



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

SEANAD ÉIREANN

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

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SEANAD ÉIREANN

Dé Céadaoin, 23 Eanáir 2019

Wednesday, 23 January 2019

Chuaigh an Leas-Chathaoirleach i gceannas ar 10.30 a.m.

*Machnamh agus Paidir.
Reflection and Prayer.*

Gnó an tSeanaid - Business of Seanad

An Leas-Chathaoirleach: I have received notice from Senator Máire Devine that, on the motion for the Commencement of the House today, she intends to raise the following matter:

The need for the Minister for Health to make a statement on the policy whereby patients in receipt of medical care, whilst in the process of applying for a medical card, are responsible for fees incurred.

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

The need for the Minister of State for Mental Health and Older People to provide an update on the progress for the new 90-bed unit planned for St Patrick's Hospital in Carrick-on-Shannon; and the new 50-bed unit at the Sacred Heart Hospital in Roscommon town.

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

The need for the Minister for Transport, Tourism and Sport to outline the national strategy for promoting viable trade routes between southern Ireland and the Continent in light of the plans by Irish Ferries to reduce its port service in Rosslare.

I have also received notice from Senator Jennifer Murnane O'Connor of the following matter:

The need for the Minister for Employment Affairs and Social Protection to make a statement on the future of the community employment social inclusion scheme.

I have also received notice from Senator Brian Ó Domhnaill of the following matter:

The need for the Minister for Communications, Climate Action and Environment to provide an overview of current Government policy in relation to the post office network.

Of the matters raised by Senators that are suitable for discussion, I have selected Senators

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Devine, Feighan, Lombard and Murnane O'Connor and they will be taken now. Senator Ó Domhnaill may give notice on another day of the matter that he wishes to raise.

Nithe i dtosach suíonna - Commencement Matters

Medical Card Administration

Senator Máire Devine: I raise this matter because, over time, it dawned on me that what is happening seems to be unfair and inequitable. If one gets sick with a serious illness, obviously one's income will not match the outlay for treatment. That outlay is €800 for any inpatient treatment over 12 consecutive months. I have been helping patients to apply for medical cards because they have been given bad news about the state of their health and what they need to do. The Minister of State will be aware that it takes time for medical cards to be declined, issued or appealed. Another area that needs to be explored is trying to keep the interim guys at bay until a decision is made about the medical card applications. Patients are granted medical cards that do not apply retrospectively to the date of application so the forms that they fill in about their income and outgoings do not take into account the additional costs of being sick such as transport, medication, different diets or whatever. Those forms are sent in at the time the patient realises they are sick and need a medical card. The medical card takes weeks, if one is lucky, to be granted and, if it is granted, it is dated from the time that the decision is made, as opposed to retrospectively when the patient began receiving treatment from the health services.

Could the Minister of State examine this? I asked the HSE whether it retains data on this. This is about the interactions between the medical card section and the finance section of the HSE which issues bills. It is grossly unfair. When one applies for other benefits or supports from the State at times of need, they are retrospectively applied to the time of application. It is from the time the decision is made in this case. I am interested in the Minister of State's response.

Minister of State at the Department of Health (Deputy Jim Daly): I thank the Senator for raising this matter. As she will be aware, under the Health Act 1970, as amended, eligibility for health services is based primarily on residency and means. The Act provides that all persons ordinarily resident in the country are eligible, subject to certain charges, to public inpatient hospital services. The current public hospital statutory inpatient charge is €80 per day, subject to a maximum of €800 in any period of 12 consecutive months and the outpatient charge for attendance at an emergency department is €100.

All persons accessing an emergency department and public inpatient services in a public hospital are liable for the statutory charges, subject to a number of exemptions, including where a person is a medical cardholder. While medical cardholders are exempt from hospital charges, the exemption is only valid from the date of issue of the medical card. Patients, therefore, continue to be liable for any charges which occurred before a medical card has been issued. It should be noted that in cases where patients who are terminally ill, in palliative care or who are seriously ill and in urgent need of medical care that they cannot afford, the HSE has an effective system in place for the provision of emergency medical cards. They are issued within 24 hours of receipt of the required patient details and the letter of confirmation of the condition from a doctor or a medical consultant.

Given the nature and urgency of the issue, the HSE, which has responsibility for the national medical card unit, has appropriate escalation routes to ensure that the person gets the emergency medical card as quickly as possible.

I fully understand the sentiment behind the raising of this issue, but I am sure that the Senator can appreciate that not every application for a medical card will be approved. The national medical card unit receives approximately 39,000 medical card and GP visit card applications each month. A large percentage of these will be deemed unsuccessful for reasons such as the provision of insufficient information or failure to meet the qualifying means threshold. Therefore, the exemption from hospital charges is only valid from the date of issue of the medical card. This position is in compliance with the legislative framework. It is important to note that every effort is made to process medical card applications as quickly as possible in order to ensure that those who are eligible do not encounter a financial barrier to accessing healthcare. In that regard, the national medical card unit has consistently met its key performance target, which is to have 95% of complete medical card applications assessed for eligibility within 15 days. I have been assured that there are currently no delays in the processing of medical card applications.

I hope this clarifies the matter for the Senator. I assure her that the charging of fees and the processing of the medical card applications operate in a fair manner within a legislative framework.

Senator Máire Devine: I thank the Minister of State for his response. Unfortunately, I do not think it is what is needed. We need to look at the applications. The Minister of State stated that almost 40,000 applications are made each month and that many are deemed invalid for one reason or another. We need to get data on this in order to be satisfied that we are going in the right direction. The main point I am making is that there is a need for fairness and equality in retrospectively accessing health or other social welfare benefits that are afforded to those in need. Retrospective access is possible when every other type of application is made for supports or benefits, but it is not possible in the case of medical cards. One could have a great deal of intensive inpatient treatment over a 15-day period. In many cases, the period is even longer because people have to reapply or obtain additional information they were unable to provide in the first instance. Vulnerable people with serious medical conditions do not need this extra hassle. I am of the view that what is happening is discriminatory.

Deputy Jim Daly: While I acknowledge the point the Senator is making, I emphasise that one does not need to be sick or be going to hospital in order to apply for a medical card. People are free to apply for medical cards on any given day and at any given time. They are encouraged to do so. Decisions are based on people's means. Many individuals make applications long before they go near a hospital or receive treatment. I have outlined the emergency procedures that allow decisions to be made within 24 hours as long as sufficient documentation is available. I am not sure that changing the entire system to accommodate perhaps two or three people who are caught in the scenario the Senator is talking about can be justified. I do not want to put a number on it.

Senator Máire Devine: It would be much more than two or three.

Deputy Jim Daly: As a percentage, it would be minuscule-----

Senator Máire Devine: This is why we need the data.

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Deputy Jim Daly: If we were to change the entire system for everybody, it would have substantial financial consequences for the health service. It is all very well to say that this would be a good idea, but from where would we take the money? Should we take it from the nursing home sector or the mental health sector? At the end of the day, we have a finite budget. We have to take all of these factors into consideration when we examine proposals of this nature.

An Cathaoirleach: I am sure the Senator will raise the matter again.

Hospitals Building Programme

Senator Frank Feighan: I know the Minister of State is familiar with the vital projects in counties Leitrim and Roscommon that I am raising this morning. One of the most comprehensive programmes of investment in public nursing home facilities in the history of the State was unveiled under the previous Fine Gael-led Government. As part of a €400 million investment programme, 33 existing nursing home facilities are being replaced and a further 57 facilities are being refurbished or extended. Before this breakthrough announcement, many communities feared that some nursing home facilities would be closed because of a failure to meet the required HIQA standards. Naturally, this caused a great deal of concern among communities across the country. This significant funding programme means that such closures will not happen.

The excellence of the care received at many of these nursing homes must always be acknowledged. However, the physical environment requires substantial improvements, as the Minister of State is aware. The biggest beneficiaries of this funding in my region are St. Patrick's Hospital in Carrick-on-Shannon, which has received €16 million for a new 90-bed community hospital, and the Sacred Heart Hospital in Roscommon town, which has received €9 million for a new 50-bed unit. There has been some concern recently about the identification of a site for the new St. Patrick's Hospital in Carrick-on-Shannon. One site that was previously earmarked for the project fell through because of concerns about potential flooding. I understand that a preferred site has now been selected. The Minister of State might be able to shed some light on when this site will be purchased to allow this project to be advanced. The upgrade project at the Sacred Heart Hospital in Roscommon will involve an extensive refurbishment of the building to provide residents' accommodation in en suite, single and two-bed rooms, along with suitable communal space and sanitary facilities. I understand there are difficulties getting these projects up and running from a management point of view. I would be grateful if the Minister of State could outline a timeline for the planning and design elements of these projects, both of which are very important for Roscommon and Leitrim.

Deputy Jim Daly: I thank the Senator for raising this issue and giving me an opportunity to update the House on the provision of community nursing units at St. Patrick's Hospital in Carrick-on-Shannon and the Sacred Heart Hospital in Roscommon. The Government's overarching policy is to support older people to live in dignity and independence in their own homes and communities for as long as possible. While the standard of care delivered to residents in public units is generally very high, we recognise that many community hospitals are housed in buildings that are less than ideal in the modern context. Without those buildings, however, many older people would not have access to the care they need. It is important for us to upgrade our public bed stock. This is the aim of the five-year capital investment programme for community nursing units which was announced in 2016. The programme provides the framework for

an enhanced programme of replacing, upgrading and refurbishing these care facilities, as appropriate. Significant work has been undertaken to determine the optimum scheduling of projects within the phased provision of funding to achieve compliance and registration with HIQA.

The Sacred Heart Hospital and care home in Roscommon has 95 beds. It is registered with HIQA and has an excellent reputation as a care facility. It provides 80 long-term care beds for older people and 15 short-term palliative, rehabilitation and respite care beds. It is intended to provide a replacement 50-bed unit at the hospital and to refurbish or upgrade some of the existing complex to meet the required standards. Preparatory work on the project brief, site selection, option appraisal and cost estimates has been completed. The project has been approved by the HSE's national property steering group, subject to funding. It is hoped to commence the design process in 2019.

St. Patrick's Hospital in Carrick-on-Shannon, County Leitrim, is registered with HIQA and can accommodate a maximum of 46 people. It comprises long-term beds, a specialist dementia unit and short-term palliative and respite care beds. The preferred site for the proposed new build at St. Patrick's Hospital has been approved for purchase, subject to planning, by the HSE national property steering group. The legal agreement is being finalised. The design team has been instructed to commence the design process. The capital plan provides for funding to commence design following the purchase of the site.

All stages of capital projects, including the design and tendering processes, are subject to review to ensure they deliver value for money. Where possible, this includes future proofing to ensure capital developments meet current standards, as well as provision for additional capacity, improved equipping, or both. All of these factors need to be addressed appropriately. The health capital allocation in 2019 is €567 million for the construction and equipping of health facilities. Following the publication of the HSE national service plan for 2019, the HSE is developing its capital plan for 2019. Health capital projects, including community nursing unit developments in Roscommon and Carrick-on-Shannon, will be considered in this context.

Senator Frank Feighan: I thank the Minister of State. I am delighted that the Government is fully committed to upgrading nursing homes, especially St. Patrick's Hospital in Carrick-on-Shannon and the Sacred Heart Hospital in Roscommon. I would like to mention something I have noticed during my involvement with various developments, including the development of an endoscopy unit at Roscommon University Hospital. If I had not sat in on many of the meetings of the management team, the design team and the various stakeholders, I would not have realised how much work has to go into developments of this kind. There are meetings every week. The management personnel at hospitals and nursing homes have to sacrifice an awful lot of their time and energy when things like this are happening. While I know the Government can provide funding, I am concerned to ensure we can get enough people together to work with all the stakeholders at Sacred Heart Hospital and St. Patrick's Hospital. We should be aware that when people are very busy, they sometimes do not have time to plan for the future. I would never have realised the serious workload they face. I thank everybody I dealt with in Roscommon hospital. They went beyond the call of duty to get these projects up and running. Many people, including officials in the Department, sometimes fail to realise that hospital staff have to work extremely hard.

An Cathaoirleach: The Senator has his finger on the pulse with regard to all hospital issues in Roscommon.

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Deputy Jim Daly: There is no doubt about it. Senator Feighan could write the book on the politics of hospitals if anyone could. That is, he could write about getting them right. He had a great success story in Roscommon County Hospital. It was tough and arduous and many of us on the sidelines admired his tenacity in the face of a lot of opposition. He was on the side of right, for which politicians are not always renowned. I am delighted that these two projects are progressing. As long as I am the Minister of State in charge of community hospitals I will certainly do my bit to ensure that both of those, as committed to here on the floor, go to the design stage and are progressed on that basis.

An Cathaoirleach: That is positive news for Senator Feighan. Next, we have Senator Tim Lombard. I see that the Minister for Transport, Tourism and Sport, Deputy Shane Ross, is waiting patiently in the wings to take this Commencement matter.

Ferry Services Provision

An Cathaoirleach: I welcome the former Senator Ross to his *alma mater*.

Senator Tim Lombard: This morning I put down a Commencement matter for the attention of the Minister for Transport, Tourism and Sport. In light of Irish Ferries' plan to reduce its services through Rosslare Europort I ask the Minister to clarify the national strategy to promote the viability of trade routes between southern Ireland and the Continent.

I welcome the Minister to the Chamber. It is an important debate that we will have this morning about the viability of these routes, particularly from the southern half of Ireland to the Continent. One might ask why a Senator from Cork would raise the issue of Rosslare. The news that the route to France, particularly for commercial trade, is to be curtailed is very serious. Let us consider the town of Castletownbere in the southern half of Ireland. Some 2,500 articulated trucks leave it every year. They will now have to go to Dublin. We do not need extra traffic going through Dublin. Their route always went through Rosslare and out to the Continent. They basically carried fish, particularly whitefish. As it is the largest whitefish port in Ireland, access to trade routes is a very important issue. That is a really core issue for us, particularly in light of Brexit. For any route to be curtailed is a big issue, but for this route to be curtailed is a major issue for us on the southern side of the island.

We really need to examine how we can have a viable trade route to the Continent that does not involve taking all our goods up the M50 and through Dublin. When I was Mayor of County Cork in 2012 we lost the Cork-Swansea ferry. That was a real loss to us as a community. It took us until the establishment of the Wild Atlantic Way to see recovery. The ferry service was a really important tourism link between us and Wales and was a major loss to our community.

We need to plan ways to support and develop these trade routes and to get access. Access to markets is so important. These access routes are literal lifelines for us. We have a major fishing trade, a major agricultural trade, pharmaceutical businesses and many other industries in the south. All our produce is now going through Dublin Port. From the Minister's point of view it does not make logical sense. We need to promote these ports. Not only do we need to promote ports like Rosslare; the Port of Cork in particular needs to be promoted. We need to ensure viable trade routes out of the Port of Cork going to the Continent. We have trade links at the moment through Brittany Ferries. That firm is very valuable, particularly on the weekends when it serves as a tourism route. There is also a route to Spain. However, we need to promote

more if we can. The more access to markets we have the better we will do as a society. Developing this is a major issue, particularly for the southern side of the island.

Minister for Transport, Tourism and Sport (Deputy Shane Ross): I appreciate the Senator's concerns for his community and I understand his interests. I emphasise that we are talking mostly about Irish Ferries, which is a commercial company. It operates passenger services between Ireland, Britain and France under the flag of Cyprus or the Bahamas. Any decision taken by the company to change how it operates is a commercial decision by that company. Irish Ferries announced that it is unlikely to have a ferry service from Rosslare to France in 2019. However, the new Irish Ferries vessel serving Ireland and France, the *WB Yeats*, will substantially increase freight capacity above current levels. It will also increase its summer tourism capacity by 20%. A second and larger ship, costing €165 million and slated for delivery in 2020, further increases the company's freight capacity. Currently, Stena Line operates three weekly journeys to Cherbourg from Rosslare and is an important transport service for the south-east region. From a tourism perspective, while it mainly facilitates Irish tourists holidaying in France it also brings French and other European tourists to the south-east region.

Rosslare Europort is targeting growth and new business opportunities and recently received the approval of the Iarnród Éireann board for a strategic plan to grow the port's business, including investment plans for up to €25 million in customer facilities, port infrastructure, port assets and new technology. The port is engaging with a number of potential new shipping customers to supplement existing operators and offer greater choice to freight and passenger business. Iarnród Éireann and Rosslare Europort briefed my Department late last year on the company's plans for strategic development of the port over the coming years. There is also ongoing engagement between the Department and the port on the implications of Brexit and the port's future development potential as a vital part of our country's trading infrastructure.

The Irish Maritime Development Office, IMDO, is the shipping sector's statutory dedicated development and promotional agency. It has a number of initiatives to support the development of the Irish shipping industry generally. The IMDO pursues its promotional activities, supported by the Department as appropriate, through direct marketing, including contact through the embassy network and through holding information seminars for the industry. In addition, a range of beneficial fiscal reliefs are in place for the shipping sector with EU state aid approval. These include tonnage tax, a refund to employers of social insurance contributions relating to seagoing employees and a unique income tax allowance for seafarers at sea for more than 161 days.

