



DÍOSPÓIREACHTAÍ PARLAIMINTE  
PARLIAMENTARY DEBATES

**SEANAD ÉIREANN**

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

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## SEANAD ÉIREANN

*Dé Máirt, 30 Bealtaine 2017*

*Tuesday, 30 May 2017*

Chuaigh an Cathaoirleach i gceannas ar 2.30 p.m.

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

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### **Business of Seanad**

**An Cathaoirleach:** I have notice from Senator Trevor Ó Clochartaigh that, on the motion for the Commencement of the House today, he proposes to raise the following matter:

The need for the Minister for Health to make a statement on the discussions his Department has had with the HSE on the continued delay in securing an appropriate home care package for a motor neurone disease sufferer, details supplied, who remains in the high dependency unit of University Hospital Galway one year after having a life-prolonging tracheotomy operation, and if he will outline the plans that can be put in place to allow him to return home as soon as possible.

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

The need for the Minister of State with responsibility for mental health and older people to make a statement regarding the closure of inpatient beds at the Linn Dara child and adolescent mental health facility at Cherry Orchard, Dublin 10.

I have also received notice from Senator Rose Conway-Walsh of the following matter:

The need for the Minister for Health to outline the plans that are in place to address the shortages in physiotherapy services in County Mayo.

I regard the matters raised by the Senators as suitable for discussion and they will be taken now.

### **Commencement Matters**

#### **Home Care Packages Provision**

**An Cathaoirleach:** Given the Senator's knowledge of the situation, I would welcome it if he did not name the individual concerned. He has supplied the details to the Minister of State anyway.

**Senator Trevor Ó Clochartaigh:** Go raibh míle maith agat a Chathaoirligh. Cuirim céad fáilte roimh an tAire. Mar a fheiceann sé táim ag ardú ceist anseo maidir l'othar a bhfuil an galar néarón luadrach air atá insan ospidéal i nGaillimh le blian anuas.

I have raised this matter on many previous occasions and I know that the Minister of State has the details of the person to whom it relates. Motor neurone disease is incredibly debilitating and is absolutely life-changing for anybody who suffers from it. I was involved in a campaign with this person - he instigated that campaign on his own behalf - in order that he might have a tracheotomy operation, which he would see as a life-prolonging in nature. That campaign was very successful. A lot of fund-raising took place in the Galway area in order to support the person in question when he was released from hospital following the tracheotomy. The operation went very well and it was expected that afterward, once an agreed home care package was put in place and suitable nurses and carers were made available, that this person would come home and be able to spend the remainder of his years there. That has not happened unfortunately, even though the efforts of his family, particularly his wife, have been ongoing. It appears that there is a kind of stand-off between two parts of the HSE, namely, that which runs the hospital section and the primary care section. What will happen is that once this patient is allowed home from the high-dependency unit, HDU, he will become a financial burden on the primary, community and continuing care, PCCC, system and the money will have to come out of it budget. The HSE has known about that for quite some time and it is time for a decision to be made.

The family has done a great deal of research. It is quite unusual for this to be done and I think it is to be welcomed that the operation took place because it certainly will help the patient in question and he is feeling better after it. Even though his physical ability is obviously deteriorating, his mind certainly is not and he is very much on top of the situation. His researched and costed potential care services that would be available to him in the Galway area. The PCCC in the HSE area initially estimated that it would cost something of the order of €750,000 to provide home care on a 24-7 basis. The family's research indicates that this could be done for a fraction of the money that was being asked, so they actually made a saving for the HSE in respect of the potential cost.

The person involved does not want to hold up a HDU bed as such beds are in short supply. There is pressure on University Hospital Galway but there is also pressure on the family to travel to from their home place to the hospital - it is quite a long round trip - each day in order to visit the patient. That is unacceptable. The person has young children of school-going age and he would like to be able to be with them on a daily basis.

I would like to find out what discussions have taken place between the Department of Health and HSE west. If discussions have not taken place, will the Minister of State intervene as quickly as possible in order to try to get the management at HSE west to sit down with the management of the hospital and of the PCCC? A decision must be made at some stage. Let it be made sooner rather than later so that the patient can go home and spend the rest of his life with his family in a proper care environment. This would also take the pressure off the family. I look forward to the Minister of State's response.

**Minister of State at the Department of Health (Deputy Finian McGrath):** I thank Senator Ó Clochartaigh for raising this very important matter. I know that he is very passionate about health and disability services, particularly in his constituency in Galway but also nationally.

In the first instance, I wish to assure the Senator of the Government's commitment to providing services and supports to people with disabilities that will empower them to live independent lives, allow them greater independence in accessing the services they choose and enhance their ability to tailor the supports required to meet their needs and plan their lives. This commitment is outlined in A Programme for a Partnership Government and is guided by two main principles: equality of opportunity and improving the quality of life of all people with disabilities. One way in which the HSE is working to improve the quality of life for people with disabilities is through the provision of home support hours. One of the Senator's concerns relates to that particular issue. In the context of its service plan for 2016, the HSE's priority was to provide 2.6 million home support hours for over 7,300 people with disabilities. In reality, the actual number of home support hours provided in 2016 was higher, at 2.9 million hours. This reflects the responsive nature of the service and takes account of the fluctuation of assessed need over time as the needs of individuals change.

This year, the HSE has committed to maximise the provision of health and personal-social services, including home support services, within available resources. This year, the HSE has committed to maximising the provision of health and personal social services, including home support services, within available resources. As provided for in its national service plan for 2017, the HSE expects to deliver 2.75 million home support hours to over 7,400 people with a disability, an increase of 150,000 hours over last year's target. The goal is to help as many people as possible. This is a positive development which we can build on in years to come. I accept the Senator's point that we must build on it.

With regard to the matter raised, I am sure the Senator will understand my reluctance to comment here in any great detail about the specifics of any one case given the personal nature and circumstances of the matter. However, that does not mean we are not going to do anything. As the issue raised by the Senator is a service matter, I have asked the Health Service Executive for a report on the case. The HSE has informed that the person concerned is in a high-dependency unit in University Hospital Galway and is in need of 24-hour care. I understand from the HSE that it is in discussion with the family on the appropriate options for the person's discharge from the University Hospital Galway. The HSE community health care organisation for area 2, which covers Galway, Mayo and Roscommon, has assured me that it is actively engaging on an ongoing basis with the family with regard to the most suitable and appropriate care for the person.

**Senator Trevor Ó Clochartaigh:** I thank the Minister of State for his response and I note his interest in the disability services in Galway to which, hopefully, we will be welcoming him soon. The HSE response on this matter is a nonsense. Discussions have been ongoing for well over a year. It was known in advance of the operation that this would be needed. It is time for decisions to be taken and for heads to be banged together. It is probably costing as much per annum to keep this patient in the high-dependency unit as it would cost to provide services for him at home with his family. I ask the Minister of State to re-engage with the HSE on this matter with a view to a meeting being held with the relevant stakeholders and a decision being reached on when this patient can be moved home. As I said, this matter has been going on for far too long. The Minister of State, when in Galway, might take that opportunity to meet with

the relevant stakeholders and raise this issue with them.

**Deputy Finian McGrath:** I thank Senator Ó Clochartaigh for the invitation to visit the services in Galway during my next round of visits to services throughout the country. I disagree with the Senator that the HSE reply is a nonsense. I accept that there is a problem. During the discussions on the HSE social care plan additional home support hours were agreed. This particular case is a classic example of a person who should be benefitting in that regard. I will engage with various departments in the HSE and will put pressure on them to resolve this issue. What is going on is not acceptable, particularly for a person with motor neurone disease. I agree with the Senator that the situation is extremely difficult for the person concerned and for his family, particularly his young children. It is our duty to facilitate them. It has been stated that the cost of doing so would be approximately €775,000 per annum. With a little creativity and planning we can, hopefully, come up with a resolution.

I will make known to the HSE the Senator's views regarding the urgent need for resolution of this matter.

### **Mental Health Services**

**Senator Máire Devine:** Is the Minister of State taking the second matter?

**Deputy Finian McGrath:** Yes, I am taking the matter on behalf of the Minister of State, Deputy McEntee.

**Senator Máire Devine:** This is happening quite frequently. This matter relates to the closure over the last couple of weeks of 50% of the beds at the Linn Dara unit in Cherry Orchard. The engagement, thus far, by the Minister of State, Deputy McEntee, in this regard has been poor. Owing to the closure of these beds children who would have been inpatients at Linn Dara were left queuing last weekend at accident and emergency departments, some of them for 24 hours and at great risk. While some of these children are being released to the loving embrace of their families, other children are not. There are 20 children on the waiting list, which has also been culled. We also have been left with half of the staff. It has been alleged that staffing issues caused the closure and there have been warnings about staffing shortages for a long time, particularly the shortage of psychiatric nurses.

I am outraged by the closure of the facility. The parents and children are desperate for help. We know the reality due to the publication yesterday of a report on the services available to children, the publication this morning of a report on children's mental health services by the Seanad Public Consultation Committee and from the public writing to us beseeching us to do something about access for children. We have failed them miserably and we continue to fail them every day. Numerous reports have been published and some action has been taken but what we need has been ignored. We need a robust 24-7 service for children in need.

I want the Minister of State, Deputy McEntee, to up the ante and engage with the Psychiatric Nurses Association, PNA. The association, of which I am a member, has solutions that it gave to the Minister of State but they have been completely ignored and not acted upon. Action is much more than kicking something into touch, undertaking reviews and waiting for recommendations to be implemented, which has gone on forever. We just need some action. I urge the Minister of State present to convey my comments to the Minister of State, Deputy McEntee,

and ask her to re-engage with the PNA.

**Deputy Finian McGrath:** I thank Senator Máire Devine for raising this important issue, along with the staffing issue and her call for the Minister of State, Deputy McEntee, to engage with the PNA. I shall respond to the latter issues at the end of my response.

The Linn Dara facility is a state-of-the-art child and adolescent mental health services, CAMHS, inpatient unit. It provides support and services to young people who struggle with their mental health and find it hard to cope with everyday life. Linn Dara consists of two 11-bed units called Hazel and Rowan and a two-bed high observation unit called Oak.

Over the past few weeks, as is normal practice, a number of patients were discharged from Linn Dara's CAMHS unit for clinical reasons. The decision was taken not to refill those beds due to staff shortages. Unfortunately, the decision has left Linn Dara with just half of its 22 beds occupied, and that is the core of the issue. I can assure the Senator that the Government is taking the issue very seriously. The Minister of State with responsibility for mental health, Deputy McEntee, met the HSE last week specifically about this matter and she also visited Linn Dara so the process has started.

I want to assure the Senator that the HSE has confirmed that no young person is discharged from Linn Dara unless deemed clinically appropriate by his or her mental health team. It should be clearly understood that nobody is discharged to allow for a bed to be closed. For those discharged for clinical reasons, dedicated follow-on supports from the community-based CAMH service will be provided, if deemed necessary. The HSE will also make available the CAMH day service, as appropriate in individual cases, to enhance supports for young people and their families.

The core issue that faces Linn Dara, which we must face, relates specifically to staff recruitment and retention difficulties for mental health professionals. Unfortunately, this matter reflects wider health system issues. The problem in this case does not relate to funding availability. Staffing cover has been augmented in recent times through methods such as staff working additional hours, overtime and engaging the services of agency staff.

I assure the Senator that the HSE is exploring every option to maximise the operation of this service, keeping quality and safety to the fore. The HSE has intensified its recruitment efforts. A number of staff have been identified to join the Linn Dara service in the near future but realistically, such recruitment will take some time.

The Minister of State, Deputy McEntee, has told me that she will remain in close contact with the HSE and the management at Linn Dara on this issue. The Senator may rest assured that all efforts will continue to be made to address ongoing service difficulties at Linn Dara. In this context, I urge all relevant health professionals, including those represented by the Psychiatric Nurses Association, to consider working in a modern high-quality CAMHS unit, such as Linn Dara, or other CAMHS units nationally.

I will briefly address the wider issues around mental health services for children and adolescents. It is the policy of the HSE, as reflected in its annual service plans, to provide an age-appropriate mental health service for people under 18 years. Mental health remains a key priority for the Government, underscored by the fact the HSE mental health budget increased from €826 million in 2016 to €853 million this year. That is a substantial increase. The HSE service plan for 2017 commits to further development of child and adolescent mental health ser-



vices, CAMHS, including more acute bed provision, better out-of-hours liaison and seven-day-a-week response services. This is the strategic priority action in the plan against a background where the population of children is expected to increased by around 8,500 over 2016 and 2017, inevitably creating additional demands in CAMHS. Around 18,500 young people under 18 years are expected to attend a CAMHS service this year. That is a great many children. Additional resources and facilities means there are 67 CAMHS teams and three paediatric liaison teams, until recently supported by 66 operational CAMHS beds nationally. Further beds were planned to come on stream as approved staffing posts materialised at local level. However, I acknowledge that difficulties have clearly arisen in recent times in the HSE securing adequate staffing to maintain approved CAMHS capacity, including the Linn Dara unit in Cherry Orchard. I assure Senator Devine that all efforts will be made to continue to address the ongoing service difficulties at Linn Dara.

**Senator Máire Devine:** Linn Dara is a modern unit and it is a shame to see it half empty. The 20 or more children on the waiting lists to all intents and purposes have been culled.

Ireland's overall suicide rate has stabilised in the past two years, but among young boys and young men, it is increasing alarmingly. Our country shouts out in despair to remind us to look after, embrace and make sure our children are safe. This is what every parent wants to do and what every State should be doing for our children. The Minister of State, Deputy Helen McEntee, needs to be really proactive now. She has been told to re-employ the bank of retired nurses. I have spoken to retired nurses who have just left the health services and they are willing to come back and keep this unit open. Where is the bespoke recruitment campaign that was to happen for Linn Dara in particular? There are many things that can be done.

The Minister of State needs to understand how heavy a burden is placed on the medical teams when staff are told to find a bed by discharging a person right now. The burden is placed on a medic to tell a person that he or she is being prepared for discharge. The risk the medic is taking is enormous. That risk has to be taken by the Government and it should act now.

**Deputy Finian McGrath:** I totally accept there is a major issue with mental health issues, particularly among our adolescent and younger population. I mentioned that 18,500 persons used the services last year. These are people under 18 years, which is a very high number for those using CAMHS.

I will bring Senator Devine's suggestion of using the bank of retired nurses to the attention of the Minister of State, Deputy McEntee. However, the Minister of State assures me that she is working very closely with the hospital and the HSE to try to resolve this issue. We have a major problem with retaining nurses, which sadly is a reality. We have many vacant posts across services which we are unable to fill. I will bring Senator Devine's strong message that we have to ensure we do not lose people or put human life at risk. We have to ensure an adequate mental health service for young people. That is the message I will bring back to the Minister of State, Deputy McEntee.

### **Primary Care Services Provision**

**Senator Rose Conway-Walsh:** I thank the Minister of State, Deputy McGrath, for his presence in the House today. I wish to discuss the lack of physiotherapy services in County Mayo, which have reached a crisis point.

Patients throughout County Mayo are not getting the physiotherapy they need. This includes children, post-operative patients, people with disabilities and arthritis and elderly people. If a person can afford to access private physiotherapy and he or she is able to travel, that person can get as much treatment as he or she needs. If that person is a medical card patient living on a low income, it is becoming increasingly impossible to get physiotherapy in County Mayo. The long-term damage of not being able to access physiotherapy is well documented. The physical pain experienced by many patients who are denied treatment is truly awful and the mental trauma of knowing permanent damage is likely to arise from delayed treatment is not acceptable. The solution to this crisis is very simple. An adequate number of physiotherapists must be appointed to meet the needs of those waiting for physiotherapy in Mayo.

Why are physiotherapists from the panels not being appointed? Why are applicants to physiotherapy panels not given the choice of which areas they would like to work in on their applications, rather than just being asked to define one area? People applying in the west should at least be given the opportunity to list the counties in which they would like to work in order of preference. If people are forced to say that they will work in Mayo, they can only choose Mayo. Somebody on the Mayo-Galway border cannot have his or her application considered for both counties. This is absolute nonsense.

I am particularly concerned that when physiotherapists go on maternity leave or long-term illness leave or move to another location, the replacement process seems to meet an absolute dead end. It is not as if the HSE does not know when someone is going on maternity leave or when someone is going to retire. It has several months' notice, yet it does not respond by employing a replacement. Why is this? I know that three members of staff have left in the last three weeks alone, in addition to others who left in recent months.

It is not a surprise that physiotherapists are leaving. The pressure they are under to provide a service without having sufficient hours is unsustainable. When they are only able to see a child who needs weekly physiotherapy for one session every four to six weeks, it reflects on the integrity of the whole discipline and causes huge distress to the children, parents and the physiotherapists themselves.

It is also having a knock-on effect in other medical disciplines. People who should be fully recovered and active are having to be admitted to acute hospitals and having to go back to their GPs. This is all taking up valuable scarce resources. Patients from community and district hospitals are unable to be discharged because they cannot get the physiotherapy that would allow them to go home. These beds cannot then be used as step-down beds for acute hospitals, which backs up the accident and emergency departments and adds to the trolley crisis. In the meantime dozens of fully-qualified physiotherapists are forced to emigrate because they cannot find work in their own areas. I know one physiotherapist who has waited on a panel for months and who has now been offered €5,000 to relocate to Canada to work in the Canadian health service. Who is accountable for this debacle? What immediate actions will the Minister of State and the Government put in place to sort this out?

I will give the Minister of State an example of what is happening. Up to last September, physiotherapy for the Belmullet District Hospital and its community nursing unit was provided through primary care. A change was then made whereby this could no longer happen. Why did this happen? This is a crazy situation. There was already a backlog, which was being dealt with by a physiotherapist who was there. Will the Minister of State explain to me who, in their wisdom, decided that physiotherapy could no longer be provided to both of these facilities through



primary care, but rather that it had to be provided through social care? There is absolute mayhem in the area of physiotherapy, in Mayo at least. I ask the Minister of State those questions specifically. What can be done to sort it out?

**Deputy Finian McGrath:** I thank the Senator for raising this very important issue. I am very interested in some of the points she has raised in this regard, particularly the last point because, in theory, we have a strong emphasis on services being provided within primary care settings. The Programme for a Partnership Government commits to a decisive shift within the health service towards primary care in order to deliver better care close to home in communities right across the country. That is the first thing. The aim of primary care policy is to provide services in local communities so that people can be maintained in their own homes and communities for as long as possible. Effective delivery of primary care services will enable people to have direct access to integrated, multi-disciplinary teams of GPs, nurses, physiotherapists, occupational therapists and others. It has been estimated that up to 95% of people's health and social service needs can be met within a primary care setting and primary care teams contribute greatly to enhancing community-based services in these areas.

In regard to the issues raised by Senator Conway-Walsh, physiotherapy services form part of the services provided by many primary care teams. In particular, physiotherapists play a key role in chronic disease management, especially in instructing and guiding patients through safe and appropriate exercise regimes. Physiotherapy services for adults and children are also delivered through specialist disability providers or early intervention and children's teams from birth to 18 years of age.

In regard to the specific issue raised by the Senator, I am advised by the HSE that physiotherapists in County Mayo have in the region of 37,000 face-to-face contacts in a year, which is a significant figure. The HSE has informed me that there are staffing related matters affecting the delivery of physiotherapy services in County Mayo. These staff issues relate to a number of factors in paediatric services across the county, including maternity leave, sick leave and a recent resignation, as mentioned by Senator Conway-Walsh. I am further advised that, in regard to adult services, a physiotherapy post in the Erris primary care area is now vacant as a result of maternity leave. The HSE is exploring the use of agencies to deal with priority one trauma clients in the area. These are the most urgent cases and require physiotherapy services after orthopaedic surgery and hospital discharge.

