with immediate supportive accommodation; to ensure an immediate and appropriate supportive accommodation response for the 17 women who find themselves homeless and pregnant in Dublin at this time; and to ensure such accommodation would be stable and fit for purpose when their babies arrived. I draw particular attention to the urgency surrounding one homeless young woman who is 22 years old and due to give birth within the next few days. I thank the House for considering this request under Standing Order 30 as a matter of public interest which has arisen suddenly. It is the first time I have called for such a motion to be taken under this provision. I would appreciate Senators' support. Please God, the young women concerned will have had their babies by the time we come back after the summer recess. They need accommodation. They do not need to be thrown out at 9 a.m. every day.

**An Cathaoirleach:** Having given careful consideration to the matter raised by the Senator, I do not consider it to be one contemplated by Standing Order 30. I regret, therefore, that I have to rule it out of order.

Senator Fidelma Healy Eames: May I ask for a reason it is not considered to be in order?

An Cathaoirleach: The matter has not arisen suddenly. It is on the Order Paper as it is.

**Senator Fidelma Healy Eames:** It has arisen suddenly. I placed it on the Order Paper on Monday.

**An Cathaoirleach:** As it is on the Order Paper, it has not arisen suddenly. There is there no doubt that it is a matter of public interest, but it has to be-----

Senator Fidelma Healy Eames: I am proposing an amendment to the Order of Business.

An Cathaoirleach: The Senator cannot propose an amendment to the Order of Business.

Senator Fidelma Healy Eames: We are mincing words.

An Cathaoirleach: I have made my ruling.

**Senator Fidelma Healy Eames:** The House has worked against the people this week. I tabled a Commencement matter, but it was not addressed. The matter is on the Order Paper, but it has not been addressed. It is a disgrace.

An Cathaoirleach: I am dealing with it under Standing Order 30. It has not arisen suddenly and I have given my ruling.

**Senator Fidelma Healy Eames:** Are we saying arising between Monday and Tuesday is not sudden?

An Cathaoirleach: I have made my ruling on the issue.

# Senator Fidelma Healy Eames: It is a disgrace.

#### **Environment (Miscellaneous Provisions) Bill 2014: Report and Final Stages**

An Cathaoirleach: I welcome the Minister of State, Deputy Ann Phelan. I remind Members that a Senator may speak only once on Report Stage, except the proposer of an amendment who may reply to the discussion on the amendment. Also, on Report Stage each amendment must be seconded.

#### Senator Mary Ann O'Brien: I move amendment No. 1:

In page 24, between lines 13 and 14, to insert the following:

# "Repeal of sections 15 and 16 of Act of 1992

**28.** The Minister, not later than 60 days following the commencement of this Act, shall lay before both Houses of the Oireachtas a report on the matter of the amendment of the Act of 1992 in Part 1 by the repeal of sections 15 and 16.".

We have been over this ground in recent days. I remind the House that section 15 of the Environmental Protection Agency Act 1992 provides for the immunity of the Environmental Protection Agency, EPA, while section 16 provides for the indemnification of the director general, directors and other persons of the EPA. In its in-depth review of 2010, the EPA itself stated that doubts had been expressed about the constitutionality of this immunity and whether it is compatible with obligations arising under the European Convention on Human Rights. In 2011, the then Minister, Mr. Phil Hogan, also said this immunity should be lifted. The Minister of State made a very nice speech about the EPA and I agree that it has been doing super work and is a wonderful agency. Nonetheless, I am here to speak on behalf of many of the other Senators and their constituents throughout the country.

Let me take the Minister of State to Portlaoise for one moment, the country of Senator John Whelan. The infamous plant there is Enva, a hazardous waste facility processing waste oil from around the world under an integrated pollution control licence. Last year in a memo, Enva detailed releasing benzene, a group 1 carcinogen. The local residents had been making complaints for up to 15 years about the disgusting, unbearable smell coming from the plant and about symptoms including wretched headaches, nausea and weakness caused by the emissions. It is so easy for me to make a speech in the House on their behalf. How would it be for all of us Senators if we lived next door to this plant, if our children had to go to school feeling sick, weak or nauseated, or if our family home was next door to this pollution which is not being regulated or controlled?

In 2011, on the orders of the EPA, independent inspectors from WYG carried out an examination of the odours coming from the plant. They found Enva was in breach of its licence. However, in a response to this report, Enva disputed the findings and no action was subsequently taken. Why is the EPA not using its teeth and acting as a watchdog on which citizens can rely? What is the point of the EPA if it is not bringing to heel industrial polluters who are profiteering on the back of citizens' health?

Many Senators have been approached by members of the public from different communities throughout the country. They all have similar sad stories to tell. Their lives are a misery and

they are resigned but frightened. In many cases, the EPA has chosen not to believe or address the concerns of these citizens, and labels them as nuisances, moaners or cranks who do not have a clue what they are talking about. Public health should not be compromised. This is a David and Goliath situation in which rural communities with genuine complaints are just not being listened to by the EPA and industrial giants which are causing the pollution.

I ask the Minister of State to picture herself living down by the Shannon Estuary in Askeaton. This unfortunate area should be given the golden globe award for the most polluted valley in Ireland. The ESB's coal-fired station at Moneypoint, County Clare, is one of the 662 most damaging industrial plants across Europe according to a European Environment Agency report. Aughinish Alumina comes in at second place and, at the top of the triangle, we have an incinerator in disguise - a gasification plant planned for the old dump site at Gortadroma.

I am sure the Minister has heard this, but I am very concerned that no financial bond is in place with Aughinish. I know the plant was in place before the EPA was formed in 1992 but the EPA has since failed to put a financial bond in place. What does that mean to us as a country? Anybody from Cork will know well the large-scale environmental disaster that took place at Haulbowline. A very similar situation could develop in Limerick. When the Ispat steel plant in Cork went into liquidation, shortly afterwards an estimated 500,000 tonnes - an elephant-sized amount - of waste was found buried nearby, equating to one of the worst environmental disasters ever to occur in Ireland. The clean-up operation is ongoing, with costs running up to €40 million so far to make the site environmentally safe. Government attempts to force the clean-up costs onto the liquidator failed in the courts; therefore, this money is being paid by the taxpayer. As a safeguard against environmental disasters such as this, companies are required to furnish evidence of financial provision that is adequate to discharge their financial commitments or liabilities.

I have a picture with me which I will leave with the Minister of State later. It shows a 200acre red lake which is 20 metres from the River Shannon. I have been down there and would recommend to any Member holidaying in the west to go and have a look at this monster. This 200-acre red pond, metres from the River Shannon and beside the Aughinish Alumina plant, is a toxic by-product of alumina production. It is strongly alkaline to the point of being caustic. In 2010, nine people died when a red mud waste pond at a plant in Hungary burst and the resulting pollution destroyed the local river and killed all marine life. Since this picture was taken by the *Limerick Leader*, a second 195-acre pond has started to be filled at that plant. If Aughinish Alumina decided to leave and decommission its plant, a start-up cost of €40 million to €50 million would be just a small estimate of the cost to the State.

