



DÍOSPÓIREACHTAÍ PARLAIMINTE  
PARLIAMENTARY DEBATES

**SEANAD ÉIREANN**

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

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## SEANAD ÉIREANN

*Dé Céadaoin, 28 Meán Fómhair 2022*

*Wednesday, 28 September 2022*

Chuaigh an Cathaoirleach i gceannas ar 10.30 a.m.

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

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### **Gnó an tSeanaid - Business of Seanad**

**An Cathaoirleach:** I have received notice from the following Senators that they propose to raise the following matters on the Commencement of the Seanad:

Senator Victor Boyhan:

The need for the Minister for Transport to make a statement on the hydrogen valley project, Galway, in the context of the sustainability and decarbonisation objectives in our national transport policy.

Senator Micheál Carrigy:

The need for the Minister for Housing, Local Government and Heritage to provide funding from 2023 to 2026 to Longford County Council to compensate for the loss of rates due to the closure of Lough Ree power station.

Senator Malcolm Byrne:

The need for the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media to make a statement on the Government's strategy to develop film and television production in Ireland.

Senators Seán Kyne, Pauline O'Reilly and Ollie Crowe:

The need for the Minister for Health to make a statement on the future of Clifden District Hospital, County Galway.

Senator Barry Ward:

The need for the Minister for Further and Higher Education, Research, Innovation and Science to issue guidance to student applicants for the disability access route to education scheme.

Senator Tim Lombard:

The need for the Minister of State with responsibility for disability matters to make a statement on access to support schemes for personal transport for disabled drivers.

Senator Jerry Buttimer:

The need for the Minister for Education to make a statement on the provision of home school liaison officers for special schools.

The matters raised by the Senators are suitable for discussion. I have selected those raised by Senators Victor Boyhan, Malcolm Byrne, Micheál Carrigy, and Seán Kyne, Pauline O'Reilly and Ollie Crowe, who will share time, and they will be taken now. The other Senators may give notice on another day of the matters they wish to raise.

## **Nithe i dtosach suíonna - Commencement Matters**

### **Transport Policy**

**An Cathaoirleach:** I welcome the Minister of State, Deputy Byrne, to the House. I thank him for taking time out of his busy schedule.

**Senator Victor Boyhan:** I do not think there has been a Cabinet reshuffle and the Minister of State is the Minister for Transport-----

**An Cathaoirleach:** Not yet.

**Senator Victor Boyhan:** -----but I thank the Minister of State for coming to the House. This matter was billed as being for the Minister for Transport, but I know that the Minister of State is very competent and able and has his hand across all aspects of government.

My matter relates to the ambitious Galway hydrogen valley project. On 14 April 2022, I met, as did a number of Oireachtas Members, with the Taoiseach at the Port of Galway conference on renewable energies and the opportunities particularly for the west of Ireland. The Taoiseach spoke very supportively not only of the Galway hydrogen valley project but also of hydrogen generally and the challenges that face our ports.

Interestingly, I read in one of the national newspapers last weekend that there are still huge challenges, particularly with the Maritime Area Regulatory Authority, MARA, which, basically, will be the marine planning authority in time. I read about how we need to be prepared, ready and responsive to the challenges of renewables.

The Port of Galway has a plan or project called the Galway hydrogen hub, GH2 for short. It has enormous potential and is a game-changer for the west. I support it and commend the Port of Galway on its ambitious plans for the first hydrogen valley. The hydrogen valley recognises the ecosystems that link hydrogen, research, production, distribution and transport for end us-

ers as well as the challenges facing all those associated with this project. Everything is doable, however, and that came out very much at the conference. The potential is enormous, as I said, for the hydrogen valley in Galway. It will deal with and enable renewable strategies. Sustainability and decarbonisation are key objectives for the Government and are now at the very heart of public transport policy, and that is important. I acknowledge genuinely the Government's progressive steps in this area across all Departments in respect of renewable energies. The focus, as the Taoiseach said, is on supporting this project in Galway. It is very well supported by the private sector, industry, Galway City Council and all the stakeholders, and they were present in large numbers at that conference and engagement with the Taoiseach. The challenges in this regard, as I said, are renewable energies. It is clear there is a future for sustainable growth. This is clearly an exciting project.

Finally, I pay tribute to the Port of Galway and its board, the city councillors and the stakeholders, who are really committed to this hydrogen valley plan for Galway. When I left for the west for those few days and visited a number of sites, it was clear to me that the region is energised and, indeed, that the west is awake. This is a wonderful project. I would like to hear what plans, energy and focus the Department of Transport is giving to this very important project.

**Minister of State at the Department of the Taoiseach (Deputy Thomas Byrne):** The Senator is right to be excited, interested and encouraged by what is being done in Galway. It is really positive.

As he rightly noted, sustainability and the need to decarbonise lie at the heart of transport policy, as set out in commitments under the programme for Government, the national development plan, NDP, the whole-of-government climate action plan and key strategies such as the national sustainable mobility policy. Against the backdrop of a shift away from fossil fuels and towards clean and green energy sources and fuels, renewable hydrogen has rightly been identified as one of several technologies with the potential to decarbonise hard-to-abate transport sectors. Those include the long-haul road transport and the maritime and aviation sectors. The Minister for Transport, Deputy Eamon Ryan, who apologises that he cannot be here, has a strong understanding of this potential role for renewable hydrogen as part of a wider energy sector transition.

The Minister has also a keen awareness of the need to identify the best investment and policy landscapes within which renewable hydrogen might be deployed to support transport decarbonisation objectives. This requirement, supported by strong evidence and data and industry insights, is particularly important, because while the Government's political commitment is clear, the policy framework to implement and support the delivery of green hydrogen in Ireland is in its early stages of development.

In that context a hydrogen strategy is being developed as a key priority within the national energy security framework by the Department of the Environment, Climate and Communications. The strategy will outline the pathways towards the production of green hydrogen and its use in Ireland's energy mix. The consultation for the strategy is under way and it will be considered on a cross-governmental basis before being finalised this year.

Pending the publication of the planned national hydrogen strategy, the Department of Transport has put in place a range of initiatives and measures to support potential early movers in hydrogen mobility. These include grant support for the purchase of heavy-duty hydrogen fuel cell electric vehicles, some of which we have seen in action already; an accelerated capital

allowance tax incentive for purchasers of hydrogen vehicles and associated refuelling equipment; hydrogen bus technology trials on suburban public service obligation routes in Dublin and Cork, including in my constituency; and a proposal that, from 2023, green hydrogen should receive quadruple credits or certificates that could be offset against the national obligation on supply of renewable fuels for transport with the potential to create a market value of benefit to suppliers of green hydrogen for use in transport.

Building on these initiatives, the Department engages with many industry stakeholders in an advisory capacity concerning policy on the development of green hydrogen as a future renewable energy for the transport sector. The GH2 consortium the Senator mentioned is among those groups, and the Department has engaged with the consortium since 2021. Policy advice recently provided by the Department has included a statement of the current policy context for renewable hydrogen in transport to inform the consortium's proposed hydrogen valley project.

In line with the commitment in the programme for Government to ensure Ireland is at the cutting edge of scientific and technological innovation, the Minister for Transport has also identified renewable hydrogen for transport as a key element of his Department's climate research programme. To that end, working with counterparts in the Northern Ireland Executive and as part of the Government's shared island initiative, the Department has commissioned research on the potential for cross-Border co-operation to inform the approach to implementing hydrogen refuelling infrastructure across the island.

The first phase of this research is underway and is assessing the options concerning safety regulations for possible future hydrogen refuelling infrastructure, including best practice and guidance on interoperability and delivery. A second phase of research, which is expected to be commenced next year, will involve a feasibility study concerning the delivery of transport refuelling on a cross-Border basis on the island of Ireland, including examining the criteria for optimising location and use. Within the overarching framework of the Government's forthcoming hydrogen strategy, these research projects will support and inform the next steps in the consideration of hydrogen development for transport and the possible future procurement of the delivery of public hydrogen refuelling infrastructure.

**Senator Victor Boyhan:** I thank the Minister of State for his comprehensive response. I will read it in more detail later.

I want to try to keep the focus on Galway, in particular the GH2 project, and will continue to do so. I flag something I noted from *gov.ie* this morning. There is now a campaign to appoint members to the Maritime Area Regulatory Authority, MARA, with which the Minister of State will be familiar. I want to renew my call for the Government, when considering the appointment of the board, to consider people with expertise in renewables. It is important we have mixed competencies on board, in particular in organisations like MARA. I again renew my call for local city and county councillors, who have traditionally been on many of these boards, to be considered for nomination to boards given their expertise in proper planning and sustainable development in their local communities.

**Deputy Thomas Byrne:** I thank the Senator. I will certainly pass his comments on to the Minister. The programme for Government and climate action plan commit the Government to positioning Ireland at the forefront of a wider energy transition and the cutting edge of scientific and technological innovation in meeting our climate targets. Against that background and all of the actions we are taking under the climate action plan, the programme for Government and EU

plans, the Minister, Deputy Ryan, recognises that the GH2 hydrogen valley and other proposals are a welcome and exciting indication of future possible opportunities for renewable hydrogen mobility, deployment and use.

Through the national hydrogen strategy, ongoing support initiatives and targeted research priorities I outlined, the Minister will continue to work with colleagues across Government and on an all-island basis. As I understand it, as recently as 19 September the Department of Transport provided the GH2 consortium with a policy statement letter. There is ongoing encouragement and discussion as we frame our hydrogen strategy. It is very exciting to see people in the regions take the initiative, not only on behalf of their regions but also of behalf of national and global climate strategies.

### **Local Authorities**

**Senator Micheál Carrigy:** I welcome the Minister of State. My Commencement matter relates to the loss of commercial rates as a result of the closure of Lough Ree power station in Lanesborough in 2019, with which the Minister of State will be quite familiar. It has been a major blow to employment and local economic activity in the regions of County Longford, Offaly and Shannonbridge, which suffered a negative impact from the loss not only of commercial rates but of the plants themselves, as well the potential loss from suppliers of the plant, including Bord na Móna. Lough Ree power station paid a total of €1.2 million in rates annually to Longford County Council. It was the single biggest ratepayer in Longford and accounted for 15% of the rate base. To sustain a loss of that magnitude in one year and to compensate on the income side, we would need to pass on an increase of 13.5% in rates to balance the books. I do not think that would be acceptable.

Indeed, we were the first county in Ireland to vary the local property tax, LPT, rate upwards, at 15%, a decision made when all local authority members in Longford came together to maximise potential funding for other projects where matched funding was needed for projects throughout our county. We ring-fenced the 15% increase for the local authority to allow us to apply for projects and ensure we have matched funding for them.

I acknowledge the efforts of the Minister of State, through his Department. The council successfully resolved this critical issue for the financial year 2022. Without that support, there would have been a severe impact on the ability of the council to respond to the challenges it faced. It has meant the council has been able to operate with a level of certainty in what has been a very challenging year. Businesses in the county are recovering at a slower pace than many urban settings. Coming out of Covid-19 and additional challenges facing the sector, such as inflation and the Ukrainian humanitarian crisis, compound the impact of the loss of the guaranteed income from the Lough Ree power station. However, the support the Department has given over the past couple of years has allowed the council to continue to respond with confidence, undertake the regeneration projects we spoke about, invest in our housing stock and continue to support communities and businesses throughout the county.

However, the financial jeopardy caused by the decision to close the power station and the resulting loss in rates remains a difficulty for 2023, 2024, 2025 and 2026. I was elected to the House in 2020 and in September 2021 I sought a guarantee. I have asked for a commitment from the Department and Government to provide certainty to Longford County Council until 2026. The just transition commissioner, Kieran Mulvey, stated two and a half years ago that:



It would be extremely unfair in circumstances over which they had no responsibility and for a decision which was not expected until 2027 that they should be burdened with this sudden loss.

I recommend that an urgent engagement takes place with the Chief Executives of the councils concerned with the funding Departments so that a suitable emergency arrangement can be agreed to alleviate the rate losses over the period 2021-2026.

While we have successfully received the rates every year, the decision is not made until the end of September. Our department of finance in the local authority is putting together financial projections for the year ahead. The situation creates uncertainty.

I wish to take this opportunity to wish our head of finance, John McKeon, well. He has been ill for the past number of months. He is a prudent financial officer in Longford County Council. We look forward to seeing him back in the chair in the finance sector of Longford County Council.

We should get, and need, certainty today. I do not want to come in here next year or the year after to look for funding to be put in place.

**Minister of State at the Department of Housing, Local Government and Heritage (Deputy Peter Burke):** I thank the Senator for raising this very important issue. I wish to be associated with his comments on John McKeon. I spoke to him yesterday and he is out of hospital after seven months. That is a huge achievement for him in terms of getting through his illness. He is a credit to the local authority in Longford. I am sure he will be back at work shortly. I look forward to engaging with him again.

As I said, I thank Senator Carrigy for constantly bringing this issue up with my office. I acknowledge the funding pressures on local authorities generally, and specifically the negative impact on the commercial rates income caused by the closure of the Lough Ree power station in Longford. It is recognised that the authority was very reliant on rates from the now closed power station which, as the Senator said, accounted for approximately 16% of the rates receipts for the county in 2019. To alleviate this negative impact, my Department has provided compensatory funding to the local authority at a cost of €1.4 million in 2021 and €1.3 million in 2022. I am pleased to confirm that this arrangement will continue in 2023, with support of €1.3 million being secured as part of the recent budgetary process.

As committed to in the programme for Government, Our Shared Future, the move to 100% retention of local property tax, LPT, will take place in 2023. All equalisation funding will now be met by the Exchequer to ensure that all authorities receive, at a minimum, an amount equivalent to their baseline. This increased equalisation requirement will come to €118 million in 2023. The LPT allocation to Longford for 2023 will be €8.9 million and this will include €6.9 million of equalisation funding from the Exchequer. As the Senator may be aware, all local authorities have the opportunity to increase or decrease their basic rate of LPT by 15%. I acknowledge the elected members of Longford County Council for recently taking the decision, as the Senator outlined, to increase the rate by 15% for 2023 and 2024. This upward variation on what is a relatively low base will lead to almost €300,000 in extra income for 2023 alone, which should be of great assistance in what is a challenging financial time ahead.

The Government is making a significant contribution of €333 million in 2023 to support the local government sector. A large portion of this figure, totalling almost €199 million, will

go towards assisting local authorities with the cumulative effect on pay costs arising from the national pay arrangements and the unwinding of the financial emergency measures in the public interest legislation. This allocation will ensure the sector will have the necessary resources, in terms of people, to perform its functions and provide in excess of 1,000 essential public services to citizens. Furthermore, as in previous years, my Department will engage with the Department of Public Expenditure and Reform in respect of any additional pay increases that are confirmed for 2023. While the individual allocations for 2023 have yet to be confirmed, it should be noted that Longford County Council will receive €1.6 million towards increased payroll costs for 2022.

I am very aware of the current financial environment in which local authorities are operating and, in recognition of this ongoing pressure, additional support of €60 million has been secured for the sector as part of the budgetary process. This funding is additional to the €333 million already secured towards LPT, payroll and other miscellaneous schemes. The purpose of this additional funding will be to assist Longford County Council and other local authorities in meeting the increasing costs involved in providing a wide range of services. My Department will continue to engage with the Department of Public Expenditure and Reform regarding the issues facing the sector at this time.

**Senator Micheál Carrigy:** I thank the Minister of State for that commitment to funding but, as I stated, multi-annual funding is needed. I have to come in here every September and bring this issue to the fore in order for it to be announced that we are getting the funding. That is not acceptable. Mr. Kieran Mulvey, the just transition commissioner appointed by the Government, recommended that a multi-annual arrangement be put in place up to 2026. That is the minimum needed. We do not want our finance department to be doing the books again next year and trying to prepare for the year ahead without knowing what the financial situation will be. Local authority members are looking at the possibility of rate increases whereas if multi-annual funding was put in place, there would be no discussions on this. They would know where we stand up to 2027 and could then work on it. I ask that this be taken back to the Department and commitments given. When I raised this issue as a Commencement matter 12 months ago, I was told it would be considered and put in place but that has not been done. I am asking that it be put in place so that we can have that certainty for the next four years.

**Deputy Peter Burke:** I acknowledge the contribution of the Senator. As I assured the chief executive and his team, we have not been found wanting in delivering the allocation for Longford in the two years since I have been in the Department. This is the third year that we have secured that allocation. When the previous cathaoirleach was seeking to be part of significant capital decisions on purchasing land in the local authority, we were able to provide an assurance that the allocation would be provided again for the current year.

The review of the LPT baseline will be under way in the coming months. That process will involve a review of all funding for the local authority sector. Unfortunately, several counties have been affected by the closure of power stations. Senator Kyne, who is present, is on to me every week about the pressures Galway is under due to the shortfall in funding. We do need to review urgently the LPT base. That will be carried out this year and it is hoped that it will be finished by Easter. That calculation is a big challenge in how local authorities need to be funded so that they can deliver those services. The allocation of €60 million to which I referred in my response, however, will also be there to support local authorities. I will give Longford all the certainty that is in my power to give.



*Seanad Éireann*  
**Film Industry**

**Senator Malcolm Byrne:** I thank the Minister of State for taking this matter. The budget contained a lot of good news for film and television production, such as the extension of section 481, which provides certainty to the sector. It is welcome that an additional €7.3 million is being allocated to TG4. Slightly separate but equally important is the establishment of the new media fund, which is welcome.

As the Minister of State will be aware, the film, television, animation and content creation sector continues to boom. The Government has in place an audiovisual action plan that was adopted in June 2018. The report of the Future of Media Commission sets out several objectives in respect of where media and content creation in Ireland will go. The Online Safety and Media Regulation Bill, which will soon be passed by these Houses, will result in the establishment of a new media commission. As part of that, there will be a content levy fund to help with production. All of that is positive but we need to look at the longer-term strategy. How can we ensure that Ireland becomes a global hub for content creation, attracting international film and television production, but also look at how we can support culturally significant Irish production?

There is a lot of good news in the creation of new studio space. For instance, there is the development of Hammerlake Studios in Mullingar. More recently, An Bord Pleanála approved planning permission for Tara Studios, just north of Gorey, on my home turf, which will be the largest film and television production studio in the country. In a short time the amount of studio space in Ireland will almost quadruple. We have excellent independent production firms based here but there is also strong interest from streaming companies and other international production companies in coming here. We have all the right conditions.

It is important that we get clarity in respect of where responsibility lies between the new media commission and Screen Ireland with regard to film development and promotion, and also whether there is a role for the Arts Council. In the context of the review of section 481, it is concerning that the Department of Finance always regards it as almost cost-neutral. We need to look at those figures again because there is a genuine benefit to the economy from having international film production based here. It is not just the money that brings into local economies where the films are being shot and what is generated here domestically, it also relates to tourism and the image of Ireland that is projected internationally.

We are extremely lucky. At the moment, “Vikings: Valhalla” is being shot at Ashford Studios, while we culturally significant and beautiful films such as “An Cailín Ciúin” have been produced. This is a real boom time for the Irish content creation industry but we need to look at where we are going in the next decade. By the way, content creation is not confined to film, television and animation. We need to consider how we will provide content for the metaverse and to support some of those new technologies. Although the audiovisual action plan is in place, we need far more clarity in respect of which agencies are going to lead on specific issues, particularly given the creation of new agencies.