Delays in access to physiotherapy services can be very difficult for those affected. The need for additional therapy posts is highlighted in A Programme for a Partnership Government. At the end of February 2017, there were 529.38 whole-time equivalent physiotherapists employed by the HSE in primary care, of which 59.48 whole-time equivalents were employed in the community health organisation area two, which includes County Mayo.

To follow up the concerns of Senator Conway-Walsh, the HSE has established a service improvement group to develop a new model to improve waiting times for physiotherapy services. The terms of reference of the group include devising and implementing short-term measures to address current waiting lists and agreeing a revised national model of physiotherapy provision that will be standardised across all community health organisations. This group will examine standardisation of recruitment, which is very important, to include an agreed process and approach to vacancy management. That issue must be addressed. The work of the group is ongoing and a report on the issue is expected later in the year.

**Senator Rose Conway-Walsh:** I thank the Minister of State for his reply. However, there is an absolute disconnect between what he has said and the reality on the ground. It bears no resemblance to what is being experienced by those waiting for and working in physiotherapy. It is very simple. The panels contain fully qualified, ready, willing and able physiotherapists. What is stopping them from being appointed?

The agency solution cited by the Minister of State worries me. Until he confirmed it, I could not believe it that private agencies are being engaged from Galway and brought into Mayo. Does the Minister of State know how long it takes to get from Galway to Belmullet in Mayo? It is a six-hour round trip. If that is the most economic way to deliver physiotherapy in Erris, God help us. It is not a solution.

Who is on the group and what advice is it being given? It is obviously disconnected from what is happening on the ground. The Minister of State's answer has given me no more confidence in the approach being taken. I appreciate that he has been given the answer by the HSE, but the situation needs far more urgent attention to solve the problems in the area. People are coming out of hospital after hip and other very serious operations without any physiotherapy follow-up. There is no realisation of the damage that is being done right across the board.

**Deputy Finian McGrath:** I thank Senator Conway-Walsh for her contribution. I will definitely follow up the point the Senator raised regarding the service improvement group whose purpose is to improve waiting times for physiotherapy services. I will also follow up the Senator's point on the need to address issues such as the management of maternity leave and sick leave.

Another important issue and one which I regularly raise with the Health Service Executive is the outsourcing of services. When I hear about outsourcing, it sets off a red light in my head.

Senator Conway-Walsh also referred to the logistics involved in travelling from Galway to Belmullet. I have seen a similar example in the disability sector where we had a service which cost €80,000 per person. When a crisis arose in the health service, bills suddenly issued for twice this price. We will have to address that issue.

The Senator also raised the important issue of physiotherapist recruitment panels in the various counties. Those who have been placed on panels are ready to roll, as it were. I will raise this matter with the Minister. The message I will take to the Minister and the Health Service Executive is that we must ensure services are in place.

*Sitting suspended at 3.06 p.m. and resumed at 3.30 p.m.*

### **Order of Business**

**Senator Jerry Buttimer:** The Order of Business is No. 1, statements on the mid-term capital review and report of the Public Service Pay Commission, to be taken at 4.45 p.m. and to conclude not later than 6.30 p.m., with the contributions of group spokespersons not to exceed eight minutes and those of all other Senators not to exceed five minutes, and the Minister to be called upon to reply not later than 6.20 p.m.; and No. 2, Criminal Justice Bill 2016 - Second Stage, to be taken at 6.30 p.m., with the contributions of group spokespersons not to exceed eight minutes and those of all other Senators not to exceed five minutes.

**Senator Catherine Ardagh:** It is with further horror that I raise the issue of the continued neglect of our children who are suffering at the hands of this State. I raised the issue last week in light of the report of the Ombudsman for Children. Today, I highlight the report by Government rapporteur for child protection, Dr. Geoffrey Shannon, who commented that there was a much greater co-operation needed between An Garda Síochána and Tusla to protect our most vulnerable children. There are reports of cases where children were taken from their homes under the powers of section 12 by gardaí only to be returned later that day by Tusla. We understood after the children's referendum in 2012 that more protection rights and care would be afforded to our children. However, report after report published in recent weeks highlight the gross inadequacies and chronic systems failures within organisations in this State that are charged with the responsibility of looking after our children.

Widespread neglect of children under Tusla's watch is endemic. As we know, Tusla is under-resourced along with other areas of the public service. The Government's failed recruitment policy in Tusla and other areas of the HSE has left many posts unfilled due to the inability to recruit or retain staff. The staff *in situ* are swamped by huge caseloads and the massively complex nature of the cases they handle. I have great admiration and respect for those social workers working within the limited-resourced Tusla. I also note that the report acknowledges the compassion members of the Garda Síochána had for the children they removed from their parents' care under section 12, whereby many rank and file gardaí stayed long after their rostered hours to ensure the appropriate care was provided for children.

All of us in this House have harrowing stories of shortcomings within the system that present at our clinics. However, Dr. Shannon's report alone gives 91 examples of harrowing cases of the abject failure by this State in the care of our children. I ask that the Minister attend the House so we can have an open debate on Tusla and the resources available to it and the massive caseloads that are not being dealt with on a daily basis. It is something we have all encountered. I do not know what the solution is and I do not know how the current social workers will get through their caseloads.

I also raise the issue of hospice services. Harold's Cross hospice in Dublin gives care to 700 patients each year. That is an average of two patients dying daily who were in receipt of its services. Enough cannot be said of how appreciative people are for the care and support given to many families by Harold's Cross Hospice alone and the hospice movement in general. I commend my colleague, Senator Gallagher on raising this last week. Proper credit ought to be given to the hospice movement.

**Senator Victor Boyhan:** I raise the same issue as Senator Ardagh. I call on the Leader to organise for the Minister for Children and Youth Affairs, Deputy Katherine Zappone, to come to the House. I want to impress the importance of this today because of the report on child protection by Dr. Geoffrey Shannon, which was commissioned by An Garda Síochána and published yesterday. It is a damning report. It highlights really serious issues and grave concerns about failings to protect Irish children. It addresses a number of matters. In summary this report notes a lack of adequate out-of-hours social work services; a lack of access to case files to enable effective decisions for child safety and child protection; a lack of reliable data on the PULSE system in relation to section 4 removals; which is the statutory process of removing a child for its safety and welfare; a lack of training, resources and support for gardaí in exercising their functions and duties in relation to section 12 removals; a lack of clarity around the responsibilities of Tusla - and we do not need to talk more about that, we have talked about it so much here in the past few weeks - and the role and functions of An Garda Síochána and other State

agencies. There is a shortfall here and a misunderstanding about the roles, functions and statutory responsibilities of all these organisations supposedly involved in the welfare and protection of our children. The use of Garda stations as a place of safety for a child, which is against international best practice, has been highlighted in this report by Dr. Shannon. There are concerns about the use of some private fostering services. These are really serious issues. In summary, Dr. Shannon makes 17 recommendations in his report. Every time there is a controversy in this country, the Government of the day commissions a report, recommendations are made and the report sits on a top shelf gathering dust. Shame on us if we do nothing here today. Dr. Shannon has clearly set out strong, workable and practical solutions that need to be addressed in 17 recommendations. I call on the Government, An Garda Síochána and Tusla to commit to implementing all the recommendations in his report. Will the Leader ask the Minister for Children and Youth Affairs to come to the House to debate the issues with a view to setting out a comprehensive plan to address the recommendations within two weeks? Hopefully, I will have the support of all Senators in seeking a full report on how the Department will roll out the plans that have been set out. I would also like a full plan outlining a detailed implementation strategy to address all the recommendations, which should be presented to the House within three months. Ultimately, recommendations are meaningless unless action is taken. We have an opportunity today to start this process and to have the Minister in the House to set out how she will address our concerns.

**Senator Rose Conway-Walsh:** I refer to the same subject. I ask that the Minister be requested to come to the House as soon as possible to discuss the report of the special rapporteur on child protection. The horrific findings of this report should not be a surprise because children across the State continue to be neglected and abused in their own homes. The perpetrators of these crimes and this awfulness in many instances are the parents of the children but the State has a responsibility to protect the children, including under the Constitution, which provides for the State to cherish all our children.

Many crocodile tears have been shed about how children were treated in the past, yet this abuse continues. The number of social workers needed to keep children safe is wholly inadequate and it has been for many years under successive Governments. Children going home from school today are afraid of the abuse and the neglect they will face but nobody will come to help. Their neighbours and relatives call social services and wait for a social worker who never comes. The Minister needs to come to the House to outline what plans she is putting in place. Urgency is needed in this regard because an hour or a day in the life of a child who is going through torture and abuse is a long time. Last night's "Prime Time" report made clear this abuse is continuing and that is a horrific indictment on us as a State.

I move an amendment to the Order of Business, that Second Stage of No. 9 be taken today or tomorrow. The Bill seeks to help those in financial difficulty by allowing them to access services of the Financial Services Ombudsman even after the six year cut-off point. The longer it takes for this Bill to be enacted, the more suffering will be endured by those in need of solutions. This is an opportunity for the House to prove its worth by facilitating the quick passage of this legislation, which received cross-party support in the Dáil. I hope the Leader can facilitate that.

**An Cathaoirleach:** If the Senator moves an amendment, it has to relate to that day's business.

**Senator Rose Conway-Walsh:** It is for today.

**An Cathaoirleach:** Otherwise, she will put the Leader in a dilemma. I take it she wants to move the amendment today.

**Senator Rose Conway-Walsh:** I thank the Cathaoirleach for that clarification.

**Senator Frances Black:** I listened to Dr. Geoffrey Shannon earlier talk about the findings in his report, which are devastating. The entire country is impacted by what we heard. While the report as a whole is harrowing, I was particularly struck by the clear focus on alcohol abuse in Ireland and how it impacts on child welfare. It is time that we started to talk about it. It states that in a significant number of the 90 cases reviewed as part of the audit, it was evident that drug and-or alcohol abuse by parents was compromising their ability to care for their child. In one instance a one-year old child was found wandering alone in a housing estate because its mother was under the influence of alcohol. Cases like this cannot continue to happen in our communities.

Dr. Shannon was clear on “Morning Ireland” in his pleas for us to wake up to the harm alcohol abuse is causing. He said that the biggest challenge facing society is the adverse consequences for the welfare of many children posed by alcohol. Drug and alcohol abuse are a key feature of the report and have a very damaging effect on children. Society’s failure to address alcohol is a fundamental issue and places insurmountable problems on the child protection system. It is not just about Tusla or the Garda; it is about society and our ambivalence to alcohol and substance misuse.

Sadly, this is no surprise to me as I have worked with people suffering from alcohol abuse and addiction for many years. I work with their families and deal with this on a daily basis. The onus is on the State to step up and take responsibility, and we, as legislators, must make that happen. However, since it was first introduced, the Public Health (Alcohol) Bill has languished in the Oireachtas for over 500 days. This is despite repeated Government commitments that it would take action on the issue. The Bill contains sensible, evidence-based, workable measures to reduce alcohol harm and the Government must proceed with it as a matter of urgency. Dr. Shannon’s report only emphasises this further. When will the Public Health (Alcohol) Bill be reintroduced in this Chamber so that we can get on with our work tackling this serious issue? For every one day that we let this go, three people die and our organisation is dealing with the family members. Something has to be done and we need to do it quickly.

**Senator Kevin Humphreys:** I acknowledge the decision made on the national maternity hospital and I hope it proceeds with all speed. It is a badly needed hospital. The building on Holles Street is very old and not fit for purpose. I would like to see the new national maternity hospital built as soon as possible. I acknowledge the work the public did in highlighting the role of the religious orders. I compliment the Sisters of Charity on making what I believe is the right decision in withdrawing from it. I also acknowledge the work the Minister, Deputy Harris, has done behind the scenes. Too often we stand here and criticise people but do not acknowledge when good work is done behind the scenes.

I also acknowledge the strategy of the all-party Committee on the Future of Healthcare, published this morning. Deputy Shortall and the committee members have done an excellent job on which I compliment them.

IMPACT published a document on a just transition to a low-carbon economy, which is a very worthy report. We should at the earliest possible time debate the overall effect of moving



to a low-carbon economy. As with all things, there will be winners and losers and it is important that there be a just transition. That just transition cannot just be in Ireland; it needs to happen on a global basis. It would be worthwhile debating it in a wider sense.

**Senator Maria Byrne:** I welcome that the new accident and emergency department in University Hospital Limerick opened at 8 a.m. yesterday. It was wonderful to see the new facilities there. I know the staff had a very busy day yesterday. Earlier in the week some of the more senior staff expressed concerns over whether some of the new staff appointed would be able to cope under the pressure of the opening with increased numbers coming through the doors. I welcome that the hospital committed to appointing a clinical skills facilitator who will ensure that enough senior staff are working with the more junior and newly qualified staff. This is to be welcomed on health and safety grounds. Those of us in Limerick and the wider region have waited a long time for this. I know the problems will not be solved overnight. I wish the existing and new staff the very best for the future.

**Senator Robbie Gallagher:** I would like to again raise the issue of Brexit. Recent evidence that has emerged from the Irish Exporters Association clearly shows Government inaction in regard to preparing Irish business for what lies ahead. The Irish Exporters Association has described business as “woefully unprepared for Brexit”, which is very worrying and is something the Government would need to sit up and take notice of. The Irish Exporters Association has made several suggestions, all of which appear reasonable, such as increased investment in infrastructure such as broadband, which it describes as “embarrassing”, upskilling of SMEs and the development of new trade links.

There seems to be a gap between what businesses need from Government and what is actually being provided. It is clear we need to open up new markets to deal with the post-Brexit situation. It is worrying that the small sum of €4.6 million is all the Minister, Deputy Donohoe, has allocated towards business this year to deal with this threat. This means the IDA, Enterprise Ireland and Bord Bia combined will receive a total of €4.6 million to deal with what most commentators say is the greatest economic threat ever to hit this country. Businesses, particularly those in the Border area, feel very exposed and let down.

It is clear there is a major issue. I ask the Leader to use his good offices to ensure the Taoiseach and his Cabinet are aware of the suggestions of the Irish Exporters Association and that the threats it clearly indicates exist are acted upon as a matter of urgency.

**Senator Michael McDowell:** I raise on the Order of Business for the second time the impending major disaster for many Irish homeowners, particularly in the Dublin region, of the consequences of the increase in the local property tax. It is about to go up by some 50% and the European Union is now proposing that we should accelerate the revaluation.

**Senator David Norris:** It is rack-renting.

**Senator Michael McDowell:** I want to make one point. There could be two families, one of whom lives in a small red-brick terraced house somewhere between here and Ringsend, for example, and who could have a 90% mortgage on a house which cost them between €450,000 and €500,000. The other family could live in a 6,000 sq. ft. restored Georgian or Victorian villa in the midlands and, based on the property price website I recently looked at, they would be liable for the same amount. The family in Ringsend, as I said, might have a mortgage of 80% or 90% on their house whereas the family in the midlands might have none and might also have



a farm of 300 acres but would contribute the same amount as the family in Dublin to their local authority. The unfairness of all of this is that the tax does not in any sense reflect the actual wealth of the owners, in particular if there is a 90% mortgage.

The second point is that there is a way to deal with this, that is, to provide for a different system of valuation and banding of houses in local authority areas so that, if one does live in a very substantial house outside Dublin, one should pay more to the local authority, and if one has a very large farm, one should pay more to the local authority than a family in Dublin in those circumstances.

When it comes to defraying the cost of local government in Ireland, the family living between here and Ringsend might have as their principal breadwinner a man or woman who is also renting office accommodation or some kind of workplace in Dublin, and they might be paying up to €900 on their home and €2,000 in commercial rates, whereas the couple living in the large place in Longford or Laois might be paying only €900 to their local authority. This is unfair.

One local authority that has only raised €2 million in local property tax, LPT, from its residents and has received €7 million in transferred money from Dubliners actually voted to reduce its LPT rate by the 15% to which it was entitled. That is grossly unfair. The situation is a ticking time bomb. It is on the front pages of today's editions of the *Daily Mail* and the *Irish Independent*. The time has come for us to address this unfairness. People in different parts of the country are being treated unequally and people who are of modest means and who struggle to make a living in this city are being treated unfairly compared with people elsewhere. The Minister for Finance or the Minister for Housing, Planning, Community and Local Government, Deputy Coveney, or whoever assumes responsibility for LPT in its present form should be called before the House to address the issue.

I second the amendment to the Order of Business proposed by my colleague, Senator Boyhan.

**An Cathaoirleach:** I do not believe that there was a formal proposal from Senator Boyhan.

**Senator Michael McDowell:** I took him to be proposing an amendment.

**An Cathaoirleach:** He asked that the Minister attend,-----

**Senator Jerry Buttimer:** No amendment.

**An Cathaoirleach:** -----but he did not move an amendment to that effect.

**Senator Victor Boyhan:** I-----

**An Cathaoirleach:** The Senator cannot speak again. I am sorry but I was listening carefully because I expected an amendment to be moved. None was, though.

**Senator Victor Boyhan:** Maybe some other colleague might-----

**An Cathaoirleach:** I cannot allow Senators to speak twice to say that they should have done this or that. My apologies. I call Senator Colm Burke.

**Senator David Norris:** What about me?

**An Cathaoirleach:** The Senator had not indicated but this is a priority, so I will allow the other Senator in as soon as possible.

**Senator Colm Burke:** Today's CSO figures show a continuing increase in the number of people in employment. The number in full-time employment has increased in real terms by 84,000 in the past 12 months. A wide range of people have returned to employment with increases in 11 of the 14 sectors. In the construction industry, there are 11,000 more people in employment. In the IT sector, there has been an increase of 7,500 people. We are beginning to experience a skills shortage in some areas, particularly construction. Should Members have a debate on how our educational institutions are adapting to changing needs? There is also a skills shortage in the restaurant trade. Recently, I spoke to someone who was opening a new restaurant in Cork. That person was finding it difficult to get chefs. It is a common complaint across the country. We must consider this matter and determine whether our educational institutions can adapt. What action is the Minister taking in this regard? Having a debate on the matter at an early stage would be appropriate.

**Senator Paul Gavan:** I welcome this morning's decision by the Supreme Court effectively declaring the ban on asylum seekers from working to be unconstitutional.

**Senator Paul Gavan:** Hear, hear.

**Senator Paul Gavan:** A Burmese man who spent eight years in direct provision has won his Supreme Court appeal over the legal ban preventing him from working. The court has adjourned the matter for six months to allow the Legislature to consider the matter. According to Mr. Justice O'Donnell, "This damage to the individual's self worth and sense of themselves, is exactly the damage which the constitutional right [to seek employment] seeks to guard against." The right to work for asylum seekers is a fundamental one that has been denied for far too long. It is a matter that many others and I have raised directly with the Minister of State in the past. Regrettably, he has always been adamant that under no circumstances would he consider the issue of the right to work.

I have visited the direct provision centre in Knockalisheen and seen at first hand adults sitting and staring into space as the day goes by with nothing to do. I have spoken to staff who have been at pains to stress the negative effects on asylum seekers of being prevented from working for years at a time. In 2015, the Joint Committee on Public Service Oversight and Petitions described the direct provision system as not being fit for purpose. In the same report, HIQA stated that it had grave concerns about the mental health of those in such a system. In 2015, the UN Committee on Economic, Social and Cultural Rights called it a severe violation of human rights, yet previous Governments have stood by the system.