The Government also has a number of initiatives in the area of maritime education, providing grants through the IMDO for the training of seafarers. Through the IMDO, my Department regularly meets with shipping companies and continues to encourage and support owners in establishing new shipping services here. The Irish market for shipping services is highly competitive and provides a diverse range of maritime links into and out of the State and to the UK and continental Europe. These links are frequent and competitive and are vital to facilitate trade and tourism. More than 20 shipping operators provide scheduled shipping services from Ireland. This includes companies providing year-round scheduled passenger services between Ireland and the UK and France.

The shipping industry has shown itself to be responsive to market demand. Ireland has low barriers to entry in its shipping and ports sectors, making it relatively easy for new routes to be opened where they are viable and for additional capacity to be added on existing routes. In 2017,

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Brittany Ferries commenced a new service between Cork, Roscoff in France and Santander in Spain, with return sailing twice weekly. In 2018, additional capacity was introduced by Irish Ferries, CldN, Cobelfret and Brittany Ferries. All shipping companies servicing routes to and from Ireland operate as independent commercial companies. The services are market-driven and in the past ferry operators have responded to economic developments and increased or decreased capacity in response to these developments. Any new initiatives to enhance shipping services must continue to be market-driven.

An Cathaoirleach: The Senator may ask a very brief supplementary question.

Senator Tim Lombard: I thank the Minister for his comprehensive response on the state of our shipping industry and how we are supporting the market. From my point of view it is about creating access, particularly from the southern half of Ireland. I mentioned Cork Port in 2012. I saw the results in 2012 when we lost that ferry. I saw what it did to our industries, whether it was haulage or tourism. There is an opportunity here now, particularly for Cork Port and the region of Cork, to develop another route going from Cork to France. It does not even need to run on a daily basis. It could perhaps run every second day. We need to examine that.

Brittany Ferries has been very good to Cork Port over the last few decades, in particular over the last 30 years. We need to engage with these entities to see if we can promote more services from Cork to France so we can have what we need, which is a viable trade route for our goods.

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We must engage with these entities to see if we can promote more services from Cork to France in order that we can have the viable trade route that we need for our goods.

An Cathaoirleach: Brexit could alter that as well.

Deputy Shane Ross: I will bear in mind what the Senator said when I am talking to the ferry companies.

Community Employment Schemes Review

Senator Jennifer Murnane O'Connor: I thank the Minister for attending. I understand that she proposes to establish an interdepartmental group to examine the future of community employment, CE, schemes with a view to ring-fencing social inclusion places and allowing services in communities to be maintained. Fianna Fáil is a strong supporter of, and advocate for, CE schemes. One of the first schemes was started in my constituency. These programmes not only benefit participants but also the community by providing essential services.

One of the stakeholders that relies on these schemes, Graiguecullen Parish CLG, contacted me because it had requested a meeting with the Minister to share its concerns about the scheme as it stands and its ideas for improving the scheme for all concerned. However, it never heard from or had a meeting with the Minister. An approach was adopted in 2017 whereby all CE placements were categorised into two strands: social inclusion - to acknowledge that not all CE places were the same and to provide an opportunity to those who are very distant from the labour market to work and deliver services to local communities - and job activation, which is more directly related to employment opportunities for long-term unemployed. My concern is that since coming into government almost eight years ago, Fine Gael has concentrated more on

the job activation element of the CE schemes and has not valued or appreciated the important social inclusion element and the vital role it plays. That is the strand many stakeholders are interested in retaining and expanding.

It is heartening that the Minister intends to engage in a special examination of the social inclusion element and all the benefits it brings. It is time that this was done. Does the Minister intend to meet the stakeholders as part of the examination in order to ensure that any reorganisation of CE can be holistic and sensitive to the needs of all the participants? There are over 20,000 participants in CE schemes but only 30% to 40% of the placements are categorised as social inclusion. We are returning to having lower numbers on the live register and I am concerned that because the number of CE places is linked to those numbers, an unintended consequence could be a reduction in the number of schemes available to people who need them and to communities that need the help. I am aware that the Minister supports this valuable service and the much-needed opportunities provided to allow all individuals who might not work otherwise to contribute to their local towns and villages, especially in rural communities.

Graiguecullen Parish CLG has been in existence since the early 1990s. Fr. Sean Kelly, the parish priest in Graiguecullen, came up with the idea of people working in their community while claiming support from social welfare. A small group of parishioners got together to seek opportunities within the community to create employment by developing local resources such as sporting activities, providing support to the elderly and maintaining schools in the community, thereby giving people a sense of identity and belonging. Following many meetings with the Minister of the day, Graiguecullen had the first pilot programme in Ireland for what was then a FÁS scheme. It continued to grow and there were many benefits from the years of this important scheme being available. In recent years, the age profile of people applying for CE there has increased. Currently, 12 participants are over the age of 55 years and five are over the age of 60. After a year in receipt of qualifying social welfare payments, people aged 55 years and over can remain on CE for a maximum of three consecutive years. After this period, it may be possible to requalify for a CE scheme following a further year in receipt of a qualifying social welfare payment.

According to the CE procedure manual, a person aged 55 years and over should be given access to training and development and supported in addressing any barriers to employment. Graiguecullen has identified issues with the system in that, while it offers access to training and development, many participants over 55 years of age do not wish to take up a course or feel that they do not have the capability to return to education. Graiguecullen interprets this as allowing participants over 55 years of age to remain on CE for three years and that while they are given access to training and development, they do not have to participate in it. The Department's interpretation only allows participants one year on the scheme unless they are undertaking the Further Education and Training Awards Council, FETAC, accredited training leading to a major award.

Graiguecullen Parish CLG has asked me to appeal to the Minister to ensure that in her review, participants over the age of 55 will be allowed a maximum of three years without any training and development requirements. We all know that those who are over 55 do not find work easily. They are often early school leavers. According to the CE procedure manual those aged 62 years and over and who are recruited under the service support scheme pilot initiative may remain on CE continuously up to State pension age and be given access to training and development and supported with addressing any barriers to employment. The Graiguecullen scheme is allowed to have three participants aged 62 years and over. It advises me that it be-

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believes that any participant aged 60 years and over, not 62 years, should be able to remain on the CE scheme continuously up to the State pension age, with an increase in the number allowed on each scheme. Recently, it had two participants who were over 60 years of age who had to go back into the jobseeker system even though they wanted to continue to work on the scheme. It is hard to find a job at that age.

I could say a great deal more. I realise how important this scheme is to the Minister and I appreciate the work she is doing. Can she examine these cases? In addition to Graiguecullen, I have met many people in Carlow who are on these schemes and who have asked me if they could be left on them. It gives them a sense of community and of pride.

Minister for Employment Affairs and Social Protection (Deputy Regina Doherty): I thank Senator Murnane O'Connor for giving me the opportunity to respond. If the Cathaoirleach will indulge me, I wish to welcome the pupils from St. Paul's national school in my home village of Ratoath who are in the Visitors Gallery. I welcome them to democracy in action.

The Senator will be aware that the Department operates a number of employment support programmes which have a significant social inclusion focus across our communities, including CE, job initiative and rural social schemes. These schemes are delivered by local sponsoring groups, development companies and, in Gaeltacht areas, Údarás na Gaeltachta. The CE programme has been running since 1994, the jobs initiative scheme since 1996 and the rural social scheme since 2004. All these schemes are well embedded in community areas nationally and they are engaged in significant levels of service support and delivery. It is my strong view that the local services which are supported by these placements should be safeguarded into the future. Currently, they are not. That is why I sought the agreement of the Government to establish an interdepartmental group to explore the most appropriate organisational arrangements, including which Department should host the CE social inclusion placements, which include drug rehabilitation and childcare CE schemes, as well as the rural social and job initiative schemes.

It is important to emphasise that when CE was established, it was, first and foremost, an active labour market programme. It was designed to assist targeted unemployed individuals to return to employment. Its aim was to provide excellent work experience as well as training and development that would assist a person participating on the scheme to achieve sustainable employment. It does that, but it also does much more. Since its establishment, CE has since been categorised into two strands, namely, social inclusion and activation. The social inclusion placements are more suited to adults who need extra support to be able to work in their communities. They can be older workers, persons with disabilities, Travellers, homeless people, refugees, those requiring drug rehabilitation and ex-offenders leaving prison who need to be supported. The expected pace of progression from a social inclusion placement is much slower than the pace we would expect from an activation or an employment and training perspective.

Since being appointed as Minister for Employment Affairs and Social Protection, one of the more enjoyable parts of my job has been travelling throughout the country and meeting the people who are running CE schemes and, more importantly, the people who are participating in them. For me, CE is as much about supporting progress into gainful employment in the community as it is about providing self-esteem, value in the local and social economy and inclusivity. It is about the people who are on the margins of either an age profile or a stage in their life because of some difficulties they have had. It is about supporting and including those people

in a productive way in enjoying their social community. It is about recognising the value of the services they give in their local communities, acknowledging, rewarding and empowering them, but most of all acknowledging their input and recognising that without these people providing these services, the communities would not have those services. I know that is a failure of the State in some ways in that other Departments do not provide them, but we need to recognise and genuinely value them. This is the primary reason behind the establishment of the interdepartmental group. It did not seem right to have these two distinctive sides of the same coin being governed and ruled by a criterion set up specifically for activation, employment and training. It is not possible to have the same set of rules to govern what we call the socially inclusive places and the employment training. I have not managed to be able to relax these rules across the board. If the Senator has any specific cases, I ask her to bring them to my attention. We are trying to look at individuals on an individual basis. However, no one can micromanage this to any great extent for the 21,000 people employed and supported in community employment. This is why I want a proper conversation about the differences between people on the same scheme and the different paces at which people need to be supported in the same scheme. This is why the interdepartmental group will assess the best course of action required so as to protect the governance and the successes we have in CE activation, but also to establish the appropriate home and structure it for what is sheltered employment in our communities. We need to build custom-built services that will ensure they are wholly inclusive for everyone who requires our assistance. For those who want a fulfilling future through the vehicle of CE, that is great, and they should continue to be supported through employment, activation and training both financially and socially in equal measure.

The social inclusion placements, though, require a separate focus to ensure those who are at the furthest distance from the labour market but who are genuinely interested in working and delivering services in their local community have the opportunity to do so, and not on a short-term, one-year or two-year basis. If they want to do it, if it is fulfilling and gives them value and self-esteem in their daily activities, that fundamentally should be supported in the long term. I know some people do not agree with me on this. This is the reason for the approach of having the interdepartmental group, having us all sitting around the table, recognising as we do as politicians the real, inherent value in community employment not only from a socially inclusive perspective, but also from an activation and training perspective. We can sit around and have a real, honest conversation about how these should be split, who has which responsibilities and at what pace the rules and governance of both strands should be set. I genuinely consider the socially inclusive positions in our CE schemes as vital and as fundamental not only to the common good of the State, but more important to those people who have had the opportunity to work on them. Equally, they are detrimental to the people who have been forced out of them because of the existing rules, and I want that to stop.

I will have the first meeting of the interdepartmental group in probably the next week to ten days. It will be short and sharp. The group's work will be done by the end of March and I want to be able to go back to Cabinet with the recommendations from it. What I do not want is for us to be embroiled in months and months of long-term meetings about whether we will do this. I already know in essence what I would like to do. I need to bring everyone with me. It is not that I am discounting the valuable advice and information from all our CE host companies and participants, but I want to bring the political establishment with me first. Once the interdepartmental group has finished its work at the end of March, I will welcome any and all participants who would like to talk to me, send me written submissions or give me their experience and their value. It is because of my engagement with these people over the past 18 months

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and my pleasure and privilege to be able to do so that I know fundamentally that we need to change and protect, support and reward our social inclusion places and give them the pride and the self-esteem they get from fulfilling their daily duties in our communities. We need to give that as a reassurance from us.

I thank the Senator for the opportunity to say this. I genuinely welcome a wide support of information options, including any suggestions she may have from the wider political representations of both these Houses. In the next few months I will go out to our host companies and listen to them. I want this to be done quickly. Whatever budgetary measures are needed, and I know there will be some, I want to be able to start fighting for them this year in order that we can see the changes happening and those socially inclusive places supported, protected, ring-fenced and rewarded - when I am still around, I hope, and not when the Senator's party may have taken over.

An Cathaoirleach: The Minister has given the Senator a very extensive-----

Senator Jennifer Murnane O'Connor: I know.

An Cathaoirleach: If the Senator just listens to me a second, I will explain. We usually allow eight to ten minutes for each matter. We are now almost at 15 minutes on this one. The Minister has been very frank, open and engaging. Perhaps she and the Senator should meet or communicate on the matter. I will let the Senator in for a brief supplementary question. The problem I have is that someone will say I gave Senator Murnane O'Connor 15 minutes and gave him or her only eight.

Senator Jennifer Murnane O'Connor: That is fine. I have loads of names for the Minister. I thank her.

An Cathaoirleach: In fairness, the Minister has been extremely open-----

Senator Jennifer Murnane O'Connor: She has.

An Cathaoirleach: -----and engaging and has given the Senator an avenue and an opportunity to engage with her. I wish them well with it.

Senator Jennifer Murnane O'Connor: I thank the Minister and the Cathaoirleach.

An Cathaoirleach: Not at all.

Sitting suspended at 11.15 a.m. and resumed at 11.30 a.m.

Gnó an tSeanaid - Business of Seanad

An Cathaoirleach: Before I call the Leader on the Order of Business, as a result of sometimes complaints and sometimes concerns, I want to read out a reminder of what the Committee on Procedure and Privileges, CPP, agreed on the time limits, etc. I ask Senators to allow me a couple of minutes to get it over and done with. I am hinting at no one in particular and just want to remind Members of limits. Sometimes I get complaints that I give some Senators too much time and others not enough time.

I remind Members of the purpose of, and arrangements for, the Order of Business. The pri-

mary purpose of the Order of Business is to consider the proposal by the Leader for the business to be taken each sitting day and the order in which it shall be taken and the arrangements for taking it. The House may accept, reject or amend the Leader's proposal. Members are called to speak on the Order of Business so that they may offer their views on the Leader's proposal. Members may support or oppose the Order of Business, or seek to amend it.

The only matter formally before the House is the proposal in respect of the day's business. However, the practice has developed over time whereby Senators suggest to the Leader matters on which he might consider arranging debates on later days. Senators may support their requests for a debate by reference to the matter involved. However, reference should only be made to the matter involved to the extent necessary to support a Senator's case for the importance or urgency of it. Substantive speeches, whether scripted or otherwise, are not allowed on the Order of Business and must be reserved until the matter is ordered for debate.

Timed limits for the Order of Business are agreed by the Seanad, and not by me, on the recommendation of the CPP shortly after the House first met in 2016. These are as follows: the Leader must be called on to reply to the Order of Business not later than 55 minutes after he makes his proposal; the contributions of group leaders shall not exceed three minutes; the contribution of every other Senator shall not exceed two minutes; and the Leader's reply shall not exceed ten minutes.

In 2016, the CPP confirmed the arrangement that applied in the last Seanad and Senators speaking on the Order of Business, other than the group leaders, are confined to one topic only. Sometimes that is abused and I get complaints from others. As Chair, I believe that undue rigidity in the application of the rules is not always in the best interest of the conduct of business and that the exercise of discretion, which I quite regularly do, is sometimes appropriate. However, I am concerned that the exercise of discretion has at times been interpreted as the setting of a new benchmark and as a licence to ignore the rules, which it was never intended.

I ask all Senators to respect the rules, which they themselves have set, for the conduct of the Order of Business. I must insist on respect for the Chair in my application of these rules. For my part, I shall continue to endeavour to be fair and impartial in the way that I apply the rules.

I wish to mention two other matters. I accept Senators bring in mobile telephones and use them to access the Internet, for emails, etc. The making of telephone calls in the Chamber, whether it is behind the screen or in the corner on way out, is totally prohibited. I insist that taking or making a telephone call must be done outside this Chamber.

On Commencement matters, it is four minutes for each Commencement matter. Sometimes Senators take six or seven minutes and then want to ask a supplementary question. I am very flexible in allowing a supplementary question to a Minister but a Senator cannot take six or seven minutes at the outset as I have to be fair to everyone. One day a Senator took 15.5 minutes and the Senator who only got eight minutes complained and said I gave another Senator 15.5 minutes. I have to be balanced and fair as well as use some flexibility.

I felt it would be inappropriate to mention this yesterday because of the tributes being paid to the late Mark Killilea even though I had decided to do so at the start of the year. Hopefully, we will be here this time next year.

I call on the Leader to outline the business of the day.