*11 o'clock*

In addition, at Government level, while I know there are efforts being made to do this, we should set out very clearly what our objects are over the next decade.

**Deputy Thomas Byrne:** The Government’s commitment to supporting artists and cre-

ative people has undergone rapid and immense transformation in recent years due to equally monumental challenges faced by the creative communities. Culture and creativity are and will remain at the heart of Government policy, but our continuing priority is to ensure this creativity is allowed to thrive with the necessary supports.

The audiovisual action plan was launched in June 2018. This is an industry-wide, long-term plan under the Creative Ireland programme, developed to support the Government's ambition to enable Ireland to become, as the Senator wants, a global hub for the production of film, TV drama and animation. The tax incentive for the screen industries the Senator mentioned, section 481, has been a cornerstone of the Irish screen industry since its implementation in various forms in 1987. Its legacy speaks for itself in the creative and cultural value it has generated, both in terms of discovering and supporting new Irish voices, as well as showcasing Ireland's power as an international partner and a cultural force across film, television and animation, not to mention a breath-taking location offering historical and natural beauty. As the Senator will be aware, the Minister for Finance announced the extension to section 481 beyond the current end date of 2024, until December 2028, which gives certainty to the sector.

The economic value of section 481 is also important in what it brings to our industry in terms of infrastructure, upskilling and further training for crew. It cannot be underestimated in this endeavour. I heard what the Senator said but research has shown that 87% of mobile productions confirmed that they would have not located their production in Ireland without the support of this incentive.

The pilot basic income for the arts scheme was introduced in September for 2,000 artists. Some 204 of these are recorded as working in film, which is the third largest category after visual artists and musicians.

The Department recognises the enormous success of the Irish screen industry to date and the economic and cultural power that this sector produces both at home and abroad. The Department has been proud to support Screen Ireland throughout and, in particular, to provide further supports in the budget.

My colleague, the Minister, Deputy Catherine Martin, was delighted to showcase and promote the Irish screen industry during a recent trade mission to Los Angeles. One of the main reasons we have a consulate in Los Angeles is that the film industry, and the creatives and investors connected with it, are located in the area. The purpose of the meeting was to build on those international partnerships by updating key industry partners on the continued evolution and success of the sector in Ireland. The Minister was able to emphasise and continue the ongoing Government support for the Irish screen industry.

Last year was a record year for screen production in Ireland. This is extraordinary post Covid and demonstrates resilience and innovation in the industry in Ireland. The €500 million spend in 2021 on jobs and local goods and services was the highest ever achieved.

In film, the Cine4 scheme has produced incredible feature film work in the Irish language, from the sweet and heartwarming recent release "Róise & Frank" to, as the Senator mentioned, an scannán álainn "An Cailín Ciúin", a cuireadh le chéile agus a taifeadadh i mo Dháilcheantar féin. That is obviously a box office record-breaking milestone for Irish-language cinema. It has been remarked upon in incredible reviews the world over. The growth of local Irish TV drama has almost tripled in production spend since Screen Ireland began to support the sector with

development funding in 2015.

The Minister and the Government remain committed to supporting the Irish screen industry and continue to engage with Screen Ireland and stakeholders on issues important to the sector.

I thank Senator Malcolm Byrne and the Joint Committee on Tourism, Culture, Arts, Sports and Media on the recent launch of the report, *A Safe and Respectful Working Environment in the Arts*. It was highly appreciated. Well done to all involved.

**Senator Malcolm Byrne:** I am glad to hear of that strong commitment. Obviously, I tabled this Commencement matter in advance of yesterday's budget. The section 481 extension and the certainty that provides are very welcome.

We need a little clarity with regard to the role of the new coimisiún na meán or media commission, particularly with regard to its management of some of the new audiovisual funds such as the new media fund being funded from the content levy, as well as its relationship with Screen Ireland.

The role of promoting Ireland, as the Minister of State said, in Los Angeles, is very important for the consulate and we need to look at ways in which we can continue to resource that to be able to attract international industry here. In the review, perhaps the Department of Finance underestimates the potential benefit of section 481. However, I am glad the research recognised that without section 481, we would not have the current levels of film production based in this country. I am heartened to hear about the existing production. The audiovisual strategy and reports from the Future of Media Commission will have to inform that debate. The fact that the Government is clearly committed to film, television and animation production is very welcome.

**Deputy Thomas Byrne:** I thank the Minister, Deputy Martin, for prioritising this. I am also proud to be in a Fianna Fáil Government coalition because we have provided historic support for the arts over many decades. I am glad that continues in coalition with Fine Gael and the Green Party, in particular. Historic levels of funding are being provided by the Department. It recognises how united the screen industry proved to be by pulling together and working towards a common goal. The screen industry in Ireland provides a tangible economic benefit to our country through jobs, skills development, regional development and production spend on local goods and services.

There is an even more essential cultural value in supporting Irish creative talent, telling Irish stories on screen and connecting with audiences at home and around the world. In uncertain times, we turn to the artist as a guide. Artists provide us with shared experiences that remind us all of the importance of identity, community and belonging through the stories they tell. Times come and go, people come and go and the economy goes up and down but the things created - art, poems, movies and books - stay and offer all of us lessons in times of difficulty.

We will continue to engage with key stakeholders and professionals to understand the challenges in the sector. The Government is absolutely committed to the sector and aware of its importance, not only in terms of jobs and the economy but also because of the intangible benefits the arts provide to society through creativity, writing, composing, directing and producing.

## **Community Care**

**Acting Chairperson (Senator Ned O’Sullivan):** Cuirim fáilte roimh an Aire Stáit.

**Senator Seán Kyne:** I thank the Cathaoirleach’s office for choosing this Commencement matter. My colleague, Councillor Eileen Mannion, and I arranged a community meeting in Clifden on Sunday. It was attended by hundreds of people – there was standing room only with people out the door - concerned about the future of Clifden District Hospital, which is used for respite convalescence and has been used for palliative and end-of-life care as well. There is concern because individuals in the community were told by the HSE to take their loved ones out of the facility by 3 p.m. on Sunday or 3 p.m. on Monday. This causes huge concern in the community.

Issues regarding rostering and difficulties between unions and management on the amalgamation of practices between St. Anne’s nursing unit and Clifden District Hospital have had an impact. It is now clear that there is more to this. Issues with recruitment and the availability of nurses and physiotherapists seem to be at the heart of the problem. This is reducing the number of referrals from Galway University Hospital, GUH, which is impacting on the ability to have convalescent and step-down facilities.

I ask that the Government intervene with the community healthcare organisation, CHO, to ensure that it has an appropriate recruitment programme in place for Clifden District Hospital, that it engages with local doctors regarding palliative and end-of-life care and that it ensures there are referrals from GUH for local people who wish to be cared for and visited by their families in the local community. That was certainly always the case in Clifden District Hospital pre-Covid. Covid changed issues and there is a concern in the community that issues are now at play to downgrade Clifden District Hospital with a view to closing it. We had a commitment - I apologise, I will hand over to my colleague.

**Senator Pauline O’Reilly:** I thank the Minister of State for joining us. I attended the meeting in Clifden on Sunday and it was heartbreaking to hear the stories of people, especially family members of older people or those close to the end of their lives, who were phoned on Friday and asked to remove their loved ones from Clifden District Hospital. We also heard from doctors who said they were given no notice. One doctor said he was asked not to make any more referrals for palliative care. There seems to be a real problem around communication in the hospital with the HSE. I joined with my colleagues, Senators Kyne and Crowe, and some of the Deputies for Galway West to meet with the HSE for two hours on Monday but we still do not seem to be able to get to the bottom of the problem.

**Senator Ollie Crowe:** There is a unity of purpose between my colleagues and I on this very serious issue for Clifden. As has been stated, I certainly got the impression at the meeting that it was a case of death by a thousand cuts. As Senators Kyne and O’Reilly outlined, there is a considerable issue with the increasing population in Clifden and the surrounding areas. We ask the Minister of State for her full support and for an update for the people of Connemara.

**Minister of State at the Department of Health (Deputy Mary Butler):** I thank the three Senators for raising this important matter. It is great to have a collaborative approach. It is very effective. I am acutely aware of the significant healthcare role that Clifden District Hospital plays and the excellent level of care and support which it provides to patients and their families in the local community and surrounding areas. Just after the meeting the Senators organised on Sunday evening, Deputy Ó Cuív contacted me at approximately 6.10 p.m. to explain the issue to me, exactly as the Senators have done. I asked that evening for a briefing note from the HSE

for first thing the following morning in order that I would know exactly what was happening.

As the Senators have said, in recent years, Clifden District Hospital has been primarily designated to provide convalescence care to patients stepping down from acute hospital. However, with the evolution of Sláintecare and the transition of care from acute to community settings, the need for step-down beds has reduced. In fact, the demand for step-down care is currently an average of less than one patient per day.

Clifden District Hospital also provides respite beds to allow family carers in the community a welcome break. Following a meeting with local politicians and residents in July, Community Healthcare West repurposed some of the convalescence beds to accommodate those requiring respite. I have been advised by the HSE that the average respite demand and occupancy is approximately three beds per night. This brings the total average occupancy of Clifden District Hospital to 3.2 beds per night.

In the Clifden area, St. Anne's community nursing unit is a designated centre registered with HIQA to provide a home for older people. My understanding is that it is approximately 1.5 km from Clifden. Unfortunately, St. Anne's has faced significant challenges over many years to secure sufficient nursing staff, despite national, international and local recruitment drives.

In recognition of service needs in the Clifden area and in order to seek to redress the nurse staffing shortage, HSE Community Healthcare West commenced a process two years ago under the Croke Park public service agreement. In August 2022, under the auspices of the Workplace Relations Commission conciliation services, Community Healthcare West informed the Irish Nursing and Midwives Organisation and SIPTU that it would be issuing a common roster, which commenced on 26 September, covering both Clifden District Hospital and St. Anne's community nursing unit sites in order that staff could be assigned across both sites, based on service needs. The change in rosters involves a change in shift start or finish times of a maximum of 30 minutes and working in one of two locations less than 1.3 km apart.

I have been advised by the HSE that one of the staff representative bodies communicated with the HSE on Friday, 23 September to suggest that it had instructed its members not to co-operate with the revised rosters. Community Healthcare West is committed to ensuring the safety of its residents and patients and, accordingly, put contingency arrangements in place in light of any potential action by staff from 26 September onwards.

Unfortunately, over last weekend, the HSE was unable to secure cover to fill the rosters due to gaps in St. Anne's community nursing unit which the HSE required to fill to ensure the safe care of residents and patients. Community Healthcare West therefore started to develop contingency arrangements for the patients in Clifden District Hospital. Patients and their families were contacted by HSE nurse management and all patients were offered the alternative option of Merlin Park University Hospital should they wish to avail of respite this week. I understand it is approximately 80 km away, which is a long distance. Day care services will continue as normal.

I will clarify that Community Healthcare West has not advised that respite services will end in Clifden District Hospital but simply took contingency measures following advice it received that staff may not co-operate with the new roster. The contingency measures will be implemented only if there are insufficient staff available. In these instances, alternate respite slots can be sought at a later date or patients can be accommodated with a respite bed in Merlin Park.



There are no plans to cease respite services in Clifden District Hospital at this time. I have asked the HSE to keep me updated on any developments. I will come back with a further reply.

**Senator Seán Kyne:** The Minister of State's reply is similar to what we have received in communication over a long time. There are no plans to cease services but it is happening. Services are being reduced and it is not possible to get palliative care. There is no physiotherapy and therefore there are no referrals. Of course the referrals from GUH have dropped because physiotherapy is not available for those who need convalescence and step-down care. This is the crux of the problem. There is a problem with recruitment that needs to be addressed by the community healthcare organisation, CHO. I ask that the Minister of State intervenes with the CHO to ensure there is adequate recruitment to the facility.

**Senator Pauline O'Reilly:** We appreciate the Minister of State coming here. It is an urgent issue. While we have heard this response before, there is a lack of clarity, otherwise we would not have had a two-hour-long meeting with the HSE and still not have got any further on Monday. It needs to be addressed. As the Minister of State said, the nearest facility is 80 km away. It is not acceptable for the people of Connemara to not have their district hospital operational.

**Senator Ollie Crowe:** The major issue here is referrals. As Senators Kyne and O'Reilly outlined, the issue is that the hospital is not getting the referrals in, which creates uncertainty. The Minister of State alluded to the cost of travelling 80 km on a two-hour journey to Merlin Park. It is not feasible or possible. I ask the Minister of State to do all within her remit to support us on this vital cause.

**Deputy Mary Butler:** I assure the Senators that I will treat this with the utmost importance. Unfortunately, short-stay capacity in public hospitals and community nursing units can be impacted for a number of reasons including HIQA standards, infection prevention and control requirements and staffing challenges. The new rostering system was put in place and contingency measures were implemented to ensure respite services will continue.

Having listened to the Senators and spoken to some of their colleagues in the past day or two, I think there are two issues here. The first is staffing. There has to be a dedicated approach to try to find staff in the short term to continue these services. The second is that we need to get a bit of urgency around the new community nursing unit proposed for that area in which Clifden District Hospital and St. Anne's community nursing unit will amalgamate. My focus will be there.

I have every intention of speaking with the chief officer in Community Healthcare West to see exactly what is happening on the ground. It is very frustrating when there is no communication on rosters because, at the end of the day, vulnerable people are affected the most.

I was here last week answering a question from Senator Lombard on challenges with regard to beds in Bantry hospital for people with enduring mental health conditions. It strikes me that these are two very rural areas which nonetheless have considerable catchment areas. Asking an elderly person who requires respite to travel to Merlin Park, which is 80 km away, is very difficult and is not fair. The Senators have my support in trying to find a resolution.

*Cuireadh an Seanad ar fionraí ar 11.20 a.m. agus cuireadh tús leis arís ar 11.32 a.m.*

*Sitting suspended at 11.20 a.m. and resumed at 11.32 a.m.*



## **Gnó an tSeanaid - Business of Seanad**

**An Cathaoirleach:** Before I ask the Deputy Leader to outline the Order of Business, I welcome to the Distinguished Visitors Gallery the Ambassador of the Republic of Cyprus, which is marking its independence day this week. It is the 62nd anniversary of its independence and of course the parallels between Ireland and Cyprus are well known. We are two small island nations, in fact the only two small island nations that are partitioned, and we have both long struggled against colonial rule in order to achieve independence. We are still dealing with the consequences of division.

Most importantly, Ireland and Cyprus cherish international law and human rights and these are at the heart of our respective Governments' policies. We strive to promote diplomacy and multilateralism and of course as members of the European Union we work together. We thank Cyprus for its support during the very difficult Brexit negotiations that are ongoing. The worst moment in Cyprus's most recent history was the invasion in 1974 by Turkey. Thousands of Irish citizens live in Cyprus and enjoy the fine sunshine. We have quite a number of Cypriots living here in Ireland also. When that invasion took place, over 40% of the territory in Cyprus was, and continues to be, occupied. The United Nations and all sides are working to find a just and viable solution to the situation in the country. I know the Cypriot Government greatly appreciates the work of our Defence Forces and our gardaí who have been on duty in Cyprus over the past nearly 50 years. Some members of An Garda Síochána and the UN forces have served there since 1964. We wish the ambassador and all the people of Cyprus a very happy independence day. I thank the ambassador for being with us in the House this morning.

## **An tOrd Gnó - Order of Business**

**Senator Lisa Chambers:** The ambassador is most welcome to the Chamber. It was lovely to meet him.

The Order of Business is No. 1, motion on the arrangements for the address to the Seanad by Lord John McFall of Alcluith, Lord Speaker of the House of Lords, on Wednesday, 5 October 2022, to be taken on the conclusion of the Order of Business without debate; No. 2, Assisted Decision-Making (Capacity) (Amendment) Bill 2022 - Committee Stage, to be taken at 1.30 p.m. and to adjourn at 4.30 p.m., if not previously concluded; and No. 113, motion 3, regarding the impacts of cost-of-living issues on young people in Ireland, to be taken at 5 p.m. with the time allocated to this debate not to exceed two hours.

**An Cathaoirleach:** Go raibh maith agat. Anois, an Seanadóir Tim Lombard.

**Senator Tim Lombard:** I was not expecting a call first.

I welcome the budget we had yesterday. It will be a significant injection into the economy.

When we look at the coverage it received and the impact it is going to make on the economy in the next few days, weeks and years in particular, it is a significant piece of work. I want to acknowledge the work done by all Ministers in particular, in getting this budget passed last night.

There were issues mentioned in the budget debate pertaining to education. We had a significant debate in this House in the past few weeks regarding school transportation. I was hoping there would be some light shed on the conversation we had with the Minister about a budget for affected children who had not been picked up so far in the school transportation scheme. Will the Deputy Leader use her good offices to inquire about that proposal with the Minister for Education? The Minister said she had been talking to the Minister for Public Expenditure and Reform, Deputy Michael McGrath, about getting a budget in place. Can we get an update on this proposal for a budget to pick up the children not covered by the school transportation scheme? It is a huge issue in my part of the world. There are hundreds of kids who are not yet sorted. Will the Deputy Leader use her good powers to come up with some kind of timeline for when we can resolve this issue?

We had an usual and unfortunate announcement two days ago regarding Shell pulling out of the country. Shell was a major backer of two important offshore wind farms; one off the coast of Clare and one off the coast of Cork. It was part of our policy to make sure we would be sustainable going forward in order to reach our targets of proposed renewable energy in 2030 and 2050. These two wind farms were not even reaching 3 GW. I am not sure of the correct terminology. To have Shell pull out at this stage is really significant and we need to have a clear debate about where these two major proposals are going. The Minister for the Environment, Climate and Communications, Deputy Eamon Ryan, has continuously said that the wind potential we have off the coast, particularly the south coast, was going to be a key factor in making sure we reach those guidelines. I am genuinely concerned by this announcement by Shell. It is a global powerhouse when it comes to renewables. It has switched from fossil fuels in the last five years and has a huge concern in Scotland when it comes to renewable energy. For Shell to now leave the Irish market has a worrying effect when we take into consideration our cost-of-living issues regarding fuel prices. I call again on the Deputy Leader's good offices to arrange a debate with the Minister, Deputy Eamon Ryan, about how we are going to deal with the renewable resource we have and what work can be done to make sure key actors like Shell will not leave the market again. If they do, the knock-on implications mean reaching our targets will be unachievable without this kind of investment.

**Senator Fiona O'Loughlin:** I will address the first point that Senator Lombard raised regarding school transport. The Minister for Education, Deputy Foley, committed to doing her very best to ensure she got funding to address the school transport debacle particularly regarding those who previously had concessionary tickets. I am happy to confirm she received that extra funding. The Minister for Public Expenditure and Reform, Deputy Michael McGrath, was very understanding of the situation so many families and students found themselves in. My understanding is that this funding is in place and that the task now is for Bus Éireann to sort the extra buses and drivers. Students who had previous concessionary tickets will be prioritised during roll-out and those who have applied for concessionary tickets for the first time will then be looked at. This is extremely important and we have to appreciate the efforts both Ministers made in terms of trying to sort this particular issue.