**Senator David Norris:** So did Sinn Féin.

**Senator Paul Gavan:** Last week, we saw horrific reports from the Mosney direct provision accommodation centre whereby residents were being sold out-of-date food for consumption - chicken meat that was two months out of date - leading to food poisoning.

The residents of Mosney are being forced into a system of segregated shopping rather than being allowed buy food at a regular shop like everyone else. There is a very real scandal over the huge profits being made by companies administrating direct provision on behalf of this Government. Ireland is, in fact, one of only two countries in Europe that does not recognise the

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Reception Conditions Directive. I ask that the Minister of State at the Department of Justice and Equality, Deputy Stanton, come to the House to debate this matter and explain what action he intends to take to bring us in line with this ruling.

The direct provision system is a system of shame. Direct provision needs to be abolished. The Government should close all 32 centres and allow applicants the right to work and have access to the labour market. People should not be forced to live in institutionalised living conditions. They deserve to be properly integrated into the community and proper access to third-level education.

**An Cathaoirleach:** I call Senator Norris.

**Senator David Norris:** I thank the Cathaoirleach.

**Senator Paul Gavan:** I want to second Senator Conway-Walsh's proposal. Apologies for-----

**Senator David Norris:** I am sorry. Which one?

**Senator Paul Gavan:** Senator Conway-Walsh's amendment.

**Senator David Norris:** On behalf of Senator Boyhan, I propose that the Leader organises a debate with the Minister for Children and Youth Affairs, Deputy Zappone, about the Shannon child abuse report.

Senator Gavan has, in a sense, stolen my clothes because I was the first person to introduce this matter into the House a number of Parliaments ago-----

**An Cathaoirleach:** By way of clarification, is the Senator proposing that the Minister, Deputy Zappone, comes to the House to address that matter today?

**Senator David Norris:** Yes, please.

**An Cathaoirleach:** Okay.

**Senator David Norris:** I have raised the question of direct provision over a long number of years. I actually prepared legislation on it, which has been introduced twice. It is on the Order Paper, so it could be moved at any time.

This decision was interesting because it was a unanimous decision of the seven-person Supreme Court. As has been stated, the case was taken by a Burmese man who has been eight years in direct provision. It has been adjourned for six months to see what the Oireachtas will do about it. This situation has been in place since 1996. There are currently 3,500 asylum seekers ready to work but who are barred from doing so.

I speak with some strength on this matter because when my Bill was introduced in the last Seanad, we had the numbers to put it through and I had the support of Sinn Féin. However, extraordinarily, at the last moment, Sinn Féin withdrew its support and the Bill collapsed. I say to Sinn Féin that it could have had this matter addressed-----

**Senator Paul Gavan:** How?

**Senator David Norris:** It could have had people working now if its members had not, in

a dog in a manger fashion, removed their names. It was an area in which Sinn Féin had actually done an awful lot of work, for which I will give it credit. It had worked at the committees and had worked very hard but that is no reason for withdrawing its support. The reasons given in this House were totally specious. It said among other things that I had not made provision for work. It is on page five or six of the Bill and I pointed out that the three things it said were missing were all in the Bill.

I welcome the fact Sinn Féin is on board now but when it was crucial and when Seanad Éireann could have done something, it removed its support.

**An Cathaoirleach:** I call Senator Feighan.

*(Interruptions).*

**An Cathaoirleach:** Ciúnas, le do thoil.

**Senator Frank Feighan:** I listened with worrying interest-----

*(Interruptions).*

**An Cathaoirleach:** Ciúnas.

**Senator David Norris:** I thought the Cathaoirleach said cuteness. I thought it was a reference to Fianna Fáil.

**Senator Jerry Buttimer:** He is after silencing Senator Gavan. We should mark the day.

**An Cathaoirleach:** Senator Feighan, le do thoil. Let the Senator continue.

**Senator Frank Feighan:** I listened with worrying interest yesterday to the radio. A man called David Murray who went to Kildare and was falsely-----

**An Cathaoirleach:** I would prefer not to mention names here.

**Senator Frank Feighan:** I am sorry but it was mentioned on the radio yesterday.

**An Cathaoirleach:** I stopped somebody doing it earlier. It is a bad habit. It may not be the person himself or herself but some relative or next of kin might say they were named in the Seanad and that is inappropriate.

**Senator Frank Feighan:** I am only paraphrasing what was mentioned on the radio yesterday. This man was falsely identified as a convicted child abuser and he received vile verbal abuse from, effectively, a mob which followed him in Monasterevin in County Kildare. His photograph and his name were put up on a website. People who have any issues should contact the Garda. This man took refuge in a pub in Monasterevin. The Garda Síochána effectively had to rescue him from a vigilante mob. During his interview on radio, this man was very articulate and measured but he did point out that no one had apologised or admitted they got it wrong. There is an atmosphere in this country now of people falsely accusing other people on social media. The Garda Síochána is the proper authority to deal with this sort of situation. I appeal to people not to take the law into their own hands and not to ignore that this man has rights and

should be protected. As I said, this man, though not physically assaulted, was abused vilely. In these types of situations, people should contact the Garda Síochána and not try to take the law into their own hands.

**Senator Jennifer Murnane O'Connor:** I agree with previous speakers. I welcome the announcement today of 120 new jobs at Merck, Sharp & Dohme in Carlow. It is a great achievement for Carlow, along with all the other new jobs announced throughout the country. Merck, Sharp & Dohme provides great employment in Carlow, as do many other factories. Well done to them all.

**Senator Jerry Buttimer:** And to the Minister.

**Senator Jennifer Murnane O'Connor:** I want to revisit the issue of revaluations, about which I have grave concerns.

**Senator Jerry Buttimer:** The Senator cannot give praise.

**An Cathaoirleach:** Please, Leader, do not tease Senator Murnane O'Connor.

**Senator Jennifer Murnane O'Connor:** I am raising this issue again today because a new appeals system will come into effect in September. While there have been meetings held by some local authorities around the criteria and so on, there are also new categories provided for this time. I am calling on the Leader to ask the relevant Minister to come to the House to address this issue, which is not only a Carlow issue but a national issue. In regard to crèches, for example, the rate applicable to a purpose-built crèche is cheaper than the rate applicable to a crèche located in a house. That is unacceptable. There are pubs and other businesses similarly affected. This new appeals system needs to work. As I understand it, it will be similar to the system that applies in respect of the local property tax. There have already been rate increases in certain areas and decreases in others. If we do not get this right, businesses will close.

When I last raised this issue, the Leader told me it was a matter for the Minister for Housing, Planning, Community and Local Government, Deputy Coveney. However, I have since found out that the system has changed and it now comes within the remit of the Minister for Justice and Equality, Deputy Fitzgerald. Will the Leader ask the Minister for Justice and Equality to come to the House to address us on this issue? Members of her own party do not know who is in charge of the revaluation process. As I said, this is a national issue and there is a great deal of confusion around it in different areas. Can I count on the Leader to have the Minister come to the House to address us on the matter?

**Senator Jerry Buttimer:** The Senator could have met her in Carlow on Friday night.

**Senator Fintan Warfield:** I second the amendment proposed by Senator Norris on behalf of Senator Boyhan. An opinion piece in yesterday's *thejournal.ie*, written by a law lecturer in NUI Galway, Dr. Brian Tobin, highlighted the fact we still do not have crucial parental rights for same-sex married couples. The article showed how parental rights conferred by the passing of civil marriage equality and the Children and Family Relationships Act 2015 have yet to be realised. I have spoken before about how the referendum conferred a variety of civil rights by equalising marriage, including guardianship, kinship, succession and shared parental rights. Same-sex adoptive parents or parents who conceive by assisted reproduction have yet to be granted equal parental status, meaning that one parent is not seen as a legal parent. For example, a non-legal parent does not have kinship rights such that he or she cannot make emergency

medical decisions on behalf of the child, cannot remove the child from school in emergency circumstances and has no legal entitlement to custody should the marriage break down. Also, the child has no entitlement to the non-legal parent's estate should he or she die without having made a will.

Same-sex couples who wish to conceive by assisted reproduction or to adopt have yet to be catered for. This matter could be solved by three acts of Government. First, the commencement of sections 20 and 23 of the Children and Family Relationships Act 2015. I call on the Minister to come before the House to explain the delay and outline the expected timeline for the commencement of the Act as it was signed into law over two years ago.

Second, I call on the Government to return the Adoption (Amendment) Bill 2016 to the House for Report and Final Stages in order that the legislation can be enacted without delay thus guaranteeing the rights of same-sex couples who wish to adopt.

**Senator Pádraig Mac Lochlainn:** The Leader may have spotted a number of families standing outside the building today. They seek to raise awareness of Lyme disease. In my own county of Donegal as many as 60 persons have come forward to highlight the fact that they have been diagnosed with Lyme disease. There is resistance in the community of medical professionals to acknowledge the prevalence of Lyme disease as a real issue, particularly chronic Lyme disease.

I shall briefly share one story. A mother talked to me about what happened to her daughter who was a gymnast. The mother showed me a picture of the two of them standing in front of Leinster House earlier this year. Her daughter has endured excruciating pain in almost every part of her body, her hair has fallen out and eventually she was confined to a wheelchair. Medical professionals advised her mother that the ailments were all in her daughter's head, which is outrageous. People from all across Ireland have come forward to tell us that medical professionals have told them that their ailments are a figment of their imagination just because they cannot attribute the symptoms to rheumatology, neurology or whatever. We have to do better.

Tick Talk Ireland is a group that has emerged to represent people from across Ireland who suffer chronic Lyme disease. I ask the Leader to ask the Minister to meet the delegation so that he can hear their stories and, thus, understand the issue. I would also like Opposition spokespersons on health to attend the same meeting. I ask the Leader to make that request on behalf of the House today, which I am sure he will support.

I wish to again mention Jadotville. I call on the Leader to arrange a meeting with the Minister in order to resolve the matter.

Finally, I wish to mention the presentation of 1916 medals to the fire and rescue service, which is only fair. Firemen from different parts of Ireland have raised this matter with me. The Defence Forces, members of An Garda Síochána and the National Ambulance Service received 1916 commemorative medals. The only front-line emergency service to be omitted was the fire and rescue service. Fire and rescue personnel should get a medal, even retrospectively. They want the medal. I ask the Leader to report back to me about the matter. I have raised the matter three times without a response. No progress has been made. Instead, people have passed the buck claiming the matter is not their responsibility. We need somebody to take control and admit that it was a mistake or an oversight but one that will be remedied. That is all we are asking for here.



**Senator Jerry Buttimer:** I thank the 12 Senators who contributed to the Order of Business.

To begin with, I welcome Jamie Lyne who is seated in the public Gallery. He is from County Cork and is here as part of his transition year. I welcome him to the House. I hope he has a very pleasant experience.

I thank Senators Ardagh, Boyhan, Conway-Walsh, Norris and Warfield who mentioned the publication of Dr. Geoffrey Shannon's report yesterday. The report is a damning indictment and makes for grim reading. It is important to recognise that the report spans a seven-year period from 2008 to 2015.

I am a former Chairman of the Oireachtas Joint Committee on Health and Children, which was involved in the inception of Tusla. Therefore, I know that work is being done. Like many of the Senators present, I wish to commend the social workers and the people who work in Tusla for the work that they do and acknowledge that they work in trying circumstances. We have had a children's rights referendum. We have introduced a Child and Family Agency. We have brought forward a number of important pieces of legislation that deal with rights and protections for children.

I know from speaking to the Minister for Children and Youth Affairs, Deputy Zappone, that she is very determined to improve child protection. The work of Tusla is at a critical phase. We must now ensure that we do not go backwards. We must not blame a lack of resources, systems failure or structural impediments. We must ensure there is real social protection given to the children of our State because, as Senator Conway-Walsh has said, in the case of those at home there is a need for the State to intervene, and as Senator Black has rightly said we as a society and a community must stand up to the blight of alcohol that is damaging many of our children because of what happens at home. I will come back to the alcohol aspect shortly but this is very important.

It is also important to put on the record of the House that in the context of Tusla and An Garda Síochána, work has been done and they are now ready to sign a protocol in respect of the operation of section 12. Senator Boyhan has come back to the House. The Minister, Deputy Zappone, is willing and agreeable to come to the House tomorrow to discuss the matter. She cannot come in this evening. I have not got an exact time yet for tomorrow but we will work on that. The Minister cannot come tonight and I cannot do miracles for the Senator. I have worked with him in the past, and the Minister is prepared to come to the House tomorrow.

I will now turn to the Children First guidelines. The guidelines require, as Members know quite well, a formal protocol between An Garda Síochána and Tusla regarding the protection of children in care and child welfare. The report is very damning and it is very serious. The issues were raised by Dr. Geoffrey Shannon, a very eminent person who deserves to be congratulated for his work. It is important that we find from within his report a roadmap where can see, as Senator Boyhan has said, the solutions to be put forward.

In the past number of months, the emergency out-of-hours service has been significantly expanded. There is now full national cover for this service in four areas: Dublin, Kildare, Wicklow and Cork city. These areas all have full social work service where social workers are available to engage directly with the children concerned. Importantly, gardaí now have full access to the child protection notification system, which they did not have in 2015. When we rush to commentary it is important to recognise that emergency foster care is not necessarily suitable

for all children in all circumstances and that there are some exceptional circumstances where there is a residential placement made more available. From talking to the Minister, Deputy Zappone, I know that she is very much committed to it.

Like the Taoiseach, we are all upset by the report. We all want to see the imagery and the harrowing viewing from last night rectified. Nobody wants to see children unloved, in fear and unprotected in our country. We all must allow, empower and enable Tusla to do its job. This issue is a protection issue about our children. It is not, as the Taoiseach has said, about protecting jobs, structures or systems. It is about ensuring that in this case there are answers from Tusla and that An Garda Síochána answers for what it is liable for. I know that the Taoiseach and the Minister are planning to meet with all involved. There is nothing more important in our society than the protection of children and the right of the child to be in a safe and secure environment. Nobody is happy with the latest report. The Minister, Deputy Zappone, is available to come to the House tomorrow and I would be happy to have her in the House on that matter.

I join with Senator Ardagh regarding the hospice movement. I commend those who work in the Harold's Cross hospice. In Cork city, we have a tremendous hospice in Marymount. The people who work there provide huge support, assistance, care and especially love to people who are, in some cases, on their last passage of life. It is a huge source of solace and encouragement to families. I will have the Minister come to the House on that issue.

I shall not accept Senator Conway-Walsh's amendment to the Order of Business. Sinn Féin has Private Members' time when it can move that. Private Members' time will be in the first week we are back. The House has set a precedent with Senator Bacik's Bill as the example. That went through the House and commenced in the Labour Party's Private Members' time. Sinn Féin is well able to use its own Private Members' time in regard to the matter outlined by Senator Conway-Walsh this afternoon.

With regard to Senator Black's point, it is hoped that the Public Health (Alcohol) Bill 2015 will have concluded its journey in this House prior to the summer recess. I know from my discussions with those in the Department and the Minister of State that we are endeavouring to have the Bill back. The Minister of State, Deputy Corcoran Kennedy, is anxious to have the Bill enacted. As Senator Black said quite rightly, there are huge issues with alcohol in our society. It is important that we have the matter addressed. It is not 500 days since the Bill was brought before the House; we are not here 500 days. However, it is important that we get the Bill passed. I recommend to all of us in the House that we try to expedite it because it is important legislation.

I share Senator Kevin Humphreys' joy. It is good news that we have seen, hopefully, the issue around the national maternity hospital addressed. I welcome the decision by the Sisters of Charity. It is important that we allow the Minister for Health, Deputy Simon Harris, to bring that to a fruitful conclusion so that we can see the new hospital built and mothers, newborn babies and infants receiving care in a building that befits 21st century Ireland.

The Senator also made reference to the all-party health committee. Notwithstanding that there is no Member of Seanad Éireann on the committee, which is a pity, I commend it on its work regarding the future of our health care. The report is an important one that deserves to be debated. One of Deputy Harris's first acts as Minister was to put this group together. It is a ten-year strategy for our health system and an opportunity to get our health system right with regard to spending and putting a structure in place. I would be happy to have a discussion in

the House on the report.

Senator Byrne congratulated the HSE and those behind the new emergency department in University Hospital Limerick. I am disappointed Senator Gavan in his contribution did not share the good news about the hospital given he had been complaining recently about it. I thought he might have joined in the congratulatory remarks of Senator Byrne. It is a pity he did not have an all-party approach to it. I know he will welcome the investment in capital infrastructure in the hospital in Limerick. As Senator Byrne said, it is also important that, in terms of the issue around the skills shortage and the staffing shortage, the appointment of a clinical skills co-ordinator will take place.

Senator Gallagher raised the issue of Brexit. This is the most important political issue for us as a country. He spoke about the Irish Exporters Association. With the Irish Exporters Association, the farming associations, the tourism bodies and IBEC, a huge amount of work is being done to highlight and promulgate issues around Brexit. It is important that all of us, as Members of the House, work with all organisations to ensure that there is a common approach to Brexit and that we can get the best deal for us as a country. Senator Gallagher raised some issues such as broadband, jobs and tourism and he is correct to raise them.

Senator McDowell raised the issue of the local property tax. I thought for a minute he was at the Fine Gael hustings on the local property tax because it was-----

**Senator Michael McDowell:** They are following me closely.

**Senator Jerry Buttimer:** I am glad the Senator is following it closely.

**Senator Michael McDowell:** No; I said they are following me closely.

**Senator David Norris:** They are all following me.

**Senator Jerry Buttimer:** I think the Senator was referred to, if not by name, in a couple of the remarks in the debate. I am pleased to say that I have a membership application in my pocket. If the Senator wishes to join, he is more than welcome.

**Senator Frank Feighan:** Rejoin.

**Senator Jerry Buttimer:** Rejoin, I should say. We are open to new members. It would be always good to have more friends back.

**Senator Frank Feighan:** We miss you.

**Senator Michael McDowell:** Tell Deputy O'Connell about that before you do that.

**Senator Jerry Buttimer:** As the Senator knows, in 2015 the Thornhill approach addressed the issue regarding local property tax. The Minister for Finance, Deputy Noonan, has outlined a deferral of the system in terms of the change in re-evaluation.

**Senator David Norris:** It should be abolished. It is rack-renting.

**Senator Jerry Buttimer:** We can come back to that on another day. I would be happy to have the Minister come to the House to discuss how we can look at the distribution of the proceeds of the local property tax. I am sure the Senator will have a lot to say on the matter. It is a contentious issue. Those from outside Dublin will have a view on it, in particular those from

some of the smaller counties that depend on central government to give them Exchequer funding. By addition, I understand the frustration that was expressed by Members here on behalf of their, dare I say, constituents, being inhabitants of the capital in terms of the payment.

**Senator David Norris:** On behalf of themselves.

**Senator Jerry Buttimer:** That is true, too.

**An Cathaoirleach:** Please do not interrupt.

**Senator Jerry Buttimer:** I join Senators Gavan and Norris in welcoming the announcement by the Supreme Court this morning in respect of direct provision. People must have been following the Fine Gael leadership hustings at the weekend. It was discussed there and people were very much of the view that those in direct provision should be able to work. I am sure the Senators will be very happy to see that.

**Senator Michael McDowell:** I did not know the Supreme Court follows the Fine Gael leadership.

**Senator David Norris:** I ask the Leader to reintroduce my Bill in Government time.

**An Cathaoirleach:** I hope the Leader is not suggesting that the Fine Gael hustings had an influence on the court's decision.