This has been ongoing since the 1980s and it involves many families. The members of one of these families are sitting in the Visitors Gallery today, although I will not name them. They have moved out and no longer live on their farm, and although they started with a large herd of cattle, they are now down to fewer than 20 cattle. That young girl sitting in the Visitors Gallery is 14 years of age and she has suffered ill health, breathing problems, nausea, respiratory problems and brain fog. This family is not the only one in the area, but they had to move out of their farm, which is why I am standing here. We need to give them a voice. I ask the Minister of State to please consider my amendment. I just want a report that the EPA itself states needs to happen. I thank the Minister of State for listening.

**Senator Jillian van Turnhout:** I second the amendment. It is with pleasure that I support Senator Mary Ann O'Brien who introduced me to this issue. To my shame, I was not aware of

its extent or nature until the Senator gave me a very compelling article from *The Sunday Times* of 12 July 2015 about this Limerick girl and her family who have suffered serious ill-health that they say is linked with pollution. I would advise everybody to read the article which is by Justine McCarthy. It talks about the health concerns, including constant fatigue, abdominal pains and itchy skin and eyes. It is a hugely difficult issue. Senator Mary Ann O'Brien also shared with me the picture from the *Limerick Leader* of this toxic substance, which is strongly alkaline to the point of being caustic.

This is a concern for me. I believe the amendment tabled by Senator Mary Ann O'Brien is pragmatic. We need the EPA to be a watchdog. It should not be immune. That is totally unacceptable, given that we need to keep it on its toes. The report being requested here is, I believe, pragmatic, given the serious nature of the concerns outlined by the Senator. This issue is urgent. I would prefer the timeframe to be shorter, but I realise that we have to give the necessary time for the report to take place. We should not have State bodies intervening and preventing citizens from being able to realise their full health and well-being. Citizens should have confidence that the State agencies are there to protect them, to support them, to fight for them and certainly to be that watchdog that we all want them to be. It is a great honour for me to second the amendment proposed by Senator Mary Ann O'Brien.

**Senator James Heffernan:** I support this important amendment. This issue has gone on for far too long. I do not think there is any State agency other than the EPA that enjoys such protection with regard to its immunity from prosecution. I have stated on a number of occasions in this House that the EPA need not be in fear of anything if it is doing the job correctly and that job is to protect the environment and have the issues of human health and animal health as its top priority. I do not know what the EPA fears and why that immunity should be in place because it does not stand to reason that it should be afforded such protection.

As the Minister of State knows, this issue has been raised on a number of occasions, yet there seems to be an abject failure by the Department to deal with it. I was told previously that there was no way to find a correct wording to establish an ombudsman's office to look into complaints against the EPA and that, therefore, the EPA is pretty much a law unto itself. That has to be tackled by the Government if there is to be confidence in the EPA as an environmental watchdog, which is what it should be.

There seems to be, under the current director general of the EPA, a move away from being an environmental watchdog. I realise that in a previous life she was very much a spokesperson and a lobbyist for the incineration industry, which is something that would not inspire confidence in me and would perhaps make me question that particular appointment, although I know it was made before the Minister of State's time. A vetting procedure and a proper interview procedure for appointments to such positions should be held quite openly and candidly and the public should know who are the applicants for such a major position.

If that is the view of the EPA, it is no wonder communities across the country feel as they do. I was present at a very well attended public meeting last Thursday night in Shanagolden which dealt with a proposed new gasification plant that is to be established on a landfill site. I have previously raised my concerns with the Minister of State. Certainly, the people in that hall had no confidence in the EPA, given the experience that people along the Shannon Estuary in Limerick have had with the agency in recent years.

I would like to raise a case in point which will underline why the amendment is important.

Aughinish Alumina was mentioned by other speakers. The licensing arrangement granted by the EPA to Aughinish was certainly questionable. As I have raised before, one meeting of the EPA recommended that Aughinish would have to put a bond in place to protect the citizens against potential environmental catastrophe and there is that potential, as outlined by Senators Mary Ann O'Brien and Jillian van Turnhout. At a subsequent meeting of the EPA, however, the clause to have the bond in place to protect us was completely omitted from the licensing arrangement. I cannot understand how that can be allowed to happen and how a State agency can grant a licence to what is a known polluter under European regulations without any bond being in place. Therefore, it is very important that the amendment, if it is not accepted, leads to a commitment from the Minister to State to us today that the Department is serious about taking on the EPA and making it accountable to us, as citizens, and the Minister of State, as a representative of the Government. She should make the protection and health of citizens the EPA's priority and not make the EPA a big welcome mat for multinationals and conglomerates to come in and walk all over communities that do not welcome them. First and foremost, we must stand up for the people. The EPA should do exactly what it says on the tin, namely, protect the environment. Unfortunately, as has been said a number of times here, this has not been the case. I fully support the amendment.

**Senator Gerard P. Craughwell:** I support the amendment. I am one of the few people in the room who has worked in Aughinish Alumina, as did my former colleague. We were regularly paid to have our cars washed and polished due to chemical spills that took place within the confines of the island. Let us be under no illusions. On the positive side, Aughinish Alumina is a good employer and provides many jobs for the people of Limerick. On the negative side, the plant would house several Croke Parks, and the red mud ponds to which Senators have referred would house three or four Croke Parks. That is the amount of industrial waste we are talking about.

I worked in the fire and security service there. Part of our job was to put on chemical suits and look after employees when there was a spill. Every 200 metres on the site there is a shower in case a employee is splashed with caustic soda, which is brought in by the truckload every day. If a person is splashed with caustic soda, it will burn right through. Employees had to stand naked under a shower for 20 minutes until they were collected by an ambulance and brought to the medical centre. There were people who lost their eyesight in at least one eye. There have been several spills on the site.

The red mud ponds are highly toxic. The plant is built on a limestone base. If the man in the Visitors Gallery could speak, he would confirm what I am saying. At one stage, we were building a tower on Aughinish and the builders who came to lay foundations found their explosives had no effect on the limestone. When the blast took place, it just filtered out through the limestone cracks. The first mud pond was covered in a rubber lining to stop any leakage. If the lining goes, we have no idea where the toxins from the red mud will go and where in the Aughinish area they will be deposited. It is a large farming area. There is a serious concern, particularly regarding issues such as bonding. I do not want to play down the seriousness of the problem or falsely accuse Aughinish Alumina of any damage, although there are environmental questions that must be answered and that have not been dealt with since the plant opened.

The Senators tabling the amendment are doing so in good faith and the issues must be investigated fully. While I do not want Aughinish Alumina's reputation to be damaged any more than necessary, if it must answer, let us not have another Merck Sharp & Dohme. In that case, a man and his family were ruined and his animals killed before, eventually, somebody stood up

and said he was telling the truth. I am not sure how many people are suffering financial damage in the Aughinish area. I have seen photographs of animals that died of God knows what. I remember some geese being brought from Canada and a big advertisement appearing in *The Irish Times* stating Aughinish Alumina had flown the geese 6,000 miles in order to create 1,000 jobs. Although I may be wrong, as far as I recall, caustic soda burned the feet off the geese and they had to be put down.