While I am talking about transport, the extension of the 20% and 50% fare discount for young people on public transport is particularly welcome. As we know, this discount has been extended to private operators also. The clarification yesterday that 16- to 18-year-olds in third

level education will be able to avail of this extension, as indeed will mature students over 23, was particularly significant. That was particularly significant yesterday. In my own area of Kildare there will have been some disappointment that the extension of the short-hop zone was not mentioned. That is something I am certainly very committed to for up to 50 km, indeed it is now Fianna Fáil policy, as is the extension of the medium-hop zone to 75 km.

A number of us met a lot of different people around Leinster House during our pre-budget meetings. One of the groups that had a profound impact on me was the Neurological Alliance of Ireland. The Deputy Leader will know Laura Reid Costello, whom we would have known before she had her traumatic injury. She is a wonderful woman, full of energy and vitality, who is inspirational in so many ways. It is incredible to see how far she has come in the last three years.

I was also fortunate to meet Dr. Rosie Mangan from Daingean in Offaly, who had a most unfortunate car accident while she was doing research in Brazil and had to be airlifted back to Ireland. Their asks were really important. Rosie has to travel four hours every day from Daingean to a place called An Saol in Dublin. We all know that the National Rehabilitation Hospital in Dún Laoghaire does incredible work but it really can only take a small number of people at any particular time. An Saol does really excellent work. Brain injury surpasses many diseases as the major cause of disability. The vast majority of people under 65 who are in nursing homes are there because of acquired brain injury. We absolutely need to do everything we can to help support this cohort, including ensuring that An Saol receives extra funding. Only two out of our nine community healthcare organisations have dedicated teams in respect of acquired brain injury. This commitment was made back in 2019. We need to follow up on it. I would appreciate if the Deputy Leader could organise a debate in the Seanad on acquired brain injury.

**An Cathaoirleach:** Before I call the next speaker, I welcome to the Visitors Gallery, James Stokes from Kildare, who is on a placement with the Ceann Comhairle. I thank him for being here today.

**Senator Victor Boyhan:** I am happy to support the Order of Business. I refer to No. 1 in respect of the arrangements for Lord John McFall, Lord Speaker and Presiding Officer of the House of Lords, to address the Seanad on 5 October 2022. I am particularly delighted to support that motion. He is a wonderful friend to the British-Irish Parliamentary Assembly of which I am a member. He is very supportive and favourably disposed to Ireland and its various circumstances. It will be an interesting visit to the House which I welcome.

On local government funding, today Fine Gael's Senator Carrigy made a really strong case on the shortfall of funding for Longford. I salute him for it. In the local government press clippings that I review every morning, I see we have situations in Roscommon, Galway city and county, Cork and Longford just to name a few. They are considering the challenges across their local property tax. The local property tax baselines are meant to be under review in the coming months but there is a shortfall, and local authority budgets are coming up. Local authorities are finding they do not have sufficient finances to roll out their services. Overnight, Cork County Council talked about not being in a position to provide core activities in terms of cleaning, cleansing and various essential works in its own area because of a shortfall funding gap of €24 million. That is challenging.

Most of us in this House have been members of local government. We know the challenges around the finances of local government and the pressures that the elected members of our city

and county councils come under in balancing their books. They do not want to be cutting services. They want greater efficiencies and it is important that we talk about greater efficiencies when we talk about additional resources for local government finance. Senator Carrigy touched on something very real to Longford. Indeed the Minister of State, Deputy Peter Burke, was here today and is very committed to it. However, it is a bigger issue and we cannot just have special arrangements and special local authorities. We need to address the issue comprehensively. How are we going to have a proper line of sustainable funding for the future of local government? If we are serious about providing greater powers to local government we have to address this issue.

I thank the Cathaoirleach, who has gone, and the Clerk of the Seanad, Martin Groves, and his team for the enormous work they have done to date on Seanad 100. We will later be talking about Northern voices in the Seanad. What an impressive line-up it is. I thank Martin and his team both in the Seanad Office and built around him, as well as the team that have produced the wonderful booklet we will see later and the impressive line-up of activities for Seanad 100. We are going to have a great celebration that is appropriate and measured and that relates to our core activity and our pioneering legislative work in Seanad Éireann. It is going to be a great period from now until the end of the year. I thank the people we never really see other than around a table at a meeting, who are really going to make this a great success.

**Senator Paul Gavan:** I want to raise the international situation. My colleague, Senator Boylan, referred to it yesterday as well. I hope we all share concern about the growth of far-right governments in Sweden and now in Italy. It is important for people to speak out. It concerns me that prominent parties both in the European People's Party, EPP, and in the Alliance of Liberals and Democrats for Europe, ALDE, are actively coalescing with these fascist parties. The Liberal Party, a member of the ALDE group, is actively planning to coalesce with the Sweden Democrats, an outrageously right-wing, far-right racist group. Similarly we see Forza Italia from the European People's Party doing the same. I know enough good people in the EPP and ALDE to know that an awful lot of the people do not share those views. However, they have to speak out. It took years for people to speak out about Viktor Orbán when he was in the EPP. We should not take that long. There is this horrific trend towards far-right governments. It is important for all of us to speak out and, I hope, agree on a common platform of keeping fascists out of government.

On an altogether more local point, I have frustration and good news on bus services in Limerick. I have to sing the praises of the Clare-Limerick Local Link group, which has worked in collaboration with a number of elected representatives and is working actively on a new bus service to link a small townland called Montpelier with my village of Castleconnell. People were cut off from their own parish by a swift change in Bus Éireann services. In fairness to the National Transport Authority, NTA, after I contacted it, it immediately linked in with this group. We had a really positive meeting last week and are having another one this week in Castleconnell to marry the needs of these residents with the residents who want to go to university, and potentially join up a new bus service that will serve an awful lot of people in the catchment area of Castleconnell and Montpelier. It is really welcome.

I am so frustrated that while we can see what can be done, the people of Castletroy in Limerick are still waiting for a replacement bus service that was disbanded in early July by Dublin Coach. We have a massive new student population arriving in the University of Limerick who are dependent on buses in Newtown, Castletroy and Monaleen. The same National Transport Authority that responded so well on the first issue is just dragging its heels. It has told me fund-

ing is approved to replace the service but I cannot get any answer from the NTA about when that service will come in or how negotiations are going. We are three months on, there is a large, growing population in Castletroy and they have no bus service. I do not know how other colleagues have experienced the National Transport Authority. I know there are good people working in there but I do feel frustrated in terms of accountability at times. This should not be rocket science. If there is funding in place for a bus service it should not take three months for that service to be put in place. Perhaps that is something we could revisit and debate at some stage.

**Senator Lynn Ruane:** I rise today to speak about two things. Community safety and police safety keep coming up and I want to talk about something positive that is happening in Tallaght west. As we look at measures that can advance communities in a positive way, it is also important to highlight projects and interventions that are working well and that we can empower, resource and become much more aware of. There is a new programme in west Tallaght that is in its very early stages. It began its detached street work in the past six to eight months. Street work and outreach work were used in the 1970s, 1980s and 1990s when there were no resources and services in communities such as Tallaght. It was a way to work with people in their communities, at the shops or in the fields. It was usually with the most marginalised. Those who need the most help are usually the furthest away from it. Sometimes we need a special type of intervention. Sometimes this can involve some of the young men and women who are probably seen as problematic by other members of the community. They should be the people targeted by those working in youth work to bring them closer to the services. The new detached youth work street team in Killinarden, Glenshane and Jobstown is doing amazing work. I have watched them with some of the young men nobody has worked with for years. They are now running 10 km and holding their own football tournaments. These men were hanging around the shops, smoking, selling and doing all sorts. They are beginning to be engaged again with a very targeted intervention. It would be nice for us to look at some of these scenarios and see how we can enhance funding and the development of specific targeted work such as this.

It would be great if the Leader could write to the Minister for Health on my next issue. I was a key worker and worked in addiction services for a long time. I used to be able to make referrals for the people the service was supporting, for example, into Cuan Dara, which is a HSE-funded service. Some of the policies always had something written in that referrals would have to be done by an addiction counsellor. The understanding of most was that most communities cannot afford addiction counsellors and neither can the people themselves. Community services cannot afford to hire addiction counsellors. We have addiction practitioners who have been working for ten, 20 or 30 years in the field. Some of the HSE-funded residential treatment places are no longer taking referrals from those working in addiction services. They are enforcing a policy whereby it must be done by an addiction counsellor. This means far fewer people are seeking residential places. There are many projects in a precarious situation because they cannot support the next stage of recovery for those they are working with. The HSE or HSE-funded projects have decided to impose a rule that referrals must be made by an accredited addiction counsellor. There is just no access to accredited addiction counsellors. It feels like a policy that should not be used. We should be able to recognise the qualifications, history and knowledge of those working for addiction services. They are best placed to make these referrals themselves.

**Senator Ned O'Sullivan:** I am sure the Deputy Leader will indulge me when I congratulate my fellow county woman, the Minister for Education, Deputy Foley, on achieving one of



the most striking aspects of the budget yesterday, which was the announcement there would be free primary school books from September. This is a major commitment by the Government towards education. It is directly in line with the philosophy of Donogh O'Malley to provide free education, Paddy Hillery to introduce community schools and Brian Lenihan to introduce free school travel. It is a proud day for me to be a Kerryman. I congratulate the Minister on something that will be seen as historic.

In her own time will the Deputy Leader arrange a debate in the House on the shared island project? Another good aspect of the budget was the allocation of €100 million to the shared island project and a commitment to provide €500 million extra between now and 2025. The shared island project is straight out of the Good Friday Agreement playbook. It is based on reaching out in friendship and co-operation to people who do not share our religion or political views. The shared island project threatens nobody. It welcomes everybody.

The type of funding provided yesterday will allow further work to continue on the Ulster Canal, the Narrow Water bridge and other such major projects. An interdepartmental group is working North and South on implementing hydrogen refuelling infrastructure. This is what the Good Friday Agreement is all about. It is about making sure we could be friendly and co-operative with each other. I appeal to the members of the Opposition in particular to espouse and get on board with the shared island project. The support for it has been niggardly. Some of the most nationalist journalists in the northern papers have thrown cold water on it consistently. They have referred to it as weak. One of them said it was small potatoes. What an insult to a sound initiative. They would be better off talking and working with our loyalist friends in the North than going to big rallies and speaking to each other morning, noon and night.

**Senator Maria Byrne:** I welcome the news from Ryanair that it will create another 2,000 jobs between now and 2030. It opened a hangar in Dublin this morning. I often speak about balanced regional development. A total of 200 of the jobs will be at Shannon Airport where Ryanair is investing more than €10 million in a hangar. This is good news for people not only in Clare and Limerick but also in the mid-west. Many people travel to Shannon for work from around the mid-west. This is a welcome addition to the already developing Shannon Airport. It is certainly expanding at a very quick rate. I compliment Mary Considine and the team at Shannon Airport, who are working with groups such as Ryanair to create jobs. The hangar will be of great benefit. Many people are coming through the education and skills sector having been retrained and upskilled. They are now able to find jobs locally in the mid-west. It is a good news story today.

**Senator Shane Cassells:** We had budget speeches in the Seanad yesterday evening to dissect and welcome the packages worth €90 billion throughout all Departments. A very small aspect of the budget mentioned yesterday, on which I had certainly campaigned for a number of years in association with Local Ireland and NewsBrands, was the elimination of VAT on newspapers. It has gone from 9% to zero and this will give the industry a fighting chance to survive. What will help the industry to survive is people buying newspapers. Yesterday when the Minister for Finance was making his announcement in respect of the reduction from 9% to zero, at the very same time he was trying to give the newspaper industry a chance, we saw Mediahuis release an announcement that it was closing one of its newspapers, the *Fingal Independent*, a newspaper I worked at for a decade. My heart went out to all of the journalists and employees of the publication, which has been in existence for more than 40 years. To make this announcement during the budget speech, when the Minister was giving the industry a chance, was a pure disgrace. It is a warning sign to many other local newspapers throughout the country



of the perilous state in which they find themselves. Perhaps the industry that campaigned so hard for a break will give its own employees a break and think twice about shutting the door not only of a newspaper but what is a local record for many communities the length and breadth of this country.

I welcome the announcement at the weekend by the GAA that former President Mary McAleese has agreed to chair the integration process between the GAA, the Ladies Gaelic Football Association and the Camogie Association. It is a significant move to bring all of the associations together. There is no better person to make sure it goes as seamlessly as possible than the former President Mary McAleese. I wish her well in her work.

**Senator Fintan Warfield:** We had a very good Private Members' debate on night-life and the night-time economy prior to the summer recess. In our pre-budget submission we called for special exemption orders to be abolished in full and to be waived until the sale of alcohol Bill goes through the Oireachtas.

*12 o'clock*

While I welcome the Government's commitment to halve those fees, I take this opportunity to say they are a racket. Between 2008 and 2019, there was a 56% reduction in the granting of special exemption orders, SEOs, which allow nightclubs and night venues to open from 12.30 a.m. until 2.30 a.m. They cost €410 per night, plus legal fees, and are a complete racket. They make it almost impossible to run venues, particularly on a Sunday night. They are not transferable, which means that if an act, a DJ or a band is cancelled, the venue cannot get its money back and the dates cannot be changed. An SEO is required per night of opening from 12.30 a.m. to 2.30 a.m. There is nothing special about opening until 2.30 a.m. Ireland is a modern European state. We should have a system that reflects that. The introduction of an annual charge at a nominal fee for nightclubs, night and cultural venues and the creation of a dedicated nightclub and night venue licence are the grounds on which we should be discussing the sale of alcohol Bill. I hope the Minister for Justice, Deputy McEntee, will publish that Bill as soon as possible. I have been talking to people in the music industry today. They say that people should not be told that the fees are being waived because it has been a difficult couple of years. They say that the fees should be abolished because it is a ridiculous system and it is a racket that bleeds money from the cultural system into court and legal fees and excise duties.

**Senator Paul Gavan:** Well said.

**An Leas-Chathaoirleach:** I apologise to Senator Malcolm Byrne. I now realise that he must attend a committee and I could have accommodated his request if I had known that earlier.

**Senator Malcolm Byrne:** I agree with Senator Warfield's points on late-night licensing.

I raise the question of the HSE decision-making process. We have all felt frustration with it. This matter concerns children's disability services in Gorey, where there is a very good network team. The speech and language therapist has gone on maternity leave, and I wish her the best with that. Obviously, this maternity leave was indicated early on to the HSE. It is only now that the HSE has decided to seek a replacement. We know how much of a shortage there is of speech and language therapists. It is not acceptable, for those families and young people who are impacted and need access to a speech and language therapist, that the HSE did not make alternative plans quickly enough while knowing this post would be vacant. This is symptomatic of the problem with the HSE and its decision-making process. Conducting interviews once

the speech and language therapist has gone on maternity leave is short sighted. It speaks to a bigger problem within the HSE. We often talk about the shortage of speech and language therapists. We need a full debate on the issues around speech and language therapy and occupational therapy, and I would be grateful if the Deputy Leader could facilitate that.

I share Senator Gavan's concern around the rise of the far right and extremism in Europe. However, Renew Europe and ALDE have always stood up against this. In fact, we called out the EPP over Orbán's continued membership of that group. Extremism does not only come from the far right. Senator Gavan shares his group, the hard-left group in the European Parliament, with people who are supporting extreme views on the hard left. He shares his group with Mick Wallace and Clare Daly. Sinn Féin's MEP has a record of supporting Russia during his time in the European Parliament. If the Senator is going to attack-----

**Senator Paul Gavan:** That is nonsense. He has not condemned the liberal group.

**Senator Malcolm Byrne:** My party does not want to have anything to do with extremism.

**An Leas-Chathaoirleach:** The speaker without interruption.

**Senator Malcolm Byrne:** The pro-Russian position-----

**An Leas-Chathaoirleach:** The Senator is out of time.

**Senator Malcolm Byrne:** I appreciate that, but the pro-Russian position of Sinn Féin on the hard left is not acceptable either.

**Senator Martin Conway:** This is the day after the budget. This year's budget was a very different budget because it had to be. It had to be a budget that reached out and supported people not just in 2023, but now. Some of the measures announced are extremely welcome and are needed. I acknowledge the Minister, Deputy Humphreys, for the work she did in securing not just increases to the old age pension and welfare payments in general but also for the once-off payments that are needed this month, next month, at Christmas and going forward into next year.

In education, the announcement of free schoolbooks is particularly significant because this country has been an outlier when it comes to access to and availability of books. Parents in most other countries do not have to buy books. In those countries, the books are provided by the state and are the property of the school. I hope the books that will be provided will also be free to people who have print disabilities. I hope that books in Braille will be free and that there will be access to books in digital form, because that is also important.

Some of the transport measures are welcome, particularly the confirmation from the Minister of State, Deputy Naughton, that Shannon Airport will be able to apply for the regional airport support fund. This fund has been critical in recent years during Covid.

In health, it is great that there will finally be no hospital charges for anyone. This measure will help the people of middle Ireland - those who do not qualify for medical cards and who fall into the category of the squeezed middle. When they go to hospital, or their child does, they will not have to pay the daily charge of €80. That will help such people. Access to free contraception for ladies under 30 years of age is also important. As the GP visit card situation will be challenging for the medical profession, clarification is needed in terms of what supports will be provided to them.

Overall, it is a budget for these times. It is a budget like no other, but it is a budget that was needed. It will help struggling families.

**Senator Eugene Murphy:** It is important that we deal with facts in the context of the budget. Sometimes the whole role of carers is thrown about by a minority of politicians who use it to exploit their situation politically. We need to take a long look at what this budget has done for carers.

There will be a cost-of-living double payment to carers in October. A cost-of-living lump sum of €500 for people getting the carer's support grant will be paid in November. It will also be paid to people in receipt of disability allowance, the blind pension, the invalidity pension and working farm payments. It should be noted that one grant will be paid per carer, regardless of how many people the carer cares for. Carers will also get a Christmas bonus of a double payment in early December. From January 2023, there will be a €12 increase in the maximum rate of carer's allowance, bringing it up to €236, and carer's benefit, up to €237. Proportionate increases will apply to those getting a reduced rate.

Domiciliary care allowance will increase by €20.50, to €330 per month, with effect from January 2023. This allowance will be available in respect of children with severe illness or disability who remain in hospital for up to six months after birth. Qualified child payment weekly rates will increase by €2 in January 2023, bringing them to €50 for over-12s.

There will be a new means test disregard for fuel allowance for people aged 70 years, and the means assessment threshold for fuel allowance will increase from €120 to €200 with effect from January 2023. Half-rate carer's allowance will be disregarded in the means assessment for fuel allowance from January 2023.

I have not mentioned the electricity credits or other fuel allowance payments. I want to put on record of this House that this is a massive budget for carers. People from Ahascragh, Strokestown and Roosky rang me this morning - I did not ring them - to say that this will bring a massive improvement to the lot of carers. Let us put it on the record that Government Members, members of my own party and my Senator group, have been working consistently on this to make it happen for carers. It has not achieved everything, but it has achieved a lot and we will achieve more for them in the years ahead. Let us put this on the record and let us keep it straight.