**Senator Jerry Buttimer:** I certainly hope not. Senator McDowell has long been a proponent of the independence of the Judiciary from the political classes. I am sure he has not moved away from that position, unless he has joined the former Senator and current Minister, Deputy Ross, in a new journey that we have not heard about.

In respect of direct provision, many of us have been in the centres and have been unhappy with the conditions for those living there. Senator McFadden and I have raised the matter in the House as well. At the risk of repeating ourselves, our party has a member who is living in direct provision in Cork city. That person is a very strong party member and articulates very passionately the issues in respect of direct provision at our meetings. The Minister of State, Deputy Stanton, came to the House and discussed the matter. We have seen progress made. I would love to see the direct provision centres gone. That would be fantastic. However, we must recognise that new home cooking facilities went live in Mosney on 23 January this year. Cooking facilities have been rolled out in other centres, for example, Killarney, Athlone and Limerick, and teenager rooms are in some centres. We must ensure we roll out further progress with a view to perhaps getting rid of it altogether.

I am not familiar with the issues raised in respect of segregated shopping. I have not experienced that. I know there are issues that we need to address. The Minister of State, Deputy Stanton, is committed to implementing the McMahon report. He spoke about it in this House last week or the week before. He is very passionate about the matter and the Senators should give him credit. I would be happy to have him come back to the House again.

Senator Feighan raised the false identification of people and the issue around fake news. It is important that people are afforded the right to have their name cleared and their good name upheld. The Senator has raised a very interesting point in respect of the particular issue in question. The Cathaoirleach has said not to name the person. The matter is a very serious one.

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On Senator Murnane O'Connor's contribution, I very much welcome the decision of Merck Sharp & Dohme, MSD, to increase its foothold in Carlow. For a town of that size, 120 jobs is tremendous news and I commend all involved. The Senator could have come to the hustings in Carlow on Friday night and met the Tánaiste. She would have been very welcome.

**Senator Jennifer Murnane O'Connor:** That is why I was calling them by their first names instead of using "Minister" and "Tánaiste".

**Senator Niall Ó Donnghaile:** When is there going to be a hustings in Belfast? That is what I want to know.

**Senator Jerry Buttimer:** Some of us have been in Belfast already canvassing, do not worry. We are the united Ireland party.

**Senator Niall Ó Donnghaile:** Prove it.

**Senator Jerry Buttimer:** I would be happy-----

**An Cathaoirleach:** I remind the Leader that the hustings of whatever party are outside the remit of this Chamber.

**Senator Jerry Buttimer:** Unlike other parties that go into a closed room and come out with an appointed leader, we have a contest.

**Senator Niall Ó Donnghaile:** We have an Ard Fheis.

**Senator Jerry Buttimer:** I know Fianna Fáil is looking at the same idea. The Labour Party, to be fair, had a similar type of exercise to ours.

**Senator Paul Gavan:** Deputy Alan Kelly, yes?

**Senator Jerry Buttimer:** I am sure the Members opposite who are spoiling for a row will see the benefit of having a real contest rather than a laying on of hands or an anointed one being chosen.

**An Cathaoirleach:** Please conclude.

**Senator Niall Ó Donnghaile:** Who did Senator Buttimer compete against for the leadership of the Seanad? Who stood for the leadership of the Seanad?

**Senator Jerry Buttimer:** I join Senator Warfield in expressing my disappointment at the inordinate delay in the implementation of the rights of same-sex couples under the Children and Family Relationships Act 2015. I had two conversations this week, one with LINC in Cork and the other with the parent of a couple who want to adopt. The Senator's points are ones I have taken up with the Department. I would be happy to raise the issue as a Commencement matter with the Senator or we could jointly go to see the Minister because I accept his point that the delay has been too long.

As the former Chairman of the Joint Committee on Health and Children, I share Senator Mac Lochlainn's views on Lyme disease. The Senator is probably aware that we had a number of hearings in the committee on the matter. He struck a chord in what he said in the sense that there is a reluctance to acknowledge the condition by those in the medical community and that must be addressed. Equally, education is an issue as well and more signage on lands is required



on the part of the OPW, the Department of Agriculture, Food and the Marine, the Department of Transport, Tourism and Sport and county councils. I very much share the Senator's views on the matter. Senator Colm Burke was on the committee as well and we have heard stories of young people who have been struck down - as Senator Mac Lochlainn indicated - at the peak of their athleticism and found themselves unable to walk from here to the door, get dressed or even to brush their teeth. That is most distressing. I would be happy for the Minister to come to the House in regard to the matter.

The Senator also referred to Jadotville and 1916. Since our previous meeting of the Seanad, both Senator McFadden and I have spoken with the Minister of State, Deputy Paul Kehoe, on the matter. I know Senators McFadden, Mac Lochlainn and Craughwell all personally want to see the matter resolved. This is not a political matter to divide us; it is about ensuring that we get the right result.

**Senator Pádraig Mac Lochlainn:** Could we get a meeting with the Minister?

**Senator Jerry Buttimer:** Given what is happening at the moment the Minister might not be available. We have asked the Minister to do that and we will try to have a meeting as well. We will endeavour to have a meeting set up next week or the following week when we come back.

I will not accept Sinn Féin's amendment. If Senator Boyhan-----

**Senator Pádraig Mac Lochlainn:** What about the 1916 medals?

**Senator Jerry Buttimer:** I am including both issues in that meeting.

I call on Senators Boyhan and Norris to accept my proposal given that the Minister, Deputy Zappone, will come to the House tomorrow.

**An Cathaoirleach:** Senator Rose Conway-Walsh proposed an amendment to the Order of Business, "That No. 9 be taken today." Is the amendment being pressed?

**Senator Rose Conway-Walsh:** Yes.

Amendment put and declared lost.

**An Cathaoirleach:** Senator David Norris proposed an amendment to the Order of Business, "That a debate with the Minister for Children and Youth Affairs on the report of the special rapporteur on child protection be taken today." Is the amendment being pressed?

**Senator David Norris:** I have been advised by Senator Boyhan, in whose name I proposed this amendment, that he is quite happy to wait until the Minister is available to the House tomorrow, so I am withdrawing the amendment on his behalf.

**Senator Jerry Buttimer:** I will come back to the House with a time when the Minister, Deputy Zappone, is available. We are working on that.

**Senator Victor Boyhan:** We need a time. Did the Leader say it would be after 6 p.m.?

**Senator Jerry Buttimer:** Yes.

Amendment, by leave, withdrawn.

Order of Business agreed to.



## **Mid-term Capital Review and Public Service Pay Commission Report: Statements**

**Minister for Public Expenditure and Reform (Deputy Paschal Donohoe):** I thank the House for the opportunity to set out the Government's priorities in respect of two major areas of expenditure, namely, capital infrastructure and where we stand now on public sector pay. It is particularly appropriate that these are being considered together, as choices in one area will inevitably shape demands in the other, while also impacting on the total amount of resources available. While resources are fixed and finite, demands and choices are not only limited to pay and capital expenditure because there are other demands such as social support payments, health care demands and educational supports.

What are the linkages between our capital spending and pay expenditure? First and foremost, public services are delivered by public servants and, therefore, if we build a new hospital or a new school, it will be staffed by public servants. These new facilities, however, will have the most modern equipment and this combination of advanced technology and human capital drives productivity in public services, which, in turn, is a fundamental goal of organisational or business endeavour. Ultimately, productivity gains justify increases in salaries in the public and private sectors.

As we get into these negotiations, it is important to recognise that while some would try to drive a wedge between the public and private sectors - pitting one against the other - each sector makes its own important contribution to economic and social life. Neither sector can perform in the absence of the other. Business cannot flourish without well-educated employees, the necessary infrastructure to get goods and services to market and the creation of level playing fields through appropriate regulation of markets. A society cannot provide increasing standards of living and good public services without a strong economy and a healthy enterprise base. While we look at remuneration in a public service context, we have to take account of what is happening with wage developments in the private sector. The public sector should not lead the private sector nor should it be left behind because we have to be able to compete for talented skilled workers in many key sectors. We cannot run a country with two economies, one composed of lawyers, shopkeepers and technologists, and the other made up of social workers, civil servants and doctors. We must acknowledge our mutual interdependence.

This is one of the reasons I established the Public Service Pay Commission. I thank everybody who has worked on the commission for their efforts. The commission generated findings that have a general relevance that is not focused on or confined solely to the public sector. For example, let us consider what the commission found in respect of pay and pensions. On pay, it found that the pay premium that used to favour public service workers declined over the period 2007 to 2014 and is now approaching parity. Statistical comparisons on public and private pay are important but they do not explain why these disparities exist or why they should exist. The commission also found that lower-paid public servants still enjoy a pay premium of 15% compared with their equivalent counterparts in the private sector. Does this mean that the public sector overpays in respect of lower-paid employment or that the private sector underpays? Does the finding that women are paid better in the public service mean that we overpay women or that the private sector has to do more to ensure gender balance? Similarly, the commission found that a person at the top in the private sector is earning nearly seven times more than some-

one at the bottom. The equivalent figure in the public sector is about half that. This gives rise to further questions. Does the finding mean that the public service is underpaying senior management or that remuneration in certain areas of the private sector has become more inequitable?

I am proud that the public service is a good employer, that public servants are treated with respect and dignity, have pension entitlements, flexible working arrangements and decent pay. The real challenge is to ensure that this model of good employer-employee relations is not limited to public servants but is accessible to all. Another clear finding of the Public Service Pay Commission is that there are valuable pension arrangements in the public service. In the commission's opinion, having looked at all of the information provided, the additional value of a standard public service pension for those who joined the service prior to 2013 is within a range of 12% to 18%. Of course, this statistical comparison is based against a subset of the private sector that actually has pensions which can be compared with. Most in the private sector do not have an occupational pension at all; in fact, only 35% of private sector workers have an occupational pension. As we know, the demographic structure of society is changing, with those in the old age cohort growing by an additional 20,000 every year. Therefore, yes, the value of public service pensions should be considered as part of total remuneration but we also have to do something about the level of pension coverage and provision more broadly. These considerations are central to the negotiations and discussions that are happening under the auspices of the Workplace Relations Commission.

Moving on to the issue of capital investment, I want to pick up on a theme I have just referred to in regard to pay, which is the concept of demographic change and what this means. First, it means there are an increasing number of elderly citizens, which in turn has implications for our approach to medium-term capital spending. We are fortunate, as a country, to possess many of the elements required for a strong infrastructure base. This can be seen in our extensive motorway network, our international airports and ports and our high-quality energy network. However, there are also challenges in terms of meeting the high level of pent-up demand for further infrastructure investment following many years of budgetary consolidation.

The Government is strongly committed to increasing public funding for capital investment in Ireland over the coming years in order to meet those demands. As outlined in our most recent budget, Exchequer capital expenditure will increase by almost 75% between 2016 and 2021. While the Department of Finance continues to liaise with the European Commission in regard to the fiscal rules, we of course must make our decisions on the basis of existing rules. The Government is, therefore, making use of continued economic growth to increase capital expenditure over the coming period without the need to raise taxes but alternative means of funding infrastructure investment continue to be explored by the Government.

The Minister, Deputy Noonan, and I recently met European Investment Bank in Luxembourg to explore such opportunities. This organisation supports crucial investment across the country and has funded many projects. For example, the Luas cross-city project, which is in the final stages of construction, received significant funding from the European Investment Bank, as is the case with the Gort-Tuam road and will be the case with the Grangegorman project on the northside of Dublin, and the expansion of our national road network in the south west. Again, these are all expansion projects that happened due to European Investment Bank support. I believe this kind of co-operation can continue in the future. The existing capital plan has laid out priorities in regard to initiatives such as Luas cross-city, metro north, the Dunkettle interchange, the new national children's hospital and housing projects. We are committed to identifying new ways of delivering such projects while being mindful of all of the pressures I

have just identified.

With regard to how we will do this, the Government made a commitment to a mid-term review of the capital plan. Within existing resources, we indicated we would increase such investment by an additional €5 billion over the coming years. Now, due to commitments we have already made in the area of public housing, there is approximately €2.6 billion in uncommitted additional capital expenditure up to 2021. The review is now under way. I have invited submissions from the public in regard to choices the Government can make. It is my intention to bring this process to a conclusion in the second half of the year and to confirm where we are with regard to the availability of resources and how they might relate to either existing or new projects.

As part of all of this, we are continuing to work closely with the Department of Housing, Planning, Community and Local Government to ensure there is close alignment between these capital choices and the new national planning framework which will be published later this year.

We will assess the submissions received from Departments and use this to inform final decisions on capital allocations, to be announced in completing budget 2018 and feeding that into the new national planning framework being led by the Minister, Deputy Coveney. It is also our intention to assess and report on the framework required to underpin a longer-term ten-year analysis of our infrastructure planning needs.

We must have a long-term plan to provide greater certainty to businesses and society at large which depend on our infrastructure. It will also provide certainty to those involved in the delivery of infrastructure on what construction is in the pipeline and enable the industry to plan accordingly to ensure capacity is available to deliver projects.

At the outset, I stated that pay and capital are two different priority areas but one will influence the other. Choices in one area will have an effect on choices we make elsewhere. I look forward to discussing these choices and the framework I mentioned. I also forward to hearing contributions from Senators.

**Senator Gerry Horkan:** I thank the Minister for coming to the House at this, no doubt, busy time in his schedule. It will be a busy couple of days in the life of his party.

As the Minister alluded to, we are talking about two different, but interrelated, topics this afternoon: the mid-term capital review and the report of the Public Service Pay Commission. The capital plan was announced with significant fanfare in late 2015 by the previous Fine Gael-Labour Government. Unfortunately, this fanfare did not really match the substance of the plan. It lacked what we really need for the economy, namely, a level of ambition to address our capital deficit, including broadband connectivity, health care and transport.

Capital expenditure has suffered extensively from what would be known as the austerity years. Only last year did capital expenditure exceed the level of 2000 and 2001. Meanwhile our secondary and minor road network is at breaking point and our national broadband roll-out is faltering. As everyone has acknowledged, we have an immense housing supply crisis both in the social housing sphere and the private sector even where people are able to access funds to purchase themselves.

There has been a two-tier recovery and while the recovery is welcome where it has hap-

pened, it is vital that the national planning framework and the capital plan reflect this and help drive development in regional areas. As the Minister knows, Senators are elected by people from all over the country but I was a councillor in Dún Laoghaire-Rathdown County Council for 12.5 years. We welcome growth in Dublin but would like to see growth in other parts of the country. That has been acknowledged by the Minister for Jobs, Enterprise and Innovation and across Cabinet. It is important that the regions also grow because the increasing pressure put on Dublin drives up prices, congestion and other things. All of us in Dublin would love to see Cork Airport or Shannon Airport doing more business than they are doing now. It is great that Dublin does well but Dublin Airport does not necessarily need to be more than ten times larger than the next biggest airport in the country.

Brexit is the most significant political challenge Ireland has faced in many decades. Rural areas, particularly in the Border and midland regions, face very real threats as a result of a hard Brexit, which we all hope will not happen, but it is certainly not yet clear how that will pan out. The national planning framework and the capital plan must have a balanced regional perspective, which means trying to spread economic development throughout the country. Brexit will significantly threaten the agrifood sector. Along with Senators Kieran O'Donnell and Paddy Burke, I am a member of the Oireachtas Joint Committee on Finance, Public Expenditure and Reform, and Taoiseach. At the moment, that committee is meeting to discuss the impact of Brexit on the financial sector. We have also heard that agricultural tariffs could be between 30% and 50%, which is a very significant challenge. The areas least capable of weathering Brexit are probably the areas that will have to weather it most. The positives, if there are any, from Brexit are more likely to be in the areas that are doing relatively well as it is.

Fianna Fáil certainly believes that urban areas should not be pitched against rural areas. A balance must be found whereby investment in one does not take away from the other. As we know, capital investment since 2008 has been suboptimal - the kindest work I can use - and it has not met our demographic needs or demands. In coming decades, our population is expected to reach unprecedented levels, with some predicting a population of more than 8 million by 2040. Fianna Fáil believes that the national planning framework and the capital plan must be integrated in order to meet the country's needs.

Within a tight fiscal standpoint, it is vital that we explore other forms of investment. We must look more closely and proactively at public private partnerships. While occasionally they have not done themselves any service, there is certainly scope for greater use of that method of financing. They are currently restricted and we might need to examine that. Equally, we need to avail of the Juncker plan and the European Investment Bank, which, as the Minister mentioned, now has a base in Ireland. We also need to look for uses for the proceeds from the AIB share floatation and any positive returns we get from NAMA. The European fiscal rules need to be adjusted for capital expenditure and we should probably be much more proactive on that front in order to allow for further capital investment in the State.

Ireland faces great challenges to its competitiveness and the disparity between the urban and more rural areas will be even more obvious with the onset of Brexit. Our capital expenditure lags far behind our neighbours and we need to step up to the mark on competitiveness. The mid-term capital plan must address this if Ireland is to remain an attractive and desirable place to live. I am conscious that we have only eight minutes to discuss two topics. However, Fianna Fáil made a very detailed submission to the mid-term capital review and I urge the Minister to take on board as much of it as possible in the context, as we all acknowledge, of scarce and limited resources.

The Public Service Pay Commission report, published on 9 May, will form the basis of the forthcoming negotiations between the Government and the public sector unions and staff representative associations. The Public Service Pay Commission is clear that any future pay rises need to be based within the fiscal rules and the limits of the State's resources, as the Minister mentioned. Fianna Fáil hopes that we will reach an agreement that will focus on strong, financially sustainable public services. I acknowledge the great work that many public sector workers do, including civil servants, gardaí, nurses, teachers, and those working in universities and local authorities. They form a very important part of the fabric of our society.

The establishment of the Public Service Pay Commission was a key achievement of Fianna Fáil in the confidence and supply agreement negotiated with Fine Gael in advance of the formation of the Government. It was set up to facilitate agreement on a successor to the Lansdowne Road agreement. Unwinding FEMPI on a fiscally sustainable basis has always been a core policy objective for Fianna Fáil. Following the crisis in 2008, FEMPI legislation was enacted in 2009 and again in 2010, 2011 and 2013. As part of the gradual unwinding of FEMPI, the Haddington Road agreement and the Lansdowne Road agreement were negotiated.

While Fianna Fáil is clearly not part of the current negotiations, we believe it is in the interest of the country to reach an agreement that is sustainable and fair, particularly for low and medium-paid workers. It must also allow for more public services to be provided, particularly in health and education to undo some of the cutbacks in the austerity years and to meet the needs of our growing population which, of course, is welcome.

The future pay talks should be sustainable, service-led and should deal with sectoral shortages. They also should assist low and middle-income workers more. It is vital that public sector workers and the public who rely on their services benefit from economic growth on a sustainable basis in coming years and hopefully the Public Service Pay Commission report will achieve that goal. The Government needs to move swiftly to initiating talks with the unions with the firm goal of achieving a sustainable basis for a strong public service. The public who use services such as health and education, as well as the diligent staff who work in them, deserve a financially viable agreement. Continued progress in these services, evidence-based pay changes and setting out a strong foundation for future financing should be the shared goal of all parties going into the negotiations.

Personally and on behalf of my party, I wish the Minister well in the negotiations and in implementing the recommendations of the Public Service Pay Commission. It is vital that everyone gets an outcome that is fair to those involved and fair to the State. I say that as someone who had four grandparents who worked in various parts of the public service and two parents who did the same, so I am not someone who feels that it is a good idea to pitch private against public. We are all in this together, we are looking for the future of the country to be better, and I wish the Minister well in his endeavours.