The moment one walks through the gate of the plant, one is immediately aware of the fact that one is in a highly dangerous environment. Everything about the day's work is controlled by the knowledge that one is exposed to caustic soda. The process of extracting alumina from bauxite requires thousands of gallons of caustic soda, as well as sulphuric acid, lime, and sodium aluminium fluoride. Between all those substances and the red mud that is going out, there are some serious chemicals lying around in an open area. At one stage, Aughinish Alumina explored the possibility of using the red mud to make concrete blocks, which failed. For years, it has been trying to find something to do with the red mud waste, which will be left there like nuclear waste for generations. I support Senator Mary Ann O'Brien.

**Senator Denis Landy:** I spoke about the issue in its broadest sense on Committee Stage. Today, I express my concerns. The last speaker referred to Merck Sharp & Dohme. I was reared in the valley where Merck Sharp & Dohme still operates. It is an excellent employer in County Tipperary and employs approximately 350 people in high-quality jobs. However, during the almost 20 years of Hanrahan v. Merck Sharp & Dohme, many things happened and many people were affected. One man took on a giant operation and was vindicated in the Supreme Court and it is in the Statute Book forever.

#### Senator Gerard P. Craughwell: Well said.

**Senator Denis Landy:** Then along came the EPA. Previously, the local authorities which were self-regulating gave licences to companies such as Aughinish Alumina and Merck Sharp & Dohme and monitored them annually. Then the State decided that we needed an agency to do the monitoring and take it from the local authorities. At the time, I thought it was a very good idea, given that it would remove local personalities, knowledge and friendships from the process and move licensing to a national level. However, I discovered issues such as the tailings ponds outside Nenagh and many other places where waste was allowed to gather. The agency charged with monitoring it was not doing its job.

When I came to Seanad Éireann, I met Senator John Whelan who told me about what was happening in Enva in Laois, Senator Tony Mulcahy who told me what was happening in the same company in Clare and our friends in the Visitors Gallery who told me what was happening in their area. It all pointed in one direction, namely, that the people charged with monitoring, examining and ensuring the proper rules and regulations were complied with did not seem to be doing their jobs. I have had discussions with Senator Mary Ann O'Brien on the issue. The amendment is the culmination of much work and several weeks of discussion inside and outside the House. I have spoken to the Minister of State on a number of occasions and asked her to consider the amendment.

Whether the people making the claims and allegations prove to be correct is not what is entailed in this amendment. It is that the legislation enacted would ensure the proper monitoring of citizens, communities and, in this case, animals was safeguarded. We need to see that in black and white and the report being requested in the amendment to be delivered. I ask the

Minister to respond favourably to the amendment because it is in the interests of all the citizens that we get this right. It is something we have not got right for a while.

**Minister of State at the Department of the Environment, Community and Local Government (Deputy Ann Phelan):** To reply to the Senators who have spoken passionately on this amendment, immunity from prosecution for the Environmental Protection Agency, EPA, arises under section 15 of the Environmental Protection Act of 1992, while section 16 indemnifies the director general, other directors and authorised persons against legal action. Senators

*3 o'clock* may be aware that a review of the EPA conducted by a broadly based group of relevant experts and completed in 2011 examined the performance of the EPA against its mandate and found that the EPA has provided considerable benefit for Ireland's environment and for the health and well-being of its people. Nonetheless, the 2011 review also recommended that the immunity from prosecution as it applies to the EPA, in carrying out its statutory functions, should be reconsidered.

I want to inform Senators that this process is ongoing through a comprehensive analysis of potential impacts on the agency and its ability to effectively discharge its statutory functions in the event of the removal of these sections of the Environmental Protection Agency Act. The analysis may also examine how the issue of immunity is dealt with by other State agencies in Ireland and environmental protection agencies in other jurisdictions.

While I cannot accept the terms of the proposed amendment, I can assure and inform Senator Mary Ann O'Brien that the Minister has confirmed to me that the Department will expedite the completion of the current review and a comprehensive report on this subject will be presented before the Houses of the Oireachtas within 90 days of the commencement of the Bill. Not only does that demonstrate a commitment but a timely commitment, which is more important. On the basis of this commitment I ask that the Senator withdraw her amendment.

**Senator Mary Ann O'Brien:** I thank the Minister of State. We are delighted with that response and look forward to the 90 days coming to an end. Is it from the commencement of the Bill? Does the Minister of State have any idea when it will happen?

**Deputy** Ann Phelan: When the Bill has been signed by the President. We are looking towards the end of November.

Senator Mary Ann O'Brien: From the commencement of the Bill.

**Deputy** Ann Phelan: No, in terms of the figure of 90 days. It will be towards the end of August and then November.

Senator Mary Ann O'Brien: That is super. I thank the Minister of State.

Amendment, by leave, withdrawn.

**An Cathaoirleach:** Amendments Nos. 2 and 3 are related and may be discussed together, by agreement. Is that agreed?

Senator David Cullinane: I move amendment No. 2:

In page 31, between lines 19 and 20, to insert the following:

"(d) the insertion of the following subsection after subsection (3):

"(3A) That the applicant has a contract with a licensed operator for the delivery and safe disposal of collected waste."."

As we had lengthy debates on all of these issues on Committee Stage, I do not intend to have a lengthy debate on Report Stage because we have made the arguments. We resubmitted many of our amendments because we want to restate our position. We may not divide on them, but we will certainly press them.

I remind the Minister of State that these two amendments seek to ensure a person or a company seeking a waste collection licence has proven that they have or will have a contract with a licensed operator who will safely dispose of the waste. This would be one way of tackling the problem of illegal dumping, which is a huge problem across the State. There is a big problem with illegal waste collectors also, some of whom are operating with impunity. Where we can do so, we should tighten up the law. Where we can do so, we should strengthen the provisions of the Bill. Notwithstanding our opposition to the Bill for other reasons we will get to later - we will have a discussion on the reasons in regard to water charges - there are many provisions of the Bill we do support in terms of improving our waste management laws. That was the purpose in tabling these two amendments. We hope the Minister of State is in a position to accept them in the same way she was for the first amendment.

Senator Trevor Ó Clochartaigh: I second the amendment.

**Deputy Ann Phelan:** I cannot accept the amendment. Waste collection companies are already obliged under the conditions of their permit to ensure waste is disposed of only at appropriate licensed facilities. The amendment would force applicants for waste collection permits to enter into binding commercial contracts with waste disposal operations before they even had a collection permit and when there was no guarantee that their application would be successful. Such an obligation would be anti-competitive and also unfair. What would happen, for example, where such a collector had entered into a commitment with a waste facility operator to deliver a certain amount of waste for a certain price for a set period, whose application for a collection permit must be signed by a facility manager or equivalent appointed persons?