An tOrd Gnó - Order of Business

Senator Jerry Buttimer: The Order of Business is No. 1, Greyhound Racing Bill 2018 - Report Stage (resumed) and Final Stage, to be taken at 12.45 p.m. and to adjourn at 3 p.m., if not previously concluded or to resume at the conclusion of No. 4, Private Members' business; No. 2, Consumer Protection (Gift Vouchers) Bill 2018 - Order for Second Stage and Second Stage, to be taken at 3 p.m. with the time allocated to group spokespersons not to exceed ten minutes and all other Senators not to exceed six minutes; and Nos. 3 and 4, Private Members' business, First Aid and Mental Health in Schools (Initial Teacher Training) Bill 2018 - Second Stage and First Aid and Mental Health in Schools (Existing Teachers) Bill 2018 - Second Stage, to be taken at 5 p.m. or on the conclusion of No. 2, whichever is the later and not to be debated together. The time allocated for the debate shall not exceed two hours.

Senator Gerry Horkan: I will try to adhere to the Cathaoirleach's clarification of the existing rules which I appreciate and, as somebody who is quite often in the Chair, I will try to stick to my three minutes and abide by the rules as best I can. I wish everyone a happy new year; although it is 23 January it is my first time speaking on the Order of Business this year given that we are only back since yesterday. I also want to congratulate the Ceann Comhairle, the Cathaoirleach and everybody involved with Monday's events. I will not dwell on it but it was a good day and a nice commemoration of the first sitting of the First Dáil.

I will try to stick to the three minutes allocated to me as acting group leader. It is not possible to stand up today without addressing the continuing saga of Brexit as it unfolds. It is a serious matter as we all know and it is coming at us with only 65 days until 29 March. We had the Minister in here last night and to be fair to him he spoke well on much of what is going on. I am supportive of him but there were various reactions on Twitter this morning to a certain Cabinet Minister on the radio which did not augur well. I have a lot of time and respect for the man in question but we have to get real and be honest with the people about all the possibilities. We want a deal. I would prefer if the United Kingdom was staying in the EU but it does not seem to want to do that or to have a second referendum. The UK Government and Prime Minister are certainly not in favour of that at the moment but it would be better if they did so. We need to be honest with the people about what plans are in place. I am sure there are plans in place because I do not believe that we cannot have plans in place. The EU Commission spokesperson Margaritis Schinas said of course there would be a hard border if there is no deal as there has to be a border between a non-EU territory and an EU territory. That was possibly a very honest statement but we need to know. We need the Minister for Foreign Affairs and Trade and other Ministers in here probably almost daily; even though they have many other things to be doing they need to share their plans on transport, agriculture, trade and every aspect of our economy and society with us.

I also want to touch on the impending nurses' strike. Notices have gone out cancelling certain elective procedures and appointments that are dependent on nurses on these particular days. I understand that the Workplace Relations Commission, WRC, talks are today but I urge the Minister, the nursing organisations and the Government generally to examine this issue carefully, to take on board the concerns of the nurses and to look at exactly what they are looking for. The last thing we need, in January in particular but at any time of the year, is a nurses'

strike that affects patients.

I refer to mobile phones. A survey in a recent Economic and Social Research Institute, ESRI, report has found that 40% of children own a mobile phone by the age of nine, which astonished me. As a result, 84% of primary schools have had to implement strategies dealing with mobile phones in their schools and 68% of schools say they have encountered problems as a result of smartphone and social media use within and around the school day. We all know that technology can be beneficial but we need to examine this so maybe the Minister for Education and Skills would come in at some point and tell us what policies he is putting in place in order to ensure that people do not experience workplace bullying. I think I stuck within my three minutes.

An Cathaoirleach: The Senator had ten seconds to spare.

Senator Billy Lawless: As most in this House are aware, I have been an advocate for the rights of Irish emigrants, particularly to the US, for several decades now, and during that time our campaign has seen many highs, along with many lows. I would like to update the House regarding the Irish situation.

In 2007, we were close to nationwide immigration reform that would have protected the undocumented Irish and potentially closed off the divisive debates currently occupying the immigration scene in the United States. In 2013, Democrats and Republicans came together and many put their careers on the line, to settle immigration reform once and for all, again in a manner that would have helped the Irish undocumented, and all the undocumented across the United States. This also fell at the final furlong. In 2018, at the end of the congressional term in the US Senate, our fight faced another setback, this time in our campaign to get Ireland 5,000 or so US non-immigrant E3 working visas. Where we succeeded in what was then a Republican controlled House of Representatives, we failed in a Republican controlled Senate. In the end, however, my experience in this long campaign is that our fight for improved rights and conditions for immigrants, has been a progressive one, even if that progression has been all too slow. The principle however, that the question of Irish immigrants can be dealt with across both party aisles, in the lifetime of this administration has now been firmly established.

As many in this House will recognise, sometimes one's greatest rivals in politics, are those from within one's own party, and on this occasion, Ireland got caught in the middle of an internal Republican Party dogfight. Like this House, the US Senate has its own Standing Orders and rules, and Senator Cotton of Arkansas was able to place a hold on the E3 visa legislation, thereby avoiding a debate and a subsequent vote, which would have succeeded if it had been placed on the floor. The reason Senator Cotton prevented a vote on the floor was because a piece of legislation which he sponsored on immigration had been blocked by Senator Grassley from his own party, and we became the fall guy in this dispute. In short, the timing was not right. Speaker Paul Ryan, a man who was opposed by the right wing element of his own party for his perceived progressive stance on immigration, was willing, on his way out of public life to try to achieve the granting of the surplus E3 visas for the Irish. This shows that Congressmen and Senators of every creed and hue, can be persuaded by the Irish cause.

This legislation was not about the undocumented Irish and it was not about amnesty. This was about creating a level playing field for Irish people looking to work in the United States, by increasing from 1,200 to over 5,000 the number of Irish people who could come to work legally in the US. Ireland is in fact comparatively low to other nations in the number of visas

we receive every year and this would have equalised the situation, through benefiting from the unused E3 visas that the Australians receive. We will keep this fight alive as we always have and I am convinced that within the next two years of this congressional term, through bipartisanship, we can achieve solutions for Ireland and use that success to build momentum towards the bigger causes of the undocumented Irish and wider immigration reform in the United States.

An Cathaoirleach: Is the Senator calling for a debate in the House on this matter?

Senator Billy Lawless: Yes.

Senator Rose Conway-Walsh: Today I want to talk about the new Bill that will be introduced by my colleague, Deputy Pearse Doherty, in the Dáil tomorrow. It is the no consent, no sale Bill and its central message is quite simple but fundamental. A loan secured by a mortgage of a residential property may not be transferred without the written consent of the borrower. This is already in the voluntary code of conduct that the banks are supposed to adhere to and several years ago Deputy Noonan said that should be best practice among all of the banks yet the flouting of this principle has left some families in limbo and many more worried about the future. The Bill aims to place control back into the hands of customers.

A mortgage is the most important product that most people will purchase in their lives and it is a commitment over many years that requires people to be able to plan and budget for unforeseen circumstances. Many of these mortgages that are being sold off are performing mortgages. They might be interest rate only mortgages or mortgages where deals have been struck with the banks; to all intents and purposes all of these consumers rightfully think that they have performing mortgages because they are in constant contact with the banks. They are not the small cohort of people who refuse to pay their mortgages, they are those who are doing their best. There may be those who, because of the recklessness of the same banking institutions, lost their jobs in the recession and now on top of the banks being instrumental in them losing their jobs and the downturn in the economy, the same banks are coming back and selling off what is most treasured to them to vulture funds, namely their home and their mortgage. That cannot be allowed happen. This Bill will ensure this cannot happen without the consent of the borrower. These banks paid no corporation tax for many years, they charge interest rates which are well in excess of the European Central Bank rates and the vulture funds they sell to have charitable status so they pay minimal tax. I encourage all parties and all Members of this House to show whose side they are on and show up at the audiovisual room this afternoon at 2 p.m. when my colleague, Deputy Pearse Doherty, and David Hall and Carly Bailey will give full details of the Bill. I ask that the Minister for Finance come to the House to have a full discussion on vulture funds and the behaviour of the banks.

Senator John Dolan: I am pretty sour and annoyed this morning. I took a call at about 9.30 p.m. last night from a young man, a wheelchair user. He had been looking for me since 8.30 p.m. He has a job, one of the minority in a minority in that respect. He uses a powered wheelchair which he requires because he is significantly physically disabled. His wheelchair broke down. The Health Service Executive, HSE, has a contract with a company which I will not name to provide an out-of-hours emergency service. He rang the number he should ring a couple of times but got no answer. He rang another number that he had used before for the out-of-hours service and talked to somebody he knew. He told them the battery in his wheelchair was dead. The response, while understanding, was that nothing could be done about it as it was not an emergency. That is what the man reported to me. Luckily he was within ten or 15 minutes walk of his home. His 77 year old mother and his sister came to his aid. How can some-

thing like that happen and how can somebody say so easily that this was not an emergency? I do not know what I am calling for this morning in respect of this case but it is a wake-up call for us. Something needs to happen and I will certainly follow up this matter.

The Democratic Programme of the first Dáil states:

The Irish Republic fully realises the necessity of abolishing the present odious, degrading and foreign Poor Law System, substituting therefor a sympathetic native scheme for the care of the Nation's aged and infirm, who shall not be regarded as a burden, but rather entitled to the Nation's gratitude and consideration.

"Infirm" was as politically correct a term as could be used 100 years ago and I thank the writers of that document for that. More commonly people referred to imbeciles, cripples and the deaf and dumb. Our language has moved on but the young man to whom I referred was left stranded. The final thing he said to me was that what really bothered him was that this would happen to other people. He said he at least could use his voice and make phone calls but what about somebody who cannot or somebody who is caught in the middle of nowhere?

Senator Gabrielle McFadden: We are all aware that we need water to live, thrive and survive. I commend progress now being made in developing water infrastructure following decades of neglect by previous Governments.

Irish Water has a planning application before Westmeath County Council for a raw water intake works and a water treatment plant at Portaneena outside Athlone. While I understand why we need a new water source and I am not necessarily against the proposal to take the water from Lough Rea, I am concerned that the planned extraction point in Portaneena is the wrong one and will have a serious long-term effect on the environment and the local amenity. Irish Water should change its plan and instead take the water from the main lake.

As a child I spent a lot of time on and around the river in this area and know it well. The unique nature of this area makes it unsuitable for an abstraction point. It is not ideal to put a large industrial-style facility in an idyllic location which is availed of by tourists and locals alike. Will the Leader invite the Minister for Communications, Climate Action and the Environment to the House to have a debate on the procedures used by Irish Water in circumstances such as this? Will he use his good offices to ask the Minister to direct Irish Water to consult meaningfully local stakeholders before proceeding any further with the work at Portaneena? Irish Water has already lodged one planning application which was turned down as inappropriate without any meaningful consultation. It must now take stock before trying to railroad through another plan, which is likely to be contested and flawed costing us all in terms of money, time and biodiversity.

Senator Jennifer Murnane O'Connor: I was staggered to read over Christmas that after 47 days of being issued, a hospital bill for cancer patients who do not have a medical card or private health insurance inpatient charges of up to €800 had not been paid. After a year of treatment such as chemotherapy or radium therapy, the patient is referred to a debt-collection agency under the HSE policy. Cancer has taken over from heart disease as the most common cause of death in Ireland. We are sending debt collectors to these patients' houses. That is unacceptable and heartless.

Children younger than 18 years who have been diagnosed with cancer within the past five years are automatically entitled to a medical card. The HSE has a system in place for the provi-

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sion of emergency medical cards for patients who are terminally ill, in palliative care or who are seriously ill and in urgent need of medical care that they cannot afford. These are issued within 24 hours of the receipt of the required patient details and the letter confirming the condition from a doctor or medical consultant. All cancer patients, regardless of prognosis should be automatically approved for a similar medical card. Cancer patients can be given a discretionary medical card but there are no common rules for applying for the discretion and there are serious delays in the application system. My office is dealing with an incredible number of patients who are finding it extremely difficult to get approval. Meanwhile, the hospitals do not apply the same delay and send demand letters promptly.

When patients receive a diagnosis of cancer, they should never see a bill for their treatment and we should be able to assist people to access treatment abroad without their having to resort to loan sharks, crowd-funding or begging. This is a very serious issue. There are many people who are sick with cancer who are constantly fighting for medical cards but they are not getting them. We need to address the money because it all boils down to money. Access to medical cards depends on what applicants are earning. If they are barely over the limit, they get no help. Every cancer patient should have a medical card. I will raise this matter with the Minister for Health. I have raised it with him before but so many people called my office over Christmas that I became very concerned. We need to address this issue.

An Cathaoirleach: That seems to be a matter that would be worth raising for the Commencement debate. That depends on what the Leader says.

Senator Victor Boyhan: I endorse everything Senator Lawless said on the E3 visa legislation and I commend and thank him. We in this House owe him and others in both Houses of the Oireachtas a debt of gratitude. It is important work and it is continuing. I can see why the Taoiseach of the day appointed Senator Lawless. I wish him well with that and I hope we can use our connections to push the matter along.

I thank the Leader for agreeing to arrange for the Minister for Children and Youth Affairs, Deputy Zappone, to come here in early February to discuss Bethany Home. When I spoke here yesterday I was not fully aware of the debate that had taken place in the Dáil and the numerous politicians and Senators who had engaged with the media since yesterday afternoon on this. It is a shame that this group of people has been excluded from redress, for whatever reason. Over half of the people I first met from Bethany Home ten or 15 years ago are now dead. Before Christmas I met two of them outside Leinster House. They are looking for an apology and I understand from today's newspapers that some form of an apology is due shortly. There should be an acknowledgement that people who were in care in the State were hurt and betrayed, regardless of who maintained or cared for them and who reneged on that.

12 o'clock

We as a State should step up to the plate. I again acknowledge the words of An Taoiseach in the Mansion House on Monday where he alluded to those issues. I ask everyone in this House to use their contacts and their efforts to allow these people to have an opportunity to tell their story in the final days of their life. It is important that people are believed, allowed to tell their story and are given redress. Why in this country do we continue to go on and force people to go through terrible pain to be believed? We need to do something about that. I thank the Leader for facilitating and arranging for the Minister for Children and Youth Affairs, Deputy Zappone, to come to the House to discuss the issue in more detail.

Senator Tim Lombard: I wish to raise the Public Health (Alcohol) Bill which we passed in this House, on 10 October 2018. It is important legislation that will hopefully change our outlook on alcohol. I raise the issue in light of statements that have been made in the press in recent days regarding taxi loads of students and others turning up at early houses in Cork city at 7 a.m. It is an issue at the moment. Our affinity with alcohol must be addressed, in particular cheap alcohol in supermarkets and off-licences.

I took issue with the Bill but I always supported the minimum pricing of alcohol as that would put a base price on alcohol, which is something we have long needed to do. The Bill must be enacted because we must put a base price on alcohol to prevent situations such as those witnessed in recent weeks such as the so-called Christmas Day celebrations in November, freshers' weeks and rag weeks, among others, whereby large volumes of cheap alcohol make it onto the streets mainly through off-licences and supermarkets. The issue must be addressed. The way we decided to do it was through minimum pricing and that tool was to put a floor price on alcohol. We need the legislation to be enacted because society needs the measures it contains to be put in place.

It is frightening that in some places alcohol is cheaper than water. That is crazy. One can also buy alcohol cheaper than milk. That is not right. That is a real problem for society. We need to change what we are doing and address the issue. The Bill has the ability to do that. I call on the Leader to invite the Minister, Deputy Harris, to this House to discuss the status of the Bill in terms of having it signed into law. I realise there is a European dimension to the issue. Perhaps we could move away from the concerns in that regard and enact the other elements of the legislation in order to provide for a better society.

Senator Fintan Warfield: I was contacted during the week by members of the deaf community about funding for the Irish Deaf Society. Despite a promised decision on funding by the HSE in November, the society has yet to hear of a decision and there has been no indication of when a decision on funding will be made, good or bad. The Irish Deaf Society is now unable to make key business decisions. The HSE and the Government are fully aware of the situation and, what is more worrying, are not acting. They are, therefore, risking the closure of the service. I was informed earlier that the society will cancel classes from the end of February. That will be the first operational decision it will make that acknowledges the lack of funding and as we go into the next month, it will be more and more difficult to reverse inevitable actions.

The deaf community is now planning protests and the Irish Deaf Society is now planning for the closure of the much needed services of the organisation at large. Given that this House initiated and endorsed Senator Mark Daly's Bill to give Irish Sign Language official recognition and that the legislation has been signed into law, in addition to the fact that the State is now a signatory of the UN Convention on the Rights of Persons with Disabilities, we should reflect on the fact that having ratified rights for the deaf and hearing impaired community we are still failing to provide vital services to facilitate those rights. I call on the Leader to see if the Minister of State, Deputy Finian McGrath, could come into this House to discuss the issue as soon as possible because the longer the situation continues the greater the risk that is posed to core services.