**Senator Michael McDowell:** I welcome the Minister here to the House today. There are a few items I want to address. First, like the previous speaker, I wish the Minister well in his public service pay negotiations. It is not an occasion for confrontation and it is not necessary to divide the country into a pointless conflict between the public and the private sector. On the other hand, it is an occasion on which we can choose either to loosen the purse strings without a strategy or decide to be careful with what we do.

Let us look, for instance, at the number of people in competitions who want to become



members of An Garda Síochána. While I fully accept the proposition that ideally there should be one pay rate for every occupation and there should not be grade A and grade B gardaí, doctors, nurses or anyone else, it does occur to me that the package is attractive. If we ever came to the point where there was a dearth of people applying to be members of An Garda Síochána, that would be a different matter but it should be borne in mind that where positions in the public service are offered, there seem to be a lot of people interested in taking them up. We should draw some conclusions from that as to whether they are more attractive in their entirety compared with positions outside the public service.

My second point concerns the question of public sector capital investment. There has been a lot of comment one way or the other on this issue recently but it occurs to me that we need a well-thought through plan to improve the infrastructure in this country. One of my pet issues is the N4 and N3 to integrate the north west into the economic life of the country, in particular to provide a high-quality dual carriageway, if not full motorway, to Sligo, Letterkenny and Omagh, connecting up to the M1 in Northern Ireland. Now is the time to get on and plan that. The Brexit negotiations offer an opportunity to the Government to raise at European level the importance of the cross-Border roadway network, not just on the Dublin-Belfast corridor but on the Dublin-north west axis to Letterkenny, Derry, Omagh and other places. Now is the time to factor that into the negotiations which will take place in the context of the United Kingdom's decision to depart.

On housing, it is undoubtedly the case that in decades long gone by, the State, confronted with the tenement crisis in Dublin, was able to organise a housing drive which was very significant. While it was not perfect in that there was an element of ghettoisation attendant on building vast housing schemes which were all social housing, and while that had some effects on the city of Limerick which were ill-thought-out, now is the time for different approaches to be taken to ensure there are more houses.

When I say this, I hope people do not think this is some kind of right-wing ideology. I have been watching a bit of British television about the buy-to-rent sector there, and I really believe that we are now in danger of seeing in this decade the emergence of a new trend whereby the great majority of people going through their lives are going to be tenants. That has implications for cohesion in society, especially when the landlords are increasingly not going to be one-off or three-off landlords but rather effectively investment funds, real estate investment trusts, REITs, and the like investing in housing for letting. It has implications in the long run for the kind of society we have.

This is not a bourgeois preoccupation. On the contrary, the idea that the great majority of Irish people could aspire to a degree of ownership in terms of capital assets within a country is a good one and we should not lose sight of that. Owner-occupation is not a bad thing. The propagation of owner-occupancy is a good thing and it is simply not enough to talk about units coming on the market, although I can well appreciate that in the middle of a crisis, that view applies. On the other hand, we have to look around a few corners to see what kind of society we are creating. I can certainly see, looking at the younger generation now, that the great majority of them have very little prospect of being owner-occupiers unless there is a radical change in our housing market. Government policy has to address that issue.

When I was Attorney General and was privileged to represent the Government in the Supreme Court when Part V of the Planning and Development Act came up for discussion, the principle of that was that there was to be no ghettoisation and that there was to be a mix of hous-



ing throughout the country. Again, from an ideological point of view, it is hugely important that those who are on the bottom of the ladder, so to speak, are not confined to large areas of social housing from which those who are owner-occupiers are effectively excluded. It was a matter of regret to me that that policy, no sooner was it legislated for, was diluted to the point where it just became an economic transaction with no real teeth. We should be mindful of that as well.

Looking around Dublin, the city that I live in, it occurs to me that Dublin City Council is averse to purchasing land compulsorily for the purpose of providing housing. We need something like a regeneration commission which could look at land, assemble sites, have a plan for streets and localities in neighbourhoods and operate, on a semi-commercial basis, the whole idea of land acquisition. This is not a radical idea at all because in the 18th and 19th centuries the Dublin Wide Streets Commissioners did precisely that and all the best parts of the inner city were rebuilt by the commissioners to achieve that aim. I have seen, however, the fright of public servants, particularly in local government, when anyone has suggested they might acquire anything compulsorily. There is a great amount of toing and froing with the Custom House, years go by and the disastrous implications of it going wrong or the implications of all the effort and legal risks attached to it slow everything down. We have to take new and imaginative steps to deal with that issue.

**Senator Kieran O'Donnell:** I thank the Minister for coming to the House and I wish him well with the public sector pay talks. I have always held the view that we must have an integrated model where both public and private are respected. Looking back at public sector pay talks over the past four or five years, people need to be paid a fair wage for a fair day's work. It is extremely important that we look at the structures within the public sector where people can advance. One of the problems particularly affects the lower end. The majority of public servants are actually not that well paid. The problem is how to put the structures in place to allow people to advance and to allow talent to flourish. We have all met people in the public sector, many of whom are at a very low-ranking stage, and although they have huge ability, the opportunities do not come their way. When the Minister is looking at the overall pay aspect, that should be a key feature. He should look at innovation. The Revenue On-Line Service, ROS, was brought in by the Revenue Commissioners, and the restructuring of the public sector within Revenue has been highly successful. Other Departments have done fantastic work. Some have not. I do not wish to single out any Department but we know ourselves from our dealings with them. Apart from pay, we have to look at whether the public sector as it exists is fit for purpose in a modern age. That is what I am looking at.

Before I move on to capital spending, I will touch on a couple of points Senator McDowell made which I thought were very informative. Part V never worked. In my experience, having been an elected councillor, virtually all the Part V initiatives were bought out. They did not work. Part V was supposed to ensure 10% social housing and 10% affordable housing. There was absolute certainty for people. If they bought a house in an estate privately, they knew that 10% of the other houses were going to be social and 10% would be affordable in order that people who could not afford to buy privately could buy. Everyone knew the model and how it worked. It is almost a throwback to the old model in which there were clusters of local authority housing alongside private homes in a town or city. It worked and it was a good social model. Instead, the Part V initiatives were bought out and suddenly people were paying exorbitant prices. The houses were being sold on the basis that there would be no local authority housing within the estate. It created enormous confusion. The council then was required to come back in and purchase houses. It made things difficult on both sides. If we bring in a law, it should be

implemented without fear or favour. Part V was a failure. It has come back in again. People need certainty.

The Minister referred to dereliction orders. Dereliction orders *per se* do not really work. All they do is put a levy on the building, which racks up every year. It is a charge. It does not deal with the building itself. It does not bring it back into useful purpose. It is something we need to look at. It is slightly outside the box and I know it is being looked at.

I will move on to the capital spending. I want to be specific. I represent Limerick and the Minister will be well aware of how strongly I feel about the M20 project. I am glad to see that it has now taken centre stage politically at Government, national and local level across parties. Everyone in Limerick in particular is talking about it. I am glad. It is something for which I have campaigned for a long time. I feel very strongly about it. I held a public meeting in Limerick on the issue of the M20 and I encouraged people to make submissions under the mid-term capital review. I expect a good number of people and business interests will. I think it is always important to take the good with the bad at public meetings and one thing that came up was issues with landowners and other people. This was when the M20 project was under way previously and before it was discontinued for financial reasons back in 2011. The process must be looked at once again to make sure it is fit for purpose.

For me it is very simple. The M20 stands on its own merits. The two major cities outside of Dublin are not linked by a motorway. If we are looking at balanced regional development as a country, a key concern is that it would be terrible if our economy's sustainability was jeopardised because our infrastructure lagged behind. The M20 is the key road infrastructure that needs to be dealt with now. On safety grounds, there was an accident on the existing N20 today. There have been a multitude of accidents. It is unsafe. Anyone who has travelled the existing N20 from Limerick to Cork at commuter time will know what it is like going through Charleville and Buttevant. It is tortuous. We must link the two cities to cut down commuter times. We should be able to get from Limerick to Cork in an hour. It is currently about an hour and a half. Shortly, we will be able to get from Limerick to Galway in an hour. There should be no reason a person cannot get from Cork to Galway in two hours, obviously coming through the capital of the mid-west and west, Limerick. We are exceptionally well located strategically as a city, but the M20 itself is hugely important.

I welcome the fact the Minister, Deputy Ross, ran with my proposal to extend €1 million to allow the pre-planning process to get under way. I find it astounding that people misjudged and misunderstood what I was attempting to do. I was attempting to get the M20 off the ground again. There are two aspects to any projects. There is the aspect of momentum and not losing time, and there is the funding aspect. Funding does not, however, need to be in place overnight for the entire project. A project is made up of pre-planning within Transport Infrastructure Ireland, TII, design, route selection and a multitude of things. They take time. If they do not get under way, time is lost. TII, formerly the National Roads Authority, is now looking at setting up for pre-planning to allow design consultants to be appointed and to allow the project effectively to get under way. No more time is being lost. The clock was stopped up to a short time ago. We now have the M20 project rolling again. People missed the point. It is not about having all the funding in place. It is about ensuring it is on the agenda again and that it is active again, which it is.

I have a few very quick questions for the Minister. When does he anticipate concluding the review of the submissions on the mid-term capital plan, more especially on the M20? Will the

submissions be made public? When does he anticipate making an announcement? I want to see us looking at how robust the costing of €1 billion is and whether savings can effectively be made. If we allow that it is approved as a project and comes back into the capital plan, will we allow consultants to begin designing and allow this project to progress? It will make such a difference to Limerick, the mid-west, Cork, Galway and Ireland Inc. I feel passionately about this. I want to see it in the capital plan and funded and built as quickly as possible.

**Senator Paul Gavan:** I welcome the Minister. The mid-term capital review is, in Sinn Féin's view, a complete misnomer, as it implies that there was a plan to review in the first place. There was not. In 2015, the Government simply cobbled together several projects already under way and repackaged them as a five-year plan. Now, two years later, the Government is scrambling to make it look like it is actually doing something in terms of investment in our social and economic infrastructure, and once again it is clear it has no intention of doing anything unless it benefits private interests.

It is accepted universally outside the Dáil and Seanad that the best way to address the housing crisis is for the State to start building homes again and for the State to purchase homes, as per the Sinn Féin plan. Capital funding is needed to enable local authorities to buy houses and build homes to increase capacity in the system, and in our alternative budget last year we were able to provide for this. Such a programme would have the added advantage of driving down rents in Cork, Dublin, Waterford and other major cities, as well as in rural areas.

Sinn Féin, in its alternative budget, proposed an additional 7,000 units through acquisitions and new builds as part of our capital plan. What we have got from the Government, however, on this issue has been taken straight from the Fianna Fáil playbook when it was unable to solve any of the big problems, namely, the introduction of tax breaks. We had the so-called first-time buyer's scheme, which was half-baked, with no real detail and which had not been properly teased out.

We know that housing is the big issue, with people unnecessarily being in emergency accommodation, sleeping in their parents' and friends' front rooms and without a roof over their heads. This is the time to deal with these issues and put our money where our mouths are, as it were. Fianna Fáil had the chance to do so but, of course, it did nothing, as usual. The Government of Fine Gael and the Independents had its chance but it did nothing either. Here we go again, with no real solution to the housing crisis.

It is not just in housing that we see the lack of vision from the Government. There are capacity problems in health and education and our roads network is in need of up to €1.5 billion in investment just to get the roads back to a safe level. None of this is of interest to Fine Gael or Fianna Fáil, unless, of course, there are contracts to be doled out to private interests. That is the ideology driving current and past Government planning and it is at the core of why we are in the continued mess we are in. When we invest in our public services, we are investing in our communities, in our children and in the future. It is not simply a cost but an investment that will provide us with great returns.

I want to address the issue of the M20. One of the great failures of Fine Gael in the past six years is the abandonment of the M20 project. The fact a Minister for Finance based in Limerick would make such a decision is, frankly, shameful. I know friends and colleagues commuting each day to Cork and it is nothing less than a nightmare. Unfortunately, I am old enough to remember when Ed Walsh first put forward the idea of an Atlantic corridor - it must be back in

the 1980s - yet here we still are, waiting to see whether the Government will commit to an M20 project. I have to put it very directly - to date, the Government has let the people of Limerick down. There is nothing else to be said. It should have been a key priority and the fact it was not is, frankly, shameful. How are we ever to have proper regional balance if the Government continues to fail to link the key cities on the western seaboard? It is a huge failure.

**Senator Kieran O'Donnell:** I am glad to note Sinn Féin supports me in this regard.

**Senator Paul Gavan:** To be fair, we have been calling for this for years. It is embarrassing for Senator Kieran O'Donnell to have to admit that six years into a Government he supports, there is still no commitment for the M20 project. A senior businessperson in Limerick told me that if we get approval later this year, it will be ten years - a decade - before that road is in place. That is the record and I have to say it is a record of failure on behalf of Fine Gael. There should be no excuses for that. Yes, of course, we call for the M20 project, as I think everyone in Limerick does. However, the fact of the matter is that Limerick was forgotten for the last six years.

In regard the Public Service Pay Commission, although it was set up as a delaying tactic, it nonetheless threw up some interesting statistics. Local authority employment fell by 21% from 2008 to 2013 and has barely grown since. This is a staggering drop for any sector but this one is concentrated on providing the type of shared services that make communities work. The shortfall has been filled through agency and contract workers. This means that the Government is actually paying more in wages now than it was in 2008 but this is hidden as the wages now come from two different budgets - direct employment and so-called procurement and emergency spend. The trade unions, in particular my own union, SIPTU, have been campaigning for years to get proper employment back into our local authorities but, again, without success to date. I hope the Minister will begin to listen to the trade unions.

In terms of health, more than half of all student nurses leave the system on graduation. Some 7,500 graduate nurses have gone to Britain in the past six years and there are 3,200 fewer nurses working in Ireland today than in 2008. That is the record of this Government. There is a similar turnover in the Defence Forces, while tensions within schools between pre-2011 and post-2011 teachers have spilled over into industrial action. The same issue led to the threat of the first national strike of An Garda Síochána in the history of the State, one that was only called off at the last minute.

The inability of the Government to provide a viable career path to our young people entering public service - be it in nursing, in teaching or in uniform - is an absolute scandal. My party recognises the importance of this issue and that is why we have made equal pay for equal work a red-line issue. Previous Fianna Fáil and Fine Gael-led Governments took an axe to public sector pay. They created and sustained a two-tier pay structure and reduced pay and terms and conditions of employment for public sector workers. Sinn Féin has long argued for a socially just and economically sustainable unwinding of FEMPI cuts. The core of any new pay agreement has to be to restore the public sector to a single-tier pay structure and re-establish the principle of equal pay for equal work.

In conclusion, Sinn Féin believes that a fresh agreement needs to prioritise pay restoration for those earning less than €65,000, with pay increases for the low paid. The days of unfair agreements that widen the pay gap and create pay inequality must come to an end.

**Senator John Dolan:** I thank the Minister for attending. It is my first opportunity to en-

gage with him. The Minister's presentation referred to public sector and private sector. While those two sectors certainly do exist, I believe there is a bit more nuance to it. One of two issues I particularly want to address today arises in the context of the current pay negotiations, in that a number of section 38-funded organisations funded through the Health Acts in the health sector are effectively in those negotiations. There are also other civil society organisations, pretty much all charities, which are by definition public or community benefit organisations. As I would put it, they are first cousins of the public services in that they are not private for-profit entities but rather are there to provide a public benefit or public service. Those organisations funded under section 39 are, however, outside of this arrangement. Nonetheless, they are both in the same labour market, which is currently tight in respect of the supply of many of the skill sets that are needed. That is simply a matter of fact, in particular in regard to occupational therapists, physiotherapists and those with backgrounds in social services, disability and so on. Therefore, of two organisations working in the same area, one is designated under section 38 and will rise as though it is in a marina with whatever comes out of these negotiations, while the other is bolted down at the low-water mark. However, the second organisation still has the same pressures, the same trade unions and the same staff interests who will point to what is happening to their colleagues while they are stuck.

I am not here to do the work of staff representatives or trade unions. They are well capable of doing that and must be heard by the employers. I am here to make the point that those people are only employed because there is a public service to be provided, whether it is provided by one kind of organisation or another or by the HSE itself. There is a conundrum here. My understanding is the HSE is telling the section 39 organisations that this is their issue and that they have to go through all the industrial relations drill to see what comes out of it. However, if somebody starts their career in a section 39 organisation and there are better pay and conditions across the road, they will migrate. The people being served and supported in one organisation will find themselves in an area where there is more churning of staff, where staff are coming in and then making a commonsensical, practical decision for themselves and rightly so. The butt end of that is not so much the organisation but the infrastructure of services they need. I cannot too strongly say to the Minister that this needs to be dealt with in a timely fashion, now rather than later.

I will give one example. More than 1,000 young people with disabilities have gone into nursing homes in recent years and that number has increased given there is the draw of the statutorily underpinned fair deal scheme. Other community-based services, such as personal assistants, home support and so on, do not have the protection of having statutory underpinning as they are provided on an administrative basis. That is causing a push. The first thing a trainee doctor is taught is, for God's sake, do no harm. The way things are structured publicly is causing a bias that is doing harm and making the services that some organisations provide more unsustainable, which is unfair to the people supported by them.

I will leave the point at that as I do not believe I can say it any more clearly but that is an important unintended consequence of the current work in which the Minister is involved. I do not suggest we should turn them all into section 38 organisations. I am not making the case for that, but something has to be done even if it involves appointing more staff. Action must be taken to ensure there is a level playing field for people with disabilities.

I consider the Department of Public Expenditure and Reform to be in a position that no other Department is in. It has an influence over how the funding that goes out to a range of other Departments is prioritised and focused. There is more than €14 billion going into health, €1.7 bil-



lion of which is allocated in respect of disability, although that excludes the mental health side. Ireland has very poor outcomes for disabled people in terms of their getting into employment or returning to employment. We see this every year in the context of school leavers as we ask what we should do with them. What tends to happen is they go to day programmes and they remain in them. Adults who become disabled and who already have a range of employment and community skills are also finding it very difficult to obtain employment. If a lot of public money is being spent on the health side in respect of social programmes and if people are bottled up in that area because the pathways back to employment or into employment are not being opened up, this is bad value for public investment. It is a poor outcome and a very bad return on investment. The key to unlocking that is to consider what is happening across Departments. An example of this is people with disabilities - be they blind, deaf or physically impaired - being able to use public transport. This would apply especially to transport in rural areas because public transport in urban areas has improved quite a lot. These factors are all enablers to allow people to be out and about and able to access further education, return to training and use the different modules. I ask the Minister to monitor what is happening across Departments. We need all the investment that is allocated to health, but an awful lot more could be achieved as a result of it if complementary things happen in other Departments.

With the Leas-Chathaoirleach's indulgence, I have one final thing to say. The budget comes up every year and that is the context in which to look at this. There is also more than €50 billion in the base. How could this be used differently? The commitment to the UN convention and the public sector duty are two strong drivers. I have indulged and I thank the Leas-Chathaoirleach.

**An Leas-Chathaoirleach:** I gave the Senator a little injury time there.

**Senator Paddy Burke:** I welcome the Minister. I have no doubt that he could have a very senior financial portfolio in the next couple of weeks and I wish him well in that regard. I congratulate the Minister on the work he has done in recent years.

I wish to discuss a few matters relating to the mid-term review. I welcome the review and I congratulate the Minister on bringing it forward. It is only right and proper that we should have an opportunity to have our say on and an input into it, and that the public should also have its say.