Waste collection companies must also provide details of the method of disposal of all waste collected by way of an annual return submitted to the National Waste Collection Permit Office. Failure to do this is a one strike offence automatically prompting a review of their waste permit by the National Waste Collection Permit Office.

It should also be noted that a waste collection vehicle may be stopped and inspected at any time by a local authority enforcement officer and be required to show proof of the destination for the treatment of the waste it carries. Any waste collector found to be disposing of waste in any unauthorised manner would be subject to a prosecution under the Waste Management Act, which could result in fines of up to  $\in 15$  million and-or imprisonment of up to ten years. Such a conviction would also lead to the revocation of the waste permit and would result in the collector failing the proper person test being introduced by the Bill. That means that the collector would no longer be permitted to collect waste.

Rigorous enforcement of waste legislation is now sound economic policy and the Government is committed to boosting growth while continuing to protect and improve the environment. The waste provisions in the Bill will make an important contribution to ensuring the regulatory framework is sufficiently robust to ensure there is a level playing field for respon-

sible businesses. The very strong focus on enforcement and driving high standards of compliance and service by collectors of waste will contribute to protecting and enhancing one of our vital assets, namely, our green image, which is essential for the tourism and food industries and attracting inward investment.

Senator David Cullinane: Again, I cannot accept the Minister of State's response. I have to press the amendment because her response would be akin to taxi drivers not being properly regulated or operating without a taxi licence. Saying this could have an impact on competition could encourage a race to the bottom. We know that for those responsible people who have licences and operate within the law there are huge associated costs. For example, the cost of the landfill levy for waste disposal has increased. There are huge costs associated with this industry. Those who operate within the law and regulations, are properly licensed and do all the right things are being undercut by rogue collectors. What the amendments seek to do is the opposite to what the Minister of State said they would do. They make perfect sense. I suspect this will be one of those Bills for which the Minister of State will come back to the House with an amending Bill. She has already made amendments to it that have nothing to do with the Bill. I will let the irony of that pass, but the amendments we have tabled are a genuine attempt to strengthen the Bill and clamp down on illegal operators and illegal dumping. I am disappointed the Minister of State is not in a position to accept the amendments; therefore, we have no choice but to press them when we get the opportunity.

**Deputy Ann Phelan:** The Bill is designed to drive higher standards in the waste collection industry. The bar has been raised in terms of the standards required to access a waste collection permit, while existing permits will be more regularly reviewed for breaches of permit conditions. The suite of enforcement tools has been expanded and permits will be revoked for infractions of waste legislation. This is being done in the context of the recognition that this is already a heavily regulated sector of Irish business. Legitimate operators also contribute much to the circular economy and the economy generally and must retain the scope to make the most commercially advantageous decisions for their business in what is a very competitive industry.

Amendment put and declared lost.

Senator David Cullinane: I move amendment No. 3:

In page 37, between lines 31 and 32, to insert the following:

"(d) the local authority is not satisfied that the waste collected is being legally, properly and safely disposed of.".

Senator Trevor Ó Clochartaigh: I second the amendment.

Amendment put and declared lost.

An Cathaoirleach: Amendments Nos. 4 to 6, inclusive, have been ruled out of order.

Senator Darragh O'Brien: I was not informed that they were out of order.

An Cathaoirleach: Letters were issued this morning.

**Senator Darragh O'Brien:** I did not recieve any letter. On a point of order, the amendments were resubmitted. We did not receive any notification that they were out of order.

An Cathaoirleach: Letters were issued this morning to that effect.

**Senator Darragh O'Brien:** I did not receive a letter. I am not being funny. I did not receive any letter to the effect that the amendments were out of order.

**Senator David Cullinane:** On a point of order, we did receive notification, but for whatever reason the information was circulated late.

**An Cathaoirleach:** The letter may have been issued to Senator Diarmuid Wilson, as his was the first name on the list submitted with the amendments. The amendments have been ruled out of order because they involve-----

Senator Darragh O'Brien: How many amendments have been ruled out of order?

An Cathaoirleach: Amendments Nos. 4, 5, 6 and 11.

Senator Darragh O'Brien: That is fair enough.

An Cathaoirleach: They involve a potential charge on the Exchequer.

Senator Darragh O'Brien: Really. I would have argued the toss on that one.

An Cathaoirleach: Amendment No. 16 has also been ruled out of order.

Senator Darragh O'Brien: It is probably easier to say which amendments are in order.

An Cathaoirleach: Amendments Nos. 4 to 6, inclusive, 11 and 16 have been ruled out of order.

**Senator Darragh O'Brien:** Amendments Nos. 4 to 6, inclusive, 11 and 16 are in order. Therefore, amendment No. 4 is in order.

**An Cathaoirleach:** No. Amendment No. 4 has been ruled out of order. Amendments Nos. 4 to 6, inclusive, 11 and 16 have been ruled out of order.

Senator Darragh O'Brien: That is most unfortunate.

An Cathaoirleach: It is. I am sorry about that.

Amendments No. 4 to 6, inclusive, not moved.

Senator Darragh O'Brien: I move amendment No. 7:

In page 54, to delete lines 31 to 40, and in page 55, to delete lines 1 to 5.

We will take the amendments as they come. What we seek to do in amendment No. 7 relates to page 54 of the Bill. I have been caught on the hop because I was ready for the other amendments, but I am not ready for this one. Would it be possible for the Minister of State to respond to the amendment? I will take the opportunity to read it in order that I will not detain the House for too long. I will then respond to the Minister of State.

Senator Paschal Mooney: I second the amendment.

**Deputy Ann Phelan:** The amendment proposes the deletion of section 49. I cannot accept the amendment. The section provides for an amendment to section 5 of the Water Services Act

2014 which deals with payment of the water conservation grant. It is to provide that an approved housing body in receipt of funding under sections 38 and 39 of the Health Act 2004 and responsible for the payment of water charges on a dwelling will be regarded as the occupier of the dwelling for the purpose of determining eligibility for payment of the water conservation grant. This is important to ensure the occupiers of such properties are treated the same as other domestic customers and the water conservation grant is applied where the approved housing body is paying domestic water rates on behalf of its tenants. This measure ensures such an outlay on water services is no greater than it would have been had the tenant registered for the charge with Irish Water and received the grant directly. I will not be accepting the amendment.

**Senator David Cullinane:** I support the amendment. I will not make a big deal out of the amendments that were ruled out of order. That has been done.

There is something outrageous about the Government looking to make landlords tax collectors. That is essentially what it is doing with the Bill. It should not be the responsibility of landlords to have to collect charges or taxes. It is outrageous that the Minister is pursuing such a line.