Senator Frank Feighan: Yesterday, I complimented all the staff and the people involved in the centenary of the Dáil on Monday. I am a firm believer that Ireland should have more association with the Commonwealth of Nations. That would help when 70% of the people born on the island of Ireland reside in commonwealth countries. What difficulty do we have in that regard? I was heartened to find in the booklet I received on the day of the centenary that the

Democratic Programme states:

We declare in the words of the Irish Republican Proclamation the right of the people of Ireland to the ownership of Ireland, and to the unfettered control of Irish destinies to be indefeasible, and in the language of our first President. Pádraig Mac Phiarais, we declare that the Nation's sovereignty extends not only to all men and women of the Nation"

It goes on to state: "We affirm the duty of every man and woman to give allegiance and service to the Commonwealth". What happened since that time? In 1949, under my Government we declared Ireland a republic. That was great and it was welcome but by doing that we were ineligible for membership of the Commonwealth. The rules were amended two weeks later to allow the Republic of Ireland to remain, in the same way as India and South Africa, but our stubbornness decided that it was not for us. The Government declared the Republic of Ireland Act which effectively recognised the state of Northern Ireland. As Éamon de Valera rightly said, by being members of the commonwealth, we had a foot in both camps. Now is the time to stand by the words of the First Dáil in 1919 and say that we affirm the duty of every man and woman to give allegiance and service to the commonwealth. It is not Frank Feighan who is saying it; it is the people who set up the State in the first Parliament of this country. We should have an open and frank debate about the merits of Ireland rejoining the Commonwealth of Nations, not the British Commonwealth. It is the Commonwealth of Nations since 1951. There are 31 republics among the 53 countries in it and we are a republic of which we should be proud.

Senator Paddy Burke: I ask the Leader to allow for a debate in the near future on tourism. It is important to have the Minister for Transport, Tourism and Sport, Deputy Ross, in to discuss provision in the coming months in the event of a hard Brexit or whatever happens in the UK. There are many issues ranging from sterling to ports and airports that will have a bearing on this country in terms of tourism. We should debate the issue with the Minister in the House. Tourism is important to the economy and is one of the greatest contributors to it. Tourism bodies are anxious about what might happen. There could well be delays at ports and there are question marks over flights in and out of the UK, which is one of our largest tourism markets. I ask the Leader to arrange for the Minister to come to the House at an early stage.

An Cathaoirleach: I call on the Minister, or rather the Leader, to respond. I almost elevated him to a Minister.

Senator Jerry Buttimer: I am not sure what that means. I thank the 12 Members of the House for their contributions on the Order of Business. On foot of your opening remarks, a Chathaoirligh, on my behalf as Leader of the House and on behalf of all Members, I commend you on your discretion, fairness, flexibility and good humour to all of us. Those who criticise you for your manner of chairing do you and your office a disservice because I greatly appreciate your impartiality. You do not agree with everything the Government says or does but you maintain the integrity of the office that you hold with the utmost respect. I cherish and value your impartiality, courtesy and absolute integrity. I ask all Members, including myself, to respect you as the Chair. You have a tough task at times but carry it out in a manner that is fair to everybody. Some Members who criticise the Cathaoirleach should reflect on their own behaviour because it does a disservice to the House when one's impartiality is questioned. I know you did not ask for commentary on it but it is important that Members recognise the value of the Chair we have. Former Cathaoirleach, Senator Paddy Burke, was the same when he was in the Chair. Keeping 59 other Members in check is not an easy job, never mind Ministers who come in. Members should reflect on their contributions, especially on the Order of Business, and I

welcome the Cathaoirleach's remarks at the beginning. I will try to keep my remarks short. I know Senator Craughwell reckons they go on too long but I will do my best.

Senator Gerry Horkan: Senator Buttimer only has ten minutes.

Senator Jerry Buttimer: I appreciate that. It is important we stand in solidarity with our Cathaoirleach, who should not have had to come in this morning to read out that information for Members. I ask all Members to reflect on their contributions, especially on the Order of Business. I can take the political battle. The Cathaoirleach is impartial and apolitical. I know he gets it from all sides.

An Cathaoirleach: By way of clarification, I was urged to do it at the start of December but had a brief word with my esteemed and learned Clerk, who suggested that I leave it until the start of the new year.

Senator Victor Boyhan: That was good advice.

Senator Gerry Horkan: A new year's resolution.

Senator Jerry Buttimer: That is a good point.

Senator Horkan raised Brexit. It is important we all stand with the Government in wearing the green jersey. The Minister, Deputy Coveney, commented that it is about us as a country holding our nerve. It is a matter of ensuring that the current backstop proposal relating to the Border is the only option on the table. Michel Barnier said that the question of limiting the time for the backstop has already been discussed twice by European leaders. This is the only possible option because an assurance is of no use if it is time limited. It is important to recognise that we need a Brexit withdrawal agreement. That is a matter for the United Kingdom, especially for Prime Minister May and the UK Parliament. The Government has been clear. The Minister, Deputy Coveney, outlined time limits for legislative proposals. We will have that debate again in due course.

Senator Horkan also raised the nurses' strike. I will not speak for long on that. We have a public sector pay agreement. Notwithstanding the fact we agree on how much we value our nurses and the work they do, we have a public service pay agreement. It is important all sides engage and do not use patients as a pawn in the negotiations. We saw what happened yesterday with a breakaway union. We recognise the HSE deals with unions. It is important we have dialogue and maintain that level of engagement.

Usage of mobile telephones by younger people is becoming increasingly prevalent. Senator Horkan mentioned that 40% of all children own one by the age of nine. It is a high figure and we will have that debate in due course.

I commend Senator Lawless on his work. I was in Washington DC before Christmas, and know the respect and value he has brought to this House. His work with Irish immigrants in North America is unbelievable. He referred to the E3 visa. It is disappointing to see what happened. As he said, under the rules, a person can hold it up. I commend Ambassador Mulhall and deputy ambassador Lonergan and also Deputy John Deasy on the work he has done on Capitol Hill and in parts of the United States, opening doors and working to ensure we got to where we wanted to be. The US Commerce Secretary and the Secretary of the Treasury, Steven Mnuchin, deserve credit for the role they played. It might not be universally popular but they

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have opened doors for us in a variety of ways. I hope the Minister of State with responsibility for the diaspora will come to the House to have that debate. I commend Senators Lawless and Boyhan on the work they have done.

Senator Conway-Walsh raised Deputy Pearse Doherty's Bill. I am sure we will have it in this House in time. We all stand for homeowners and those who are fighting the banks. There is no denying that. The Minister has been clear about his role in it. We will have that debate in due course.

Senator Dolan raised the issue of the wheelchair user who was treated poorly by the HSE and the company with the service-level agreement. It is important we always show respect to people who are in need of a service because of a disability. The out-of-hours service-level agreement should reflect the need for this person to be catered for at all times. As Senator Dolan rightly said, that person has a voice that he or she can use. A Commencement matter from Senator Dolan might be a more expeditious way to get an answer. I am happy to take it up with the Senator afterwards.

Senator McFadden called on the Minister with responsibility for Irish Water to come to the House to address the issue of engagement with Irish Water planning in Westmeath. I would be happy to have the Minister to come to the House to discuss Irish Water. Given the Cabinet decision yesterday, it is perhaps opportune to have a debate on the role of Irish Water and water usage. We can address this as part of that debate.

Senator Murnane O'Connor raised the issue of cancer patients. We had this discussion in the House before Christmas. We all condemn treating cancer patients in this manner. There are unfortunately exemptions which need to be followed up by patients. Hospitals need to be sensitive about the way in which they deal with cancer patients. A code of conduct relating to that is required.

I thank Senator Boyhan for his remarks regarding the Minister, Deputy Zappone, coming to the House. I am sure she will address the issue he spoke about with regard to the Bethany Home. I think the Minister wants to have the final report before adjudicating further. She will be here to address the issue.

Senator Lombard raised the joint policing committee meeting in Cork last Monday with regard to the misuse of alcohol and early morning houses hiring extra security to monitor their premises. The Government is committed to minimum unit pricing being introduced. In October, after 1,000 days, the Dáil passed the Public Health (Alcohol) Bill, the first time that we have used legislation to regulate alcohol misuse. If I may be partisan and familiar for a minute, the comments of Councillor John Buttimer about Cork yesterday were very relevant. They related to the need for a multi-disciplinary task force for Cork and many urban areas with universities and colleges which could bring different stakeholders together to see how we can combat the misuse of alcohol, present an alternative and promote common sense drinking. I think we all share the desire to reduce the harm of alcohol in society.

Senator Warfield raised an important issue, the funding of the Irish Deaf Society. It has a meeting coming up. Many of us are concerned that there will be a potential suspension and withdrawal of many different services it provides. I will ask the Minister of State, Deputy Finian McGrath, to come to the House to address the matter. Perhaps Senator Warfield will submit a Commencement matter. I will endeavour to have the Minister of State come to the House

because the issue is important.

We will not go back over the history of the Commonwealth and where we are today. It is fair to say we are part of a European Union that values us as a country but Senator Feighan has done a lot to build bridges between North and South in our country and he deserves credit.

Senator Paddy Burke raised the issue of tourism in the context of Brexit and the need to see the tourism sector enhanced and strengthened in light of the challenging international climate. I would be happy to have the Minister of State, Deputy Griffin, or the Minister, Deputy Ross, come to the House.

An Cathaoirleach: There is a break before the next item will be taken, which is thankfully not a frequent occurrence.

Senator Gerry Horkan: It is a result of your intervention.

An Cathaoirleach: I am not sure if it is just that. Will the Leader propose that we suspend until 12.45 p.m.?

Senator Jerry Buttimer: I propose that we suspend until 12.45 p.m.

Order of Business agreed to.

Sitting suspended at 12.20 p.m. and resumed at 12.45 p.m.

Greyhound Racing Bill 2018: Report Stage (Resumed) and Final Stage

Acting Chairman (Senator Gerry Horkan): I welcome the Minister of State, Deputy Doyle, back to the House. On the last day, amendments Nos. 36 to 38, inclusive, had been discussed together and amendment No. 36 had been disposed of.

Senator Lynn Ruane: I move amendment No. 37:

In page 48, between lines 25 and 26, to insert the following:

“Reporting on export of greyhounds

56. (1) The Minister, in consultation with the Board, shall produce and lay before the appropriate Joint Oireachtas Committee an annual report following the end of each calendar year which shall include the following:

(a) the number of greyhounds exported from the State in the preceding calendar year,

(b) a list of every country to which greyhounds have been exported from the State in the preceding calendar year, and

(c) a summary of the standards in relation to the health and welfare of greyhounds in each country listed in accordance with *paragraph (b)* in as recent a time period as is practicable.”

Senator Brian Ó Domhnaill: I second the amendment.

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Amendment put and declared lost.

Senator Lynn Ruane: I move amendment No. 38:

In page 48, between lines 25 and 26, to insert the following:

“Reporting on export of greyhounds

56. The Minister, in consultation with the Board, shall produce and lay before the appropriate Joint Oireachtas Committee an annual report following the end of each calendar year which shall include the following:

- (a) the number of greyhounds exported from the State in the preceding calendar year;
- (b) a list of every country to which greyhounds have been exported from the State in the preceding calendar year; and
- (c) the given reasons for export.”.

Senator Brian Ó Domhnaill: I second the amendment.

1 o'clock

Amendment put:

The Seanad divided: Tá, 9; Níl, 22. Tá Bacik, Ivana.Black, Frances.Conway-Walsh, Rose.Humphreys, Kevin.Mac Lochlainn, Pádraig.Nash, Gerald.Ó Domhnaill, Brian.Ó Donnghaile, Niall.Ruane, Lynn.NílBurke, Colm.Burke, Paddy.Butler, Ray.Buttimer, Jerry.Byrne, Maria.Coffey, Paudie.Daly, Paul.Feighan, Frank.Gallagher, Robbie.Horkan, Gerry.Lawless, Billy.Lawlor, Anthony.Leyden, Terry.Lombard, Tim.McFadden, Gabrielle.Mulherin, Michelle.Murnane O'Connor, Jennifer.O'Donnell, Kieran.O'Mahony, John.O'Sullivan, Ned.Reilly, James.Wilson, Diarmuid.

Tellers: Tá, Senators Brian Ó Domhnaill and Lynn Ruane; Níl, Senators Gabrielle McFadden and John O'Mahony.

Amendment declared lost.

Bill, as amended, received for final consideration.

Question proposed: “That the Bill do now pass.”

Minister of State at the Department of Agriculture, Food and the Marine (Deputy Andrew Doyle): I thank Senators for the level of engagement on the Bill, which has finally passed. The purpose of amending the existing legislation is to improve the governance of Bord na gCon, strengthen regulatory controls in the industry, modernise sanctions and improve integrity with a view to building a reputation of excellence in the sector.

The Bill addresses issues identified in a number of reports on the greyhound racing sector relating to governance and regulation. It addresses governance issues in Bord na gCon, strengthens regulatory controls in the industry, modernises sanctions and improves integrity. It includes the welfare of greyhounds as one of the statutory functions of Bord na gCon and provides it with the powers to make regulations on integrity, anti-doping, administration and traceability to improve the identified welfare and integrity deficits that have been affecting the

industry. The Bill will strengthen the greyhound industry, enabling it to deal with the challenges it faces and maximise its potential. I thank everybody again. All of us were on the same page. We may have differed on some particular points regarding the application and interpretation of the legislation but it is a good day's work. It may have to wait until after March before it gets into the Dáil because of the current necessity for Brexit-related legislation to be addressed but I thank the Senators. The Bill is well prepared and hopefully we will see this enacted into law in the first half of this year.

Acting Chairman (Senator Gerry Horkan): I thank the Minister of State. I have been in the Chair a number of times for this Bill and the depth and breadth of the Minister of State's knowledge has been apparent. This is a very technical Bill and the Minister of State is certainly on top of his brief and that was appreciated by all the Members and certainly by me. This is not a time for Second Stage speeches from anybody, but I will allow brief contributions, perhaps one per group, if Senators would like to contribute.

Senator Paudie Coffey: As a Senator who supported this legislation, I want to thank the Minister of State for bringing forward this legislation. It is an opportunity to renew the greyhound industry, an indigenous Irish industry of which we can be proud. Mistakes have obviously happened in the past at various levels in governance and otherwise from which we can learn. This legislation will enhance the industry as a whole. I appeal to all stakeholders, and I speak as an owner of greyhounds who has raced them on tracks and coursing fields in Ireland, to ensure we have a properly-regulated greyhound industry. I thank the officials for their work. Fragmentation between breeders and owners has caused division in the industry. I appeal to them to come together in the best interests of the industry, utilising this legislation, under the leadership of the Minister of State, the new board, and all of us working together to strengthen the industry and create a sense of renewal and give it a bright future because the opportunity is there. I want to recognise the work of the Minister of State and his officials and to wish the legislation well in the Dáil.

Senator Paul Daly: I will be brief because this is not the occasion to be otherwise. I am on record, over the past number of years, as being critical of the Minister of State and the Department as to the whereabouts of the Bill. I thought it could and should have been here sooner but it would be remiss of me today not to acknowledge the hard work and dedication of the Minister of State to get it this far. It is part of my role, in opposition, to be critical and put the pressure on, but I know the Minister of State has put a lot of work in and, quite possibly, the Bill would not even be where it is today were it not for his dedication.

As was said by Senator Coffey, this Bill will play a very important role in the operation of the industry in all sectors. Fianna Fáil had some amendments that were not successful but we reserve the right to revisit those in the Lower House. We will see what happens. It would be remiss of me not to acknowledge the Minister of State's work on the Bill, as someone who had been critical in the past.

Senator Brian Ó Domhnaill: I thank the Minister of State and his officials for their work in bringing the Bill before the House. I support the general thrust and objectives of the Bill, without question, because the objective of the Bill is to improve the greyhound industry to which we all subscribe. I tabled amendments to try and strengthen the Bill, many of which were unsuccessful, and I again ask the Minister of State to reflect on some of the debate which took place in this House as he brings the Bill forward to the Dáil.

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This is a great industry and the Minister of State is very familiar with it. He did an awful lot of good work, even before he became Minister of State, when he was Chairman of the Oireachtas Joint Committee on Agriculture, Food and the Marine. It is still not too late to reflect on some of the material contained within the joint committee report which was published in January 2016 and include it in the Bill when it goes before the Dáil.

I wish the Minister of State well with the Bill. It is essential to bring it in as soon as possible to strengthen the greyhound sector and to improve its governance, despite my shortcomings about it. I presume the Bill may well find its way back to this House if there are changes made in the Dáil and we will have an opportunity at that stage to comment further.

Senator Lynn Ruane: I thank the Minister of State and his officials for their engagement on this legislation. It was not an area I had too much awareness of, but animal welfare was at the heart of all my amendments and I would be aware of that across any sector. I am thankful the Bill will leave here with some amendments attaching to it. The amendment relating to the vet on the board is a strong one, as are the guidelines dealing with retired dogs. I hope they will stay in the legislation when it hits the Lower House. I thank the Minister of State for his openness and engagement on the Bill.