**An Leas-Chathaoirleach:** Iarraim ar an gcéad cainteoir eile, an Seanadóir Dolan, atá as an Dáilcheantar céanna.

**Senator Aisling Dolan:** The Minister for Education, Deputy Foley, is doing a press conference in the Department of Education. She has announced that the Department of Public Expenditure and Reform will meet the costs of the families who have been waiting for the remaining concessionary bus tickets. This is crucial. It is something I have campaigned for within Fine Gael with Senators Lombard and McGahon. We had a motion at Government level last week that was passed in the Seanad. It is crucial this measure is implemented as soon as possible. Concerned families in Roscommon and Galway have been in touch with me. It has been four weeks since schools went back and it is now nearly October. Families cannot find a way to bring their children to and from school. They have had to give up jobs. We know how stressful things have been for them over the past four weeks. I am delighted to hear the Minister has brought forward this budget. She has secured more than €100 million, €90 million of which is

for one-off additional funding measures for heating in schools and €10 million of which will be allocated to fuel for school transport.

The Minister has also very clearly indicated there is an understanding from the Department of Public Expenditure and Reform that costs will be met around children and families who have applied for bus tickets. She stated that in excess of 125,400 tickets have been allocated. That leaves more than 4,500 families who are still waiting to hear back. We need the matter to be addressed immediately. It is urgent and I call on the Deputy Leader to bring the Minister to the House to outline a timeframe for us within which that will happen.

**Senator Lynn Boylan:** I refer to a letter sent to the European Commissioner for energy last night signed by 15 EU member states, namely, Belgium, Bulgaria, Croatia, France, Greece, Italy, Latvia, Lithuania, Malta, Poland, Portugal, Romania, Slovakia, Slovenia and Spain, all calling on the EU to introduce a price cap on gas imports coming into the bloc to help member states mitigate the inflationary pressure the price of energy is putting on member states. Ireland's signature is conspicuously missing from that letter and I would like an explanation from the Minister, Deputy Ryan, as to why that is the case. If he will not introduce an energy price cap at a member state level, why will he not at least support such a price cap at an EU level when 15 member states are calling for it? They are doing so because they know the only way we can put downward pressure on the inflationary pressure that is coming and give certainty to households is to have a price cap. It is deeply disappointing Ireland did not sign up to that measure ahead of Friday's meeting of energy ministers.

**Senator Emer Currie:** We know the crisis point we are at regarding therapeutic services for children, such as psychology. That has an impact on our disability services, child and adolescent mental health services, CAMHS, and schools. Families are telling us we simply are not supporting them with what they need. It was announced in the budget that psychology traineeships for counselling psychologists would be funded in the same way as clinical psychologists. That means that, when they are doing their traineeships, they get 60% towards their university fees and a salary. However, educational psychologists have been left out. There are three streams, only one of which was funded up until now. People received a salary for the hundreds of hours they worked and funding towards their fees. Counselling psychologists will now get that funding, but educational psychologists have been left out. I do not see the sense in that. It costs €15,000 a year after people have done their undergraduate degree. It is a huge amount of money.

No funding was available for additional places for students to do traineeships in the first place. There was an announcement last year regarding a significant increase in the number of medical places in Irish medical schools over the past five years. A total of 260 extra places are now available. The Psychological Society of Ireland has proposed that there be 50 trainee psychology places over five years with funding of €2.45 million. What an impact that would have when it comes to securing therapeutic services and psychologists for our children and disability services. I understand the mix-up is coming from the Department of Education because it has a role in this. I ask the Deputy Leader to examine this issue. Can it be addressed in the context of budget 2023?

**Senator Lisa Chambers:** I thank all Members who contributed to the Order of Business. Senator Lombard welcomed yesterday's budget. We can all agree it was a significant budget, with a level of spending not surpassed by any previous budget. My view and that of my Government colleagues is we have delivered on the promises we made to look after the most

vulnerable, to give a break to all families and households, and to try, as best we can, to alleviate the cost-of-living pressures every single person in the country is dealing with, no matter where they are.

Senator Lombard raised the issue of school transport, as did Senators O'Loughlin and Dolan. It was welcome that in yesterday's budget the Minister, Deputy Foley, secured additional funding to put on extra bus services for those students who have yet to receive a school bus place. It is important to acknowledge that, when school transport was made free for this academic year, it was with the best of intentions, and many families benefited to the tune of more than €600, which is a huge cost saving for many families throughout the country. The demand for bus places was not anticipated at the level that transpired. There have been particular bottlenecks in some parts of the country in getting spaces, in particular for those with concessionary tickets. The Minister, Deputy Foley, has secured extra funding and it will now be the job of Bus Éireann to secure extra drivers and buses to get children to school. We are probably moving to a place where we no longer have eligible and concessionary bus applicants. Any child who wants to get a bus to school should be facilitated, not just because it is greener and better for the environment but because there should be an offering that ensures every child gets that service.

Senator O'Loughlin spoke about the extension of the 20% reduction and 50% reduction in fares for children on public transport, which applies to private services. She made a particular point regarding short hop zones which have not yet materialised. It is something for which she is pushing. She also spoke about the Neurological Alliance of Ireland, one of many organisations she met in pre-budget discussions and which left the biggest impact on her. She referenced Laura Reid Costello, whom I know, and Dr. Rosie Mangan. Both women acquired a brain injury and are now advocating on behalf of the Neurological Alliance of Ireland to try to get extra services, in particular for An Saol, which does fantastic work. She has requested a debate in the House on acquired brain injury, and that debate will be facilitated at the earliest opportunity.

Senator Boyhan welcomed the Order of Business, in particular Lord John McFall's address to the Seanad. He raised issues around local government funding, which we will all be very aware of, and the need to bridge the gap where local authorities are finding it increasingly difficult to provide basic services like keeping areas clean and tidy and providing services to citizens. He also thanked Seanad staff for all of their work in terms of preparing for Seanad 100.

Senator Gavan spoke about the rise of the far right, which Senator Byrne answered very eloquently. He also acknowledged those in glass houses should not throw stones. He spoke in particular about bus services in Limerick, Castleconnell and Montpelier, his local area, and the ongoing issues with providing bus services in rural areas, something with which I am quite familiar.

Senator Ruane spoke about community safety and police safety in the context of recent debates we have had in this House and wider society. She wanted to draw attention to some positive news, namely, interventions that are working well such as the detached street work in west Tallaght, something that is reaching out to those who are among the most marginalised in our society who need to be brought back in. I was not aware of the issues around the accredited addiction counsellors versus addiction practitioners. If the Senator wants to talk to me after the Order of Business, I might be able to set up a meeting with the Minister for Health and see whether we can progress that. The experience of practitioners working in the field for decades should not be discounted. I do not know why there has been a change in policy to enforce the



outdated requirement to refer people on. There should be no barriers to getting people the help they need. I ask the Senator to speak to me after the Order of Business.

Senator O'Sullivan wanted to congratulate his county colleague, the Minister, Deputy Foley, on what was a monumental investment in education. Primary school books across the country will now be free of charge. He spoke about the move being in the vein of Donogh O'Malley bringing in free second level education or the introduction of free school transport in terms of the focus on ensuring equality of access to education for every child in the country. He also called for a debate on the shared island unit and I have made that request.

Senator Maria Byrne welcomed the announcement by Ryanair of 2,000 jobs up to 2030 and, in particular, the fact that 200 of those jobs will be at Shannon and there will be an investment of €10 million in a new hangar at Shannon Airport. She wished Mary Considine and the team at Shannon Airport the very best with that investment.

Senator Cassells spoke about the budget announcement of the reduction in the VAT rate on local newspapers from 9% to 0%. I agree with the Senator. All present understand the importance of local papers. They are the papers of local record, reporting on local government, local sports and local issues. If we did not have local media, we would not have that record for future generations. I know the announcement has been very much welcomed by the industry. I take on board his comments regarding the *Fingal Independent*. It is unfortunate that that announcement coincided with the Minister's budget announcement yesterday. I concur with his remarks on the former Uachtarán, Mary McAleese, and wish her well chairing the integration process between the Ladies Gaelic Football Association, the Camogie Association and the GAA. It is long overdue.

Senator Warfield spoke about the night-time economy. I concur with his remarks. In many areas across the country, there is such a significant cost burden associated with having a late licence that many venues choose not to hold such a licence. In my home town of Castlebar, there are no premises with a late licence because it is not seen as viable or sustainable and, as a result, there is no night-time economy in the town after 11.30 p.m. or 12.30 a.m., depending on the day. I suggest that the Senator table a Commencement matter to the Minister for Justice on that issue.

Senator Malcolm Byrne spoke about the HSE decision-making process. All Senators would agree that if a person such as a speech and language therapist has given advance notice of going on maternity leave, the HSE is on notice then to get a replacement to fill the post for the duration of that maternity leave. It should not be hiring a replacement when the person has already gone on leave, leading to a gap in services in a local community.

Senator Conway welcomed the budget announcement yesterday, particularly the abolition of the inpatient hospital charge. The abolition has been welcomed by the Irish Cancer Society, which did a fantastic job campaigning for it. The Senator also welcomed the free school bus provision.

Senator Murphy spoke about the budget and made the point that, in particular, it was a good budget for carers. I absolutely agree with his remarks. It represents €1,600 back into the pockets of carers, which is approximately €30 a week. It is a significant increase that has been welcomed by many carers across the country.

Senator Dolan spoke about school transport. I have dealt with that issue. I concur with



her remarks in respect of it being a much-needed investment. Senator O'Loughlin helpfully informed the House that, in getting these extra buses and bus drivers on stream, those who had concessionary tickets previously will be prioritised in the roll-out.

Senator Boylan spoke about the energy commissioner and the letter that was sent. I am not sure why the Government did not sign up to that. As regards a price cap domestically, I think the Tánaiste spoke on this issue this morning. There are concerns that if a domestic price cap is implemented, the State will pick up the tab at the other end. It is not as though it does not get paid; it has to be paid for by somebody. There is a concern that if we are heading into a global downturn, which looks likely, prices could come down. The Government believed the best way to assist citizens here was with the energy credit of €200 that will be paid at the end of this year and a further two payments of €200 in the new year. That is €600 of direct payments to every household in the country to try to meet the increasing cost of energy, which is a significant recognition on the part of the Government that this is a real problem for people and is putting a lot of pressure on them. That coincides with increases in welfare payments and fuel allowance, as well as the expansion of fuel allowance to take more people into the bracket. Every effort is being made to ensure we protect households, particularly the most vulnerable, by trying to offset the increased cost of energy.

Senator Currie spoke about therapeutic services for children. Not a week goes by in this House without that issue being raised. All Members are receiving representations on it. It is heartbreaking. Parents are at their wits' end. They are so exhausted that they can barely fight for services for which they should not have to fight. The issue in respect of educational psychologists not being included would be a good one on which to table a Commencement matter. It probably warrants a broader debate in the House, so we might seek to have statements on it in the coming weeks, but I also suggest that the Senator table a Commencement matter on it. It is something we have to get to grips with because we are losing precious time as each year goes by. It is not early intervention if it is happening at eight, nine or ten years of age.

**An Leas-Chathaoirleach:** I thank the Deputy Leader for that comprehensive and individualised set of responses.

Order of Business agreed to.

### **Address to Seanad Éireann by the Rt. Hon. Lord John McFall, Lord Speaker: Motion**

**Senator Lisa Chambers:** I move:

That Seanad Éireann agrees with the recommendation of the Committee on Parliamentary Privileges and Oversight that, in accordance with the provisions for the address to Seanad Éireann by Distinguished Persons, The Rt. Hon. Lord John McFall of Alcluith, Lord Speaker, be invited to address Seanad Éireann on Wednesday, 5th October, 2022, and, notwithstanding anything in Standing Orders, unless otherwise ordered, the following arrangements shall apply:

The proceedings in respect of the address by The Rt. Hon. Lord John McFall of Alcluith, Lord Speaker, shall commence at 12.45 p.m. and shall conclude no later than 1.45

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p.m. and shall consist of:

- (a) a speech of welcome by the Cathaoirleach,
- (b) an address by The Rt. Hon. Lord John McFall of Alcluith, Lord Speaker, which shall not exceed 20 minutes,
- (c) a contribution not exceeding four minutes by the Leader of each Group (or a Senator nominated in his or her stead); time may not be shared,
- (d) a response by The Rt. Hon. Lord John McFall of Alcluith, Lord Speaker, which shall not exceed five minutes,
- (e) a speech of thanks by the Leas-Chathaoirleach.

Question put and agreed to.

*Cuireadh an Seanad ar fionraí ar 12.26 p.m. agus cuireadh tús leis arís ar 1.33 p.m.*

*Sitting suspended at 12.26 p.m. and resumed at 1.33 p.m.*

## **Assisted Decision-Making (Capacity) (Amendment) Bill 2022: Committee Stage**

### **SECTION 1**

**Acting Chairperson (Senator Eugene Murphy):** Amendment No. 1, a Government amendment, is related to amendments Nos. 2, 58, 59 and 63 to 74, inclusive, all of which may be discussed together, by agreement.

Government amendment No. 1:

In page 7, between lines 16 and 17, to insert the following:

“(2) Section 94 and the Credit Union Acts 1997 to 2020 may be cited together as the Credit Union Acts 1997 to 2022 and shall be construed together as one.

(3) Section 93 and the National Disability Authority Act 1999 may be cited together as the National Disability Authority Acts 1999 and 2022 and shall be construed together as one.

(4) Section 73 and section 89 and the Mental Health Acts 2001 to 2018 may be cited together as the Mental Health Acts 2001 to 2022 and shall be construed together as one.”.

**Minister for Children, Equality, Disability, Integration and Youth (Deputy Roderic O’Gorman):** Amendments Nos. 1 and 2 provide for the inclusion of new subsections that simply reflect how the Credit Union Act 1997, the National Disability Authority Act 1999 and the Mental Health Act 2001 shall be construed following amendments made to those Acts in the Assisted Decision-Making (Capacity) (Amendment) Bill. I wish to speak also to amendment

No. 58, which is a Government amendment in the group.

Amendment No. 58 proposes changes to the application of the 2015 Act, including decision support arrangements and the validity of advance healthcare directives, AHDs, to persons whose involuntary mental health treatment is regulated by Part 4 of the Mental Health Act 2001. This matter was raised in the pre-legislative scrutiny report back in April and has been raised throughout the various Stages of this Bill, including by Senators in the Second Stage debate. I am pleased to be able to introduce these amendments today and show the commitment my colleagues in government and I have to making progress on this matter.

I stress that the amendments being introduced today are not the final word on this matter and acknowledge that more is needed to achieve full parity of care. While it remains the case that fundamental reform of involuntary care under the 2001 Act is a matter for the reform of that Act under the Department of Health, the amendments being introduced today signify an important move away from a paternalistic, best-interests approach and extend supports to cohorts previously excluded from the supports under the 2015 Act.

Persons whose involuntary treatment is regulated under Part 4 of the Act must meet the definition of “mental disorder” within the 2001 Act. I am using the terminology used in the Act. Nowadays we would regard it as inappropriate, but, with regard to what I am talking about amending, I have to use the definitions contained in the Act.

Under the 2001 Act, a person may be treated under Part 4 if there is an immediate and serious likelihood of that person harming himself or herself or another person or where, in the opinion of the relevant clinicians, treatment is required to improve the condition or a condition would deteriorate without treatment. Reforming treatment considerations where a person may be likely to cause harm is a more complex undertaking than can be achieved in this Bill, despite all the efforts that have been made. Therefore, I cannot, at present, extend decision support arrangements to the A category spoken of, nor can I extend it to persons whose detention arises from a referral from the criminal justice system, due to several complex technical and legal issues. However, along with Senators present and advocates, I remain committed to continuing to move towards parity in this area. I look forward to the fundamental reforms that the Minister for Health will bring to the 2001 Act, which I know Senators are involved with and will address the necessarily more fundamental reforms related to how the law should address the issue of possible harm.

In dealing with the amendments before us, I must address the 2001 Act as it stands. Unfortunately, it is not possible to extend the Act’s provisions in their entirety in that regard. Notwithstanding this, amendments I am introducing today will extend the provision of assisted decision-making supports to those treated under the B category. This will ensure a clinical view of a person’s best interest will no longer, by itself, be placed above that person’s own will and preference and that a person’s will and preference will prevail. This represents a significant extension of the provision, and I hope it will benefit the treatment of those whose treatment has not to date been within their control.

On the question of a significant extension of the application of advance healthcare directives, I acknowledge there is more work to be done. With regard to our very extensive engagement with the Department of Health over the summer, we believe this is as far as we can go in this legislation. The remaining elements may be addressed within the reform of the 2001 Act, which I am aware has been subjected to pre-legislative scrutiny. I hope to get a full draft of the

associated Bill from the Department of Health shortly.

**Senator Frances Black:** The Minister is welcome to the House. I am very grateful to Ber Grogan of Mental Health Reform for helping out with much of this over the past few months. I am also very grateful to Dr. Fiona Morrissey of NUIG, who has also been very helpful to me.

An advance healthcare directive is a statement set out by someone when he or she has the capacity to make decisions about his or her will and preferences for care and treatment in the future. The directive comes into effect if and when the person becomes unwell and no longer has decision-making capacity. People can make advance healthcare directives regarding a broad range of issues, such as the types of medication they prefer and types of therapies that work best for them, in addition to refusals of treatments such as electroconvulsive therapy or certain medications that cause intolerable side effects for them. An AHD enables a person who experiences mental illness to make plans while healthy. If complied with, it gives people the peace of mind of knowing that their wishes will be respected even when they are at their most vulnerable and unable to fully advocate for themselves. They are essential tools used to uphold the dignity and agency of people experiencing mental health difficulties. They are a source of security and safety amid the fear and chaos that can accompany mental ill health. If complied with, advance healthcare directives encourage people to seek the help they need because they can be assured their rights will not be violated if it is judged that they will subject to involuntary detention. This is a cause of major anxiety for people who are impacted by this.

Irish research on AHDs undertaken by Professor Fiona Morrissey was extremely helpful to me in developing my understanding of this issue. The research shows that they can reduce involuntary admissions and promote recovery. It is a phenomenal piece of work that Professor Morrissey has done. AHDs improve outcomes, save the State money and protect people from potential harm. As the legislation currently stands, people who have been involuntarily detained will have their AHDs disregarded. This is a massive betrayal of trust and it cannot be allowed to continue. Removing the greatest protection of an individual's agency and freedom to choose, a document that is made under conditions of health incapacity creates a significant risk of abuse.

The Minister knows that Ireland has obligations under the United Nations Convention on the Rights of Persons with Disability, UNCRPD. People with mental health issues are understood under the UNCRPD to have a psychosocial disability and they must be empowered and protected from discrimination. The amendment about I propose will further that aim by removing a discriminating section of the principal Act. I hope the Minister will consider it.

**Senator Fintan Warfield:** I will speak about amendment No. 58. There is some concern around this amendment given its potential implications for the bodily integrity of people with psychosocial disabilities. It is a form of substitute decision making that runs contrary to the requirements of the UNCRPD. I urge the Minister to look at the amendments Senators Black, Hoey and I have tabled on advance healthcare directives. The Minister acknowledged there is some work to be done on this and indicated that the Minister of State with responsibility for mental health and older people was developing legislation on it. When will we see legislation on this issue?