There is little point in restating the position which we detailed on Second and Committee Stages. We also had lengthy debates on water charges yesterday in the context of the Civil Debt (Procedures) Act. The Government chose to rush those final two Bills through the Seanad at the end of the year, but that is not the way it should have been done. Many landlords have enough to do at this point without having to act as tax collectors for the Government or help compile registers for water charges, including unpaid charges. The Minister has gone the wrong way about it. I will support the amendment. I will speak later on the similar amendments that arise. I express our opposition to what the Minister intends to do in the Bill.

**Senator Darragh O'Brien:** I thank the Minister of State for responding to the amendment. If tenants of a voluntary housing association or housing body such as the housing section of the Society of St. Vincent de Paul do not remit their water charges, I take it that the Government will deduct it from the housing application grant. In effect, housing bodies are being made responsible for collecting the charge. How will they go about this if the tenant will not or cannot pay? The Government is adding another layer of collection for the water charge.

We will push the amendment. It is inappropriate for such housing bodies to be used as a collection agent on behalf of a large semi-state company such as Irish Water. Will the Minister of State clarify the position? If a housing association does not remit the full amount required from the tenant, will it be deducted from its grant in the following year?

**Deputy** Ann Phelan: I draw the attention of Senators to the fact that this is important in ensuring the occupiers of those properties are treated the same as any other domestic customers and the water conservation grant is applied where the approved housing body is paying domestic water charges on behalf of tenants.

**Senator Darragh O'Brien:** It is €1 per tenant.

Amendment put:

The Seanad divided: Tá, 16; Níl, 22.	
Tá	Níl

Craughwell, Gerard P.	Bacik, Ivana.
Cullinane, David.	Brennan, Terry.
Daly, Mark.	Burke, Colm.
Heffernan, James.	Coghlan, Eamonn.
Leyden, Terry.	Coghlan, Paul.
Mooney, Paschal.	Comiskey, Michael.
Mullen, Rónán.	Conway, Martin.
Ó Clochartaigh, Trevor.	Cummins, Maurice.
Ó Domhnaill, Brian.	D'Arcy, Jim.
Ó Murchú, Labhrás.	Gilroy, John.
O'Brien, Darragh.	Hayden, Aideen.
O'Donovan, Denis.	Kelly, John.
O'Sullivan, Ned.	Landy, Denis.
Power, Averil.	Moran, Mary.
White, Mary M.	Mulcahy, Tony.
Zappone, Katherine.	Mullins, Michael.
	Naughton, Hildegarde.
	Noone, Catherine.
	O'Donnell, Marie-Louise.
	O'Neill, Pat.
	van Turnhout, Jillian.
	Whelan, John.

21 July 2015

Tellers: Tá, Senators Paschal Mooney and Darragh O'Brien; Níl, Senators Paul Coghlan and Aideen Hayden.

Amendment declared lost.

**An Cathaoirleach:** Amendments Nos. 8 to 10, inclusive, and 12 to 15, inclusive, are related as amendments Nos. 9, 10 and 12 to 15, inclusive, are alternatives to No. 8. Is it agreed that amendments Nos. 8 to 10, inclusive, and 12 to 15, inclusive, may be discussed together? Agreed.

Amendment No. 8 not moved.

Senator Gerard P. Craughwell: I move amendment No. 9:

In page 55, to delete lines 13 to 26 and substitute the following:

"(2) The database shall be the property of the Department of Social Protection for the purposes of payment of the grant and be subject to the provisions of data protection legislation.".

I regret that the Minister of State is taking the flak in the Chamber and the senior Minister is not. I notice he is not at the McGill Summer School either. He has obviously taken flight.

It is absolutely abhorrent that these amendments are stuck on at the tail end of the Environment (Miscellaneous Provisions) Bill 2014. We are now discussing a database. Whenever I

hear the word "database", my hackles rise immediately and I become deeply concerned. Databases contain private and personal information. What is involved here is a database for a water conservation grant. Nobody has explained to me what this grant is for and what one must do to get it, although last week somebody on the Government side was talking about fixtures and fittings that must be fitted. I am not sure what they are and I am still waiting for somebody to tell me. I have also referred the water conservation grant to the European Commission. It is not right, proper or possibly even legal to be given a grant for doing nothing. The crazy situation, as confirmed by Irish Water on "Morning Ireland", is that I can get the €100 grant and never pay my water bills. All I must do is register; I need not pay any fee. I can be quids in by whatever time the Minister starts taking people to the courts to pay their water fees, although I do not know how he will bring 57% of the householders of the country to court. However, the issue is the database. It is being created for the purpose of paying the grant. It is, therefore, the property of the agency that will pay the grant. As the Department of Social Protection will pay the grant, only that Department should have access to the database. The database should be created for the purpose of paying the grant and for no other purpose. The content of the database or the database itself cannot be handed over to Irish Water or to any other agency. It is the property of the Department of Social Protection.

That brings me to another question. Have we discovered yet how much it will cost to administer this database? How many people will be involved? What is the cost of generating the database? Will it be outsourced or will it be developed bespoke within the Department? What is the cost of administering it and of the staffing of this grant section? Has EUROSTAT or the European Union advised where we stand with respect to this grant? I see one or two Senators on the other side of the House looking at me rather strangely, but if any of them can tell me of any grant one can get anywhere in the world for doing nothing, I would love to hear about it.

# Senator John Gilroy: Set-aside is one.

**Senator Gerard P. Craughwell:** I am looking forward to receiving the  $\in$ 100. The wife and I will have a party with it, but I will not be paying my water fees. Incidentally, if there is any suggestion I will find myself on a database that is not controlled under data protection legislation, I will have serious difficulty with it. I seek an assurance that the database, if it is created, will be the property of the Department of Social Protection. That should be provided for in the Bill, as amendment No. 9 proposes.

**Senator David Cullinane:** I second the amendment. I will also speak to the amendments tabled by Sinn Féin.

The previous Senator spoke about the madness of this section. It is entitled, "Water conservation grant - database", and is a couple of pages long. It is tagged onto the end of a Bill. I asked the Clerk of the Seanad for a copy of the explanatory note on the Bill and found it to be the original explanatory memorandum, which refers to all of the issues we dealt with previously regarding waste. It does not deal with water at all. Some bright spark in the Department obviously thought this was an opportunity to get all of these provisions into a Bill and have it done and dusted before the summer recess, rather than bring forward a separate Bill that would create problems for the Government. That is the reason for doing this, as we discussed on Second and Committee Stages. However, there is something fundamentally wrong with this water conservation grant. Senator Gerard P. Craughwell alluded to the obvious point that one has to register but one does not have to pay the water charges to get the grant. One need not provide any receipts or any evidence that one has spent a penny on water conservation, yet one

is entitled to receive this grant. The reason the water conservation grant was introduced initially is that it was part of the humiliating climb-down by the Government, which had to abandon its previous attempt to get its water services charges through because people were not going to pay the  $\in$ 300 to  $\notin$ 400 that was originally provided for by the Government. It had to climb down and introduce amending legislation. However, that was not enough and did not work, so the Government had to return with a third amendment Bill that still did not work. Now we discover that 57% of citizens have not paid their charges and have said repeatedly in opinion polls that they will not do so.