Acting Chairman (Senator Gerry Horkan): Senator Butler is very interested in this particular area and he spoke a number of times in a detailed and comprehensive way in making contributions. I will allow him to also make a brief comment.

Senator Ray Butler: I thank the Minister of State for all his hard work. I have seen the Minister of State go around the tracks at Shelbourne Park and country tracks and give his input and meet trainers, owners and managers. I also thank his officials.

We have seen significant mistakes made down through the years on pensions for people who worked in Bord na gCon in Limerick. At one time, before the crash, the CEO was earning more money than the Taoiseach - the guts of €350,000 for running a State body. We put in €17 million of taxpayers' money and very little of that was coming down to the breeder, trainer or tracks. I hope we have learned a hard lesson and that mistakes of the past will never happen again. I have no problem with anybody getting a decent wage and being paid the proper wage for their work but that was ridiculous. It was a cash cow for certain people. When things went bad, those people just flew into the distance and went away with nothing said.

I thank the Minister of State for all his hard work and there is no doubt this will improve transparency and treatment in greyhound racing. I have seen how much work has been done through the years with retired greyhounds. Every greyhound owner, trainer and breeder loves their greyhound and wants them to have a happy retirement and a happy home. This cannot happen all the time but it is slowly getting there. At some stage, we will be able to retire all the greyhounds and re-home them. I thank the Minister of State for his work.

Acting Chairman (Senator Gerry Horkan): Well done to the Minister of State and I thank all the Members for their contributions over the course of a lengthy debate.

Question put and agreed to.

Sitting suspended at 1.17 p.m. and resumed at 3 p.m.

Consumer Protection (Gift Vouchers) Bill 2018: Order for Second Stage

Bill entitled an Act to amend the Consumer Protection Act 2007; and to provide for related matters.

Senator James Reilly: I move: “That Second Stage be taken today.”

Question put and agreed to.

Consumer Protection (Gift Vouchers) Bill 2018: Second Stage

Acting Chairman (Senator Diarmuid Wilson): I welcome the Minister for Business, Enterprise and Innovation, Deputy Humphreys, back to the House. She is a regular visitor and is always very welcome.

Minister for Business, Enterprise and Innovation (Deputy Heather Humphreys): I am pleased to bring the Consumer Protection (Gift Voucher) Bill 2018 to the House. The Bill proposes to amend the Consumer Protection Act 2007 to provide additional protections for consumers who receive gift vouchers. There are few people either inside or outside the House who have not given or received a gift voucher at some time. Industry estimates suggest that the annual value of gift voucher sales in Ireland is approximately €600 million. A survey undertaken for the Competition and Consumer Protection Commission in 2014 found that 41% of the consumers surveyed had purchased a gift voucher in the previous 12 months. It is clear, therefore, that the appropriate regulation of gift vouchers is an issue which impacts on a large number of people. However, at present, there is no specific legislation dealing with gift vouchers.

This Bill proposes that gift vouchers must have an expiry date of not less than five years from the date on which the voucher was issued. A trader who supplies a gift voucher must also provide information on its expiry date on a durable medium such as paper or email. At present, expiry dates for gift vouchers can often range from as little as six months up to 24 months. In the retail sector expiry dates for vouchers issued by large retailers are typically two years from either the date of purchase or of last use. In the hospitality and travel sectors an expiry date of one year is common. Research undertaken in 2013 and 2014 by the then National Consumer Agency found that between one quarter and half of consumers had let a gift voucher expire at some point without using it. In some cases this happened because the voucher was lost or forgotten but in other cases consumers found themselves unable to use a gift voucher because it had expired before the consumer went to redeem it. It is entirely wrong that consumers should find themselves unable to use a gift voucher because of an unreasonably restrictive expiry date imposed by the business that issued the voucher.

The five year minimum term for gift vouchers provided for in the Bill strikes a fair balance between the right of consumers to get what they or people close to them have paid for and the need of businesses for commercial certainty. In its response to the Department’s public consultation of July 2018 on gift vouchers, Retail Ireland, which represents retailers with more than 3,000 outlets throughout Ireland, stated it was not opposed to the proposed five year term for gift vouchers. Chambers Ireland, which represents 43 affiliated chambers throughout the Republic, indicated that five years was a reasonable minimum term for gift vouchers. These views reflect the fact that responsible businesses want to treat customers fairly and to retain their goodwill. Some businesses, although not all, will honour gift vouchers that are tendered

well after the expiry date. I am sure many Senators are aware of cases where local businesses have done so. That shows a commendable loyalty to the customer. This Bill is about giving certainty to people that their voucher, at a minimum, will be valid for five years. It is worth noting that in the United States gift vouchers must be valid for at least five years under federal law.

I am pleased that the Bill also includes provisions that address certain unfair practices which were brought to my attention in consumer responses to the Department's public consultation on gift vouchers. The first of these provisions deals with gift vouchers that require the full value of the voucher to be redeemed in a single transaction. While this is not a widespread practice, I am aware of a number of cases where traders impose such a requirement. There is no justification for such an unfair and anti-consumer practice. The Bill prohibits it and provides that where a consumer redeems only part of the value of a voucher and the remaining balance is greater than €1, the trader must reimburse the remaining balance by way of cash or another gift voucher. For example, if one has a restaurant voucher for €100 and the cost of the meal comes to €75, the restaurant must give the remaining balance of €25. It cannot make the person use the full voucher in one single transaction or risk losing the balance.

The second provision seeks to address cases where the purchaser of a voucher is required to indicate the name of the intended recipient. If the name of the recipient on the voucher differs from the recipient's name as stated on the person's passport, for example, the recipient might be precluded from using the voucher. For example, I recently received a representation from a retired person on a fixed income who had been unable to use a voucher worth €200 to book flights to visit family and friends in the UK because the family members who purchased the voucher used the familiar name by which they knew the person rather than the name on the person's passport. Appeals to the airline to re-issue the voucher in the name stated on the passport have been unsuccessful. This type of restriction on the use of a voucher is manifestly unfair and I am glad to have the opportunity to tackle it. Accordingly, the Bill provides that where a gift voucher is subject to a requirement that it be used by a named consumer, a trader shall not refuse to accept a gift voucher from a consumer other than the consumer named on the voucher or charge a fee for amending or changing the name of the consumer named on the voucher. The inclusion of these provisions in the Bill show the value of public consultation. If Senators are aware of other unfair practices involving gift vouchers, I would be glad to have details of them and I am willing, where necessary, to introduce amendments to the Bill to address such practices.

Thus far I have discussed what is in the Bill. I now turn to a provision that is not in the Bill. The scheme of the Bill which I received Government approval to draft in June 2018 included a provision authorising the Minister for Business, Enterprise and Innovation to make regulations relating to fees for the issue and replacement of gift cards and for inactive balances on gift cards. The latter fees, which range from €1.40 to €3.50 per month, are commonly known as dormancy or maintenance fees and apply after 12 months to electronic money gift vouchers such as the One4All and FromMe2You gift cards and to some shopping centre gift cards. Consumers understandably feel that they should be able to redeem gift cards at their full face value. While some of these providers may argue that their gift cards are not subject to expiry dates, the fact is that if one has a gift card for a relatively small amount and approximately €1.50 is being deducted from it every month after 12 months, it will not be long before the value of the gift card is wiped out. In essence, this is an expiry date by another route.

The providers of regulated electronic money gift cards maintain that the cost of providing the additional protections required by law for these products necessitates the imposition of fees.

While I remain strongly in favour of the regulation of the gift voucher fees in question, a legal issue emerged in the course of drafting the Bill regarding the power proposed for the Minister of the day to make regulations fixing these fees. That issue relates to possible encroachment on the regulatory regime for electronic money products. As I did not wish to delay the Bill further, I decided to omit the provision on the regulation of gift voucher fees pending the outcome of the required legal review. If the review concludes that the provision to give the Minister power to set certain gift voucher fees would not involve an impermissible or inappropriate double regulation of electronic-money gift vouchers or gift cards, I will propose an amendment on Committee or Report Stage. This would offer further protection to consumers and I would be happy to hear Senators' views on the matter. The fee-setting power proposed for the Minister would be subject to certain conditions, including requirements for prior consultations, fees to be proportionate and commensurate with the costs incurred by businesses in supplying and servicing gift vouchers and consumers to be protected.

I will now deal with the various sections and set out what each seeks to achieve. Section 1 refers to the Consumer Protection Act 2007 because the Bill's provisions will form a new Part 4A of that Act. The incorporation of the Bill's provisions in the 2007 Act means that the comprehensive enforcement regime in Part 5 of the latter will apply to breaches of these provisions.

Section 2 provides for the insertion in the 2007 Act of Part 4A, comprising new sections, 66A and 66B. Section 66A defines gift vouchers and provides for a number of exclusions from the definition. The exclusions relate to vouchers usable only for the purchase at a discounted price of specified goods or services from a specified trader or traders on a specified date or for a specified period of limited duration; vouchers supplied under a customer loyalty or promotional scheme; and vouchers supplied to a customer as a refund for goods returned to a trader. It may be necessary to provide for further exclusions by way of amendment to clarify the products, such as transport or telephone cards, that would not generally be regarded as gift vouchers and that do not come within the scope of the definition.

Section 66B provides for the five-year expiry date for gift vouchers outlined earlier and for the requirement for a trader to inform a consumer of the expiry date, if any, to which the voucher is subject. The section also contains provisions addressing unfair practices that require gift vouchers to be redeemed and fall in a single transaction and that preclude the use of vouchers because of issues relating to the name of the recipient or which impose a fee to change or amend the name of the recipient of the voucher. Furthermore, the section includes offences, provisions and definitions of expiry dates and durable mediums.

Section 3 provides for consequential amendments to the Consumer Protection Act. Section 4 contains provisions on the Short Title, commencement and citation of the Bill.

Gift vouchers are issued by many businesses and purchased by and for many consumers. They are popular because of the advantages they offer to both businesses and consumers. It is essential, however, that the advantages they offer consumers are not undermined by unfair terms and practices. The Bill seeks to address a number of such unfair terms and practices in a fair and balanced way. There is cross-party support in respect of this matter, as is evidenced by Private Members' Bills that have been brought forward. Ultimately, we are all consumers and, therefore, the issue affects us all.

I look forward to working with the House on Committee and Report Stages, including on any amendments that may be proposed. I will be happy to reply to any questions that arise. In

the meantime, I commend the Bill to the House.

Senator Aidan Davitt: We are delighted to have the Minister back in the House. As she is aware, Fianna Fáil welcomes the Bill. We have discussed it with her on a number of occasions. We broadly welcome the provisions in the Bill, which are similar those of the gift card and gift voucher Bill for which my colleague, Deputy Niall Collins, sought cross-party support in mid-2017.

The gift voucher market in Ireland is sizeable, worth in excess of €600 million in sales. A large proportion of the market is subject to direct consumer protection regulation. In its draft Bill, Fianna Fáil rightly distinguished between, on the one hand, the large, unregulated element of the market that typically includes store-branded gift vouchers and shopping vouchers and, on the other, the smaller, highly regulated e-money sector. The latter sector is regulated under various EU directives including electronic money directives, anti-money laundering directives and unfair contract term directives. These directives provide strong consumer protection provisions, including obligations regarding transparency, non-application of expiry dates on products, protection of client funds in safeguarding accounts to protect voucher holders in the event of an issuer going out of business, and provisions for application of fees.

Through its own research into the gift voucher market in Ireland, and based on outputs by the Department of Business, Enterprise and Innovation, following its consultation process on the subject, Fianna Fáil acknowledges the substantially different business models that apply to the regulated gift voucher sector and its unregulated equivalent. The regulated sector incurs vast increased costs of operation due to the regulatory mandates that apply and, consequentially, has a justifiable set of income streams, including fees, to meet these high costs. Fianna Fáil also observes that the gift voucher market is highly competitive, with a wide range of consumer choice on offer.

The Bill adopts features of the European electronic money directive and other directives and applies them to the full gift voucher market in Ireland. These features include a control on the application of expiry dates and the introduction of obligatory transparency, among other features. While these provisions do not go as far as the protection offered by products, such as One4All, which are regulated under EU directives, they are welcome improvements in consumer protection for currently unregulated products. We urge the Government to be cautious on the application of the Bill to the current regulated gift voucher sector on the basis that it introduces some risk of regulatory misalignment and conflict with superior EU law. However, as the Minister acknowledged, we are happy to support the Bill. She indicated that she is seeking advice on that matter and we will see what transpires in that regard.

The legislation, without amendment, will ensure that consumers can select gift voucher products of their choice with full access to the terms and conditions and be sure there is a reasonable period under which the products will not expire, resulting in a loss of funds. As stated, we do not support any amendment which seeks to impose unnecessary controls on pricing in the sector. This is not required because the market is highly fragmented with wide consumer choice and, with increased protections of transparency, consumers can select their product of choice safely in the knowledge of the terms and conditions. Imposition of price controls would introduce less choice for the consumer and would affect the industry's ability to innovate and grow, to the detriment of the consumer.

As noted, Deputy Niall Collins has done much work on the issue and we are happy with

the bulk and drive of the Bill. We are not keen to seek many amendments, although I note that the Minister is awaiting legal advice on one aspect, as she mentioned, and I urge caution in that regard.

Acting Chairman (Senator Diarmuid Wilson): I call the doctor, Senator James Reilly.

Senator James Reilly: I thank the Acting Chairman for affording me my full title. I welcome the Minister back to the House. She has a strong record of bringing Bills to this House that are practical, of public interest and to the benefit of the consumer.

One of the main parts of this Bill is that none of these vouchers should expire in less than five years and I strongly agree with that. I continually come across vouchers that are not much use to me anymore. People buy them with the intent that the person for whom they are bought will benefit from them. It is not good enough that certain retailers have used methodologies to deprive people of what they have paid for either for themselves or someone with whom they have close links.

As the Minister mentioned, many retailers honour vouchers long after their expiry date. I recall listening to a man from Dundalk espousing that very point on the radio. Somebody walked into his shop after 28 years and he honoured the voucher. Inflation must have taken its toll but, even so, it was a great thing to be able to say and one could only commend him on that approach.

The provisions in this Bill are important and the one around full redemption of the voucher at the time is an important consideration. Consumers should be able to retain what remains on the voucher. It is utter nonsense that a voucher is invalid if there is a different name on it from the person who presents it. That is clearly spurious and unfair.

This is a good Bill. The Labour Party made an attempt at this legislation back in 2009 but it was rejected by the Government of the day. As the Minister said, in 2015 the then Minister, Deputy Bruton, put forward a Bill like this that did not become law.

I hear precisely what the Minister said about her concerns around electric money orders and I agree we do not want to find ourselves falling foul of European law. I am pleased she will come back with an amendment to address that particular situation following a review.

I want to mention One4all, a company set up in Swords in 2001 which employs 140 people. It provides a fantastic service and also brings in a lot of money from abroad as it is a huge provider of gift cards in the UK and Maltese markets.

Employers should note that Revenue takes a benign view on vouchers. An employer can give a voucher up to the value of €500 without it incurring a tax liability on the employee and it allows the employer company to claim it against tax. Employers should remind themselves of that if they want to make Christmas time a bit better for their employees, or if the business is going well and they want to reward their workers.

It is important we remind people of the vouchers. The Minister told us that €600 million is spent on vouchers in this country each year. How many people have vouchers stuck in drawers and odd places at home and have forgotten about them? Everyone should make it their new year's resolution to hunt out old vouchers in their houses and spend them because that is the way the shopkeepers will get their money and the consumer will benefit from the gift that has

been bestowed upon them.

There is an issue I want clarity on, and I have spoken to the Minister's officials, but I think it would be useful to put this on the record of the House. In many instances, as the Minister pointed out, the vouchers are never spent, for whatever reason, whether they are lost, misplaced or out of date. I would like to know what happens to the money. I am not talking about electric money transfers, which we know stay in perpetuity and the consumer has a right, whether in three, five or 20 years, to come back for. I am talking about the gift vouchers that we are addressing in this particular legislation. If the voucher is never redeemed, what happens to that money? I have been told it goes into an account that neither the shopkeeper nor the retailer can access. I would like to know if that is true and, if that is the case, whether it becomes part of the dormant accounts system and ultimately find its way back into public circulation. I do not believe that is true. What has happened to the money I paid for that voucher for my friend ten years ago? Did the shopkeeper from where the token benefit from it? Did the gift card seller who did the deal with the shopkeeper for those tokens get the money? What happened to the money? I would appreciate if the Minister can provide clarity on that because I have heard various things and, obviously, it is something in which I have an interest.

To reiterate, this is a good, simple and straightforward Bill. It will hugely improve consumers' rights and we cannot let the opportunity pass without reminding everybody at home that if they have vouchers to dig them out and spend them. I commend the Bill to the House.