**Senator Annie Hoey:** I echo Senator Black's words of gratitude to some of the people we have been working, particularly members of Mental Health Reform and some others who have been good and have done as much work as the Department has done on this legislation. They

have been casting an eye over it, advising and putting forward different ways in which it could be tied in with human rights. A question has come up on which I ask the Minister for clarity. It may just be my reading of this but I am not at all clear about how the Government amendments address the AHD exclusion for involuntary people. AHDs were always legally binding where a person was not detained under Part 4 of the Mental Health Act. The text still states that the AHD shall be complied with unless the person is detained under Part 4 of the Mental Health (Criminal Law) Act. From my reading of this, it still excludes involuntary people from legally binding AHDs. When this legislation was going through various discussions and Stages I understood that the Government would only exclude people detained under the Criminal Law (Insanity) Act. However, the wording here seems to suggest that those detained under Part 4 of the Mental Health Act 2001 will also be excluded. Is this a technicality or am I and others misreading it? This is concerning for some of the advocacy groups that have been reading through the legislation. Will the Minister clarify exactly what the position is?

**Senator Mary Seery Kearney:** I echo those concerns. I have received phone calls which upset me and I am not the better for. The idea that a document that is legally binding in many circumstances and is put together when the person has absolute capacity could be suspended in any circumstances is appalling. Has the Irish Human Rights and Equality Commission, IHREC, been consulted on this? I expected these amendments to be more strongly in support of people with mental ill health. As much as we desperately need to have this Act in place for many good reasons, I question the wisdom of proceeding if it has to be done in conjunction with mental health legislation that will not come before the House until some point in the future. The idea that people in the State will find themselves in a position of absolute powerlessness when they could have had a voice, one which they had put in place themselves, is unacceptable. I am deeply uncomfortable with codifying that. I would like to understand whether this has been proofed by the IHREC? Some of the cases described to me on the telephone are outrageous. We cannot have an inherent bias in how people are treated when they have mental ill health.

I have now become alive to all that is happening in the committee chaired by Senator Black. I will watch and read its proceedings with great interest because we cannot codify something that perpetuates an inherent bias and discrimination. We cannot do that.

**Deputy Roderic O’Gorman:** In regard to the work being undertaken by the Department of Health on the reform of the Mental Health Act 2001, heads of Bill were published earlier this year. My understanding is they have gone or are going through the pre-legislative scrutiny process with the committee. Once that pre-legislative scrutiny process is over, the outcome will influence the final draft that will be brought to Cabinet. The process is advanced and we are awaiting the final draft of the legislation to come to Cabinet. I can seek a little more clarity from the Minister for Health before Report Stage when I will be able to give more clarity. It is a matter within the remit of the Department of Health but, as I stated, the heads of Bill have been done and a pre-legislative scrutiny process has taken place.

In regard to the questions from Senators Hoey and Seery Kearney, under the 2001 Act where a person’s treatment is involuntary, it is regulated by Part 4, which is divided into two subsections. The first is where there is deemed to be an immediate and serious likelihood of the person harming himself or herself or another person. The second is where, in the opinion of the relevant clinicians, treatment is required to improve a condition or a condition would deteriorate without treatment. Under the existing legislation, both of those circumstances allow for involuntary detention under Part 4. As the Bill originally stood, in both of those circumstances an AHD would not apply. The amendment I am bringing forward today will allow an AHD



to apply in the second of those circumstances, where, in the opinion of the relevant clinician, treatment is required to improve a condition or a condition would deteriorate without treatment. Where a person is detained under this subsection in Part 4, the exclusion contained in the original 2015 Act on the applicability of AHDs will no longer apply. However, it will still apply under the first subsection. We have engaged extensively on this with both the Office of the Attorney General and the Department of Health. We are not able to broaden the application of AHDs further in the Bill than the broadening I am bringing forward today in the context of these and other amendments. We absolutely see the importance of AHDs and of legislating for the situations about which Senator Seery Kearney and others have spoken. However, part of that requires changes to, and a much broader revision of, the 2001 Act. That is within the remit of the Department of Health and will require a systematic review and revision of that legislation. We have advanced the situation by broadening the application of AHDs and narrowing the exception that is provided for in the Act. There is a strong recognition within the Department of Health that it needs to take up its part of the work now in respect of the revision of the 2001 legislation. That process has begun by way of the heads of Bill that were approved by the Cabinet earlier this summer.

**Acting Chairperson (Senator Eugene Murphy):** Are Members satisfied with the Minister's response?

**Senator Fintan Warfield:** There are concerns that it could take years for the Mental Health Act 2001 to be reformed. Is that a worry people should have?

**Deputy Roderic O'Gorman:** The focus of the Government on delivering reform of that legislation is demonstrated by the heads of Bill that have been passed by the Cabinet and gone forward for pre-legislative scrutiny. We all know legislation takes a while to complete. We have gone through a number of lengthy Bills in this House that have taken some time. Once the heads of a Bill are agreed and the pre-legislative scrutiny process is finished, a good part of the work is done. The reform of the 2001 legislation is vital for a range of areas. This is just one issue. Across both Houses, there is a strong recognition of the need to invest in mental health services and fundamentally reform the legislation. Earlier, I referred to a phrase we all now regard as unacceptable but that is still contained in our legislation. Phrases like it need to be removed. That is one of the many reasons the Government prioritised bringing forward heads of a Bill and one of the reasons, as I understand it, the Department of Health sees that legislation as a priority. I am happy to come back on Report Stage with greater clarity for Senators on a clearer timeline from the Department of Health for the progress of that Bill.

**Senator Frances Black:** That would be helpful. There is no reason this provision cannot be removed. Will the Minister give a little more explanation in this regard? It impacts everyone but especially those who are vulnerable. Dealing with it must be a priority. Is that something he will consider as we go forward? We need a full discussion on it before Report Stage. The provision needs to be taken out and it would be helpful if we could discuss it further.

**Senator Mary Seery Kearney:** The Minister did not indicate whether IHREC has had a role in this. There is also the question of where we stand in regard to the ratification of the optional protocol to the UNCRPD and whether these amendments will be acceptable in that regard. Do people have a right to take litigation outside the State when there is a cultural bias against people with mental ill-health? That bias is a fact that has been proven again and again. Unfortunately, in some instances, the people who are giving evidence as to how they are being discriminated against are the very people who are not being believed and who, due to their

particular condition, find themselves labelled as lacking in capacity. They are in an incredibly vulnerable position and now we have this provision being left in legislation that disempowers them even when they have put a document together and have capacity.

There is a combination of issues, which include denying people the power they could have, our slowness to ratify the optional protocol and our refusal to make provision to empower people within the Bill. The approach is not centred on the very people to whom this legislation is intended to give a voice. We should ensure that the most vulnerable are supported by the legislation and that they have a voice all the time. They do not have a voice and we are managing to codify that deficiency. I am a member of a party of government, which means one takes the hits and votes with the Government even when one personally disagrees with a particular measure. I will find it very hard to do so today but I will do it because I do not believe in suddenly picking and choosing the issues on which one supports one's party. This issue really needs further thought and the opportunity to hear the experiences of people as a consequence of the current situation in the State. It is frightening to be part of a measure that is going to codify further discrimination.

**Deputy Roderic O'Gorman:** I am happy to engage further with Senators on these amendments. The reason the Bill was not passed before the summer was to allow for a pause in which we engaged extensively over the summer with the Office of the Attorney General and the Department of Health on this specific matter. There was a focus, in particular, on the issues that arise when people are detained under the Mental Health Act and the basis for their detention is that they are a risk to themselves or to somebody else. We looked at people's ability in that context to refuse treatments that might lessen their potential risk to others and the balance that can be achieved in that regard in the law. The legal advice I have received is that this balancing mechanism is best done through reform of the Mental Health Act, not in this Bill. The second category of persons, who are not covered by the relevant Part, are those whose involuntary detention is due to the opinion of the relevant clinician that treatment would improve their condition or their condition would deteriorate without treatment. Under the amendment I am bringing forward, those persons will be able to rely on the provisions of their AHD.

The Government has made a commitment to sign Ireland up to the optional protocol to the UNCRPD. The passage of this legislation, the enactment of the 2015 legislation, the abolition of wardship and the operationalisation of the decision support service are essential. The continuation of a wardship process is a major barrier to our signing up because it makes us so clearly in violation of the optional protocol. My Department, in conjunction with others, is conducting a review to see what other legal issues need to be addressed before we are in a position to sign up to the protocol. Passing this legislation is a key part of that because we cannot sign up while we maintain an outdated notion of wardship.

I am happy to engage with Senators, as I have done in the past.

*2 o'clock*

I wish to be realistic in that substantial work has been done on how far we can advance this issue in this legislation - we have advanced it significantly further - notwithstanding the legitimate issues that have been raised by Senators. I am happy to engage with them.

**Acting Chairperson (Senator Eugene Murphy):** I acknowledge that some Senators have concerns but, in fairness, the Minister is trying to be helpful.

Amendment agreed to.

Government amendment No. 2:

In page 7, line 21, to delete “*Sections 72 and*” and substitute “*Sections 72 to*”.

Amendment agreed to.

Section 1, as amended, agreed to.

Section 2 agreed to.

### SECTION 3

**Acting Chairperson (Senator Eugene Murphy):** Amendments Nos. 3 and 42 to 44, inclusive, are related and may be discussed together.

**Senator Frances Black:** I move amendment No. 3:

In page 8, between lines 6 and 7, to insert the following:

“(e) section 85(7);”.

Amendment No. 42, which was tabled by the Minister, will mandate compliance with AHDs made by some people detained under the Mental Health Act but not others. Those admitted under section 31(b), because the clinician believes that they will deteriorate or substantively improve if detained will have their wishes respected. Those detained under section 31(a) who are deemed to be a risk to themselves and others will have their wishes disregarded. That is the concern. Two-tier approaches to human rights obligations rarely work, as Senator Seery Kearney said earlier.

The Government’s amendment creates a slightly perverse incentive, for even well-meaning psychiatrists who believe that the preferred treatment plan should override the detained person’s wishes to detain them under the wrong subsection in order that they can proceed with full discretion. This observation is not meant as an attack on the professionalism or compassion of the psychiatric profession, but it is a recognition that we should draft laws in a way that insulates vulnerable people from potential abuse.

This system is a very complex and fallible nexus of human psychology, clinical judgement and legislation and, ultimately, doctors face the difficult task of fitting the nuances of human behaviour and distress into one box or another. This is very subjective. Limited categories can never hope to capture the full complexity of an individual’s circumstances.

I acknowledge what the Minister said about having conversations with the Attorney General, but we have to be mindful of this. We have to be careful. The concern is whether a person’s dignity or human rights will be upheld. It should not depend on such a flimsy measure, if that makes sense to the Minister.

My amendment would remove any aggravation and ensure the human rights and dignity of involuntarily-detained individuals are protected. It would provide clarity and comfort for individuals who need it. It is in the hands of a psychiatrist or doctor to make that judgement, which is very worrying.

I ask the Minister for further clarification on this. He may feel that he is repeating himself but I am concerned. I ask that we have further conversations before Report Stage.

**Senator Annie Hoey:** It is very welcome that the Minister seeks to reform and expand AHDs and to ensure that preferences of people with psychosocial disabilities are protected but I am concerned that amendment No. 42 creates further confusion because it creates a piecemeal provision.

It feels as though the amendment pays lip service to the protection of rights while allowing them to be undermined on the basis of so-called risk. Risk is not a neutral term in a disability context. Ideas of risks and dangers have been used for decades to justify the denial of rights and abuse of disabled people, from institutionalisation to forced sterilisation. We have all heard stories of how people have been treated.

All the evidence demonstrates that people with psychosocial disabilities are at increased risk of being subject to violence and abuse. I wonder whether this creates a two-tier approach to the validity of AHDs, where a person can rely on one where he or she is detained on the ground that he or she requires treatment and that can only be provided at an approved centre, but not where the person is detained where it is believed that he or she may be at risk of causing harm.

Will the Government create situations where someone may believe his or her AHD will be binding, should he or she be subjected to the Mental Health Act but may, nevertheless, be forcibly treated? I am not sure that this is as clear as it could be. If the current reforms to the Mental Health Act are similar to the heads of Bill the Government published in July last year, this amendment will mean very little, as the Government is proposing to amalgamate the need for treatment on the grounds for the criteria of protection and harm.

The amendment retains the discriminatory exclusion of people who have been conditionally discharged under the Criminal Law (Insanity) Act 2010 from relying on their AHDs. These are people who have experienced stigmatisation due to being subject to the Criminal Law (Insanity) Act 2006. It is unacceptable for them to be further excluded by being unable to have their decision-making rights respected.

To ensure that the AHDs are available in a non-discriminatory manner to anyone, perhaps this amendment should be withdrawn. I do not know that it will do what it says and I am interested in what the Minister has to say on that.

**Senator Mary Seery Kearney:** We have a difficulty where we apply a directive in one instance and not in another. We currently have a situation whereby people who need the support of the system, with all its good aspects and its flaws, rather than volunteer themselves for full transparency to get a fully comprehensive treatment, will pay lip service just enough to get by, because to volunteer the truth of what is really happening for them may lead them to a place where they are completely and utterly disempowered. Without having protection and a voice in every scenario that may arise, we will have people repeatedly going back into the system because they are not getting the full treatment.

If I believe and look as though I have a broken arm, I may deny it because I am afraid of what the consequences will be. Thus, I will not have an X-ray or even describe the situation and I will just look for paracetamol to patch it up as a short-term solution, because I am afraid to enter into a system.

Here, we are codifying a two-tiered system and we are putting in place an incentive for people not to get the proper treatment and just to get a little bit of a patch to get them over a situation when they most need treatment. We run the risk of people not disclosing in their own interests because they are afraid of the consequences.

This is the difficulty of moving ahead without mental health reform. I worry about that and the considerable power imbalance between even the most professional and fantastic psychiatrist and a person on the other end of that. Even the most well meaning sentences can be found and experienced as threatening. If a person is in that situation, someone might say, “We can get a child protection order if this comes to it”, in an incredibly compassionate and well meaning way. However, that would not be how I would hear it if it were said to me. Again, I would have concerns around this.

**Acting Chairperson (Senator Eugene Murphy):** Does Senator Warfield wish to come in?

**Senator Fintan Warfield:** There is something that I want to put on the record regarding the Mental Health Commission, which launched its 2021 annual report recently. It stated criteria for involuntary detention is quite wide-ranging, as it stands, in the Mental Health Act. People can go in voluntarily and unexpectedly be made to stay involuntarily. The Mental Health Commission 2021 report states: “If a voluntary patient indicates a wish to leave an approved centre they can be detained if the staff are of the opinion that the patient is suffering from a mental disorder”.

In 2021, there was only a 64% compliance rate among mental health inpatient services with the requirement for individualised care plans. Some 36% - over one third – of inpatient mental health services are not complying with the requirement to provide individualised care based on the person’s preferences. It shows, therefore, that legally binding advance healthcare directives, AHDs, are vital to ensure that the will and preferences are respected for all people in those contexts.

**Senator Regina Doherty:** I tabled amendment No. 44 because concerns have been expressed at meetings of anaesthesiologists with regard to the Act perhaps being too restrictive compared with similar legislation in the UK, namely, the Mental Health Capacity Act 2005. It is in the context of doctors in emergency situations having to make what they consider to be pragmatic decisions.

The Royal College of Surgeons in Ireland gave me an example of a scenario wherein three teenagers over the age of 18 would sign an advance directive not to be resuscitated if brought unconscious to the emergency department, where each pair of teenagers from the trio acted as witnesses for the third, making the directives all legally valid. One teenager is subsequently brought in unconscious, perhaps it is drug-related or accidental, and the advance directive is found in his or her pocket. Under the UK Act, a doctor, knowing that the patient is fully salvageable and may be helped, can make a pragmatic decision to treat the patient and save his or her life, suspecting that the patient perhaps did not intend to apply the advance healthcare directive in this particular scenario or perhaps changed his or her mind. Under the Irish Act, a doctor would not be allowed to do that with the current wording of our legislation.

I have further information that I can certainly furnish to the Minister and his officials. I would be very grateful if he could have a look at it. I will not divide the House today. I will move and withdraw the amendment, to allow some consideration of it so that we can perhaps



bring it back on Report Stage. I would be very grateful if the Minister could look at what may be the unintended consequences of the legislation we are talking about today in that kind of scenario, and what has happened in the UK to rectify it.

**Senator Erin McGreehan:** I wish to share a thought. This Bill is supposed to be empowering for so many people. We all could speak at length about our disappointment. However, I just want to put on the record that we are dangling a carrot in front of people, telling them that we are working towards and listening to their will and wants, and we are improving our advance healthcare directives. We are then kicking it off into the ocean, saying it might not actually work. We might not listen to them unless they can swim out and catch it. I just do not think it is acceptable that we are putting through a disempowering Bill. We are talking about ratifying the optional protocol and saying this Bill is necessary for it. Not listening and not empowering is certainly not a way forward to implement and adhere to the UN Convention on the Rights of Persons with Disabilities. I just wanted to put that on the record.

**Acting Chairperson (Senator Eugene Murphy):** As there are no more queries, I call on the Minister.

**Deputy Roderic O’Gorman:** I would not agree with the analogy that Senator McGreehan used. We are dealing with legislation that is long overdue. I still do not have a clear understanding why the 2015 Act was not initiated or used. However, I have been given the job to do that and that is what I am seeking to do in this amending legislation.

Some very legitimate concerns have been raised about one element of this legislation. My Department and I have listened to them in terms of slowing the process, undertaking engagement and looking to see how we can solve this particular issue. The difficulties with the 2001 Act in a 2023 situation are relevant to this issue and those Senator Warfield listed out in terms of the issues that the Mental Health Commission has raised. That is why it is incumbent on all of us, Government and Opposition, to get mental health reform through both Houses of the Oireachtas.

I am certainly committed, and I am more committed having gone through this process, to using my role as a Minister to deliver that reform. However, in terms of what I can deliver in my role in this particular legislation - which is not centred on reform of mental health legislation, but on assisted decision-making – having seen the very real issues that Mental Health Reform and others have raised, I brought forward a solution that addresses some of those issues. I have been very upfront; I am not addressing the whole thing.

However, as someone who believes in progressive politics and moving the line forward all the time, what I see happening here is us moving the line forward. I also see a clear recognition of the next step that has to be taken and, if not a detailed timeline, a clear process that has begun with the heads of Bill coming through Cabinet with the pre-legislative scrutiny process undertaken and with Government and Opposition in both Houses very much supporting and recognising the need for this to happen. That is what I would speak to the process and where we are in it, and my belief in terms of pushing the line forward as far as one can in each particular step.