The water conservation grant was to act as some type of inducement to people to pay - if they paid their water charges, they would get the grant. In fact, they do not have to pay but they will still be paid the grant. One of the problems this will cause - I will discuss the database issue - is that we are running the real risk of Irish Water not making any money and potentially running at a loss. That will create real problems for the Government. What it tried to do in setting it up by sleight of hand and off the balance sheet was an effort to get around fiscal compact and state borrowing rules. As doing it that way has backfired, the Government had to introduce the water conservation grant. It will not work. It is already a laughing stock. I have heard many commentators talking about it. They are perplexed that the Government can introduce such a thing and give money to people for doing absolutely nothing. It is just bonkers. On the one hand, it is taking money from some people - not everybody but those who will pay - and giving them back the conservation grant and, on the other, giving it to those who do not pay.

It is worth bearing in mind that water charges were introduced under the guise of the need to invest in water services. That rationale has been lost along the way. The centrepiece of the Government's entire water strategy was that it would raise the funds needed to get the system right. Instead, all the Government has done for the past three years is deal with crisis after crisis, and it still is not out of the woods. Fianna Fáil, in a welcome move, has joined Sinn Féin and other Opposition parties in committing itself to the abolition of water charges. It is possible, therefore, that these provisions will never see the light of day. Whichever parties make up the next Government, it seems likely water charges will be gone.

I share the concerns expressed by the previous speaker regarding the database. We need only look to the Eircode fiasco to see what can go wrong with such mechanisms. We are being told, for example, that parts of south Kilkenny, in the constituency of the Minister of State, Deputy Ann Phelan, are now in Waterford. The Minister of State, Deputy Paudie Coffey, has established a boundary commission, but no one would have thought it would extend as far as Mullinavat. It is madness what is going on there. I recently received a notification addressed to "Deputy David Cullinane, TD". It seems these people can predict the future, even if they cannot do much else right.

The Government's track record when it comes to databases containing citizens' information is an absolute shambles. I will not support proposals that give the Government power to set up another such database. The information being sought includes details of the water supply to the dwelling, the treatment of the wastewater discharge from the dwelling, the address of the dwelling, the postcode - that will be interesting - the name of the occupier, whether the dwelling is the principal private residence of the occupier, which forces landlords to give information about tenants, a unique reference number assigned in respect of the dwelling to the occupier of the dwelling, and much more besides. I cannot support any of this. I said from day one, when the former Minister, who is now in Brussels with his big salary, came into this House with his proposals to establish Irish Water that they would not work and he would be back with his tail

between his legs. Sure enough, the whole thing has been an absolute disaster for the Government. When we told the former Minister it would not work, we were laughed at by Government party Senators. The Government insisted its proposals would be enacted and everything would work out fine. That has not and will not happen.

It is time to stop the madness. Is the Government going to come back with another amendment Bill introducing further changes when people continue to refuse to pay the charges? What is being done here represents sleight of hand on the part of the Government. We do not support the provisions, and the manner in which they were brought forward is not the right way to draft legislation to deal with these very serious issues. For those reasons, we will press our amendments.

**Senator Paschal Mooney:** I remember very well when the original legislation setting up Irish Water came before the House. As I recall, I was the only Member of either House who raised questions about the proposal to use personal identification numbers. I was assured that the only reason these unique identification numbers were being used was for the purpose of facilitating payment of the conservation grant. I did not press the issue, my rationale being that returning money to taxpayers seemed in principle like a good idea, notwithstanding the broader debate on the merit of water charges. It quickly became obvious, however, despite the assurances given to me, that there were serious question marks in this regard, questions which were raised in due course by the Data Protection Commissioner. As a result, the Government withdrew that particular provision.

The proposals we are discussing are akin to a wolf in sheep's clothing in so far as they seem mainly to be a way of getting around the Data Protection Commissioner's objections and proceeding with the establishment of a database. When one reads the details of the legislation, it is like going around in circles. The Minister will establish a database or, it seems, an agency could be set up to establish it, and that agency and-or the Minister will then hand over the information contained therein to the Minister for Social Protection, who will use it to pay the conservation grant. Why is it necessary to go all around the houses in this way?

Senator Gerard P. Craughwell's amendment cuts to the chase. Unless the Minister of State, Deputy Ann Phelan, can offer reasons other than the ones already given for the need for a separate agency to create a database, I cannot understand why it should be done. Of course, the Department of Social Protection needs that information, but does it not already have the means at its disposal to obtain it? What is the need for this legislation? Surely the focus should be on enabling the Department of Social Protection to have access to the information it needs rather than creating yet another agency? As Gerard P. Senator Craughwell eloquently observed, there are unanswered questions around the cost of all of this. If I recall correctly, the Department of Social Protection, from the very beginning, has never quantified the cost to its budget of the dispersal of the  $\in$ 100 grant to households. Perhaps the Minister of State might be able to shed some light in this regard.

**Senator Cáit Keane:** The Government offers grants under a variety of schemes. In the case of energy conservation, for example, the Sustainable Energy Authority of Ireland gives incentives to householders who insulate their attic to prevent heat escaping. If householders want to conserve water, the Government will give them a grant to encourage them in that regard. Perhaps we should charge some Senators for a lesson on water conservation, which is a separate issue from water charges. I gave the statistics the previous day showing how close we are to breaking point in Dublin. There are people in this country who will never have to pay for

water because they have good quality wells sunk to such a depth that the water is clearer and cleaner than could be provided from any other source.

Senator Gerard P. Craughwell: They are paying €100 for it.

Senator Cáit Keane: The Senator is opposed to people having to pay  $\in 100$ , but every household in the country with its own supply has been paying for water for years. I am absolutely surprised at the opposition of Senators, some of whom are ex-teachers, to these proposals. One of the main focuses of primary school education should be the importance of conservation and ensuring we preserve our environment for future generations. That is the theory and it should be the practice. It is what the Government is trying to encourage by way of these proposals. Senators opposite, however, are saying we should throw it all away and let what happens happen.

Senator Gerard P. Craughwell: That is what the Government is doing.

**Senator Cáit Keane:** No, the Government is trying to put a stop to what has been going on for many years. It is about raising awareness and educating people, something which should have been done years ago.

Senator Gerard P. Craughwell: I would love to know what education is being provided.

Senator Cáit Keane: Does the Senator want me to tell him again?

Senator Gerard P. Craughwell: I would love it.

Senator Cáit Keane: I will take him outside and give him a private lesson.

(Interruptions).

Senator Gerard P. Craughwell: I might have to request an immediate adjournment.

#### (Interruptions).

An Cathaoirleach: I have called Senator John Gilroy.

Senator John Gilroy: Senator Cáit Keane's last comments notwithstanding, she has summed up the situation well. It is remarkable to discover Opposition Senators are not in favour of giving householders €100 per year to encourage them to conserve water. It is absolutely amazing that Members are saying, "No, you are not getting that money, you do not deserve it."