Senator Pádraig Mac Lochlainn: I welcome the Minister to the House to discuss this legislation. I note there have been some delays and difficulties in getting the Bill to this point and there have been many attempts to legislate on this issue before.

It is important to listen to and understand the perspectives of businesses in regard to legislation that affects them. It is also important to properly resource businesses to equip them to deal with any major legislative change. Equally, it is also important to balance protection of business with protection of the consumer and that is what this Bill aims to do today. It is important the Government stands strong to get this legislation debated, amended, if necessary, and enacted into law. It should not be left to gather dust as the other attempts have been.

As the Minister said, this Bill aims to provide for a five-year expiry period for gift vouchers, prohibit terms in gift voucher contracts which require gift vouchers to be spent in a single transaction, ban terms which impose a fee for changing the name of a recipient on a gift voucher and provide for the publication of guidelines by the Competition and Consumer Protection Commission on gift vouchers.

As I said, there is a balance to be struck in terms of authentically engaging with businesses and listening to and addressing their concerns and protecting consumers. I would appreciate if the Minister could outline how many meetings have been held with gift voucher companies in relation to this Bill. Equally, how many meetings have been held with consumer rights groups? Can the Minister outline what the outcomes of these meetings were, including any major concerns that either party had?

My party colleague, Deputy Quinlivan, tabled a parliamentary question about complaints that have been lodged with the Competition and Consumer Protection Commission from 2014 to 2018 regarding gift vouchers. This is vital information to get a clear picture of where the key stakeholders are with this issue, how prevalent the issue is, what problems are currently

affecting consumers and how our current complaints mechanism is addressing these concerns.

The key concern I have from my primary analysis of this legislation is around what will happen in terms of experience vouchers. It is important we discuss how this legislation will affect gift vouchers that are given as experience vouchers, for example, for a hot air balloon ride, a bungee jump, adventure sports, race car driving, etc. The costs of these activities could change dramatically over the proposed five-year period. For example, if a voucher for a hot air balloon experience is purchased now for €300 and a five-year limit is enforced, and the price of insurance and the gas used, or both, goes up substantially in that timeframe, the profit margin of the company will be eliminated.

As we know, the problem of escalating insurance costs is going unaddressed by this Government and that is of serious concern to most, if not all, businesses operating in the State. It is, therefore, important that this issue is addressed by this Bill. Has this particular issue been considered by the Department?

Another concern I have about the legislation is around dormancy fees. These are fees charged by a company for certain time periods when a voucher is in use. A company can currently deduct an amount of money per year as an administrative charge and when someone goes to use his or her voucher, he or she has less on it than he or she thought. Will dormancy fees be outlawed under this legislation? What about vouchers bought in other jurisdictions with stores here? How will this new law apply to them and will there be a five-year term on these? For example, if one buys a voucher in Spain, in a multinational chain that has stores here, which expiry date will apply?

I would appreciate if the Minister could clarify the points I have raised. Overall this is a good Bill that Sinn Féin can support. The banning of fees for changing a name and the requirement to use a voucher in a single transaction is welcome, and a five-year term seems to strike a fair balance between the rights of consumers and those of businesses. However, the issue of experience vouchers needs to be teased out. The ambiguity of dormancy fees is a concern. We ask the Minister to look at this and, if necessary, we may table an amendment to this effect on Committee Stage. We ask the Minister to work with us on that.

Senator John O'Mahony: I am glad to support this Bill about the regulation of gift vouchers and commend the Minister for progressing the legislation to this point and hopefully to completion. We are often accused in these Houses of not having common sense rules, regulations and legislation. This is certainly legislation that is badly needed. It has been talked about for some time and I am glad to see that it has reached this stage.

With the increased use of gift vouchers, especially at seasonal occasions such as Christmas or Easter, there must be clarity and protections for all stakeholders, especially the consumer. This Bill brings that protection. I did not realise until the Minister gave the figures that over €600 million annually is spent on gift vouchers. That is a large amount and great dynamic for businesses. It needs to be handled and regulated, though it is not an issue for the majority. Having mislaid vouchers over the years, I have found many businesses very co-operative, understanding and trusting. I saw a case in the media recently where a business honoured a voucher that was 15 or 20 years old. It is not a regulation for the majority but for the few that may have abused the system to a certain extent.

I think that five years is a reasonable time limit. I am glad to see that Chambers Ireland,

Retail Ireland and so on fully support this time limit or do not object to it. I heard a discussion on the radio recently about the small number of businesses, one of which is not far from this establishment, where if a voucher was not spent in full, a person lost the rest of his or her gift voucher. That is outrageous and I am glad that this Bill addresses it. Vouchers are good for business and for consumers if everybody abides by the rules. Big businesses and small businesses need as much footfall and as many transactions as can be generated and gift vouchers are increasingly a vehicle to do that and will benefit from the clarity and protection in this Bill. Everyone is a winner here, including consumers and businesses. Hopefully the only ones who might lose a little bit will be some radio shows. Joe Duffy might have to fill in a few missing parts with another topic but that will be a sign that this Bill is successful. I wish the Minister well with it.

Senator Jerry Buttimer: Cuirim fáilte roimh an Aire go dtí an Teach. Ba mhaith liom comhghairdeas a ghabháil léi as ucht an Bhille seo. In welcoming this Bill and the Minister, Deputy Humphreys, I first of all compliment the Minister on her common sense approach to Brexit. I ask some of our parliamentary colleagues across the water to pay attention to some of what the Minister has said about a number of issues relating to Brexit because she has struck a chord with regard to the importance of an all-Ireland approach to Brexit. I commend her for that. We have not had the Minister here for a while because she has been busy but she will be back with other legislation. I welcome the Minister and this Bill.

It is most welcome legislation and as Senator Reilly said, it has two parts. One is ensuring that we all spend and use the voucher and the other is ensuring a common sense approach to the regulation of gift vouchers. I welcome the Minister's dedication to this legislation. When she became Minister, she set about doing this work. I know she has set aside some other issues which is understandable given the complexities of the situation. For some of us, five years may be a bit too little and we may like to see ten years or more. I understand where the Minister is coming from. I know that we cannot do it retrospectively but it is a pity that we could not since in every household in the country, vouchers and gift cards lie idle. I am guilty myself. This legislation ensures that a balance is struck between the needs of business and the consumer.

Before this legislation was introduced, the Minister helped to educate people, including consumers, to be able to redeem the voucher and addressed the need for regulation. I ask that she continues, through the use of advertising by her Department, to promote and educate people about this legislation. It is a winner for the consumer. Many people are not informed. We could go into shops with, for argument's sake, a €50 voucher and be told that we have to spend it all at once. We might go into other shops where one can keep a portion of the card. It is important to regulate vouchers. As the Minister said in her speech, and Senator O'Mahony also referred to it, €600 million is a sizable chunk of change in our retail economy. There is a need for regulation and for clarity and certainty for the consumer.

I digress to talk about the matter of the retail business itself, which is under savage pressure from e-business and online sales. I know we have seen some reduction in some of the retail activity on the high street. The struggle we see in the city of Cork, for example, is linked to a number of issues. I hope that we recognise that face-to-face spending has dropped. There is now an ongoing battle that we must address as a new generation of legislators at parliamentary, city and council level, with those charged with managing our local authorities, and our business partners in large urban towns and cities. We have to look at how we can tackle e-commerce and spending on it, which has increased by almost 10%. The migration to online activity is happening at a rate which is perhaps faster than what was envisaged.

There will come a time when we, as parliamentarians, may be asking what the future for our cities and towns is. I hope that the Government will look at a cross-departmental approach to how we can, with local authorities and business leaders, whether chambers of commerce or business associations, work to challenge each other in making our cities the place to be. I specifically refer to the city of Cork from which I come. We must ensure that the island of Cork city does not become a ghost city. We must have an attractive proposition for people through the building of park and ride facilities and through parking regime ameliorations for customers. I hope that we can, through the Minister or whoever the lead Minister will be, have a multi-departmental approach. I am fearful for our large urban towns. If we do not tackle the issue of online and e-sales, then we will concede the battleground. That is, in part, a matter for retailers themselves. An overarching approach can be taken by the local authorities, Government and business leaders.

I commend the Minister for the Bill. I thank her for being here today. I commend her for the work she is doing to ensure that in her Department the Red Cow and the M50 are not the end of Ireland. She has been very progressive and worked hard to attract businesses and jobs to places outside of Dublin, which she has done quite successfully, especially in the city and county of Cork where I am from. I thank her for that and for her courtesy and that of her officials when we meet them about issues around employment. It is important we ensure the spread of jobs around the country. I am very happy that the Minister understands that and works very hard to ensure it. Today is a good day for the consumers of Ireland. I hope the Minister's views on Brexit are heard across the water in the House of Commons and by those who do not understand the importance of Brexit and what a hard border will mean to us in terms of retail, business, farming and tourism.

I thank the Minister again.

Acting Chairman (Senator Diarmuid Wilson): The Leader was right on the button of six minutes. He has obviously been practising.

Senator Aidan Davitt: It was the first shots of the general election.

Acting Chairman (Senator Diarmuid Wilson): He was exactly six minutes.

Senator Jerry Buttimer: I heard the Cathaoirleach telling us on the Order of Business this morning that we should stick to our time limit.

Senator Aidan Davitt: Well done to the Seanadóir.

Acting Chairman (Senator Diarmuid Wilson): Senator Buttimer was exactly six minutes.

Minister for Business, Enterprise and Innovation (Deputy Heather Humphreys): I thank all Senators who spoke on the Bill for their constructive and helpful contributions to the debate. I also welcome the Senators' expression of support for the contents of the Bill. As I mentioned earlier, the Bill deals with an issue of considerable importance for consumer welfare and businesses that provide goods or services to consumers. It is clear that consumers deserve greater protection when they buy gift vouchers.

Following our debate it is clear there is wide support for introducing a longer expiry date on all gift vouchers. Equally, it is important that consumers are protected against unfair and

anti-consumer practices such as the requirement to fully use the value of a voucher in one transaction and the restrictions put in place by certain businesses with regard to the name of the gift card recipient.

A number of issues were raised which I will address. With regard to the issue referred to by Senator Davitt on electronic money and payment services regulations, the legal advice received from the Office of the Attorney General concluded the provision for a five-year minimum term for gift vouchers did not give rise to any incompatibility with the electronic money regulations in view of the fact electronic money instruments remain redeemable for as long as funds are held in the instrument. This type of voucher is, effectively, subject to no expiry date. The legal advice stated that the provision in the original scheme of the Bill empowering the Minister for Business, Enterprise and Innovation to make regulations fixing certain gift voucher fees raised issues regarding its relation to the regulatory regime for electronic money instruments. The matters at issue are being reviewed in consultation with the Department of Finance and the Central Bank. The provision on the regulation of fees does not form part of the Bill. The outcome of the legal review will determine whether it is possible to reintroduce such a provision on Committee or Report Stages. At the end of the day, I want to protect consumers. It has been brought to my attention on many occasions that when people receive a gift card, for example one worth €100, they are delighted but sometimes do not use it. They hold on to it to buy a particular item they are waiting for and then discover after 12 months it is worth less than they thought it was. The value reduces every month after that. Some people were not aware of that and it has caused concern.

Senator Reilly raised the issue of who benefits from the funds. He talked about his friend who did not cash a gift voucher. If one does not cash a gift voucher, it goes back to the shop. I encourage people to cash their gift vouchers and to use them as quickly as possible because we have found examples of businesses going out of business and people not being able to cash vouchers. That happens too. If one does not cash it and the expiry date arrives, the business does not have to cash it after a year or 24 months. I am extending that to five years, which I think is a reasonable time to allow people to cash their gift vouchers.

Senator Mac Lochlainn raised the issue of experience vouchers. With so-called experience vouchers, purchasers buy a voucher to participate in a named experience, for example a voucher to take part in a hot air balloon ride. Operators have claimed the introduction of the proposed expiry date provision could see them bear higher costs for the provision of the service in the future than the original cost of a voucher purchased five years earlier. They said it could result in excess demand over potential supply of the experience if many voucher-holders held onto their vouchers for almost the entire five-year period, as the cost will have gone up. While noting the concerns expressed, I do not believe the scenario outlined will emerge in the vast majority of cases and thus I do not believe that an exception is required for these situations. I believe the retailer can get over that issue by putting the value of the experience on the voucher. That should cover it.

The Senator mentioned buying a voucher in Spain. I cannot answer that question because I do not know if it can be spent in this country. We will check it out and find out what the situation is for consumers.

To return to the point made by Senator Reilly, sometimes there are town vouchers where people can go into their town-----

Senator Aidan Davitt: The chambers of commerce.

Deputy Heather Humphreys: They can buy them. They are supposed to ensure the money is spent in a given town. Many are for one year only. The business model is based on the voucher expiring after one year. I will revisit it. It is very useful that the Senator raised the issue. I will follow up on it. I cannot give an answer. They are very successful for towns so we have to find a way to make sure it works well because it is great to see that people can get those vouchers and spend them in their local towns. They have been really successful in many towns right across the country.

The issue of the public consultation was raised and 23 signed responses were received from consumers. I will refer to the main points made in the responses. Of the respondents, 14 were supportive of a five-year limit or ban on expiry dates or fees. One respondent thought a five-year period was too long and favoured a two-year period. Six respondents stated the fees that currently apply to multi-retailer gift vouchers are reasonable given the advantages and extra protections offered by the products. One respondent raised the question of restrictions on the use of gift vouchers and two respondents gave views on matters not covered by the consultation. There were 20 responses received from businesses that issue gift vouchers or provide technical processing or other services to businesses issuing gift vouchers. A further six submissions were received from business representative bodies. Submissions were also received from the Competition and Consumer Protection Commission, the Consumers Association of Ireland and Deputy Niall Collins.

The majority of business respondents favoured the exclusion of electronic money gift cards from the scope of the proposed legislation. A number of respondents were opposed to a provision empowering the Minister for Business, Enterprise and Innovation to set fees for gift vouchers. Two of the main business representative bodies, Retail Ireland and Chambers Ireland, stated they would not oppose a five-year minimum term for gift vouchers while a third body, Retail Excellence favoured a three-year minimum term for non-electronic money vouchers. A number of respondents, principally the suppliers of shopping centre gift cards, whose revenues derive mainly from balances on gift vouchers unredeemed within 12 months from their issue date opposed the proposed five-year minimum term for gift vouchers. It is a real bugbear for consumers when they have a voucher that is slightly past the year expiry date and they discover it is worth nothing. It is incumbent on us to protect those consumers.

With regard to public awareness, the CCPC website has excellent information. If consumers want to find out about gift vouchers, there is a lot of information there. Senator Buttimer raised the issue of high street retailers and the difficulties they face throughout the country. It is something we are all very conscious of. They can avail of online vouchers at their local enterprise office. I suggest that they do so and get online as well. Through Enterprise Ireland, I launched a fund last year to support businesses in developing a better online presence. It was a deeper support to help them trade online. That is something we have to continue to support.

I thank the Senators who contributed to the useful and informative debate on this Bill. As indicated earlier, I look forward to working with the House on Committee and Report Stages, including in respect of any amendments that may be tabled. This is an issue which has been discussed for many years. With the support of the House, I would like to have the legislation enacted as quickly as possible for the benefit of consumers.

Question put and agreed to.

23 January 2019

Committee Stage ordered for Tuesday, 29 January 2019.

Sitting suspended at 3.50 p.m. and resumed at 5 p.m.

First Aid and Mental Health in Schools (Initial Teacher Training) Bill 2018: Second Stage

An Cathaoirleach: I welcome the Minister of State, Deputy Mitchell O'Connor, to the House. We will proceed with the First Aid and Mental Health in Schools (Initial Teacher Training) Bill 2018 - Second Stage, and First Aid and the Mental Health in Schools (Existing Teachers) Bill 2018 - Second Stage. In accordance with the order of the House today the Second Stage of both these Bills will be debated together and decided separately. Senators may speak on both Bills simultaneously as there will not be a debate on the second Bill, except when voting.

Senator Robbie Gallagher: I move: "That the Bill be now read a Second Time."

Cuirim fáilte roimh an Aire Stáit go dtí an Seanad. The Minister of State is very welcome to the House and I thank her for her attendance.

At the outset, there are a number of people I would like to thank for assisting me in drawing up this legislation. I thank the various teaching organisations, the Irish Heart Foundation and the Catholic Primary Schools Management Association with whom I spoke. I also thank a number of my colleagues in the Seanad and in the Lower House, who also assisted me in this work, Ms Maria Condon, who has done much work in this area over a period of time trying to highlight this issue and the need for it to be addressed, and the contributions of many others in this regard.