I am happy to engage with Senator Doherty. Reading this and listening to her, I have a concern in that it seems that a consequence – I need to go through it in detail – would be that an advance healthcare directive legitimately made is being disregarded because of a particular view a medical professional took at a particular time. In many ways, that is almost the antithesis of

what the advance healthcare directive is about. That is not to say the Senator is not raising a legitimate issue. However, when officials and I looked at it, we thought that was problematic. Like I said, I am happy to speak further to Senator Black and engage further with Senator Doherty on that issue. However, I just want to put on the record that I would need significant convincing in terms of either the issue or, indeed, the approach being adopted.

I wish to come back to something Senator Seery Kearney referenced in terms of people coming in and treatment. The advance healthcare directives apply to voluntary admissions. What we are talking about here is involuntary admission under Part 4 of the legislation. As I said, the legislation distinguishes between those two categories. We are now going to apply advance healthcare directives to one of those categories where previously that was not going to be the case. I see that as progress, but I have also been very clear that I recognise that there is a further step to be taken. From all the work I have done, I do not believe I can take it in this legislation. I understand others have a different view. I am happy to talk further. It has not been for want of trying that we are bringing forward this particular amendment today.

**Senator Frances Black:** I commend the Minister. He has done a lot of work on this and I hear what he is saying. I know he has got this to a certain level. We just feel we need to push it that little bit extra. It is very important that we try our best to strengthen the legislation. I hear what the Minister is saying. He has done a phenomenal amount of work and I look forward to engaging with him further on this. Maybe we could have a conversation with IHREC and the Mental Health Commission. I do not want to be making more work for the Minister and I understand he is under fierce pressure but we have to push this as far as we can from our end. For those people who do not have a voice, we have to be their voice in here. I am here today for those people who do not have a voice. I have to try to push this as best and as far as I possibly can. I will revert to the Minister if that is okay. I thank him and his officials for all their work on this issue.

**Senator Regina Doherty:** I thank the Minister for his willingness to engage with us. I will certainly come back with evidence that bears out the request for what looks, on the face of it, like opposition to what we are trying to do in the Bill. For the record, I refer to the Woollorton case in the UK, which occurred in 2007. Doctors in an emergency setting carried out the advance healthcare directive and the wishes of the patient and the coroner found against them thereafter because the conditions were not as directed in the advance healthcare directive. The case has caused ethical disquiet ever since. There has to be a fine balance between what we are trying to do and the very rare exceptions. I will certainly provide the Minister with all the evidence I can and look forward to engaging with him in the future.

**Senator Mary Seery Kearney:** I agree with the Minister that this legislation is about far more than one particular group of people. Anyone who is subjected to the ward of court system desperately needs this Bill to pass. From that perspective, I am fully behind the legislation. However, the fact is that there is a community of people in our State who are being left behind and left without a voice. The threshold between voluntary and involuntary is not as clean as we would like to think. Even within the scope of “involuntary”, I have had enough circumstances put to me that make me deeply uncomfortable about how someone can find himself or herself in an involuntary situation almost by stealth.

I agree with incrementalism and that we should legislate incrementally. I have enough experience in the surrogacy realm to experience a little eyebrow-raising nervousness when I hear the Department of Health is working on things and still expresses reluctance despite the obvious

need for what is in front of them. Last week was an example of that in my experience. I accept and appreciate that the Minister is bringing this matter as far as he can. I know I am being very hard. Having the privilege of standing here as legislators is all the more reason that we should be hard and strong in favour of those who may be rendered voiceless. It is very important. I concur with Senator Black that IHREC needs to be engaged with before we get to Report Stage.

Amendment, by leave, withdrawn.

Section 3 agreed to.

Section 4 agreed to.

NEW SECTION

**Senator Fintan Warfield:** I move amendment No. 4:

In page 8, after line 35, to insert the following:

**“Amendment of section 3 of Principal Act**

**5.** The Principal Act is amended by the substitution of the following section for section 3:

**“Recognition of legal capacity**

**3.(1)** Legal capacity means the ability to hold rights and duties and to exercise these rights and duties.

**(2)** The exercise of legal capacity may be achieved either—

(a) by the relevant person, acting legally independently, and with decision-making supports and reasonable accommodation as needed, or

(b) by the person(s) appointed to support the relevant person in exercising his or her legal capacity, and

(c) where capacity falls within the purview of paragraph (b) there shall be a requirement that the decision be guided by the decision-making assistant, co-decision-maker, decision-making representative, attorney or designated healthcare representative’s best interpretation of the relevant person’s will or preferences and how these are to be applied to a specific decision(s),

in applying paragraph (c), ‘best interpretation’ means the interpretation of the relevant person’s behaviour and/or communication that seems most reasonably justified in the circumstances. Decision-making assistants, co-decision-makers, decision-making representatives, attorneys, or designated healthcare representatives must be able to provide a reasonable account of how this interpretation was arrived at.”.

I apologise; I am searching for my note. I am keeping in my back pocket the right to call a quorum today in case I need more time to look for it. If I call a quorum, Senators will know what I am doing. The proposed amendment calls for the deletion of lines 36 to 40. There are concerns both in terms of process and the impact it will have on the human rights of people with disabilities, older people and people with experience of mental health services. At a procedural

level, this amendment, which has significant implications for the rights of disabled and older people, was introduced on Report Stage in the Dáil. It was not properly discussed as the debate was guillotined prior to the full reading of all the proposed amendments. Making such a drastic provision without the full input of both Chambers of the Oireachtas is problematic.

More fundamentally, by retaining and recognising inherent jurisdiction within the Act, the State risks undermining the entire rights-based system of supported decision-making which it seeks to create, and allows the court to continue in parallel a secondary system with little guidance or oversight. This effectively overrides the Assisted Decision-Making (Capacity) Act and its principles, especially the central guiding principle of respect for the will and preferences of the person. Indeed, family members or service providers can avoid the entire system if they have the resources to commence proceedings seeking orders from the High Court under the inherent jurisdiction. Under the inherent jurisdiction, the court has no obligation to consider the will and preferences of those of whom it makes orders regarding their detention and treatment without consent. This provision has been of significant concern to human rights activists but also to lawyers practising in the area. It was noted by Ciara O'Dowd that instead of using inherent jurisdiction to fill any lacunas in legislation, the Government in recognising it within legislation is effectively nullifying the Act with regards to treatment and detention. This amendment was inserted into the Bill and will undermine the entire rights-based system the Government is purporting to create. It should therefore be removed. Its removal from the Bill does not mean that the inherent jurisdiction will cease to exist or can never be used but it sends a powerful signal that it is not to be considered as a means to circumvent the positive and rights-affirming aspects of the Assisted Decision-Making (Capacity) Act.

**Deputy Roderic O'Gorman:** The proposed amendment seeks to delete provisions that were made as amendments on Report Stage in the Dáil. These provisions clarify the intersection of the inherent jurisdiction of the High Court and the 2015 Act. It is important to note that these provisions do not create new powers for the High Court. The court possesses a constitutional role as the guardian of constitutional rights and it is not the power of this or any other House to remove that jurisdiction.

Pending the delivery of dedicated legislation on the protection of liberty safeguards, it may be necessary in some rare instances to bring matters regarding detention and treatment before the High Court. The purpose of the provision that I moved on Report Stage is to signal that such applications should only be brought when the authority of the High Court is very much needed to determine a matter in which a person's liberty might be in question, and also to make it very clear that no decision supporter or person appointed under the 2015 Act has the ability to authorise the deprivation of liberty where that is manifestly not the will or preference of the relevant person. As such, the amendments which were introduced in the Dáil are designed to provide legal clarity and to ensure that the oversight of the High Court is actually working to protect the rights of citizens.

The Department of Health is in the process of preparing draft protection of liberty safeguard legislation but pending the delivery of those legal forms it is necessary to signpost to the High Court in order to protect the rights of relevant persons. Deletion of this provision would introduce procedural uncertainty where urgent care may be required and would not serve to limit the constitutional power of the High Court in this regard, in any event, or applications of necessity to the High Court. Again, neither I nor this House has the power to do that. For that reason, it is right that we have a legislative provision with guidance around it rather than just leaving the existing inherent jurisdiction of the court, without any sort of procedural guidance around it. It

was on that basis that the amendment was made in the Dáil.

**Senator Fintan Warfield:** I withdraw this amendment and retain the right to resubmit it on Report Stage.

Amendment, by leave, withdrawn.

**Acting Chairperson (Senator John McGahon):** Both the Senator and the Minister have spoken on amendment No. 5, when speaking on amendment No. 4. How stands amendment No. 5, Senator?

If Senator Warfield wishes, he can speak to the overall section 5, at which point he can raise any point he has missed on the earlier amendments.

**Senator Mary Seery Kearney:** We have not spoken on amendment No. 4 and there are things to say on that amendment. The Minister made his reply and Senator Warfield spoke on amendment No. 5 but I did not speak on this amendment because of the content of both of those speakers. I would like to speak on amendment No. 4, and I thought there was a complete misunderstanding, or perhaps that I was suddenly out of my depth in not understanding what was going on.

**Acting Chairperson (Senator John McGahon):** Have we a way of resolving this as we have already moved and withdrawn amendment No. 4 with the agreement of the House? We can, however, speak to the overall section 5, which includes amendments Nos. 4 and 5, and in that way the same points can then be made by the Senator. Is that fair?

Can I suggest to Senator Warfield then that he move and withdraw amendment No. 5. We can then move to the overall section, and all Members can then speak on section 5, which can include discussion of any points that were missed on amendments Nos. 4 and 5.

**Senator Fintan Warfield:** I will accept the ruling of the Chair.

**Acting Chairperson (Senator John McGahon):** Is that agreed? Agreed.

## SECTION 5

**Senator Fintan Warfield:** I move amendment No. 5:

In page 9, to delete lines 36 to 40.

Amendment, by leave, withdrawn.

Question proposed: “That section 5 stand part of the Bill.”

**Senator Fintan Warfield:** Speaking on this section and my earlier amendment No. 4, with the leave of the Chair, this amendment concerned the amending of section 3 of the Act and the recognition of legal capacity. The Assisted Decision-Making (Capacity) Act was drafted to enable Ireland to ratify the Convention on the Rights of Persons with Disabilities, CRPD. However, the Act remains non-compliant with the CRPD. This is because the Act contains a functional test of mental capacity as a means of determining whether a relevant person can exercise his or her legal capacity. This approach results in a form of what is called “substitute



decision-making” rather than supported decision-making. The UN Committee on the Rights of Persons with Disabilities, in general comment No. 1 states: “The functional approach attempts to assess mental capacity and deny legal capacity accordingly”. It goes on to say: “Article 12 does not permit such discriminatory denial of legal capacity, but, rather, requires that support be provided in the exercise of legal capacity”.

Despite this clarification, Ireland introduced a reservation to Article 12 upon ratification, signalling its intention to maintain systems of substitute decision-making. When Ireland enters into dialogue with the UN committee in Geneva, like other countries before it, it will be asked to consider removing this reservation and to commit to the full implementation of supported decision-making as required by the CRPD.

Ireland was among the first countries to reform its capacity law in light of the CRPD and could claim to be a world leader in this domain again if it removes the functional test of mental capacity and abolishes all forms of substitute decision-making, as countries such as Costa Rica, Peru and Colombia have done in their subsequent reforms. While these are relatively recent, they have been developed as a result of decades of activism by disabled people’s organisations and the grassroots in each country, and these reforms have been subjected to intensive parliamentary scrutiny and have had broad support from the Judiciary, law commissions and academic researchers.

In a report on pre-legislative scrutiny, the Joint Committee on Children, Equality, Disability, Integration and Youth recommended that the functional test of capacity should be removed and replaced with an obligation to acknowledge, interpret and act upon the relevant person’s will and preferences, in line with the UN Convention on the Rights of Persons with Disabilities. These were made in pre-legislative scrutiny recommendations Nos. 11 and 15. The wording of this amendment is drawn primarily from a draft statutory framework for legal capacity law reform in Canada and developed by two leading scholars on legal capacity worldwide, namely, Michael Bach and Lana Kerzner. If accepted, it would require the tabling of further amendments on Report Stage to reframe the eligibility criteria for the different types of support and intervention under the 2015 Act.

A similar amendment was offered on Committee Stage debate during the Assisted Decision-Making (Capacity) Bill 2013, although at the time no countries had reformed their laws in light of Article 12 of the CRPD. However, now there are three examples of countries which have developed legislation to replace adult guardianship that is fully compatible with Article 12 of the convention as interpreted by the UN Committee on the Rights of Persons with Disabilities.

**Deputy Roderic O’Gorman:** I am speaking specifically here, by leave of the Chair, to amendment No. 4 by way of a discussion on the section. That amendment seeks to replace section 3 of the 2015 Act, which sets out the functional capacity model, with a replacement text on legal capacity. The amendment mixes two separate provisions. As Senator Warfield is aware, the Assisted Decision-Making (Capacity) Act 2015 provides for a presumption of capacity in section 8(2) dealing with the guiding principles. Section 8(7) already requires an intervener to give effect to the relevant person’s will and preference. As such, the provision proposed by the Senator with regard to the recognition of legal capacity is already contained in the original 2015 Act and, importantly, the commencement of the 2015 Act will remove wardship, thereby removing a system which explicitly removed a person’s legal capacity. I completely recognise the importance of legal capacity, not least under the UN CRPD. It is the position of the Government that the operation of the functional model is qualified in an important and rights-based

fashion in the Irish context by that explicit respect for a person's will and preference throughout the operation of the functional capacity model in both the 2015 Act and the amending legislation.

Section 3 has a different purpose. It is to provide a test that will apply where an intervenor seeks to intrude on the decision-making autonomy of a relevant person. Such a test is necessary to protect the rights of the relevant person as a decision-making supporter should not be appointed unless absolutely necessary. Removing that test could lead to a situation in which decision supporters would take it upon themselves to take decisions on behalf of another person unnecessarily, even with good intentions. Respecting the person's autonomy is a key value underpinning the 2015 Act.

The Senator's provisions imply a test is needed. The subsection 2(b) they propose refers to the appointment of a person to support the relevant person in exercising his or her legal capacity. Inevitably, the appointment of such a person would involve some form of process that would most likely be based on a set of criteria by which that person's situation was evaluated. What section 3 provides is such a set of criteria, putting in place the limited circumstances in which a decision supporter can be appointed with authority to help another person with decisions.

The place of the functional capacity model in the Act, uniquely qualified by the will and preference in the Irish context, is designed to maximise a person's decision-making capacity in a manner that explicitly privileges their explicit will and preference. It is contrary to the prevailing system of wardship. Assisted decision-making will allow a person to hold and exercise legal rights and obligations. While I appreciate the intent of the amendment being discussed, examining section 3 of the Act in isolation is not helpful in assessing the Act's overall recognition and enabling of legal capacity.

On a technical note, there is language in the proposed amendment that I could not accept. It is not appropriate that a decision-making assistant would guide the decision of a relevant person. This could be construed as leading a decision and is beyond the remit of a role, which is to assist a relevant person in their own decision-making. The term "best interpretation" is not a term used elsewhere in the 2015 Act. It is problematic and unnecessary given the application of will and preference set out in the guiding principles section of the Act and the superior legal clarity provided by the existing section. For that reason, I am not in a position to accept the amendment.

**Senator Mary Seery Kearney:** For some of the reasons the Minister outlined, I do not support the amendment but I know and agree with what the Senators are getting at. Maybe the best way I could address the issue would be to ask how we will supervise the use of the functional test. A very strong recommendation of the committee following the pre-legislative scrutiny was that the functional test be removed. This is because it speaks of a medical model rather than a social model or a model that is absolutely person centred. I understand the need for the test in some instances but it seems to be a relic of a former system that needs to be reviewed. Without the UNCRPD, there is some impotence in that the person has no recourse to somewhere outside the State to review the implementation process and whether the entire system is actually person centred and supports the individual's needs. Therefore, I have concerns about the safeguards included to ensure the needs of the individual are safeguarded. Unfortunately, if there is a dispute after the event, an individual who may have been ill, perhaps for a brief period, will have to give evidence along with individuals who may be medical practitioners of various sorts. It is very difficult to dispute how a test was carried out in the aftermath. How

do we ensure cultural change where there is a vulnerable person, alone in their circumstances, being completely disempowered?

**Deputy Roderic O’Gorman:** Some important points were raised. Cultural change is something we discussed to a great extent in respect of other legislation, the Birth Information and Tracing Act, which is very much about moving away from a hierarchical, patriarchal model of decision-making. How is that changing in this legislation? I briefly mentioned the principles section in section 8 of the 2015 Act, the original Act. To further my understanding, I find it useful to consider the Act as a whole, rather than a specific section, and also the notion of the will and preference of the individual being interwoven throughout. Let us examine some of the guiding principles set out in section 8 of the Act:

8. (1) The principles set out in *subsections (2) to (10)* shall apply for the purposes of an intervention in respect of a relevant person, and the intervener shall give effect to those principles accordingly.

(2) It shall be presumed that a relevant person who falls within *paragraph (a)* of the definition of “relevant person” in *section 2(1)* has capacity in respect of the matter concerned unless the contrary is shown in accordance with the provisions of this Act.

(3) A relevant person who falls within *paragraph (a)* of the definition of “relevant person” in *section 2(1)* shall not be considered as unable to make a decision in respect of the matter concerned unless all practicable steps have been taken, without success, to help him or her to do so.

A range of safeguards is set out in section 8. There are ten elements to it. The key point is that the presumption of capacity is at the absolute centre of the legislation. Second, that presumption can be rebutted only where all efforts have been made to assist an individual in terms of their capacity. Everything we are doing in this Bill is to assist people to be able to exercise their own capacity. That is central to what we are achieving.

On the question of how we examine this, a key component is the decision support service. The system is not operating in the ether; it is overseen by a resourced body that focuses explicitly on providing supports to people with some limitation of capacity. That is central to what we are doing. The guiding principles are central to what the legislation seeks to achieve.

**Acting Chairperson (Senator John McGahon):** I welcome to the Visitors Gallery David Burns and Loy McParland from Ravensdale, County Louth, and indeed Deputy Gannon, who is here with his guests. We are discussing the Assisted Decision-Making Capacity (Amendment) Bill, which I am sure they will all agree is important.

Question put and agreed to.

Sections 6 and 7 agreed to.

NEW SECTION

**Senator Fintan Warfield:** I move amendment No. 6:

In page 10, between lines 28 and 29, to insert the following:

**“Amendment of section 8 of Principal Act**

8. Section 8 of the Principal Act is amended by the insertion of the following:

“(11) The guiding principles contained in subsections (1) to (10) shall be interpreted consistently with the United Nations Convention on the Rights of Persons with Disabilities, in particular, Article 12, and General Comment 1 of the United Nations Committee on the Rights of Persons with Disabilities.”.”.

Will I call a quorum? Even the mention of the word could trigger one. Could I possibly take the Minister’s response to my amendment before I speak?

**Acting Chairperson (Senator John McGahon):** That is no problem.

**Deputy Roderic O’Gorman:** This amendment seeks the introduction of a new subsection under section 8 of the 2015 Act which sets out the guiding principles to be followed regarding an intervention being made in respect of a relevant person. The amendment seeks to have the guiding principles interpreted in line with the United Nations convention and, in particular, Article 12 and general comment 1 of the UN committee on the CRPD.