**Senator David Cullinane:** How will the payment help to conserve one drop of water? We would love to know.

**Senator John Gilroy:** Sometimes people pursue arguments to the nth degree and end up painting themselves into a corner. Members opposite have done exactly that on this occasion. The logic they are presenting is so perverse as to make no sense at all.

Senator Gerard P. Craughwell: The Senator has missed the point entirely.

Senator David Cullinane: Has he seen the latest polls showing the Labour Party at 6%?

An Cathaoirleach: Senator John Gilroy to continue, without interruption.

Senator Gerard P. Craughwell: On a point of order, this is not about the  $\notin 100$  grant; it is about the database.

An Cathaoirleach: That is not a point of order.

Senator John Gilroy: We can only respond to what we hear from the Opposition.

An Cathaoirleach: The Senator should speak to the amendment.

Senator John Gilroy: On the amendment, the Opposition has thrown in the kitchen sink. Opposition Senators have called the introduction of the grant madness, a shambles and a farce. It has been described as everything except what it is. Senator David Cullinane said little, apart from shouting the word "joke", which might describe his own party's policies on the economy and water services. Sinn Féin has a 19 line, 223 word policy paper which states it will abolish Irish Water without referring to what will become of the infrastructure and whether we will revert to having 31 local authorities providing water services. Will Sinn Féin allow raw sewage to continue to pour out of 47 towns? When the Government decided to give  $\in$ 100 to encourage and support people in conserving water, the Opposition claimed it was wrong. If it was not so illogical, it would be farcical. People have to pay their water charges. Any responsible legislator will acknowledge that it is the law of the land and, while we might not like it, it is highly irresponsible of Opposition Members to encourage people to pay only the charges and taxes they choose and to ignore laws they do not like. That does not make sense to me and it is not what I consider to be democracy.

Levels of payment are similar to the payment rates when the property tax was first introduced, but the compliance rate with the property tax is now in the region of 96%. Television licences were introduced in 1961 and the compliance rate is now 85%. The compliance rate with the property tax is considerably better and we are confident that the compliance rates with water charges will be equally good.

I do not think anyone has addressed the actual section in question which outlines the necessity of having a database. Every Department is investigating the potential for cross-referencing and amalgamating information technology systems. Opposition Members are constantly calling for such reforms, but just because it suits their agenda of opposing water charges, this database must be stand-alone. It makes no sense. If we could argue on the merits of the Opposition's logic, I would be happy to engage, but they are making a meaningless argument. They are against water charges and water conservation and will throw in any old argument to muddy the waters.

**Senator Michael Mullins:** I do not see anything particularly wrong with the legislation in regard to databases. Complaints have been made in this House that the databases in Departments do not communicate with each other, with the result that the taxpayer loses money. What do Senators Gerard P. Craughwell and David Cullinane have against the people of rural Ireland?

Senator Darragh O'Brien: What does that have to do with the amendment?

An Cathaoirleach: Senator Michael Mullins was referring a question to the Minister of State.

Senator Darragh O'Brien: We are on Report Stage. This is all nonsense. The Senators are grandstanding.

An Cathaoirleach: Plese allow Senator Michael Mullins to continue, without interruption.

**Senator Michael Mullins:** The people of rural Ireland who have been paying for water for the past 40 years or who have sunk their own wells are entitled to receive the  $\in 100$  grant.

**Senator Darragh O'Brien:** Why is the Senator asking Senators Gerard P. Craughwell and David Cullinane that? The Minister of State is here to take Report Stage.

Senator Michael Mullins: I find it strange that Senator David Cullinane is complaining about people getting  $\in 100$  for nothing when every week he advocates that people should receive services for nothing.

Senator David Cullinane: We pay taxes for services.

**Senator Michael Mullins:** The Senator is advising people not to pay their water charges. He wants to give everything to everybody for nothing. It is outrageous that Members of this House have said they will not pay their water charges.

**Senator Darragh O'Brien:** We are not living in a fascist state. They can make up their own minds.

**Senator Michael Mullins:** They are being paid from the public purse and asked to make a small contribution from their income towards the cost of a vital service. I want to see attachment of earnings orders made immediately in respect of Members of the Oireachtas who are not prepared their water charges.

Senator Darragh O'Brien: The Senator would set up a hierarchy of citizens in our republic.

Senator David Cullinane: Is that a blue shirt he is wearing?

Senator Michael Mullins: As we come close to the general election-----

Senator Gerard P. Craughwell: Another amendment to the Bill.

**Senator Michael Mullins:** As we approach the general election, advocating non-payment for services is populist and makes good copy, but the very same Members come into the House to call for investment in their communities, jobs in their regions and water they can drink. They think that will happen by magic. There is nothing for nothing anymore. We have to be responsible and that responsibility should start in the Houses of the Oireachtas.

Deputy Ann Phelan: I assume Senator Cáit Keane's contribution does not need a response.

Senator Darragh O'Brien: It usually does not.

**Deputy Ann Phelan:** The Bill provides that the database can be used solely for the purpose of paying a water conservation grant under section 5 of the Water Services Act 2014. It may not be used for any other purpose. A figure of  $\in$ 130 million has been provided in the Department's Estimate for the water conservation grants scheme in 2015. This includes the administration costs for the Department of Social Protection which are estimated at  $\in$ 6 million. The administration costs include one off costs such as website design and development which will not be incurred in future years.

In regard to the measures for which the grant can be used, the website for the water conservation grant provides certain information on options available to households for the sustainable use of water in the home. The  $\notin$ 100 grant which is paid to households that have registered with Irish Water can be used to purchase some of the devices available to conserve water such as water butts to recycle water, water displacement devices to reduce water flow in toilets and aerators to reduce water flow from taps. It can also be used towards the cost of repairing household plumbing systems, thereby reducing leakages. That will be welcomed by some households.

I cannot accept amendment No. 9 which proposes to delete section 50 which provides for the establishment of a database of water services to facilitate the payment of the water conservation grant from 2016 onwards. These provisions are essential for the establishment and maintenance of the database which, in turn, will facilitate the payment of the grant by the De-

*4 o'clock* partment of Social Protection. Section 50 also provides that the establishment and maintenance of the database will be functions of the Minister for the Environment,

Community and Local Government. The database shall include information on the water services supplied to a dwelling and details of the occupier, including his or her name, address and whether the dwelling is the owner's principal private residence. The management of data will be subject to the provisions of the Data Protection Acts.

The other amendments simply propose the deletion of the section. Without these provisions, the Minister for the Environment, Community and Local Government would have no basis on which to pay the annual  $\in 100$  grant to households. Accordingly, I cannot accept the amendments.

**Senator Gerard P. Craughwell:** I am baffled by what I have heard from the Minister of State and Government Senators. I have some expertise in database systems, having taught the subject for the best part of 20 years.