It was interesting to listen to Senator McDowell's comments on public sector pay and the amount of applicants for positions in An Garda Síochána and the Army. They have great confidence in the sector and they would like to work in the public sector. I have great time for public sector officials and it is only right that they should be well looked after. It is also only right that we should have the best and the brightest in our public sector. We have some very bright people in the public sector and, as is the case with industry, why should the sector not have the brightest and the best? The public sector is a huge employer and provides many services to the public, namely, those relating to transport - including, until recently, our national airline - health, policing and the Army. State and semi-State bodies have provided great services to the nation over the past 100 years. We should have the brightest and the best people in the public sector. We should ensure that they are looked after and well paid.

There should be a bonus system in the public sector. This is a matter to which the Minister should give consideration. There are some companies that reward their staff for coming up with new ideas and the public sector should look at that. Why should public sector staff not bring forward ideas that may streamline processes or bring huge savings to both the sector and the

State? People who do this and come up with ideas should be rewarded. The Minister should examine this matter.

As the Minister said, we are really only talking about the €2.6 billion that remains to be allocated on the basis of the outcome of the mid-term review. We are looking at housing and infrastructure. On the €2.2 billion for housing, there is no doubt that there is a huge shortage of houses throughout the country. We have not yet considered the cost of building houses and I am of the view that the Government must do so. Builders tell me that they are not building houses because it is costs too much to do so. They cannot get back the money it costs to build houses. Why, therefore, should they build houses only to lose money? In the context of a house that costs between €200,000 and €250,000, the VAT can be anywhere from €30,000 to €40,000. The Government is not getting that money because the houses are not being built. The Government should, particularly in the context of new builds, examine the position regarding VAT. There have been major implications for builders in recent years regarding various regulations - such as those relating to insulation standards, etc. - put in place in respect of the building of houses. Builders tell us that it costs in the region of €178,000 to construct a new house and that is without taking the cost of the site into consideration. This presents a huge conundrum because the vast majority of people have to obtain loans of €200,000 to €250,000 in order to purchase homes. In most cases, it would mean that the two loan applicants would need to be working. We have no choice but to examine the possibility of reducing the costs relating to building new houses. Perhaps the Minister could look at this aspect in the next couple of weeks or months.

I shall now turn to the issue of infrastructure. Senator Gavan referred to the Cork-to-Limerick road and Senator McDowell mentioned the roads from Dublin to the west, Sligo and Letterkenny. I would like to pitch in my tuppence ha'penny worth regarding the N5. At present, a new section of the latter is being planned in respect of the route between Westport and Castlebar. This area was neglected during the boom. All major Irish cities were linked in the boom times. For example, Dublin was linked to Galway, Limerick, Cork and Waterford by means of various motorways. However, the area north of the Dublin-Galway route has been neglected. We talk of regional development and bringing regional balance to the country but the entire area to which I refer has been neglected. I ask the Minister to look at the area in question in the context of extending the motorway from Mullingar to the west, with a network of link roads to Castlebar, Sligo and Letterkenny. Senator McDowell is correct in that we should take a long-term view in respect of this matter and see how it might be possible to achieve what I am suggesting by means of a single motorway as opposed to several motorways.

Today the Taoiseach and Cabinet announced strategic development zone, SDZ, status for Ireland West Airport Knock. I welcome that announcement, which I hope will be backed up with some tax incentives. Knock international airport is one of the drivers of regional development in the west. The special development zone for the area around the airport must be supported through tax incentives or grants to ensure proper regional development takes place. More than 700,000 passengers use the airport each year and flights depart for various parts of the UK daily. It is a driving force in the local economy. Unlike Cork, Limerick, Rosslare and Dublin, County Mayo does not have a port, nor does it have a fast train service and, as previous speakers noted, it does not have a motorway either. I ask the Minister to consider extending tax designation to the SDZ around Knock international airport.

**Senator Gerald Nash:** Senator Paddy Burke may be looking for divine inspiration. I welcome the Minister to the House and I am pleased to have an opportunity to discuss with him these two pressing matters for the State. As he knows only too well, from 2007 until the middle

of this decade, the focus of the State was very much on the immediate viability of the country, economic recovery, getting people back to work and using the limited resources available to us to protect and promote public services to the best of our ability. The Minister will agree that all those who made the recovery possible, from businesses and the trade unions to the Administration in which he and I both served and the people of Ireland, deserve credit. The challenge we now face is to make choices on how best to use the resources available to us to expand the economy and create opportunities and invest in better and more public projects and services. These choices and challenges are much more appetising than those that faced any Administration in recent times.

The review of the capital programme and the Public Service Pay Commission report which forms the basis of the ongoing negotiations on a successor to the Lansdowne Road agreement will help to dictate the future direction of the country and the extent to which economic recovery can be felt in an equitable fashion across the country. The review is welcome. The 2016 to 2021 programme, Building on Recovery, set about the task of helping Ireland to recover from what many described as a lost decade of infrastructural investment. As the Minister noted, the programme involved a total backed capital investment of approximately €42 billion if we include the projects identified by semi-State bodies and public private partnerships.

There is now a consensus that the correct course of action is to do more by investing in projects that society and the economy need and to do so while market conditions are not only benign but very propitious. I can identify many such projects in my local area, as previous speakers did in their home areas. One with which the Minister will be familiar from a previous visit he made to Drogheda Port Company some years ago when he was Minister with responsibility for transport, is the Drogheda Port northern access route. This project is critical to the ongoing development of Drogheda which is, by some measure, the largest town in the country. This important infrastructural project is needed to relieve traffic from the medieval town centre and facilitate the swift movement of traffic from the port to the M1. While much of it will be funded by development contributions to allow residential and commercial development to take place in the northern environs of Drogheda, some State investment is also required.

The often neglected town of Ardee in mid-County Louth also requires investment for the N2 bypass. Anyone who has travelled through the town on a busy Friday evening will agree that it is one of the most difficult bottlenecks in the country. It is on the N2 national route and requires investment in a bypass to allow it to develop to its full potential.

More money would be available and we would be having a very different conversation today if the Government were to postpone the sale of part of the State shareholding in AIB. I am not prone to hyperbole - there is enough exaggeration and mock indignation in this House and the Lower House to last us all a lifetime - but the decision to dispose of approximately €3 billion worth of AIB shares owned by the Irish people for the purpose of making a very minor dent in our national debt is bizarre.

**Senator Paul Gavan:** Hear, hear.

**Senator Gerald Nash:** The Government has much explaining to do on this issue. I am not convinced as to the rationale for the disposal of these shares at this time. After everything the country has experienced and after all the pain caused by the bank rescue and related economic problems, it is incredible that the final act in office of the Minister for Finance, Deputy Noonan, will be to deliver a barrel load of cash to our creditors to deal with an entirely manageable na-

tional debt and to do so when people need homes and health services above all else. There is no demand for this sale and I am not convinced that it needs to take place now. I cannot understand the reason the Government is so determined to carry on regardless and give the two fingers to the will of the Dáil, as expressed in a motion proposed by the Labour Party several weeks ago.

There is every chance that the fiscal rules will change as leaders across the European Union recognise that we need to return to the idea of a social Europe and move away from a Europe that appears to be focused solely on managing economies and reducing debt at all costs. Public sector trade unions are engaging with the Minister's officials in an effort to reach an accommodation and identify if a successor agreement to the Lansdowne Road agreement can be found. The wrong decision taken on the AIB shares and some comments made by the Minister who appears to be the Taoiseach in waiting on the management of public sector industrial relations in future have not helped the mood music. The best thing politicians can do is stay out of these negotiations and allow the public sector trade unions and the Minister and his officials to continue to do the job they have been asked to do. I hope the Fine Gael Party can break its duck and do something it has not managed to do previously, namely, successfully negotiate a public sector deal on its own. I genuinely wish the Minister every success in that undertaking because the country needs an agreement. I will await developments with interest.

My party is proud of the role it played in stabilising the public finances and ensuring, during the difficult period covered by the Haddington Road and Lansdowne Road agreements, that there were no compulsory redundancies in the public sector. We are also proud of the protections we introduced in the area of outsourcing and the prevention of mass privatisation of public services and State companies. When resources became available the Labour Party, with its partner in government from 2011 to 2016, ensured it was those on lower and middle incomes who benefitted most from the resources that became available, in particular, in the context of the Lansdowne Road agreement. I hope this principle is retained in the context of the negotiations being undertaken by the Minister's officials.

**Senator Jerry Buttimer:** I welcome the Minister and thank him for agreeing to come to the House for this discussion.

I wish all those involved in the public sector pay talks every success. As the Minister said, the Public Service Pay Commission is the backdrop and the beginning. It is important that we see this matter resolved. It is also important that other unions such as my own union, *6 o'clock* the ASTI, reconsider how they have approached public sector talks on behalf of their members. We must give some hope to members of the public sector in respect of pay restoration. They have had to endure a horrendous time in the past decade. I say that as a proud public servant who spent many years teaching and who recognises the importance of the public sector to our society and country. The public sector unions have made changes in terms of flexibility, hours of work and how the sector does its business. The issue of pensions is contentious and has vexed the minds of many more salubrious people than I. It is important that we see reform in the public sector but also that we offer hope for pay restoration to the men and women who work in it. Reflecting on what has happened in terms of outputs and outcomes, we recognise the need to bring people further on the journey.

My main focus tonight, if the Minister will allow me, is infrastructure development. Like Senator Kieran O'Donnell, I wish to extol the importance of the Cork-Limerick route. While I recognise the huge cost that the State would incur, it is a road artery that needs to be developed. Like many others, I travelled to Ballinasloe last Saturday night. It was a horrendous journey-----

**Senator Michael McDowell:** Yes.

**Senator Kieran O'Donnell:** Senator McDowell has been there and done that.

**Senator Jerry Buttimer:** -----Buttevant and Charleville in particular. Senator McDowell is dying to know about it and he was referenced in our hustings, as I said during the Order of Business.

**Senator Kieran O'Donnell:** He was being metaphorical.

**Senator Jerry Buttimer:** I have the membership application form. Senator McDowell can rejoin Fine Gael. He would be more than welcome. Our philosophy is that we are a big tent. We are a very diverse and inclusive party.

**Senator John Dolan:** Forgive and forget.

**Senator Paul Gavan:** Fine Gael is too right wing for Senator McDowell now.

**Senator Jerry Buttimer:** The M20 is a very important route that we need to see prioritised by the Government. When we discuss regions, it is really about access to Cork, Galway and Limerick as a counterfoil to Dublin. The people of Cork, Limerick, Galway and Clare deserve to have that motorway. It will allow us to promote jobs and industry in those areas.

I am aware that the Minister has been lobbied extensively on the events centre in Cork. It is a flagship project that we must see come to fruition. There has been a lot of to-ing and fro-ing on this project. The Minister's Cabinet colleague, Deputy Coveney, has been working very hard on the issue. It is an extremely important project for the city of Cork. There will be a request to Government, if one has not already been made, regarding future funding. I would hope that in analysing this, the Minister, Deputy Donohoe, will recognise that the project is central to the promotion of Cork as a location for business, industry, the hospitality sector and the whole concert and conference business. We have seen the growth of Cork Airport and the emergence of transatlantic routes out of it. The Minister has always been supportive of Cork Airport. To his credit, he came to Cork and engaged with the airport and stuck with the project at a time when it was not popular. I will always remember that.

The N28 project is slightly out of the remit of the Minister but is linked to him in terms of capital funding. That is the project of most concern and contention in our area. I ask the Leas-Chathaoirleach to bear with me for one minute. There has been a commitment to develop the project. However, it needs to be revisited by Transport Infrastructure Ireland, TII, which has not engaged meaningfully with residents in Rochestown, Carr's Hill or Douglas. It has vexed the minds of people. We are investing State money in a very important road. We all understand that the Port of Cork is moving to Ringaskiddy, which most of us welcome, although some may not. If we do not see change in the emerging route as proposed by TII, it will create absolute mayhem for the local communities. This is not nimbyism. It is about local communities being totally discommoded and adversely affected by a project that can be advanced better by working in partnership.

I thank the Minister for coming to the House tonight. I wish him, his Department and all involved in the public sector pay talks well. Those talks are very important. In respect of the mid-term review of the capital plan, I believe the Minister will hear from all of us in this House about the need to see investment in capital infrastructure.



**Senator Grace O’Sullivan:** I am the Green Party Senator and a member of the Civil Engagement group. I have not met the Minister, Deputy Donohoe, before. I welcome him to the House.

Currently, the capital plan equates sustainability with fiscal sustainability. The reality is that Ireland is not a profit-maximising enterprise but a society of shared lives reliant on natural ecosystems. Ecological and social sustainability must be mainstreamed across all aspects of Government policy. Our long-term prosperity, which relies on social and ecological factors, must be prioritised over short-term gain. We must rely on indicators other than GDP to reflect how well our society is prospering. These could include the sustainable development goals, the index of sustainable economic welfare and the human development index. A range of economic shifts will be required to make the transition. These include moving taxation from economic activity to pollution and resource use, decoupling economic security and full employment and ensuring the stability of the monetary and banking systems in a stable economy. This transition requires long-term thinking and a greater role for public investment to create and maintain solid, long-lasting fiscal, social and environmental assets. Investment is a fundamental aspect of the new green economy as prosperity today means little if it undermines prosperity tomorrow.

The revised capital plan is widening its analysis beyond fiscal sustainability. This can make a lasting contribution to Ireland’s future by setting us on a pathway to a low-carbon economy. The capital plan should be in line with the low-carbon transition goal of 100% decarbonisation by 2050 as required by the Paris agreement. The capital plan must set out the investment required for the transition, securing the long-term cross-party investment required. One has to remember that what economists view as costs in analysing carbon abatement are for the most part investments in new capital stock. The building of that capital stock creates prosperity.

It will be impossible to meet our Paris Agreement commitments without immediate reductions in transport emissions. The target of merely holding to 2005 emissions is not enough yet we are not even achieving that. Immediate investment in walking, cycling and public transport is essential and to comply with the smarter travel goals, specific funding commitments are required, that is, at least 20% of transport funding must be allocated to walking and cycling, as recommended by the United Nations Environment Programme, and at least 50% of transport funding must be allocated to public transport.

The current capital plan essentially adopts the strategic investment framework for land transport. As identified by many of the submissions to the draft framework, its handling of climate change was inadequate. On foot of the enactment of the Climate Action and Low Carbon Development Act 2015, continuation of the approach taken in the capital plan and the strategic investment framework on which it was based is not a lawful option. Transport investments need to be fundamentally rethought from the original plan, which prioritised investment for motor vehicles. Walking and cycling should be prioritised. The plan should provide for the full implementation of the greater Dublin area cycle network, implementation of similar cycle networks for other urban areas such as Waterford, Cork, Limerick and Galway and implementation of a nationwide greenway network such as that recently opened in Waterford. A full investment strategy is needed for the improvement and expansion of the rail network as the core of an integrated public transport network, comprising rail and bus. Investment in roads should be restricted to investments which can be demonstrated to lead to reductions rather than increases in greenhouse gas emissions. Aviation is responsible for 5% of global warming, but far from contracting as all major emissions sources must, it is one of the fastest growing sectors. It is the most carbon-intensive means of travel. The European Union has included aviation in the

emissions trading scheme and the International Civil Aviation Organisation is working to create an international framework for controlling emissions. Dublin Airport's expansion plans are based on predicted demand which ignores climate change. The only potential future in which the proposal for a third runway is justified is one in which no measures are taken to limit aviation emissions. If the countries of the world, including Ireland and the European Union, live up to their commitments to the Paris Agreement on climate change, the third runway will be a white elephant.

Climate change is acknowledged by the Government as the greatest national and global crisis. We must do everything in our power to recognise that in the capital plan and ensure modes of transport and every aspect of society supports the positive climate and decarbonisation method.

**An Leas-Chathaoirleach:** I thank Senator O'Sullivan. I welcome the Minister for Public Expenditure and Reform, Deputy Paschal Donohoe and call him to conclude.

**Minister for Public Expenditure and Reform (Deputy Paschal Donohoe):** I thank all Senators for the contributions they have made. I have made notes on the points made by each Member and I will comment on each of the individual contributions. However, I will comment also on a number of broad themes that relate to the points made.

First, I want to comment on the concept of progress. It is important as we ground our contributions that we do so with an appreciation of progress made and what we have, not just what we need to do. In making this point, I am very conscious of the social needs that exist across all the groups that Members represent, across all communities and towns in the country. Of course, I represent a constituency in which these social needs are particularly acute. Recognising those needs should not be at the expense of progress we have made in the issues we have touched on here this afternoon.

It is important to acknowledge the deficiencies we have in our infrastructure. It is important to acknowledge the improvements we need to make. I will comment on that in a moment. Let us do that in the spirit of acknowledging that we have a national road network that in many parts of our country meets the needs of those who need to commute on it. Let us acknowledge that for a country of our size, notwithstanding the concerns that were articulated by Senator Grace O'Sullivan, we have a very well-developed national, local and regional airport network. Let us acknowledge that our port network from Dublin to Cork, to Shannon-Foynes and the regional ports has proven well capable of bringing in the goods and services that our State needs and exporting them in turn. We have a gas network that is capable of meeting the needs of our State and all the businesses that depend on it. Notwithstanding the work we need to do in regard to the interconnector for our island, we have an electricity network that is capable of meeting many of the needs of the businesses and communities on whom it depends.

While of course I acknowledge the infrastructure deficits we have, to which Members referred, if we do not begin these discussions with an appreciation of where we are, we will fall victim to the kind of hollow populism that is articulated by Sinn Féin and others on the far left who seek to focus only on the difficulties we have, and I acknowledge there are great difficulties, but give no recognition whatever to the progress that has been achieved. The only objective those kind of contributions have is generating an air of permanent crisis where all they want to focus on is what has not been done or not been delivered. There is never ever any reference or recognition of the progress that has been made-----

**Senator Paul Gavan:** That is because we have been in crisis for the past six years.

**Deputy Paschal Donohoe:** -----and what is being delivered by our national infrastructure network.

The same point stands in respect of where we are with public services. Of course let us acknowledge the difficulties and needs we have but let us also acknowledge that a small open economy and society located on the edge of Europe had a standard of living 40 years ago that was considerably below the European average and now has a standard of living - for many, though not all, and we always have to acknowledge what remains to be done and what we have a duty to do - that is now ahead of the European average.

There are many reasons for that achievement but two that are especially important for the discussion we are having here is that we have a network of enterprise, both domestic and international, that has flourished as the economy has looked abroad. The economy moved away from being inward looking to an economy that was capable of competing with a global economy as it deepened its own integration. The other foundation of that achievement has been the excellence of our public servants, whether this has been what our teachers have delivered in classrooms or in higher education, the ability of our civil servants, the independence of our Judiciary or what our nurses and doctors do in our hospitals and primary care centres, while of course acknowledging the challenges we have which are the subject of negotiations that are under way.

Let us also do it in the spirit of acknowledging that the interrelationship that I described earlier of public and private sectors working together more often than not has achieved results and delivered prospects for our State that, despite our scale and where we are located, are achievements that would have been unimaginable even as recently as 2009, 2010 and 2011. With those points made, I wish to address some of the specific issues that were raised by individual Senators.

Senator Horkan made the point about the need to take advantage of investment that may be available from the European Union and its institutions. I agree with him. This is the reason the Minister for Finance, Deputy Noonan, and I visited the European Investment Bank last week. One of the points he made, which is a common rejoinder to the issues that have been raised by Senators in the debate, is that we must integrate those investment choices into a planning framework that we will make work. While we have more resources, we have a resource available in the future that, if we make the right choices, is capable of making a big difference to people's standards of living and to the climate change needs and obligations we have to meet. We have to embed all this in a planning framework that recognises that Ireland has an extraordinary demographic gift, which is the prospect of having a million more people living on our island at a time when many other countries in the European Union will be experiencing unchanged birth rates or unchanged populations. We have to be able to plan for that in a way we have not in the past.