I learned much on my journey with this Bill. I started off by learning that when a child goes to a childcare facility, all the staff there have to be trained in first aid before they are allowed to work in it. When the child progresses and reaches the age of four or five, he or she goes on to primary school and then to secondary school. However, some parents do not realise there is no requirement on the staff in schools, whether teachers or special needs assistants, SNAs, to be trained in first aid. That is something I was surprised to learn. However, I acknowledge the work being done by many school principals and boards of management who are doing their own thing and are getting outside help from people to assist them and to teach them about first aid. However, the Department does not require them to do so.

My motivation, and where I got inspiration to do something about this, relates to an incident that occurred in a school in Monaghan town over three years ago. A young teacher was giving a class and halfway through the class, she had a suspected heart attack. She collapsed and fell to the ground and two students in the class went to her aid. They were able to perform cardiopulmonary resuscitation, CPR, and an ambulance was called. Thankfully, the teacher is now back working in the school. I take this opportunity to acknowledge the great work done by those two students and their quick thinking. Those two students were qualified in first aid and, thankfully, there was a happy ending to the whole situation.

Subsequent to that event, a number of teachers said to me that if the situation had been reversed, and something dreadful like that had happened to a student, not all teachers would have

been qualified in first aid. That is a situation we need to address and that is purpose of my Bill.

I acknowledge that some great work is being done by the Irish Heart Foundation, which is travelling to schools to teach the teachers and then encouraging them to teach the students. However, it is important the Department of Education and Skills takes the lead in this area. For that reason, I decided, with the assistance of others, to try to bring in legislation that would address this issue. I was advised that the best way to go about this would be to break this down into two Bills, as outlined by the Cathaoirleach. The first Bill deals with the teacher training colleges so that when a young person goes to such a college to study to become a teacher, there will be a specific module dealing solely with first aid and mental health.

The second Bill relates to teachers who are already qualified and are currently teaching. It seeks to provide for a curriculum to be organised, and delivered through continuous professional development or any other means decided on by the Department, to enable such teachers to receive qualifications in mental health and mental health first aid. As we know, first aid is not just for the body - it is also for the mind. It is very important to say that. Teachers have told me they are looking forward to the introduction of this legislation. I know that the greatest gift we can teach anyone is the gift of life. If the introduction of this legislation saves one person's life, it will be very worthwhile. The second part of this legislative proposal relates not just to continuous professional development, but to all other instances that can happen. Children can be asthmatic. A child can choke in the classroom. I am sure the Minister of State will agree that a broad range of circumstances can arise. We need to do some work in this area.

Mental health first aid is vitally important. We know that the children of today are under much more pressure than we were under when we were their age. It is important to recognise that. As Frederick Douglass famously said, "It is easier to build strong children than to repair broken men". It is very important for teachers to be qualified to deal with physical situations confidently by providing first aid. Equally, they must be able to identify the symptoms of a child at the back of a classroom who is not participating. When they identify such signals, they should be able to intervene and handle the situation from there.

A teacher spoke to me one day about being approached by a young child who was feeling very anxious. This child was a very good sportsperson who excelled on the sportsfield and was a fantastic footballer. The teacher could not understand how this child was suffering from anxiety. Apparently, the problem was that the child got very uptight when it came to the actual game. It was affecting his mental well-being. It is important for teachers to be qualified to identify the signs and, more importantly, to be able to deal with these matters and put the child on the right path.

I hope the Minister of State will take this legislation on board. I hope my colleagues in the Seanad from all parties and none will find a way to assist us to draw up legislation that will address this issue and put it on a strong footing so that it is not left to boards of management, school principals or teachers to do it for themselves. There should be proper direction. A proper module should be drawn up so that our teachers are fully qualified in physical and mental first aid and, in turn, are able to pass their skills on to the children they look after. As I said earlier, the most important thing we can do as we travel through life's journey is try to save a life. This legislation gives us an opportunity to put that principle on a strong footing. I plead with all Members of the House to support this legislation.

An Cathaoirleach: I understand Senator Ned O'Sullivan is seconding the motion. He has

eight minutes if he wishes to speak.

Senator Ned O’Sullivan: I formally second the motion. I commend all of my colleagues, particularly Senators Gallagher, Wilson and Swanick, on putting this Bill together. It will have appeal across the floor of the House. I hope the Minister will be able to give a positive response.

For the sake of clarification, I would like to reiterate what my colleague has said about the hybrid nature of this legislation. The First Aid and Mental Health in Schools (Initial Teacher Training) Bill 2018 proposes that teacher training must incorporate occupational first aid and mental health first aid. It provides that in order to secure a job, a teacher will have to show that he or she has completed training in occupational first aid and mental health first aid. The First Aid and Mental Health in Schools (Existing Teachers) Bill 2018 proposes that all existing staff in schools be required to receive training in occupational first aid and mental health first aid. It is based on the idea that training in occupational first aid and mental health first aid should form part of the continuing professional development of school staff. It provides for the approval of courses in first aid response and mental health first aid. It requires schools to devise a first aid policy and to put in place a first aid box. Under this legislation, a serving teacher will be required to prove within two years of the coming into operation of this Bill that he or she has completed a training course in occupational first aid and mental health first aid.

Everybody here and all right-minded people will agree that this proposal is a no-brainer. It is something that will be good. To a certain extent, it probably underlines in an informal way what is already going on in schools. I worked as a teacher for 18 years at primary and secondary levels. I remember that as a young fellow going to school, I had a classmate who suffered from epilepsy. I do not think the level of medication that is available now was available in the 1950s. I recall that one teacher not only read up on the subject to brief himself on how to deal with it, but also trained a number of school lads - myself and some of my colleagues - in how to respond if our unfortunate friend got an epileptic attack. That was very forward thinking at the time. I must say that in my time in teaching, I found that teachers to be very caring. A teacher will always try to know as much as he or she can about any student who has a particular allergy. If a student has coeliac disease, the teacher will always look out for him or her. At the same time, teachers are not doctors or psychiatrists. The more formal education and learning that is available for teachers, both in training and in service, as dealt with in the second Bill, the better.

Although teachers cannot be psychiatrists, as I have said, we must bear in mind that we live in an age when young people, especially at secondary level, are coming into contact at frighteningly young ages with substances which can lead to addiction. I know a little bit about addiction from personal experience. The earlier there is observation and the earlier there is intervention, the better one is able to deal with a person’s weakness for drugs, alcohol or whatever he or she might be doing. A great deal of training is required in observation alone. That is why this Bill will be very helpful. I am not anticipating how these courses will be run, but I presume they will deal with addiction and addiction awareness. I expect they will show teachers how to observe and initially deal with this sensitive area. A ham-fisted, unprofessional or untrained approach might do more harm than good.

Overall, Senator Gallagher’s legislation will be a very important step forward educationally. It will be certainly be welcomed by teachers. Teachers always want to have the best information and the best training available to them, regardless of whether this is provided in their initial training programmes or as part of in-service courses thereafter. This measure will be warmly welcomed by parents. Teachers act *in loco parentis*. They have a significant responsibility.

Parents place great trust in those who teach their children. Parents will feel even more secure and comfortable if they know that those who teach their children have the skills and training necessary to deal with any untoward event or any tendency towards addiction that might exist, especially in second level.

I taught here in Dublin for several years, in a De La Salle school in Ballyfermot. It was a great school with great people, great students and great parents. In the summer months, it was a regular occurrence that one of these robust young people would have to get a few stitches. One's initial reaction would be to throw the child in the car and bring him or her down to Dr. Steevens' Hospital, which thankfully was just down the road. That was the extent of the knowledge we had and, thankfully, we got away with it. This is the way forward and I commend the Bill.

An Cathaoirleach: It is the Minister of State's prerogative to come in but there are more five speakers and if she wishes, she can wait until they have contributed.

Minister of State at the Department of Education and Skills (Deputy Mary Mitchell O'Connor): I will wait.

An Cathaoirleach: The next speaker is Senator Colm Burke and he has eight minutes.

Senator Colm Burke: I welcome the Minister of State to the House. I thank the Senators for bringing forward these draft Bills. Having introduced Private Members' Bills previously, I know they involve a great deal of work and I very much appreciate the work they have put into bringing them forward.

Health and safety in our schools is an important issue. A large number of young people attend preschools, primary and secondary schools. Health and safety is an important aspect of that process with respect to the management and care of our students. I have concerns about the legislation placing legal obligations on members of the teaching community. The Teaching Council Act 2001 deals with forward planning and continued upskilling of those in the teaching profession. Under the existing legislation, it is not mandatory for teachers to attend professional development training but the vast majority of teachers do. We must be careful about imposing a new set of rules on a profession that has delivered well for this country over many years.

Coming from a legal background, I have a concern about the aspects of the Bill regarding whether it will create a new expectation that teachers should have skills way beyond their teaching portfolio. That is one of the concerns I have when a proposal such as this one is put into a legislative framework. While every school should have a policy on dealing with issues regarding safety and the care of children, particularly on the way they would respond in the event of an accident, schools have a process and a procedure for dealing with that.

Mental health is another important area. Teachers have expertise in identifying those they believe are under pressure at home, in school or from friends. A great deal of work has been done in this area within schools during the past ten to 15 years, without the necessity of introducing legislation. Schools are proactive, especially in dealing with the issue of bullying in a comprehensive way, but they do not always get the results that we would like. That is no fault of the teaching profession or the boards of management of schools.

The legislation needs to be teased out further. There is a question over whether the proposals should be contained in one Bill, as opposed to two Bills, and that needs to be examined and

discussed. We will not, however, oppose these Bills. It is important that we debate them and go through the advantages and the disadvantages of bringing these proposals forward.

The Department of Education and Skills, the teachers' unions and all those in the educational system have worked hard on this issue and in dealing with the new pressures faced by students on daily basis. That has changed substantially. During the past five years, social media have led to significant change and teachers have adapted well. A number of schools have invited parents in to deal with the new challenges of social media. That shows the way they have responded to that challenge without the need for legislation.

Overall, while I welcome this debate and the bringing forward of draft legislation, this proposal needs to be teased out further to see how we would go forward with it. I thank Members for dealing with the issue and bringing this legislation before the House.

Senator Joan Freeman: I fully support Senator Gallagher on introducing this Bill and commend him, first, on drawing attention to the fact that health and mental health are usually seen as separate entities. It is wonderful that he sees this as the holistic approach to all health, whether it be physical or mental health. Second, it makes sense that existing and new teachers are thought the basic skills of how to look out for the signs and symptoms of difficulties with children's physical and mental health. People work with each other for at least eight hours a day and many people would say that they spend more hours with their colleagues than they do with their families. It is same for children. They spend more time in the school environment than they do with their families. Many children come home from school, go straight to their rooms and enter the social media world. It is important for those precious hours that children are in a school environment that they are allowed to have access to teachers who can spot the signs of difficulties that they may be going through.

A colleague mentioned the development of anxiety in children. Anxiety is one of the greatest problems that face our children. To give a simple example of where physical and mental health are joined together, we all know about social media and that children are glued to their phones for hours but some Members may not know that the average 15 year old needs nine hours sleep a night. How can they get that when they are on their phones? Sleep deprivation causes severe anxiety. This is why this proposal is very important.

I wish to comment on a remark made by Senator Colm Burke to the effect that this proposal should not be provided for in legislation. I totally disagree. I believe it should be. The concern may be that teachers have so much to do that they believe they will be overwhelmed by even more tasks. If this proposal was brought in during training such that it would be part of their curriculum, they would see what is proposed here as being normal when they go into the school environment. While many schools, teachers and principals are trying to adapt to the social media world; the reality is they cannot keep up with it. That is why I agree with the Senator that existing teachers should be thought these basic skills.

The Senator also mentioned the fact that we should consider the legal aspects. We have to stop doing that. We are talking about children. The fact that a teacher might identify some issues with a child does not mean that they have to become their immediate counsellor. All this Bill should be asking is for them to be a link to that child, identify the symptoms of what is happening with that child and then connect them to a professional. I do not know if that is specifically what the Senator was saying. We should not start talking about the legal or financial aspects of this proposal. For once let us put the child to the fore and stop making a mountain

out of a molehill. This is a sensible, simplistic Bill that should be supported.

Senator Máire Devine: I welcome the Minister of State to the House. I commend Fianna Fáil colleagues on bringing forward this Bill. I want to begin by dealing with youth mental health because the Bill cannot be discussed without that context. According to research into youth mental health, 75% of such illnesses develop before the age of 24, with the majority emerging in early teenage years. With regard to Jigsaw and the child and adolescent mental health services, CAMHS, we know that when young people receive appropriate care at an early stage even more severe cases, enduring cases, can have positive lasting outcomes. The recent Jigsaw report on its services highlighted further the importance of access and early intervention. Waiting lists for young people to see psychologists are astronomical but minimal work is being done to address the issue. There is a recruitment and retention crisis for mental health staff of which the Minister of State, Deputy Jim Daly, is well aware. While he has attempted to address it, he has done so with little success. Last year, only 44 of the 72 inpatient CAMHS beds are operational for young people. Young people are waiting out their teenage years without CAMHS assessment before being handed on to the equally overburdened and ill-equipped adult service.

Overall, Sinn Féin supports the intention and spirit of what the Bill is trying to do. However, we have some queries to put to Senator Gallagher. Mental health first aid is an excellent programme which should be embraced by all professional and public structures possible to ensure we have within our services people equipped with the ability to identify and address concerns relating to mental health appropriately and in a timely way. It is an important step in embedding a culture of mental well-being and destigmatisation in society. All of the available evidence indicates that those who undergo this training have considerably improved understanding, knowledge and confidence in mental health and are better able to help those in need. They develop positive attitudes and a greater ability to implement helping behaviour. The HSE gets a great deal of stick, and rightly so, but it must also be praised for initiatives like SafeTALK and Assist which we are trying to roll out to all communities. I have run four workshops in this regard. The initiative is creating suicide-safer communities. Most people are fearful of asking someone how he or she is. Most people will respond that they are fine and things are generally left at that. However, one often walks away knowing something is not quite right. This initiative gives people the confidence and tools, not to act as a professional assistant but to present as a warm neighbour and friend or classmate. It allows people to say “You don’t look all right” and to open a conversation. People fear that they will open it up, bring it all on themselves and make the situation worse.

Sinn Féin had a Bill which would have provided training in suicide crisis intervention for all front-line public service workers but it was, unfortunately, ruled out of order by the Ceann Comhairle because of some cost to the Exchequer. While teachers should be provided with the training which best equips them to deal with the evolving challenges facing young people and with best practice in terms of safeguarding young people, the responsibility to address specific and identified mental health issues should not fall on professionals who, despite a duty of care, are first and foremost trained and employed to provide academic education. Teachers are increasingly being burdened with new responsibilities and cannot be expected to be all things necessary for the safe running of schools and care for young people. Mental wellness needs to be embedded in our education system from the very beginning but we must not pass the buck for mental health intervention and care to teachers. Can Fianna Fáil set out what teachers, as stakeholders, feel about this? Given the dearth of mental health services, where do teachers go when someone is in distress? It would be unfair and irresponsible to train teachers to recognise,

for example, the symptoms of a young person suffering an eating disorder only to have nowhere to send people. The PNA nursing union is taking industrial action next week for this very reason. Their terms and conditions are having an impact on nurses' duty of care to patients. Only yesterday, I received a reply to a parliamentary question which set out that of the 72 beds provided for in-patient services for young people in the entire State, only 49 were operational. The rest are closed or decommissioned for various reasons.

Any additional administration performed by staff for the introduction of the proposal at pre-school services, primary schools and post-primary schools must be included in additional paid hours if it is adding to the workload of the school secretary or other staff members. Has this been quantified? Preschool services provided in the early years sector are under the remit of the Minister for Children and Youth Affairs, whereas the Bill addresses the Minister for Education and Skills only. Some tweaking is required. The cost must not be borne by teachers or staff and training must be included in existing continuing professional development days. If each board of management is responsible for the compliance of preschools, schools and staff, will the relevant Departments do checks to see if each service or school is compliant? Will there be additional inspections or would these checks be carried out during existing health and safety inspections? It could all be dovetailed. We must work smarter rather than building in extra layers. I commend Senator Gallagher on this progressive, educational and, hopefully, life-saving Bill for our youth.

Senator Gabrielle McFadden: I welcome the Minister of State to the House and commend Senator Gallagher on bringing the Bill before us. I am happy that it has opened a very important conversation. A great deal has been said about the first aid side of things from a physical point of view but I feel very strongly about the mental health side of things. That is what I would like to speak about. We all know about the crisis in mental health among young people. There is a great deal of evidence that the crisis is deepening. A large-scale research project in the USA surveyed 506,000 young people between the ages of 13 and 18 between 2010 and 2015 and showed that the number of young people expressing feelings of joylessness or uselessness had increased by 31%. These are classic symptoms of depression in young people. The number of suicide attempts was up by 23% in that five-year period while the number of actual suicides was up by 31%. This is a demographic change among the entire population of young people in a short period. We are fortunate to understand a lot about why this change has taken place. It is not academic pressure. There was academic pressure before 2010. It is not necessarily the result of unemployment, addiction or poverty. Unfortunately, all of these issues existed before 2010.