While recognising the proposed amendment is well-intentioned, my position has not changed since earlier Stages and I am not in a position to accept this amendment. It is problematic from a legal perspective as the provision is insufficiently clear for inclusion in primary legislation. I would also argue it is unnecessary from a policy perspective. The convention was drafted as an international treaty, not as a measure for direct inclusion into primary law. Taken as a whole, the convention is too large to allude to in the manner proposed. The text of the convention is primarily by way of statements that set out a standard that contracting parties should aspire to achieve across their respective legislative programmes. From a technical perspective, the language of the convention does not lend itself to inclusion in primary legislation. Rather, it sets general principles which must then be translated into more specific obligations to be introduced into national law.

General comment 1 is not drafted as a statutory provision, but rather as a textual guide to the relevant sections of the convention. It would be highly unusual and legally problematic to grant such language the force of domestic law in the manner proposed. Aside from the technical difficulties with the amendment, since ratification of the convention by Ireland, there is an overarching and existing obligation on public bodies to be compliant with the CRPD. This means that the obligation the amendment intends to create already exists as a matter of domestic law without the need for the proposed amendment.

**Acting Chairperson (Senator John McGahon):** Would Senator Warfield like to speak to the amendment?

**Senator Fintan Warfield:** I thank the Acting Chair for his patience. The idea behind the amendment was that now that we have ratified the CRPD, embedding an explicit requirement for the courts to interpret the Act in a manner that gives effect to the convention strengthens the potential for the Act to be interpreted in a manner compatible with Ireland’s human rights obligations. The Act was continually referred to by successive Ministers during its development as being an essential part of Ireland’s preparation to ratify the UN convention. Inserting this amendment recognises that best practice in this field is continually evolving. It reaffirms Ireland commitment to refine and reinterpret our laws in a manner consistent with our human

rights obligations. Introducing this amendment signals Ireland's commitment to a progressive and evolving interpretation of the principal Act in light of emerging understandings of human rights law.

**Acting Chairperson (Senator John McGahon):** Is Senator Warfield pressing the amendment?

**Senator Fintan Warfield:** Like the last number of amendments, I am happy to withdraw it and come back on Report Stage.

Amendment, by leave, withdrawn.

Sections 8 to 12, inclusive, agreed to.

### SECTION 13

**Acting Chairperson (Senator John McGahon):** Amendments Nos. 7, 8, 11, 12, 23, 24 and 33 to 35, inclusive, are related and may be discussed together by agreement. Is that agreed? Agreed.

Government amendment No. 7:

In page 13, lines 6 and 7, to delete “an investigation of the matter which is the subject of the complaint” and substitute the following:

“such review or investigation of the matter the subject of the complaint as he or she considers appropriate”.

**Deputy Roderic O’Gorman:** I will speak to these amendments generally. These amendments will allow for the DSS to conduct a review of a complaint received prior to undertaking a formal investigation. This will reduce the requirement for the DSS to automatically undertake an investigation on each and every occasion a complaint is made in favour of allowing a more flexible approach which will give discretion to the director to determine where a full investigation may or may not be warranted, based on the circumstances and merits of each individual case. This will reduce the unnecessary burden on the service and service users and build on amendments to date in ensuring that persons are not inappropriately subject to court procedures where that is not warranted, while also ensuring that complaints are appropriately considered and dealt with.

An amendment to complaints under Part 8 will ensure that the director of the DSS will be able to conduct an investigation on his or her own initiative. This was always the policy intention and this provision makes that position clear, improving the harmony of investigative powers throughout the Act. Some necessary technical amendments are also introduced.

Amendment agreed to.

Government amendment No. 8:

In page 13, lines 30 to 36, to delete all words from and including “completed” in line 30 down to and including “person,” in line 36 and substitute “formed a view under subsection (1A),”.

Amendment agreed to.



Section 13, as amended, agreed to.

Sections 14 and 15 agreed to.

## SECTION 16

**Acting Chairperson (Senator John McGahon):** Amendment No. 9 has been ruled out of order as there is a potential charge on the Revenue.

Amendment No. 9 not moved.

Question proposed: "That section 16 stand part of the Bill."

**Senator Rónán Mullen:** Would Senator Clonan like to speak to the issue in the section? It is his opportunity to do so. I also wish to speak to the amendment, but I am happy to give way to Senator Clonan as it is his amendment.

**Senator Tom Clonan:** Notwithstanding the restrictions imposed on the House under Standing Order 41, it is important that our most vulnerable citizens have somebody who is known and trusted to act in their best interests regarding the assisted decision-making function. There is quite a deal in the proposed legislation that, in practice, will be difficult and unwieldy in terms of how it might operate in real time. I wanted to raise those concerns. We will return to this later. There is a Private Members' motion to be debated later when we can discuss this more fully. I will return to the matter then.

**Senator Rónán Mullen:** I would also like to speak to the section because of the particular issue Senator Clonan has raised. Once again, we find ourselves in a situation whereby the dreaded Standing Order 41 interferes with the ability of Members to put down substantive amendments which deserve to be considered. It would have been appropriate that Senator Clonan's amendment be dealt with because it relates to a proposal from the Joint Committee on Children, Equality, Disability, Integration and Youth, the committee relevant to the Minister's Department, recommending independent advocates in certain situations.

The reason it did so was that many parents of adult children with an intellectual disability have concerns that their children, as relevant persons, could be subjected to undue influence in making decisions under sections 10 or 17 of the principal Act. I encourage Senator Clonan to consider bringing forward his amendment on Report Stage, or at least raising the issue again on Report Stage. Perhaps the Minister might consider it. That might be a more relevant request. In advance of Report Stage, we could examine whether it would be appropriate to appoint an independent advocate in certain situations. Such a person would assist regarding the appointment of a decision-making assistant under a decision-making assistant's agreement under section 10 of the Act or the appointment of a co-decision maker under section 17. Such a person would assist the relevant person.

I mentioned the committee recommended that the Bill provide for independent advocates. I understand it might have been recommendation No. 35. What we are talking about arises in particular in the context of intellectual disabilities. As we all know, Senator Clonan is very well qualified to speak on this issue, and more qualified than I am, but I am very happy to support his very laudable agenda in these matters. Parents of adult children have concerns that children could be exposed to undue influence in regard to appointing decision-making assistants or co-decision makers. The appointment of an independent advocate as a sort of external eyes and

ears might alleviate the concerns of parents in these situations.

*3 o'clock*

I note that section 100 of the 2015 Act already provides for the appointment of a court friend. An independent advocate would play a similar role to the functions envisaged for that person. In light of the recommendation that came from the joint committee, I ask the Minister to engage on this issue now or commit to engaging on it in advance of Report Stage. Perhaps the issue was dealt with in the Dáil. I do not know. I would be very interested to hear the response of the Minister.

**Deputy Roderic O’Gorman:** As the amendment was ruled out of order, we did not give it the usual detailed consideration. Senator Mullen spoke about children. I want to recognise there are many parents whose children are now adults. It is worth remembering that the legislation does not apply to minors; it only applies to adults. We have to acknowledge the concern of parents of adults who have an intellectual disability. The legislation allows for the appointment of court friends. It allows for the help of anyone with a bona fide interest in a person’s welfare. There are provisions, particularly the appointment of a court friend, with regard to the application of some of the processes. There is a level of protection. I am happy to give the issue some further consideration. Consideration has been given to this already and the existence of the court friend process was seen as a mechanism to provide greater oversight. It is something we can consider going forward.

Question put and agreed to.

Sections 17 to 25, inclusive, agreed to.

## SECTION 26

Government amendment No. 10:

In page 20, line 31, to delete “and” and substitute “or”.

**Deputy Roderic O’Gorman:** This amendment will provide for a single capacity assessment under section 29 of the 2015 Act in line with other capacity assessments required under Part 4. This will ensure that only one statement of capacity is required, either by a registered medical professional or a class of healthcare professional to be prescribed by regulation. This will reduce the number of capacity assessments required under this part. The amendment is further to the reduction of capacity assessments made on Report Stage in the Dáil. It will reduce the administrative burden and cost on the relevant person as well as streamlining the process of accessing decision supports.

Amendment agreed to.

Section 26, as amended, agreed to.

## SECTION 27

Government amendment No. 11:

In page 21, lines 31 and 32, to delete “an investigation of the matter which is the subject of the complaint” and substitute the following:

“such review or investigation of the matter the subject of the complaint as he or she considers appropriate”.

Amendment agreed to.

Government amendment No. 12:

In page 22, lines 17 to 23, to delete all words from and including “completed” in line 17 down to and including “person,” in line 23 and substitute “formed a view under subsection (1A),”.

Amendment agreed to.

**Acting Chairperson (Senator John McGahon):** Amendments Nos. 13, 14 and 25 to 27, inclusive, may be discussed together by agreement. Is that agreed? Agreed.

Government amendment No. 13:

In page 23, line 8, to delete “and”.

**Deputy Roderic O’Gorman:** These amendments are related to the complaints provisions. They provide that where a court directs that a decision support shall no longer act as such, the director of the DSS shall be required to update the relevant register. Some necessary technical amendments are also introduced.

Amendment agreed to.

Government amendment No. 14:

In page 23, between lines 10 and 11, to insert the following:

“and

(iii) by the substitution of “concerned, and that the Register shall be amended accordingly” for “concerned”,.”.

Amendment agreed to.

Section 27, as amended, agreed to.

Sections 28 and 29 agreed to.

SECTION 30

**Acting Chairperson (Senator John McGahon):** Amendments Nos. 15 and 16 are related and may be discussed together by agreement. Is that agreed? Agreed.

Government amendment No. 15:

In page 25, to delete line 3.

**Deputy Roderic O’Gorman:** These amendments provide for regulations to set out additional persons or bodies eligible to make an application directly to the Circuit Court under Part 5. This will allow such parties to make a court application directly under Part 5 without first seeking permission to do so by way of an *ex parte* application. Where appropriate, this

regulation-making power will allow for applications to be brought in a more streamlined and less burdensome way.

Amendment agreed to.

Government amendment No. 16:

In page 25, between lines 6 and 7, to insert the following:

“(iii) in paragraph (j)(ii), by the substitution of “person, and” for “person.”, and

(iv) by the insertion of the following paragraph after paragraph (j):

“(k) a person or body—

(i) having reached the age of 18 years, if an individual, and

(ii) having a bona fide interest in the welfare of relevant persons,

as may be prescribed by the Minister by regulations.”.”.

Amendment agreed to.

**Acting Chairperson (Senator John McGahon):** Amendments Nos. 17 and 18 are related and may be discussed together by agreement. Is that agreed? Agreed.

Government amendment No. 17:

In page 25, line 8, to delete “and” where it secondly occurs

**Deputy Roderic O’Gorman:** These amendments will allow for the undertaking of court reporting and research under Part 5. A regulation-making power is being provided for certain classes of persons to make reports on proceedings taking place under Part 5. The necessary access to proceedings will be provided and the identity of a person will be kept confidential in such reporting. This point was raised as an Opposition amendment by Deputy Sherlock in the Dáil. I recognise the value of its inclusion in terms of the lessons that can be learned and ensuring consistency of operation throughout the court system. At its core is the value that transparency and research can bring in improving the operation of the legislation. The proposed amendments provide for this while remaining properly conscious of the privacy rights in matters under Part 5. It is on this basis that I, in consultation with my colleague the Minister for Justice, will make any such regulation. The model we are looking at is the family law court reporting service that has done such invaluable work to provide an understanding of what happens in family law cases which are held *in camera*. It could allow for a similar type of reporting to take place in respect of these cases. It would be good to have an understanding of the type of cases and the type of legal responses coming forward.

**Senator Mary Seery Kearney:** I absolutely agree. Carol Coulter’s work on family law was fantastic and constructive. This raises another issue, which is the training of the Judiciary following this and making sure its members are absolutely conversant with the person-centred model and the interpretation of capacity, particularly when we are keeping a functional capacity test. The Judiciary must be sensitised and there must be cultural change. I know in the context of other situations there has been a lot of training of legal professionals. It is incredible and shocking that some of it was needed. The Minister might clarify this. I agree that we need it

to be transparent.

**Deputy Roderic O’Gorman:** I take Senator Seery Kearney’s points. In the first instance, this legislation will necessitate significant engagement of the Judiciary, primarily because a significant panel of judges will be involved in moving people from wardship to the new DSS. This will take a significant amount of work. There has already been some engagement with the courts on preparing for this. It is not for the Executive to direct the Judiciary on issues of policy. The training of the Judiciary is a matter for the Judicial Council. There is an understanding that the Bill is significant in terms of bringing about the removal of an entire system from the Judiciary. The ward of court system has been entrenched in Irish and British courts since the Victorian era. There is an understanding that real change is needed.

**Senator Mary Seery Kearney:** It is not for us to tell the Judiciary what to do, but when something has been so entrenched for decades it means there is a system of thinking that goes with it and it is reasonable that we comment.

Amendment agreed to.

Government amendment No. 18:

In page 25, between lines 8 and 9, to insert the following:

“(c) by the insertion of the following subsections after subsection (10):

“(10A) Nothing in this section shall operate to prohibit—

(a) the preparation of a report of proceedings under this Part by—

(i) a barrister or a solicitor, or

(ii) a person falling within any other class of persons specified in regulations made under subsection (10B) for the purposes of this subsection,

(b) the publication of a report prepared in accordance with paragraph (a), or

(c) the publication of the decision of any court in such proceedings, in accordance with rules of court, provided that the report or decision does not contain any information that would enable the parties to the proceedings or any person to whom the proceedings relate to be identified and, accordingly, unless in the special circumstances of the matter the court, for reasons that shall be specified in the direction, otherwise directs, a person referred to in paragraph (a) may, for the purposes of preparing such a report—

(i) attend the proceedings, and

(ii) have access to any relevant court documents, subject to any directions the court may give in that behalf.

(10B) The Minister may, after consultation with the Minister for Justice, make regulations specifying a class of persons for the purposes of subsection (10A) if the Minister is satisfied that the publication of reports prepared in accordance with subsection (10A)(a) by persons falling within that class is likely to provide information that will assist in the better operation of this Act.”,



and”.

Amendment agreed to.

Section 30, as amended, agreed to.

## SECTION 31

**Senator Tom Clonan:** I move amendment No. 19:

In page 26, between lines 10 and 11, to insert the following:

“(8B) Directions regarding the investment strategy to be followed by the decision-making representative in respect of assets owned by the relevant person.”.”.

There is a requirement for directions regarding the investment strategy to be followed by the decision-making representative in respect of assets owned by the relevant person. This is to address an important issue relating to people who require the assistance of the powers conferred by this legislation. For example, at present the wards of court office is responsible for more than €2 billion in funds owned by wards of court. One ward owns assets of approximately €72 million. With such large sums, it is essential that there is an independent and objective mechanism for ensuring that such funds and assets are invested appropriately by any decision-making representative. There is a requirement for the court to supervise such investments to help protect the assets. This will also give protection to the decision-making representative and thus reduce the concern of wider family members. It is to give that extra support to the decision-making representative who in many cases may not have the skill set to oversee, manage and direct such large sums and assets.

**Senator Mary Seery Kearney:** I support anything that will put in place a mechanism to ensure the investment and remote direction of any moneys belonging to a ward of court or given to a ward of court, awarded following instances of negligence that appallingly are all too often reported in the news. The idea that a person is given an award and that would be dissipated or lost, as has happened and as we have seen reported, is outrageous and appalling. There is a small cohort of people who deserve a mechanism to reimburse them for the money that was recklessly lost, leaving them with elderly parents trying to cover where they should have financial support. I have spoken on this previously. The Justice for Wards group represents the people whose money has been lost and who have been left without protections by the State or any redress. I support putting in place transparency, accountability or insurance, whatever we call it. It is essential that we do it. I take the opportunity to speak on behalf of the Justice for Wards group, which needs to be engaged with. The State needs to do something about the horrific position in which these people find themselves through no fault of their own.

**Senator Rónán Mullen:** I am in full agreement and I commend Senator Clonan on bringing forward the amendment. I agree with everything that Senator Seery Kearney said as well. I came to know of a particular case a number of years ago where a large award was made. The retired President of the High Court, Mr. Justice Kelly, addressed people at the end of the case. He said to them that this was a very large sum but what they had to remember was that this had to last them for their whole lives. I remember thinking that he was being somewhat avuncular in a sense in reminding all parties that this would need to be managed with great care. Of

course, that applies *a fortiori* where the person in receipt of the award is a ward or a person who is depending on the good stewardship of another. This is a welcome and important amendment and I look forward to hearing what the Minister has to say on it.

**Deputy Roderic O’Gorman:** The Senators have spoken to a wider problem that has emerged in the existing wardship system. I recognise the genuine and legitimate concerns they are raising. I understand the intention of the amendment for the reasons I am about to set out. I do not believe it is necessary because we have provision in the legislation that addresses much of what Senator Clonan said. Section 38(5) and 38(6) of the 2015 Act set out criteria for the appointment of decision-making representatives. Section 38 (5) states:

When considering the suitability of a person to be a decision-making representative for a relevant person, the court shall have regard to the following:

(a) the known will and preferences of the relevant person;(b) the desirability of preserving existing relationships within the family of the relevant person;(c) the relationship (if any) between the relevant person and the proposed representative;

(d) the compatibility of the proposed representative and the relevant person;(e) whether the proposed representative will be able to perform the functions to be vested in him or her;(f) any conflict of interest.

Paragraph (e) is important in ensuring there is an assessment of the ability of the decision supporter to meet the needs of the particular relevant person. If the particular relevant person has any sort of estate that needs management, the ability of the decision supporter to meet those needs would be considered. There is more detail in section 38(6) which states:

Where the court appoints a decision-making representative to make decisions on the relevant person’s property and affairs, it shall have regard to the following:

(a) the size, nature and complexity of the relevant person’s financial affairs;

(b) any professional expertise, qualification or experience required to manage the relevant person’s financial affairs;(c) the capability of the proposed representative to manage the relevant person’s property and affairs;(d) the financial expertise and support available to the proposed representative.

That covers and addresses, maybe in slightly different language, the important point the Senator set out.

Decision supporters would be subject to the oversight of the DSS. They have to report to the service on their management of financial assets.

Another important point in this legislation is that the decision supporter is there to assist the relevant person. If the relevant person, having been recognised as having capacity, makes bad decisions, he or she is entitled to under this legislation. That is an important issue. We are moving away from the situation where the court, through the ward of court system, knows best. The relevant person’s capacity is recognised, including his or her capacity to make a bad decision. That is relevant because it is no longer a question of the decision supporter minding the relevant person’s money; it is a question of the decision supporter supporting the relevant person to make the decisions that he or she believes are best even if those are decisions that he or she considers not to be financially the best investment. It is important to recognise that.

**Senator Rónán Mullen:** I thank the Minister for his reply. I would be grateful if I could tease this out with him. I defer to his knowledge of the Bill as he has been with it for a long time. The amendment specifically goes to an area where a person is making decisions on behalf of another person as a decision-making representative. Is that at the higher level of intervention and support where person A is entrusted with a decision on behalf of person B? The Minister is bringing the legislation through the Houses. Regarding the final point he made, while I understand the spirit underlying it, this is about releasing people to exercise their wishes in every situation and to support them to the extent they need to be supported having regard to a particular issue where they may lack capacity to some degree or at a particular time or in a situation in which they lack capacity. However, there are circumstances where person A makes the decision on behalf of, and for the benefit of, person B. I think that is what Senator Clonan's amendment addresses.