Senator McDowell made the very fair point in respect of recruitment. I am also very much aware of where we are within the State from a recruitment and retention of staff point of view. Again, people will point to the difficulties. Let us look at some of the figures on the numbers of people who applied for roles. In January 2016, as many as 15,901 people applied for posts in An Garda Síochána. In September 2016, as many as 5,102 people applied for roles in An Garda Síochána. Across both of those periods we recruited 350 and 650 gardaí, respectively.

We are in a situation where the number of people who apply for posts is considerably ahead of the number of posts we seek to recruit.

One can make the point that we should recruit more people. The same point has been made about many areas of public service. In nearly all areas of recruitment we can bring people in and, in many cases, we are capable of retaining them. Let me give a completely different example of another form of recruitment to illustrate my point. Let us consider the campaigns that we ran in February of this year for senior executive engineers. We appointed 71 individuals to posts and 869 people applied for the posts. From a remuneration point of view, leaving aside my obligations in terms of FEMPI, we do not have a generalised recruitment issue at the moment.

Senator McDowell made a point about cross-Border investment. I made a particular reference to regional needs in the capital plan review. The north west was included because I am particularly sensitive to some of those needs in light of what is happening with Brexit.

Senator Kieran O'Donnell called for an integrated model for private and public pay, which I believe in very strongly as somebody who has worked in both sectors for many years. He asked me whether we have a public service that is fit for purpose and I would say that, by and large, we do. Of course there will always be improvements or changes that can be made. Of course the focus is always going to be on difficulties. Of course I am aware of the challenges in our hospitals. One should consider the care that patients receive, the research and innovation that is under way in our universities and the ability of Irish diplomats and the progress that they have made in terms of Brexit. While acknowledging the many challenges and difficulties, I contend that we have civil and public servants and services that achieve more than is commonly given credit for. If we do not begin with an appreciation of what has been achieved then we will get ourselves into a place where it will be more difficult to sustain the political equilibrium and support that is needed to support this kind of approach in the future.

Senator Kieran O'Donnell made a point about the M20 project. I am very much aware of his long-standing interest in the project. As a former Member of the Dáil and now a Member of the Seanad, he has stressed this matter to me on a number of occasions. As he will know, we aim to consider the project in the context of the capital review. As he has acknowledged, he is well aware of the decision that the Minister for Transport, Tourism and Sport, Deputy Ross, has made to move the project forward from the pre-planning stage.

I agree with very little that Senator Gavan has said. His comments are an example of the empty populism that has damaged our ability to have rational discussions and make choices about issues faced by this country. He contended, without a shred of evidence, that the decisions I will make and that this and the previous Government have made were based on private interest. The only motivation that I have in any decision that I make is the common good. I must make a decision in the context of not having all of the resources that are available to me to make all of the decisions that everybody in this House would want. The reason for such a stance is because I only have the prospect of being able to spend once any euro that is available to me. I am continually aware of one group that has not been mentioned at all this evening - perhaps that is a consequence of the theme of this evening's debate - the taxpayer. I must make sure that the decisions that we make are consistent with the ability of the taxpayer in Ireland to fund them and the ability of our tax system to be competitive, which is a point the Minister for Finance continually makes. Needs are growing and while we will be able to meet many of them, we will always need to make choices about the available resources.

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Senator Gavan made a surreal contention that there was no capital plan, let alone a review of a capital plan. There clearly is a capital plan and I shall give an example. My constituency is not short of Sinn Féin councillors turning up to welcome housing projects that have been funded by the capital plan that he denies exists.

**Senator Paul Gavan:** Yes, but we pointed out the weaknesses in the plan.

**Deputy Paschal Donohoe:** We have seen, on many occasions, Sinn Féin councillors.

**Senator Paul Gavan:** It is a free market plan.

**An Leas-Chathaoirleach:** The Minister, without interruption please.

**Deputy Paschal Donohoe:** I attended a launch for O'Devaney Gardens, which is the kind of project that Senator Gavan has claimed in his contribution does not exist.

**Senator Paul Gavan:** That is not what I said. The Minister did not listen to me.

**Deputy Paschal Donohoe:** The project was acknowledged and welcomed by local Sinn Féin representatives.

I can assure Senator Dolan that I am well aware of the tension between section 38 and section 39 organisations. I understand the difference between them. I understand that this is a particularly live issue among organisations that provide services to citizens with disabilities and special needs. I will anchor this matter into current negotiations through the concept of affordability. It will be a tough task to reach an agreement on public pay but I will approach it in good faith and with a desire to reach an agreement. I am aware that our decisions about the rate of public pay must be affordable in two ways. First, in our ability to pay for same and second, the impact the rate of pay will have on other parts of our economy. While that would be traditionally understood in terms of the private sector and the relationship between public and private sector pay, which I think has profoundly changed in the past decade, I am aware that the decision that we make about public service pay will have consequences for other organisations that are not of the public service but provide public services. I take the point Senator Dolan made about this aspect.

Senator Dolan also made a point about the role of the health service and the cost of €14.1 billion. He also mentioned the consideration other Departments that spend money must give to take account of the people who have disabilities and needs when it comes to accessing public services. I agree with the Senator. Today, the Minister of State, Deputy Finian McGrath, in Cabinet brought forward a strategy on this very area. Earlier he identified transport as an example. He stated that when making capital choices in the future on buses and trains, we must be conscious of the needs of all who travel on them.

The Senator made a point about disabled people who are in work or want to return to work, a point also made by the Ministers for Health and Social Protection. I know both Ministers launched an initiative on this matter with the Minister of State, Deputy Finian McGrath. The initiative seeks to make clear to people who have a disability or who are in the workplace that needs which are being met at the moment by the availability of a medical card will continue to be met for a long time until they enter the workplace. The Minister of State has highlighted this point a lot.

Senator Paddy Burke made a point about the cost of building a home and how we need to



interrogate this matter even further. I entirely agree with the Senator but, as Minister for Public Expenditure and Reform, I want to ensure that if we have difficulties in the private housing market - which we do at the moment - we do not allow the solution to rest entirely with the taxpayer. We are looking at the differential between providing a house or apartment in Ireland and doing so in other jurisdictions, and why there is such a differential, and I expect this work to be completed by June.

Senator Nash is not in the House but I will take up the points he made. For many years, the fact that the Irish taxpayer had to bear the cost of supporting our entire banking system was a cause of great and legitimate anger and, now that we have the prospect of unwinding it, I am at a loss as to why it is being opposed by the same people who were against the taxpayer taking on the cost at the time. If the Minister, Deputy Noonan, believes this is in the interest of the taxpayer it will commence but there is a broader rationale for considering it. If we want to reduce the systemic risk facing the Irish economy, there should be more owners of our pillar banks than the taxpayer.

I touched on some of the points made by Senator Buttimer, particularly the Cork-Limerick road. I agree with much of what Senator Grace O'Sullivan said. The decisions we make in the capital review may not meet many of the needs to which she referred because she may have different priorities from mine but we did put terms of reference for climate change into the review. I will not prejudge the review but public and sustainable transport has to be a significant beneficiary of the process. We will not be able to make progress on standard of living and all the needs correctly identified by the Senator unless we make a lot more progress on high-capacity and high-speed public transport in the parts of the country where the population merits it.

### **Criminal Justice Bill 2016: Second Stage**

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

**Tánaiste and Minister for Justice and Equality (Deputy Frances Fitzgerald):** I pleased to present this Bill to the House. The purpose of this Bill is to strengthen our bail system to make the law as effective as possible in protecting the public against crimes committed by persons on bail while also safeguarding the rights of the individual. The programme for Government commits to the preparation and fast-tracking of legislation aimed at: providing for stricter bail terms for repeat serious offenders; strengthening Garda powers to deal with breaches of bail; increasing the use of curfews; and introducing electronic tagging for those on bail where requested by gardaí.

There are important objectives, which I hope command support in this House, which will increase protection for the public and victims of crime but which can be achieved while also respecting the rights of those facing criminal charges. The scope of the Bill was expanded during its passage through Dáil Éireann to allow a number of other important amendments to be made. This necessitated a change to the Title of the Bill from the Bail (Amendment) Bill to the Criminal Justice Bill, but it remains for the most part a bail Bill and I would like to focus initially on those aspects of the Bill.

The presumption of innocence is a fundamental principle of our criminal justice system.

Flowing from that principle, every accused person has the right to liberty until and unless he or she is convicted of an offence. This right is guaranteed by our Constitution and the European Convention on Human Rights, but rights are not absolute and they do not exist in isolation. The State has a right and a duty to protect individuals from those who have no respect for law or justice. Our Constitution recognises the need to balance the right of an accused to liberty with the right of individuals to be protected from serious crime. It allows the courts to refuse bail to a person charged with a serious offence where it is necessary to prevent the commission of another serious offence by that person. The existing Bail Act 1997 implements this constitutional provision. However, the Bill before the house is a timely strengthening of our bail laws.

The Bill forms part of a wider programme of criminal law reform which includes the recent legislation providing for consecutive sentences for repeat burglaries, and the Victims of Crime Bill currently before the Dáil.

I will now turn to the provisions of the Bill and outline what is proposed. I will begin with the new provisions added to the Bill as it passed through the other House. Sections 2, 4, 11 and 12 of the Bill were all inserted on Committee Stage in Dáil Éireann and are all related so I will deal with these together. These amendments are technical in nature and, in general terms, are designed to preserve the legislative intent in provisions enacted in 2011 and 2014 and to address an anomaly that has arisen around commencement of the provisions in question. There is nothing new being provided for here, merely technical drafting adjustments to ensure that the legislation concerned can be operated as originally intended.

Section 5A of the Criminal Justice Act 1984 concerns the well-established right of a person in Garda custody to access legal advice and is aimed at clarifying the circumstances in which questioning may proceed, notwithstanding that a suspect has not yet had an opportunity to consult with a solicitor. The amendments in question are essentially concerned with the application of section 5A to the detention provisions of three statutes, namely, the Offences against the State Act 1939, the Criminal Justice (Drug Trafficking) Act 1996 and the Criminal Justice Act 2007.

Section 3, which was also inserted on Committee Stage in the Lower House, amends the Criminal Justice (Public Order) Act 1994 in order to give the Garda Síochána the statutory power to detain intoxicated persons who have been arrested for a public order offence. To date, gardaí have relied on a presumed common law duty of care to intoxicated persons to justify such detention but this is an unsatisfactory situation and should be placed on a statutory footing. I have been asked to do this by the representative associations and the Garda Commissioner. The new provision allows the Garda Síochána to detain intoxicated persons who have been arrested for an offence under the 1994 public order Act and who, but for this new provision, would be released. Such persons can be detained for a period not exceeding six hours where the member in charge of the Garda station in which they are in custody is of the opinion that they are intoxicated to such an extent as to be considered a danger to themselves or others if released.

The provision also allows release prior to the expiration of the six-hour detention period. This will ensure that persons are released once they are no longer considered a danger to themselves or others. A similar provision is contained in section 16 of the Road Traffic Act 2010.

Section 5 expands the factors which a court may take into account in refusing bail where this is reasonably considered necessary to prevent the commission of a serious offence by the person. Section 5 specifically provides that a court may take into account the extent to which the number and frequency of any previous convictions of the accused person for serious offences

indicate persistent serious offending by the accused. It also enables a court to take into account the nature and likelihood of any danger to the life or personal safety of any person or danger to the community that may be presented by the release on bail of a person charged with an offence punishable by ten years' imprisonment or more - in other words a very serious offence. The decision to refuse bail will of course always be a matter for the court. These additional factors which the court may take into account will, however, constitute significantly strengthened guidance from the Legislature on the factors relevant to decisions on the granting or refusal of bail.

Section 6 of the Bill expands the number of conditions which may be set by a court in granting bail. A court has general discretion to attach conditions to bail. Section 6 of the Bail Act 1997 also lists specific conditions which may be imposed, for example, a requirement to reside in a particular place, report to a Garda station or refrain from going to certain places or having contact with certain people.

Three new specific conditions are being added to this list by this Bill: to refrain from direct or indirect contact with the victim of the alleged offence or any member of his or her family, which is an important provision; to refrain from driving a vehicle where the person is charged with a serious driving offence; and to observe a night-time curfew, whereby the person on bail could be required to stay in a specified place between 9 p.m. and 6 a.m. the following morning. These are very practical provisions.

Section 6 of the Bill also provides for the arrest without warrant of a person on bail in very carefully defined circumstances which respect the constitutional rights of persons facing criminal charges. Gardaí already have power to arrest a person on bail who is about to contravene a condition of bail, but only on a warrant of arrest issued by the court. Section 6 contains a limited but important power of arrest without warrant of a person on bail who has breached, is in the act of breaching or is about to breach, a condition of his or her bail and the immediate arrest is necessary to prevent harm to, or interference with, the victim, another witness or another person that the court has specifically tried to protect. These are very carefully defined circumstances.

Section 7 deals with electronic monitoring. The Bail Act 1997 was amended in 2007 to permit a court granting bail to make it a condition of bail that the person's movements are monitored electronically. This provision has not been brought into force, largely because of concerns over how best to operate a system of electronic monitoring in a way that is sustainable and targeted. Section 7 therefore amends the existing non-commenced provision by linking electronic monitoring to an application by the prosecution. The objective is to ensure as far as possible that electronic monitoring is used in bail cases on a consistent and sustainable basis, and that it is focused on those cases where it will prove most effective. In this regard I should say that, in parallel with the passage of this Bill, a working group has been established to identify how best this provision might be operated, including the categories of offences or offenders most suitable for electronic monitoring and the making of contractual arrangements for the provision of this service.

Section 8 introduces an important new provision as regards the evidence which a court may hear when deciding on an application for bail. It will enable a court to hear evidence from the victim as to the likelihood of direct, indirect or attempted interference by the accused with the victim or a member of the victim's family. Evidence may also be heard as to the nature and seriousness of any danger to any person that may be presented by the release of the accused on bail. The section also provides that, where the victim is a child under 14 or a person with a mental issue, such evidence may be given on the victim's behalf by a parent, guardian or family

member.

Section 9 of the Bill requires a court to give reasons for its decision to grant or refuse bail or to impose conditions of bail. The objective of this provision is to provide as much transparency as possible in the hearing of bail applications and the greatest possible understanding of decisions of court.

Section 10 inserts a new section into the Bill to add two additional offences to the Schedule to the Bail Act 1997. The Schedule to the Bail Act sets out the list of offences which, if punishable by a term of imprisonment of five years or more, are considered serious offences for the purposes of a bail application. The two offences which will be added to the Schedule by this amendment were both inserted into section 106 of the Road Traffic Act 1961 by section 17 of the Road Traffic Act 2014. They are effectively hit and run offences. The offences target individuals who seek to avoid sanction by leaving the scene of a road accident having killed or injured an individual. A person guilty of such an offence is liable, under the Road Traffic Act, to a fine or to imprisonment of up to seven years in the case of injury and up to ten years in the case of the death of a person. These are a very serious offences and, as such, are appropriate for inclusion in the Schedule to the Bail Act.

A Chathaoirligh, these are clear and focused provisions which will enhance the powers of courts in deciding whether to grant bail, and which will improve the legitimate control which courts may exercise over those who are granted bail. They will enhance the protection of victims of crime and those at risk of crime, while respecting the rights of those accused of crime. They strike the right balance in improving the law on bail, and I hope they will get support across this House. I look forward to hearing the views of Senators.

**Senator Paul Daly:** I welcome the Tánaiste to the House and thank her for her synopsis of the Bill. Fianna Fáil welcomes and will be supporting this Bill aiming to strengthen the bail laws because we believe that the existing bail laws are far too lax. There have been many serious crimes committed by people on bail. The figures are frightening and startling, when one goes through a brief synopsis of them. CSO statistics state that in the last four years 84 people have died at the hands of people on bail, an average of eight people per annum, coupled with the fact that in the last decade 285 people are suspected of committing sexual offences while on bail, including 18 last year, along with 124 suspects accused of kidnapping while on bail.

The highest number of crimes committed by suspects on bail fall under offences against the Government, justice procedures and organisation of crime, at a total of 70,169 in the last ten years. Theft-related offences are the second most common at 54,492, followed by public order offences at 48,966. In total, 246,843 crimes were committed in the last decade by suspects on bail, the equivalent of 474 crimes per week. People reading these figures and statistics who have an issue with strengthening the bail laws would have to seriously question themselves.

I will not go through everything the Minister has gone through, section by section in the Bill. Under section 5 the fact that the court can take into account the number and frequency of previous convictions and the likelihood of danger to a person or a community, or relating to previous incidents, in refusing or placing conditions on bail, has to be welcomed.

With regard to section 6, increasing the range of conditions attached to bail, prohibiting the accused from making any contact with the victim or victim's family, or prohibiting driving in the case of a road traffic offence, and affording An Garda Síochána the power to arrest without

warrant, is a very important condition but also a very tricky one. Senator McDowell and others here would be more legally-minded than I, but it is hard, even with the new Bill, to justify or to be confident that one is legally correct in arresting anybody who one presumes has the intention to offend. What is stated in the Bill is that the intention of committing further crime allows for arrest without warrant. I would be sceptical and wary about that section.

Section 7 allows for electronic monitoring as a condition to be applied on application from the prosecution. I welcome this provision and electronic monitoring is something I advocate. I would like to ask the Minister however, if the financial resources will be available if and when this Bill becomes law and the Judiciary and An Garda Síochána decide to enforce this monitoring. We have had some use of electronic monitoring in the past at exorbitant expense, so I ask the Minister if the resources will be made available for its introduction.

In section 8, it is welcome that the court can consider evidence from the victim before offering bail. This is where interference is most likely to be highlighted concerning the accused, when evidence can be taken from the victim. In general, the Bill is to be welcomed with amendments, which include the change in public order legislation with regard to the detention of intoxicated people. Hitherto, gardaí were in a vulnerable position whereby they had to use the presumed common law of duty when detaining people whom they considered a danger to themselves or society due to intoxication. Now, however, by virtue of the fact that this provision will be introduced in the legislation, gardaí will be legally entitled to apprehend somebody for up to six hours. That must also be welcomed as it takes gardaí out of that precarious position.

We will be supporting the Bill, which is welcome. It is long overdue because, given the statistics, it is frightening to see the level of crime, devastation, destruction, pain, sorrow and grief that has been caused by people while on bail. In many cases the State gets the blame when crimes are committed by those who have been convicted and are then released on bail.

I welcome the Bill and thank the Minister for attending the House.

**Senator Michael McDowell:** I welcome the Minister to the House. I have no particularly strong views on this legislation in terms of finding any major fault with it. However, I think a couple of points should be made.

First, Senator Paul Daly mentioned the question of empowering gardaí to arrest people without warrant for a breach of bail conditions. We should draw some comfort from the fact that it is necessary for a garda to do that and that he or she should consider it is necessary to arrest the person immediately to prevent harm to, interference with or intimidation of the person in respect of whom the offence is alleged to have been committed, a witness to the alleged offence, or any other person specified in a condition referred to in subparagraphs (5) and (6), or subsection (b) of section 1. It is not therefore a power of arrest which is general; it is quite narrow and, in fact, may be too narrow. It is narrowly confined to protecting life and limb, rather than simply arresting people who have breached the terms of a bail bond and have not turned up at a Garda station. It does not apply in those circumstances.