Perhaps I might respond to Senator Cáit Keane's offer to take me outside later but not now. She spoke about insulation grants. Is it not the case if I seek such a grant that I must demonstrate that I have carried out some work? There is no free grant other than this one.

Let us speak about the database.

A database is an extremely dangerous piece of equipment and software. It was used in South Africa during the apartheid era and is used in Israel to track the movements of Palestinians. Databases have huge information available-----

Senator John Gilroy: It is used by An Post to deliver letters.

Senator Cáit Keane: It is used by the ESB.

Senator Gerard P. Craughwell: If Senators do not mind-----

An Cathaoirleach: Senator Gerard P. Craughwell to continue, without interruption.

Senator Gerard P. Craughwell: I asked what the database was for. If all the Government wants to do is to pay the  $\in 100$  grant, all it needs to know is the name and address of the person and whether it is the person's principal private residence. That is all the Government needs to know - nothing else. What is all this other stuff for? Why is the Government looking for this information? Now the Minister of State has told me that the information that is inputted into the database is the property of the Minister for the Environment, Community and Local Gov-

ernment. How are we going to transfer the information in that database from the Department of the Environment, Community and Local Government to the Department of Social Protection without breaching data protection provisions? Why are we setting up a database for residents all over the country when we just spent €27 million putting a postcode system in place that gives us the address of every single residence in the country?

Senator Michael Mullins addressed the issue of rural dwellers. I do not begrudge rural dwellers one cent of the  $\notin 100$  grant. Quite a number of my relations are rural dwellers and I hope they all receive the grant. As they all have their private wells and septic tanks, I am sure they will use the  $\notin 100$  grant wisely. In respect of the notion that we might use it for education, what in the name of God is the Government thinking of? Are we going to run classes around the country on what type of fitting to use? In respect of the fittings listed by the Minister of State, where does it state in the legislation that I must use any one of those fittings to get my  $\notin 100$ ? It is absolute nonsense.

The database is a nonsense and the whole scheme from the day it was conceived is a nonsense. If the Government provided local authorities with the money to develop the system that it is squandering on Irish Water, we would not have the problems we have right now. I believe  $\notin$ 850 million is the figure as of last Sunday and we do not even know what interest rate is being paid on the last borrowings. We can be sure of one thing. It is so uncertain that it will have the money to pay it back, the interest rate must be very high, which is why we are not being told. We are talking about a database. If it is to be created, it must be created for the Department of Social Protection. Once it has completed its purpose, it must be destroyed. We have already seen what happened with the PPS numbers. Let us not go down this route again. What is happening here is a nonsense and needs to be stopped.

Senator John Gilroy: I do not know what one can say to that.

Deputy Ann Phelan: I do not have anything to add.

An Cathaoirleach: Is amendment No. 9 which has already been discussed being pressed?

Senator Gerard P. Craughwell: Regrettably, yes.

Amendment put and declared lost.

Senator David Cullinane: I move amendment No. 10:

In page 55, to delete lines 13 to 26.

Senator Trevor Ó Clochartaigh: I second the amendment.

Amendment put:

The Seanad divided: Tá, 13; Níl, 23.	
Tá	Níl
Barrett, Sean D.	Bacik, Ivana.
Craughwell, Gerard P.	Brennan, Terry.
Daly, Mark.	Burke, Colm.
Heffernan, James.	Coghlan, Eamonn.
Leyden, Terry.	Coghlan, Paul.

Mooney, Paschal.	Comiskey, Michael.
Ó Clochartaigh, Trevor.	Conway, Martin.
Ó Domhnaill, Brian.	Cummins, Maurice.
Ó Murchú, Labhrás.	Gilroy, John.
O'Brien, Darragh.	Hayden, Aideen.
O'Donovan, Denis.	Keane, Cáit.
O'Sullivan, Ned.	Kelly, John.
White, Mary M.	Landy, Denis.
	Moran, Mary.
	Mulcahy, Tony.
	Mullins, Michael.
	Naughton, Hildegarde.
	Noone, Catherine.
	O'Neill, Pat.
	Power, Averil.
	van Turnhout, Jillian.
	Whelan, John.
	Zappone, Katherine.

Tellers: Tá, Senators Gerard P. Craughwell and Trevor Ó Clochartaigh; Níl, Senators Paul Coghlan and Aideen Hayden.

Amendment declared lost.

An Cathaoirleach: Amendment No. 11 has been ruled out of order.

Amendment No. 11 not moved.

# Senator Trevor Ó Clochartaigh: I move amendment No. 12:

In page 56, to delete lines 1 and 2.

# Senator David Cullinane: I second the amendment.

Amendment put and declared lost.

# Senator Trevor Ó Clochartaigh: I move amendment No. 13:

In page 56, to delete lines 3 to 5.

Senator David Cullinane: I second the amendment.

Amendment put and declared lost.

# Senator Trevor Ó Clochartaigh: I move amendment No. 14:

In page 56, to delete lines 6 to 37.

Senator David Cullinane: I second the amendment.

Amendment put and declared lost.

# Senator Trevor Ó Clochartaigh: I move amendment No. 15:

In page 56, to delete lines 38 to 43, and in page 57, to delete lines 1 and 2.

Senator David Cullinane: I second the amendment.

Amendment put and declared lost.

An Cathaoirleach: Amendment No. 16 has been ruled out of order.

Amendment No. 16 not moved.

Bill reported without amendment.

Question, "That the Bill be received for final consideration," put and declared carried.

Question put: "That the Bill do now pass."

The Seanad divided: Tá, 20; Níl, 14.	
Tá	Níl
Bacik, Ivana.	Barrett, Sean D.
Brennan, Terry.	Craughwell, Gerard P.
Burke, Colm.	Cullinane, David.
Coghlan, Eamonn.	Daly, Mark.
Coghlan, Paul.	Heffernan, James.
Comiskey, Michael.	Leyden, Terry.
Conway, Martin.	Mullen, Rónán.
Cummins, Maurice.	Ó Clochartaigh, Trevor.
Hayden, Aideen.	Ó Domhnaill, Brian.
Keane, Cáit.	O'Brien, Darragh.
Kelly, John.	O'Sullivan, Ned.
Landy, Denis.	Power, Averil.
Moran, Mary.	White, Mary M.
Mulcahy, Tony.	Zappone, Katherine.
Mullins, Michael.	
Naughton, Hildegarde.	
Noone, Catherine.	
O'Neill, Pat.	
van Turnhout, Jillian.	
Whelan, John.	

Tellers: Tá, Senators Paul Coghlan and Aideen Hayden; Níl, Senators Ned O'Sullivan and Trevor Ó Clochartaigh.

Question declared carried.

An Cathaoirleach: When is it proposed to sit again?

Senator Maurice Cummins: At 2.30 p.m. on Wednesday, 23 September 2015.

An Cathaoirleach: I thank all the Members, the Clerk and the Clerk-Assistant for their cooperation during the year.

The Seanad adjourned at 4.30 p.m. until 2.30 p.m. on Wednesday, 23 September 2015.