What has changed in this short time? One of the things that has changed is mobile phone ownership. Doctors can correlate very precisely the mental health of young people and the number of hours they spend on a phone every day. We do not know why this correlation exists. It could be because young people are less free from social comparison today. It used to be the case that the home was a sanctuary where one could escape social comparison and the pressures of being a young person. However, that is no longer the case as young people have phones with them at all times. It may be that the number of hours spent on the phone reduces the number of hours spent in person-to-person contact. We all know how invaluable that is. It is also likely that the number of hours spent on the phone decreases the number of hours spent sleeping. Everyone knows that children and teenagers in particular need a great deal of sleep.

Aside from this, parents do not want our children to be disappointed or unhappy. We do not want them to fail, to lose or to be bored. However, we should teach them how to embrace these

feelings because when they reach adulthood, there will be disappointment, rejection and failure. Childhood should be about learning how to prepare for adulthood. Mental health problems come from an avoidance of emotional pain, an inability to understand the messages of emotion and the inability to figure out how to respond to the signals of pain. Mental health problems are a by-product of a difficulty reading, understanding, expressing and regulating emotion. There is lots we can do to teach emotional literacy to children. If we can have a literacy drive and teach children to understand letters, words and books, surely we can have an emotional literacy drive and teach children to understand and recognise emotion. One must teach children the vocabulary of emotion, giving examples of frustration and sadness. We must teach children that it is okay to feel these things, feelings come and stay awhile and they pass. We must teach children that it is okay to express how they feel.

Cognitive behavioural therapy, CBT, is a toolkit for emotional literacy. We need to train our preschool and primary school teachers in CBT so that they can then train our children in emotional literacy. There is very good research available. Daniel Goleman has written a book entitled, *Emotional Intelligence*. There is also a very good clip on YouTube by Dr. Brian McClean on emotional literacy. I urge the Minister of State to take a look at this and see how we can make it work for our children.

Acting Chairman (Senator Diarmuid Wilson): I welcome Deputy Buckley to the Distinguished Visitors Gallery. Deputy Buckley is a mental health advocate and works very diligently, along with his colleagues in the Lower House, including our colleague, Deputy James Browne.

Senator Lynn Ruane: I congratulate Senator Gallagher on bringing these two Bills forward. I fully support the Bills but I have some thoughts and concerns in terms of their implementation and how that will work. I am sure Senator Gallagher will be open to engaging with Members in the process between now and Committee Stage.

I listened carefully to Senator McFadden's contribution and although I agreed with 80% of it, when we talk about the connection between deprivation, poverty and addiction and mental health, I would put on the record that people in areas of deprivation have always suffered from mental health issues but, unfortunately, nobody noticed.

Senator Gabrielle McFadden: I was talking about the increase in mental health issues.

Senator Lynn Ruane: Communities in poorer areas have suffered greatly in terms of mental health issues and the deaths of young people.

One aspect of the Bill is legislating for specific areas of training. How do we decide what is more important? There is child protection and anti-bullying measures and socio-economic sensitivities. There are many different areas. Is the list intended to be exhaustive in terms of how many things we include in the training of teachers?

Currently, there is only 18 hours of SPHE teacher training over a four year training programme. If this Bill passes, there would be no more hours in that course. How can work with the teacher training colleges to ensure that we ring-fence an appropriate number of hours in which the training would be provided because I want to see it introduced? I do not want it to be impractical. I want to see it introduced in the way it should so that it really serves the schools, the teachers and especially the young people. The fear expressed by some of the teachers and the training colleges, to whom I have spoken, is around where it will fit in in the school day. If

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they slot it into the SPHE training, one is taking up time in that space to which an extremely low number of hours are devoted. We should look at the layout of the curriculum for teachers and how we introduce this. While I support the Bill, I will consider an amendment on ring-fencing a minimum number of hours to be spent on first aid training and mental health training.

I have a concern about the first aid course being provided while students are on teacher training courses. If I am correct - correct me if I am wrong - first aid courses only last for two hours. By the time a student teacher finishes his or her training, he or she would be due to re-train in first aid when taking up employment in the workforce. Should one not carry out one's first aid training in the work environment where one would need the experience? We should look at how often such training is required.

Is there a minimum number of people who need to be trained in first aid in the school at a given time? In sectors of employment, there is a first aid officer and other people trained in first aid. If it is a legal requirement to train everybody in the school in first aid, it may be impossible to find the hours to train everybody. Is there an acceptable minimum number who could be trained in first aid?

I refer to the whole idea of what a teacher is. People will say teachers cannot be all things, which I understand. However, sometimes we have the idea that a teacher is the person at the top of the classroom who is there to fill up empty vessels with information and knowledge when it is more about the relationship with, the empowerment of and the engagement with a young person. Nobody expects a teacher to be a counsellor or to provide some sort of a service. Sometimes we think that when we train a teacher we are training him or her to recognise symptoms and signs but that is only one part of it. What we are missing is that sometimes the school setting and sometimes teachers are further compounding the mental health and anxiety of children. A level of training is needed in terms of having an awareness of one's style of communication with young people and whether one is adding to the stress, anxiety and everything else. That is an area we need to look at because teachers will not always be the saviours in this regard. Sometimes teachers need to recognise that the way they run their classroom or school and how strict it is or how they can shame children, especially in areas of poverty, affects children's mental health. We need to look at that to ensure the relationship between the teacher and the student is an equal one.

I support the Bill but I want to ensure it is meaningful and teachers can work it into their day. I do not see why we cannot achieve that between now and the next Stage.

Acting Chairman (Senator Diarmuid Wilson): I call the Minister of State.

Minister of State at the Department of Education and Skills (Deputy Mary Mitchell O'Connor): I thank all Senators who have spoken. I welcome the opportunity to address the First Aid and Mental Health in Schools (Initial Teacher Training) Bill 2018 and the First Aid and Mental Health in Schools (Existing Teachers) Bill 2018, which are being debated together on Second Stage.

As a former school principal and a teacher for 31 years, and in my current role, I acknowledge the great work going on in schools and the care *in loco parentis* teachers, special needs assistants and all staff in a classroom provide. Every adult in a school is there to look after and to help the children. That is what happens and, as Senator Ruane said, the role of the teacher is to empower children. I acknowledge their work and the work done by many boards of manage-

ment around the country. I also acknowledge teachers and staff in schools who have undertaken first aid courses off their own bat and who, in many instances, have paid for their own first aid training. We will accept the Bills but will table amendments. The Bills will require a money message.

The Minister for Education and Skills, Deputy McHugh, who has been delayed, really wanted to speak today. He acknowledges the positive intentions of the Bills and the desirable outcome that staff in schools and in preschools would be equipped to respond in cases where first aid is required for those children in their care. He also acknowledges that professional training for staff in schools and preschools to build capacity to ensure that good quality first aid is available as and when required is very desirable. However, while the Minister broadly welcomes the ambitions and good intentions of the Bills, he has substantial concerns about their content and presentation. For these reasons, while it is his intention not to oppose the Bills on Second Stage, the Minister wishes to signal that he will propose to deal substantively with these concerns by way of debate and amendment on Committee Stage. Given that the subject matter of the Bills is so closely linked, it is unclear why two separate Bills have been brought forward when on the face of it, it would appear the matters could have been dealt with in one Bill. This point has been mentioned already this evening.

To deal with the first measure, I note that section 3 of the First Aid and Mental Health in Schools (Initial Teacher Training) Bill 2018, provides:

The Minister, having consulted with the Teaching Council, shall require programmes of initial teacher education and training provided by institutions of higher education to incorporate a prescribed level of training in—

- (a) occupational first aid response, and
- (b) mental health first aid.

Sections 4 and 5 provide that boards of management shall only employ members of staff who produce evidence of an up-to-date qualification in “occupational first aid” and “mental health first aid”.

Although the Bill’s Title refers to “initial teacher education”, the requirement to have the training appears to extend to every “member of staff” in a school and preschool, which would potentially include special needs assistants, SNAs, and early childhood education practitioners. It is of note that neither of these groups of employees currently undergoes initial teacher training. I wish to acknowledge the training SNAs and preschool teachers receive. However, in this Bill, they are being lumped in under the rubric of initial teacher training.

The Bill also provides that the requirement regarding initial teacher education, ITE, would commence on 1 January 2019. The provision linking the training to any employment in a school or preschool would come into force on a day set by the Minister not earlier than 1 January 2021. I trust the House appreciates that these requirements are simply not achievable as we have already passed the commencement date.

The First Aid and Mental Health in Schools (Existing Teachers) Bill 2018 provides that all existing members of staff in schools, which includes teachers, SNAs and others, as well as staff of preschools, who are typically early childhood education practitioners, must receive a qualification in occupational first aid and mental health first aid by 1 January 2021, with a re-

fresher every five years thereafter. The Bill imposes a duty on the board of management of a school, the proprietor or another person in charge of a preschool to ensure that staff comply with the requirement for this training. It further requires that the Minister for Education and Skills would prescribe courses of occupational first aid and mental health first aid as being suitable and prescribe the content of a first aid policy and first aid box, the latter in consultation with the National Council for Curriculum and Assessment, NCCA. It also requires every school and preschool to develop a first aid policy and keep a suitably equipped first aid box.

Members of this House will be aware that there already exists a body of legislation and policy dealing with the issue of teacher qualifications and training, including initial teacher education as well as ongoing professional development. The Minister appreciates that the Bills seek to acknowledge this to some extent. However, it is vital that the provisions of existing policy and legislation are properly discussed and understood before new measures, which may not be compatible with the objectives of existing legislation, are contemplated. As they stand, the Bills are either fully or partly incompatible with existing legislation, including the Teaching Council legislation; the regulatory framework for health and safety legislation, which is under the remit of the Health and Safety Authority and the Department of Business, Enterprise and Innovation; and the regulatory framework around preschools, which is under the remit of the Minister for Children and Youth Affairs.

It is clear that existing legislation would need extensive amendment to cater for the proposals outlined in these Bills, if enacted. This would include the Education Act 1998, which sets out the functions of the Minister for Education and Skills, boards of management, teachers and schools, and the Teaching Council Act 2001, which allows for the establishment of the Teaching Council and requires it to set certain standards for teachers. As part of its functions, the Teaching Council oversees the registration of teachers and the accreditation of initial teacher education programmes. If adopted, the First Aid and Mental Health in Schools (Initial Teacher Education) Bill 2018 would encroach on the existing statutory responsibilities of the Teaching Council to set out the standards for initial teacher education by placing a separate direct legislative requirement on ITE providers. The Bill also fail to recognise the fact the Teaching Council has no statutory remit in relation to the registration of those in the preschool sector. Insofar as the proposed legislation requires a statutory body for the registration of early years professionals, further legislation would, therefore, be required.

Members will know that the preschool sector operates under a different framework to the primary and post-primary school system. The responsibility for the preschool sector lies with my colleague, the Minister for Children and Youth Affairs. As the power to regulate the preschool sector lies with her Department, these Bills, as proposed, would create confusion and conflict between the roles and responsibilities of our respective Departments.

The Minister is also concerned that the Bills are inconsistent with the Department's well-being policies. These policies recognise that schools are centres for teaching and learning and the role of the teacher is preventative and not diagnostic. It appears that the principal import of the Bill for existing teachers is to make courses in occupational and mental health first aid mandatory as part of continuing professional development, CPD, for teachers following qualification. Members will be aware that there is currently no mandatory provision for CPD for existing teachers. CPD is currently undertaken voluntarily by teachers and I am conscious that the teaching profession has continued to respond very positively to the availability of CPD and other professional training. Ongoing consultation with education partners to support the development and implementation of a national framework for continuous professional development

will guide any future decisions on the need for regulation in this area.

I will now address the cost. While the issue of cost should never be a barrier to doing the right thing, the Minister is obliged to draw the House's attention to the potential costs of the measures proposed in the Bills. The first and main concern relates to the scale of the estimated expenditure that the provisions contained in both Bills would require. The Department of Education and Skills has conducted an initial costing of the system proposed in the Bills which shows that it would cost between €27 million and €45 million to provide the identified training to existing teachers. This would reach €158 million if a substitution model for these teachers was followed. The financial implications of both Bills would place a substantial burden both on the Department and the Exchequer as a whole and this capacity simply does not exist at present.

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Furthermore, in the light of these costs, the passage of the Bills would require a money message from the Government.

Aside from financial costs, implementing these Bills would have wider resource issues. The estimated course time required to train all teachers and SNAs in the primary and post-primary sector is three to five days each. This would have a significant negative impact on schools by reducing pupil-teacher contact time for up to five days. Pressures on teacher supply would increase substantially if a substitution model was to be introduced.

Given the nature and extent of changes proposed by these Bills, extensive consultation with relevant stakeholders would be necessary to secure support for the proposed measures. These consultations would necessarily include school management bodies, unions, higher educational institutions, preschool providers and their representatives, health and safety professionals, and psychological services. It would also be necessary to include parents of both preschool and school-aged children in any such consultations.

Given there are also private providers of ITE in the market, it is not clear whether or how they are provided for in these Bills. Given the scale of the proposed changes and the consultation process that would be required, significant lead-in time and notice would also be necessary to allow higher education institutions to prepare for their introduction. This would not be possible in the timeframe envisaged in the Bills as they currently stand.

At the outset, I acknowledged the positive intentions of these Bills. However, any legislation proposed before these Houses should satisfy the test of proportionality, that is, whether a measure has gone beyond what is required to attain a legitimate goal. No *prima facie* evidence of need has been brought forward to support the proposals in their current format. Specifically, there is no clear rationale requiring each member of staff to have a prescribed level of training in first aid. Indeed, this is not a requirement in the average workplace. To justify such a proposal, evidence would be required demonstrating why it is necessary to have more than one trained staff member available at any one time. As of now, that evidence has not been provided and the proposed measures as they currently stand are arguably disproportionate to the desired goals.

Notwithstanding the significant measures proposed in the Bills, they do not appear to provide any obligation on staff of schools or preschools to use the first aid or mental health first aid training in the course of their duties. Currently, the responsibilities of staff in any organisation, including schools and preschools, in cases where they may be called upon to administer first aid are complex. Detailed consideration of the role and responsibilities of employees would

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be necessary before legislation is introduced compelling training and professional development for roles and responsibilities they are currently not legally obliged to undertake.

As I outlined earlier, the Minister is not opposing the passage of these two Bills through Second Stage. It is clear that these Bills require extensive amendment, significant stakeholder consultation and extensive changes to existing legislation for them to be viable. Given the current pressures and competing priorities in the Department of Education and Skills and the Exchequer, the financial and wider resource implications of enacting these Bills would also be challenging at this time.

Senator Robbie Gallagher: I thank the Minister of State for that comprehensive response. I also thank all my colleagues for their support in this area. I might try to explain the advice I was given on the two Bills. It was felt that by breaking them into two separate Bills, the one on teacher training could be dealt with quite easily. The second part dealing with existing school-teachers would be a long-term process. The first part would require an add-on to the existing teacher-training curriculum with a module set aside as part of a course to deal with first aid and mental health first aid. I can see why that common-sense advice was given to me. The second part would be much more long-winded and would require a longer lead-in.

I appreciate that the Bill is far from perfect but it is important not to lose sight of its core message. The Minister of State referred to consultation. I have consulted representatives of the Irish Heard Foundation, which is rolling out this programme countrywide in an expeditious manner. The first aid course that teachers take can be from two to six hours. We should not lose sight of the simple message in the Bill and the motivation behind it. This is about saving a life. If one more teacher is qualified in this area, we could do just that.

I understand that work remains to be done on it. The response from the Minister, Deputy McHugh, appears to make a mountain out of a molehill. It is comprehensive but slightly over the top. It misses the core simple message of what we are trying to do here. Currently teachers and boards of management are taking it upon themselves to do great work in trying to teach themselves first aid. As an employer, the Department of Education and Skills is failing in its duty to those hard-working teachers.

In these two Bills I am seeking to include in the teacher training programme for students going into teaching college a simple module that deals with first aid and mental health first aid. While I may be missing something substantial, I fail to see what the big issue is with that. I fully accept and appreciate that training all existing schoolteachers is a big ask, but it is clear from the contributions of Senators, for which I thank them, that they understand what I am trying to do. I would like the Department to embrace the simple message I am trying to get across. We need to work together to bring forward simple legislation that would help to save someone's life in an emergency.

Question put and agreed to.

Committee Stage ordered for Tuesday, 29 January 2019.

First Aid and Mental Health in Schools (Existing Teachers) Bill 2018: Second Stage

Question, "That the Bill be now read a Second Time", put and agreed to.

Seanad Éireann

Committee Stage ordered for Tuesday, 29 January 2019.

Acting Chairman (Senator Diarmuid Wilson): When is it proposed to sit again?

Senator Colm Burke: Tomorrow morning at 10.30 a.m.

The Seanad adjourned at 6.10 p.m. until 10.30 a.m. on Thursday, 24 January 2019.