As regards the issue of electronic tagging, the Tánaiste has indicated that this is something which was already visited in 2007 when I was Tánaiste. At that time, I recall having fairly substantial misgivings about the practicality of it. As Senator Paul Daly pointed out, electronic tagging is an expensive operation. In the UK, in particular, it has proven to be quite expensive



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and controversial because of the expense involved. Nobody should think that it is some great cure-all in respect of the crime rate. As I recall, it was something that was then introduced into the legislation on a facilitative basis, but not with confidence that it would make a dramatic difference to the crime rate.

We should be conscious that every person who is denied bail is remanded in custody to a penal or custodial institution. In present circumstances, the result is that somebody else is released because we have got to the point of saturation in our jail system. Therefore, the question of denying people bail pending trial is one of which we must be conscious. It frequently results in somebody else having the punishment that is provided for by the courts cut back due to pressure of numbers.

I would like to say one thing, although it is probably not solely in the Tánaiste's bailiwick. It is nonetheless something which we have to get our heads around, namely, that bail in Ireland is fairly liberally available in the context of the presumption of innocence. That is fair enough and nobody would want to attack those concepts too heavily, as long as the bail law is reasonable. One thing that increasingly worries me, however, and which was a cause of concern to me as Minister for justice, is the delay in the prosecution process which is huge and unjustifiable. It comes down to the presence of a different culture in Ireland whereby, because of our bail system, we tend to take a more relaxed view about getting on with cases. All of us feel anecdotally, looking at ITN, BBC or Sky News, that it feels strange to us that people are going to jail having been tried and convicted in the UK in a timeframe in which, in this jurisdiction, the criminal justice process would just be cranking up to deal with them.

The question of files going to the Director of Public Prosecutions, the investigative process generally, and the consideration of files that are sent to the DPP, seem to me to be dealt with in a far more leisurely way in this jurisdiction than abroad. I am not criticising anybody. This is not a party political point or even a political point, but it was something that concerned me ten years ago and still does now. There is a difference in approach in this jurisdiction which means that people who are prosecuted for serious crimes and granted bail, are frequently waiting two years before they have to face the adjudication of their offence, particularly for serious offences on indictment. That is not something we can live with forever. We should have a sense of urgency and determination to get court cases on early.

I also think that the criminal justice process is becoming elongated. When I started as a barrister, both defending and prosecuting, in the 1970s - it seems a long time ago now - cases were much shorter. Serious enough cases were dealt with in a day or two, whereas everything now seems to take a week. The amount of time the criminal justice system has allocated to the trial of offences has expanded. When I was Minister for Justice, I remember being concerned about that and setting up a group to rebalance the criminal law. It struck me then that the amount of protections, most of which were legitimate, we were putting in for the accused person in terms of access to documentation and evidence, put a huge strain on the prosecution process. Consequently, the prosecution of relatively small issues, such as burglaries, has become a lengthy procedure.

I do not wish to talk too much about recent court cases, but the amount of issues that are dealt with in the absence of juries at great length seems to be growing all the time. Our criminal justice system is losing a sense of immediacy.

I suggest to the House and the Tánaiste that we will now have to look at one single issue,

which is the delay in and complexity of the criminal justice process. It is getting so complex that it is becoming unwieldy. The result is that public confidence is being somewhat affected in the way in which criminal justice is administered.

**Senator Martin Conway:** I join with my colleagues in welcoming the Tánaiste to the House. She is a regular visitor here to introduce forward-thinking legislation.

I find myself in the position of agreeing with my colleagues, Senators Paul Daly and McDowell. That is not unique because, unlike elsewhere, it often happens in this House. We are fortunate to have the current Tánaiste and Minister for Justice and Equality and the former Tánaiste and Minister for Justice, Equality and Law Reform in the House with their collective wisdom and experience in this area. I find myself agreeing strongly with Senator McDowell on the issue of delayed justice. It is often said that delayed justice is not justice at all. Our court system tends to be clogged up, and it and our justice system tend to take longer than probably would have been the case when Senator McDowell was called to the Bar, however many years ago that was. That is a symptom of lack of resources, the recession and various challenges, difficulties and complexities. This has all led to cases being delayed and taking much longer to deal with. The Cathaoirleach, with his eminent and significant legal background, would probably subscribe to those views as well.

This legislation is welcome and I cannot see why anybody would have a problem with it. There are challenges with regard to the electronic element of it. The cost implications are also significant, difficult and challenging. Bail legislation constantly evolves. If we are fortunate enough to be here in the coming years, we will find ourselves constantly changing and updating this legislation, not just to do the right thing but also to reflect the times in which we live. What would have been relevant a decade ago is certainly not relevant today and what is relevant today will certainly not be relevant in a decade. We will be constantly reviewing and updating this legislation, which will evolve on a continuous basis. I am sure that if Senator McDowell had his time as Minister for Justice, Equality and Law Reform, between 2002 and 2007, back again he would probably, on reflection, do things quite differently. I am sure that An Tánaiste will look back in ten years' time and say that she would have done things differently also. All a Minister can do, however, is deal with the set of circumstances before him or her at a specific time, take advice from the Attorney General and senior officials in his or her Department and present legislation which takes account of the relevant concerns and which is balanced in terms of reflecting people's liberty and so forth.

Senator McDowell is correct in noting that we have very liberal bail laws in the country. Other countries' bail laws are certainly not at all as liberal as ours but cases are dealt with much more quickly in those jurisdictions. It is a constant balancing act to try to do the right thing, to be fair to everybody and to allow natural justice to prevail across all categories. On balance, the legislation before us is extremely welcome. Do I believe it will be changed as time goes on? The fact is that it was altered in Dáil Éireann when it was debated there. The legislation was enhanced as a result of the changes made in the Lower House. The Bill is welcome but it is a work in progress. It will always, in essence, be a work in progress. I am glad, however, that there is unanimous acceptance that this particular work in progress is positive, that it strikes the right balance and that it is incumbent on us to pass it.

**Senator Niall Ó Donnghaile:** I never enjoy rising to disagree with my colleague, Senator Conway, even if in just a small, modest way. Tá fearadh na fáilte roimh an Tánaiste go dtí an Seanad inniu. The Tánaiste is very welcome. I have actually found the contributions from

colleagues thus far very insightful. I agree with the vast bulk of the sentiments expressed in respect of and the practicalities relating to this Bill. Obviously, as the Tánaiste will be aware from previous discussions, our party has some concerns, which I do not believe are insurmountable. If we were to overcome them, it would greatly benefit and add to the legislation.

I will start by saying that Sinn Féin welcomes the opportunity to speak on this Bill. We note that the Garda Inspectorate recently raised with the Joint Committee on Justice and Equality the fact that gardaí are obliged to seek warrants in order to arrest persons who breached their bail conditions in the past. This Bill would amend the position in this regard, which is a welcome initiative. It is interesting that the Government has sought to listen to the Garda Inspectorate in this particular aspect of its complaint regarding bail but not where it complained that there was virtually no monitoring of suspects while they were out on bail. It has reached the point where the Garda Inspectorate has said that it doubts whether gardaí at many stations would even notice if a suspect failed to show up to sign in.

We recognise that levels of crime which are not insignificant are committed by people while on bail. However, it is important that we look at this in a rounded manner and not simply base justice policy on crude tabloid headlines. The fact is that suspects would be monitored more effectively while on bail if the Garda had the resources to do so. Colleagues have already touched on the issue of resourcing. People would, of course, be less likely to be out on bail if their court cases were held promptly. That issue has also been touched upon. This is not something that can be addressed by simply having more legislation that will inevitably lead to greater levels of incarceration. It is fundamentally about using resources more effectively.

When the legislation was debated in the Dáil, there was extensive discussion around electronic monitoring and how it would operate. Electronic monitoring is not a substitute for evidence-based crime prevention measures. We are in favour of protecting the right to bail and the presumption of innocence within the legal system. We recognise that, by virtue of the numbers within the Houses of the Oireachtas, it is likely that electronic monitoring will become a feature of our criminal justice procedures. On that basis, we will engage in respect of the legislation and put forward amendments in an effort to make it better.

There was an attempt in the Dáil to remove the provision concerning the amendment of section 6 of the Act of 1997, under which a garda is given the power to arrest a person without warrant if the officer is of the view that the person is about to contravene a condition of their recognisance. Essentially, gardaí are being given a very wide-ranging power to deal with crimes that have not yet been committed. It may be that the potential crime is not going to happen, but as long as a garda thinks that it is, he or she is permitted to make an arrest. It should not be the case that powers of arrest are simply extended when there are no resources being put in place for bail supports and services. The particular provision is vague and needs to be addressed.

To return to the issue of electronic tagging, we will table amendments that are based on the Council of Europe's 2014 recommendations on electronic monitoring. It is absolutely essential that safeguards are put in place that will protect data accrued from the use of tagging. It is also essential that where monitoring is happening, it is carried out by a body on a not-for-profit basis. The Minister will know that just last week we passed legislation that sought to counter some of the very real and dangerous issues that exist in terms of accruing data and how it is handled and possibly misused and abused subsequently. There are issues here regarding Article 8 of the European Convention on Human Rights, which relates to privacy provisions. This is not some off-the-wall proposal. It is reasonable, necessary and proportionate in light of the technology-

based world in which we now exist. We all acknowledge that danger. The Minister's response to these arguments in the Dáil was deficient to say the least. She has gone on record as saying that the Data Protection Acts 1988 and 2003 are sufficient. I beg to differ. If the amendments we table are not accepted, we may find ourselves recalling this lack of understanding of how data is used when there is an inevitable scandal in years to come. I do not say that to be contentious or confrontational; I say it because my party and I have very genuine concerns that what I have outlined could come to pass.

The Minister maintains that introducing an amendment which would prevent private operators engaging in monitoring on a for-profit basis would have an impact on how the system is currently overseen by the Prison Service. There is no law which says that the State cannot do this. There is absolutely no rule that says we must privatise and outsource everything. There are some things that simply should not be outsourced and this is one of them.

We will also table amendments to ensure that judges provide, in writing, reasons for their decisions. This is not a lot to ask. It is not an onerous task for the courts to provide something that makes available a record of decisions made in bail cases. This would be as much in the State's interest as in that of the defendant who is applying for bail. If it is not possible to have it in all cases, it should at least be available on the request of the defendant. The useful suggestion was made in the Dáil that if a judge does not provide written reasoning for a decision, the audio recording of the judgment could be automatically transcribed. That would probably be a costly measure but we need to examine whether there is consistency in decisions on bail applications.

Several other areas of the Bill were not adequately dealt with in the Dáil and Sinn Féin will be tabling amendments to rectify these areas as indicated in Dáil debate. We ask that the Minister reflect on these issues and either accept our amendments at a later Stage or consider bringing forward amendments of her own.

**Senator Frances Black:** I welcome the Minister to the Chamber today and thank her for the opportunity to discuss the Bill. I support its passage to Committee Stage but there is considerable work to be done on it. The issue should be approached bearing in mind the basic principle that people are innocent until proven guilty, which is a fundamental bedrock of our legal system. As such, the decision to refuse someone bail is should be taken very seriously. In certain circumstances, such as when there is a real risk of further violent crime being committed, bail may be refused or agreed to on conditions. As a general principle, incarcerating someone before they are proven guilty should be an action of last resort.

It is often stated at the Joint Committee on Justice and Equality, of which I am a member, that there are too many people in our prison system. This is particularly true when in the context of non-violent offences such as a failure to pay a fine. The "lock them up" attitude may be good for selling newspapers but it is not an effective or humane approach to making society safer. Caution is needed when discussing measures that could increase the number of people denied bail and thus incarcerated while awaiting trial.

Elements of the Bill such as the commitments to increased transparency are very welcome. The Bill would require a court to provide reasons for its decision to grant or refuse bail or to set bail conditions. I welcome this measure as a means of promoting transparency and openness in our judicial system. It is important that there is justification for decisions which are made.

I am concerned by other areas of the proposed legislation. Section 3 would expand possible

bail conditions such as prohibiting contact with the alleged victim or revoking a driving license. However, the Committee on Justice and Equality has been given evidence of bail decisions being made in two or three minutes because of the volume of cases judges need to get through. In that context, time pressures may lead to blanket bail conditions that are not proportionate or necessary being handed out. This view tallies with research conducted by the Irish Penal Reform Trust which showed that people charged with low-level offences were often given several bail conditions, regularly similar to those accused of higher-level offences. In this regard, some of the suggested additional conditions are worrying, in particular the imposition of a night time curfew between 9 p.m. and 6 a.m. In some instances, such a condition may be warranted. However, if the Minister wants to expand court powers, she must ensure that the courts are adequately staffed and have the resources needed to wield those powers with due consideration. This question of available resources also touches on the issue that if people are denied bail, they must be brought before a court in a timely manner which was raised in discussion of the Bill in the Dáil. This principle is enshrined in international human rights law. If it is deemed necessary to make bail conditional or deny it in exceptional circumstances, the accused must have a trial within a reasonable amount of time.

I have strong reservations about section 4, which deals with the use of electronic tagging. I welcome efforts to have fewer people held in custody but this is very dangerous territory. The Council of Europe, which is the primary human rights body in Europe, has recognised this strategy but it has several important caveats regarding proportionality, proper regulation and respect for civil liberties. There is enormous potential for a system of electronic tagging to be abused. In principle, I have serious concerns with tagging people in this manner. Private security companies may be contracted to run electronic tagging schemes. Their primary motivation is profit as opposed to the rights of the individual or the welfare of citizens. That has been seen in terms of direct provision and could be seen in regard to this issue. In light of these concerns, I welcome the Tánaiste's decision to establish a working group to specifically discuss this contentious point. We need to be mindful of whether it is morally right and whether it is effective.

My background is working with people who have addiction and substance abuse problems and their families. The biggest thing lacking in the Bill is that there is not enough consideration of proper support for people on bail. If we want to reduce crime and repeat offences and ensure that bail conditions are met, the right supports for people must be provided. Affected people are often in enormously difficult situations and from hugely underprivileged backgrounds. Crimes such as theft are often linked to drug addiction, poverty or alcohol addiction. It will not be as popular in the papers as being tough on crime but we need to push an evidence-based and humane approach to reducing crime. Bail supports that include measures such as drug treatment, addiction counselling and mental health provisions can have a huge impact. Such supports should be a central feature of the Bill but are currently absent from it.

In common with other Senators, I support the Bill going to Committee Stage but there is work to be done there. In particular in respect of the absence of the right supports, I am concerned that the Bill takes a punitive approach as opposed to a humane, genuine effort to reduce crime.

**Tánaiste and Minister for Justice and Equality (Deputy Frances Fitzgerald):** I thanks Senators for their contributions. Some critical points have been made. Senator Paul Daly and other Senators are concerned by the scale of offending that is carried out by persons on bail. That is an issue that needs to be addressed and I share those concerns. That is one of the reasons I have brought forward this Bill with its particular provisions.



It is clear from Senators' contributions that people are equally concerned that the rights of accused persons be respected. That is a balance I have tried to reach with the Bill. We want to make the law as effective as possible in protecting the public against crimes committed by persons on bail and also safeguard the rights of individuals. We must get that balance right. The Bill will give greater guidance to the courts, which is important.

The Bill is victim-centred. The Criminal Justice (Victims of Crime) Bill 2016, which will soon be dealt with on Report Stage, and the EU victims directive, which must be implemented, will bring about a sea change in the administration of justice and put much-needed emphasis on the rights of victims across the criminal justice system and agencies. The Bill is sensitive to the needs of victims, which is very important.

I take on board the points regarding the complexity of cases and the access to justice in a timely way made by Senator McDowell, particularly given his experience and expertise in this area. We need to examine how the complexity can best be dealt with and what initiatives can be taken to ensure justice is done in a timely manner. A number of initiatives I have taken will contribute in this area. One such initiative is support for the Courts Service IT requirements. That is very important and has been under-invested in in the past. Mr. Justice Peter Kelly is head of newly formed group examining court procedures, how they can be modernised and what lessons can be learned from other jurisdictions. He has begun that work and I am very grateful to him for chairing the group and initiating that review. It will be helpful.

There are other issues. Senator McDowell mentioned a culture around bail and it being something to which we have become used. The Senator is correct that that needs to be questioned. The time period for evidence gathering by the Garda needs to be examined. The Senator is not the only one who has noticed that timeframes of trials are very different in other jurisdictions such as the United States or the UK. That is a very real issue. We need to consider what initiatives should be taken to make a difference on this issue. We need to be more intolerant of the timeframes currently in operation.

There is much pressure on the courts also. I have been concerned by the question of resources for the courts. Extra resources have been allocated to the Courts Service. There are also practical considerations such as the environment in which the courts operate, for example, the new family court building in Hammond Lane will provide far better facilities for family law cases, among others. We have not had the right conditions up to now. The criminal courts have a very good environment in which to operate now but there is work to be done on that as well.

Regarding an arrest by the Garda without a warrant, Senator McDowell made the point that it is circumscribed, and that it is very carefully laid out. An example would be where an accused person who has been prohibited from contacting a victim as a condition of bail pulls up outside the victim's house and there is clearly an intention to go in. Although the person has been told that he or she should not do so, it is terrifying for the victim. I do not think the victim should have to wait for the person to gain entry into the house, given the circumstances where there is an order that the person has been prohibited from contacting the victim. Depending on the history and the details and conditions of bail it is reasonable to say that if a victim is in a terrifying situation and makes contact with the Garda in those circumstances, it is one where that judgment will have to be made by the Garda and it is a reasonable one to have. Much of the Bill has come about from discussing with people who are involved in those issues day to day and their experience on the ground of what is needed.

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A number of points have been made about electronic monitoring. The Senators are correct that it is not a panacea in terms of the issues we are talking about today but it is one element to be considered in certain cases. The group that we have established to look at the issue is examining what offences might be considered in terms of the best use of such monitoring. It is reasonable to allow private security companies to tender for the service as well, but it is not a blank cheque for them or anything like that. The measure must be used very carefully. It is the prosecution that can now ask for it. The measure will allow costs to be controlled and it can be imposed in cases where it is most likely to be effective. However, it is only one element of dealing with the issues we are talking about today.

Senators Conway and Black spoke about support and resources. There is much interesting work going on between the prison and probation services now to prevent people going into prison in the first place, but where there are repeat offenders and recidivist behaviour they target and work effectively with that group of offenders. For the first time ever there has been serious work in a focused way between the Probation Service, the Prison Service and the Garda. The results to date are very encouraging because of the very intense focus on repeat offenders and looking at all of the factors that are affecting repeat offending and recidivism. I expect we will get really good results from that as well as from the youth diversion programmes. We are putting more and more resources into such work. We are seeing the number of prisoners decrease and more focus on rehabilitation. That is important to consider where it is feasible. Where people commit serious crimes and it is clear that they need to be kept in prison that must be done to protect the public.

I thank Senators for their broad support for this Bill and I look forward to further discussion on it. Senator Ó Donnghaile said he had a number of amendments. I have addressed quite a few of them in the Dáil because they were tabled already and I have given my perspective on them. I do not envisage that I will be changing my position because I have gone into quite a bit of detail in my response to the amendments but I look forward to the discussion.

Question put and agreed to.

**An Cathaoirleach:** When is it proposed to take Committee Stage?

**Senator Martin Conway:** Next Tuesday.

Committee Stage ordered for Tuesday, 6 June 2017.

**An Cathaoirleach:** When is it proposed to sit again?

**Senator Martin Conway:** At 10.30 a.m. tomorrow.

The Seanad adjourned at 7.25 p.m. until 10.30 a.m. on Wednesday, 31 May 2017.