The second question I had, albeit the first that came to mind, was whether it would be fair to characterise the Minister's opposition to this amendment as follows. He is pointing to the provisions in the law which go to the assessment as to who is to be entrusted with this decision-making and decision support capacity. He is standing back from imposing a requirement in the law that directions in respect of the decisions that must be taken are given. Is that the nub of this? The Minister rightly points to the testing and the required qualifications of the person who will be entrusted with this decision support, but Senator Clonan's amendment asks for more because it asks for the giving of directions in respect of the investment strategy. I do not wish to speak for Senator Clonan, but that seems to me to be a different issue. Is the Minister making a policy choice to stand back from going to that extent in the way proposed in this amendment?

**An Leas-Chathaoirleach:** Does the Minister wish to respond to that before I move on to Senator Clonan?

**Deputy Roderic O'Gorman:** I will let Senator Clonan come in first.

**Senator Tom Clonan:** In the context of Senator Mullen's comments, what I heard the Minister say was that the concerns I have raised in proposing this amendment are already dealt with elsewhere. I ask and would press, however, that they be explicitly dealt with in this legislation because this legislation will have a seismic impact on all sorts of areas, from mental health and involuntary detentions to looking after people's assets and funds and the administration of funds. We have an opportunity at this point, and perhaps later on Report Stage, to make sure we get this right as opposed to relying on other understandings as to the nature of who is appointed and the ideal criteria or characteristics. I think we have an opportunity to address the matter here explicitly and to get it right in the actual wording now.

**Senator Mary Seery Kearney:** I accept that the Minister is just making a point but, for clarification, we should not confuse the two. Yes, it is very important an individual is entitled to make whatever decisions he or she wishes to make and that he or she should be supported in making those decisions. There is an enormous difference between someone making an imprudent decision for themselves and an imprudent decision being made by another person who is entrusted with decision-making and the individual having to live with the consequences of that for the rest of his or her life, along with his or her whole family, which is the case in current circumstances. To ensure we have that absolutely tight and robust, perhaps we will require engagement before Report Stage. To date, where sheer recklessness and negligence have occurred, there have been no consequences. There has been just a moving on to a different system, and those who are left behind are left behind and that is it. That is not right, and I will

continue to speak up on those people's behalf because it is necessary. While we are designing a new system, it is important it is absolutely transparent that when decisions are being made on behalf of another individual, there is accountability and redress where the decision is wrong.

**Deputy Roderic O'Gorman:** It was probably not helpful of me to have made a general point on that issue in the context of quite a specific thing, so I accept what Senators Seery Kearney and Mullen say about the general point about a changing approach versus this specific situation.

As for this specific situation, and from my read of the amendment and where it is proposed to locate it, it seems to bring the court into giving directions on a very specific element of what the decision-making representative is undertaking. I think Senator Mullen is correct that the concept behind the legislation is that the decision-making representatives, having met the criteria they have set out, are qualified people and it is not necessary again for the court to start specifying to them the types of strategies that will be taking place in the decision-making representation order. It works on the basis that, having met the criteria, they will be able to undertake that. There is obviously oversight of the process, and if a decision-making representative breaches that, there are offences provided for under the legislation as well.

The matter can be discussed further, but I am reasonably confident the provision as set out in respect of the detail that is required of a decision-making representative before he or she is appointed is comprehensive and encapsulates the ability to manage financial matters or an investment strategy, as was suggested. I do not feel the court needs to be more specific in the directions it makes because I think that gets the court involved at maybe a very granular level on every single situation, which I do not think is the desired outcome.

Amendment put and declared lost.

Section 31 agreed to.

Sections 32 to 34, inclusive, agreed to.

## SECTION 35

**An Leas-Chathaoirleach:** Amendments Nos. 20 to 22, inclusive, are related and may be discussed together by agreement. Is that agreed? Agreed.

Government amendment No. 20:

In page 26, lines 31 and 32, to delete “amended by the insertion of the following subsections after subsection (2):” and substitute “amended—”.

**Deputy Roderic O'Gorman:** Amendments Nos. 20 to 22, inclusive, extend the capping of decision-making representative fees to all decision-making representative arrangements under Part 5 of the principal Act. Previous amendments provided for the capping of panel members' decision-making representative fees. This amendment will ensure limits are imposed in respect of all decision-making representative fees. Regulations may be prescribed to set the limit of fees to be charged, and these will be drafted to ensure a proper balance between fair and reasonable rates of remuneration and the interest of the relevant person's estate. In the majority of cases, decision-making representatives will not be remunerated for their work as the Act foresees a close and personal relationship as a condition of appointment. However, where circumstances require and where it is the express wish of a relevant person, fees are payable and

will be met from the assets of the relevant person. In such circumstances it is vitally important to set limits and to safeguard these assets. I understand there may be particular circumstances where these limits may need to be exceeded, and the amending provisions allow that this can occur but only when authorised by the decision support service.

Amendment agreed to.

**An Leas-Chathaoirleach:** Before moving on, I welcome Senator Ó Donnghaile's guests to the Distinguished Visitors Gallery.

Government amendment No. 21:

In page 26, between lines 32 and 33, to insert the following:

“(a) in subsection (1), by the substitution of “expenses as may be approved by the Director or otherwise provided for by way of regulations made by the Minister after consultation with the Director and with the consent of the Minister for Public Expenditure and Reform, and” for “expenses”,

(b) in subsection (2), by the substitution of “reasonable remuneration in accordance with regulations made under subsection (4)” for “reasonable remuneration”, and

(c) by the insertion of the following subsections after subsection (2):”.

Amendment agreed to.

Government amendment No. 22:

In page 27, to delete lines 16 to 21 and substitute the following:

“(4) The reimbursement of fair and reasonable expenses referred to in subsection (3) (i) and the payment of reasonable remuneration referred to in subsections (2) and (3) (ii)—

(a) shall be calculated in accordance with the methodology and any limits specified in, and

(b) shall be paid subject to such conditions as may be prescribed by,

regulations made by the Minister after consultation with the Director and with the consent of the Minister for Public Expenditure and Reform, and such regulations may also make provision for the circumstances in which the Director may authorise the reimbursement or payment, as the case may be, of expenses or remuneration in excess of the calculations or limits provided for in accordance with paragraph (a).”.

Amendment agreed to.

Section 35, as amended, agreed to.

Sections 36 to 39, inclusive, agreed to.

SECTION 40

Government amendment No. 23:



In page 28, lines 34 and 35, to delete “an investigation of the matter which is the subject of the complaint” and substitute the following:

“such review or investigation of the matter the subject of the complaint as he or she considers appropriate”.

Amendment agreed to.

Government amendment No. 24:

In page 29, lines 21 to 27, to delete all words from and including “completed” in line 21 down to and including “person,” in line 27 and substitute “formed a view under subsection (1A),”.

Amendment agreed to.

Government amendment No. 25:

In page 30, line 10, to delete “and”.

Amendment agreed to.

Government amendment No. 26:

In page 30, line 12, after “(3),” to insert “and”.

Amendment agreed to.

Government amendment No. 27:

In page 30, between lines 12 and 13, to insert the following:

“(iii) by the substitution of “concerned, and that the Register shall be amended accordingly” for “concerned”,.”.

Amendment agreed to.

Section 40, as amended, agreed to.

Sections 41 to 46, inclusive, agreed to.

## SECTION 47

**An Leas-Chathaoirleach:** Amendments Nos. 28 to 30, inclusive, and 36 to 38, inclusive, are related and may be discussed together.

Government amendment No. 28:

In page 34, line 23, to delete “or”.

**Deputy Roderic O’Gorman:** These amendments provide that enduring powers of attorney executed under the Powers of Attorney Act 1996 may continue to be registered under the 1996 Act or the 2015 Act where what I refer to as a transitional wardship application has been made. This refers to a scenario in which a person has been the subject of a wardship application at the time of commencement of the 2015 Act and that application is unresolved. I moved

amendments in the Dáil to account for this transitional cohort and ensure continuity of care. These amendments provide that a person's transitional wardship application may be processed to completion, whereby the process for subsequently exiting wardship would apply.

The amendments also provide that where a decision supporter of the appropriate tier is appointed, an incomplete wardship application must be withdrawn and that nothing will prevent a person who is the subject of a wardship application from making an application for a decision supporter to be appointed. These amendments clarify the appropriate tier of decision supporters that would cause a wardship application to be withdrawn.

Amendment agreed to.

Government amendment No. 29:

In page 34, between lines 24 and 25, to insert the following:

“(d) the registration of an enduring power under the Act of 1996 under section 10 of that Act that was executed by, or

(e) the registration of an enduring power under the Act of 1996, in accordance with regulations made under section 81(1A)(b), that was executed by,”.

Amendment agreed to.

Government amendment No. 30:

In page 34, to delete lines 26 to 28 and substitute the following:

“(7) Where—

(a) an appointment referred to in subsection (6)(b) is made,

(b) a person is appointed as a decision-making representative pursuant to an application under Part 5 referred to in subsection (6)(c),

(c) an enduring power under the Act of 1996 is registered as referred to in paragraphs (d) or (e) of subsection (6),

the proceedings referred to in subsection (3) shall be withdrawn as soon as practicable.”.

Amendment agreed to.

Section 47, as amended, agreed to.

Sections 48 to 50, inclusive, agreed to.

## SECTION 51

**An Leas-Chathaoirleach:** Amendments Nos. 31 and 32 are related and may be discussed together.

**Senator Fintan Warfield:** I move amendment No. 31:

In page 38, to delete lines 12 to 21.

Section 46 of the Bill amends section 59 of the 2015 Act to remove the option to grant powers to consent or refuse health treatment from an enduring power of attorney. This means individuals who wish to confer powers to consent or refuse health treatment on a trusted supporter at a time when they are not able to communicate their wishes will have to complete a separate advance healthcare directive even if they are also making an enduring power of attorney. This places an additional bureaucratic burden on the relevant person if they are required to draft two separate instruments with different requirements as to supporting evidence, witnessing and so on. It would be especially burdensome if the relevant person wishes to authorise the same person who holds the enduring power of attorney as his or her designated healthcare representative to consent or refuse treatment on his or her behalf in accordance with his or her will and preference. It is inconsistent with the approach in the rest of the Act to exclude healthcare treatment from enduring powers of attorney when decisions about healthcare treatment can be included in any other decision support arrangement under the Act, including decision-making assistance agreements and co-decision-making agreements. It is also inconsistent with recommendation No. 52 of the Joint Oireachtas Committee on Children, Equality, Disability, Integration and Youth in its pre-legislative scrutiny that health and medical treatment decisions be retained in the scope of an enduring power of attorney.

Amendment No 31 would restore the original power the Bill proposes to remove from individuals making enduring powers of attorney. The removal of this power is unnecessary for the Minister's stated purpose of giving clarity to healthcare professionals as to who has the authority to make a healthcare decision where a person lacks capacity. Sections 12 and 21 of the principal Act clarify that where a person makes a decision-making assistance agreement or co-decision-making agreement that relates to healthcare, such an agreement will be null and void in respect of decisions also covered in an advance healthcare directive if that directive enters into force because the person has lost capacity. Therefore, it is already foreseen in the principal Act that in situations where one or more decision makers may have authority, for example, in respect of powers to consent or refuse health treatment, the advance healthcare directive and designated healthcare representative take precedence over other instruments. This provides the necessary certainty to healthcare professionals as to what instrument to follow in this situation. In addition, this provision will ensure healthcare professionals will not have to check whether any elements of the 2015 Act are engaged beyond an advance healthcare directive before providing treatment, as others appointed under the Act may have health decision-making powers.

Therefore, there is no need to remove the option of individual choice from donors of enduring powers of attorney, who should be able to continue to confer these powers in their enduring power of attorney should they wish to do so, rather than imposing a bureaucratic burden of creating a separate legal instrument with separate witnessing and notification requirements to give effect to their choice.

**Deputy Roderic O'Gorman:** This issue was discussed at some length in the Dáil. There are two different perspectives on it. While I understand, as a result of that discussion, the rationale for the amendment, the provisions the amendment seeks to delete are important, in my view, from the perspective of legal clarity. The 2015 Act was reviewed in detail in the process of preparing the amendment Bill. Legal experts reviewed these provisions on behalf of the HSE and it was found there is a risk to a relevant person if two decision supporters have equal rights in terms of treatment decisions at a moment of crisis. If an attorney were to agree to a treatment decision while a designated healthcare representative made the opposite decision, whose view would prevail? It is possible this would lead to legal cases in situations where the decision sup-

porters are in conflict as to the decision.

In terms of legal clarity, the provisions in question make clear to medical professionals and clinicians that in the context of advance planning, a designated healthcare representative and the text of an advance healthcare directive are the definitive support and statement concerning a person's treatment decisions. This clarity is necessary for the provision of healthcare in line with the person's will and preference, especially where swift decisions may need to be made. In addition, the provisions have regard to the specification in Part 8 of the Act of a series of safeguards and protections as to how a person's treatment preferences are to be complied with, including in certain difficult ethical or medical scenarios. These provisions are absent from the sections on enduring powers of attorney. It is preferable to provide clarity that an advance healthcare directive is the appropriate instrument for advance planning in a healthcare context. For that reason, I am not in a position to accept the amendment.

**An Leas-Chathaoirleach:** Does Senator Warfield wish to respond?

**Senator Fintan Warfield:** I understand Senator Clonan would like to comment on amendment No. 32.

**Senator Tom Clonan:** I refer to amendment No. 32 to section 51, which is based on section 59(5) of the principal Act. Before I mention the proposed insertion, subsections (5A) and (5B) are explicit in that they prescribe that the power of attorney does not have any role in terms of consenting to or refusing treatment for the donor, that a donor shall not, in an enduring power of attorney, even purport to give that power, and that any provision of a power of attorney relating to such purported power shall be null and void. It is very restrictive. It means that treatment decisions can only be provided for in an advance healthcare directive. The insertion I propose is that, notwithstanding the provisions of subsections (5A) and (5B), the donor may authorise the attorney to consent to or refuse treatment for the donor where a solicitor certifies that the donor has received independent advice and sincerely and specifically wants to include this provision within the scope of the enduring power of attorney. In April last, the Joint Committee on Children, Equality, Disability, Integration and Youth recommended that health and medical treatment decisions be retained in the scope of an enduring power of attorney.

**Deputy Roderic O'Gorman:** My response is similar to the points I made in response to Senator Warfield. When the 2015 Act was being reviewed there was a real concern, particularly on the part of the HSE, about who would have the power to make the final healthcare decisions in the event of a conflict arising. Notwithstanding the Senator's effort to address that through having a solicitor certify something, the real concern and motivating factor behind the change we made is the risk that two contrary views may arise when life-and-death decisions have to be made in a serious healthcare situation. In light of that, it is important that the law is clear that one view shall prevail, and that should be set out in the legislation. That is the position we wish to advance.

**Senator Rónán Mullen:** This is another amendment that I am happy to support.

I listened to the Minister's response and there is a certain logic in it because the last thing one would want to see is some kind of a conflict between the contents of an advance healthcare directive and the contents of an enduring power-of-attorney arrangement.

One of the concerns would be that the EPA is something that is very well established. Many EPAs are not in the end required to be activated but if, as is the case at the moment, very few

people execute an advance healthcare directive and many more people execute enduring power-of-attorney arrangements, would it not be better to have a provision in law that, where there is a conflict, the advance healthcare directive would prevail? If what we are trying to do here is to facilitate the activation and actions in accordance with people's wishes expressed in advance, and if one has an existing arrangement where all sorts of other decisions are entrusted to a person or persons who may in the fullness of time execute, carry through or activate an enduring power of attorney, should it not be the case that people are facilitated rather than required to go down a certain track? If a person has to execute an advance healthcare directive as well as a will and the enduring power of attorney, is it possible that people will opt not to do that because of the time, trouble and expense that could entail? I ask that question sincerely.

As with a previous amendment, these ideas have not come out of the sky. The joint committee recommended that health and medical treatment decisions be retained in the scope of an EPA. I wonder if there is a way to have a "both-and" provision rather than an "either-or" one, particularly given that we could provide for the advance healthcare directive taking priority in the event of any possible conflict of direction.

**Deputy Roderic O'Gorman:** I understand where Senator Mullen is coming from but we are trying not to have an "either-or" scenario. We are trying to ensure there is no question that where medical practitioners face critical situations and have put before them an EPA and an advance healthcare directive, they will know the legislation is moving away from that situation and only one document will guide medical practitioners in terms of having clear knowledge of what medical decisions are to be made.

It is important to note that the advance healthcare directive is designed specifically to give the key pieces of information. That is what it is centrally about. The EPA is not as specific on healthcare issues and is not designed to give the degree of specificity to a healthcare practitioner that an advance healthcare directive is designed to give.

The Senator may be correct that the EPA is a better known document but once this legislation is passed, the advance healthcare directive will become better known and understood and the fact that it is better designed to respond and provide the relevant information in these crisis situations will be recognised.

**Senator Rónán Mullen:** I am not a member of the joint committee and others Senators will have engaged with this matter much more than I have. I wonder about it at a human level, however, because I imagine there are people who would rather not have to get into all the specifics. I certainly know of families where a person is quite clear who he or she would want to make the necessary decisions for him or her when those decisions have to be made. I wonder whether sufficient account is being taken of that human dimension where people would rather leave the nod to a certain person, for example, an enduring power of attorney, and would be left the freedom to do that. Has consideration been given to the merit of that argument, in other words, where a person does not want to get into the specifics of an AHD requirement but would like to entrust the future decisions to a person by way of the enduring power of attorney?

**Deputy Roderic O'Gorman:** Senator Mullen is correct that the EPA gives much wider latitude in terms of those decisions. The concern at play here is that, for the healthcare practitioner, that degree of specificity is really important and that is provided for through the mechanism of the advance healthcare directive. The preference is that the advance healthcare directive is used because, rather than, as the Senator colloquially put it, giving the nod to the EPA in terms



of the decision to be made, there probably needs to be greater specificity for the healthcare practitioner in the particular circumstance. That is why the legislation is designed to recognise the preferability of using an advance healthcare directive in these circumstances.

Amendment, by leave, withdrawn.

**Senator Tom Clonan:** I move amendment No. 32:

In page 38, between lines 21 and 22, to insert the following:

“(5C) Notwithstanding the provision of subsection (5A) and (5B) the donor may authorise the attorney to consent to or refuse treatment for the donor where a solicitor certifies that the donor has received independent legal advice and sincerely and specifically wants to include this provision in the enduring power of attorney.”.”.

Amendment, by leave, withdrawn.

Question proposed: “That section 51 stand part of the Bill.”

**Senator Mary Seery Kearney:** We need to refer back to our discussions earlier today regarding the engagement that will happen before Report Stage in the context of enduring power of attorney and the mental health effect of the competition, so to speak, between those two powers, or those two documents and preferences that are put forward. We need to come back to this on Report Stage and make sure that the recommendations of the committee have been fully satisfied, particularly in the context of mental health. I reserve the right to give more consideration to that in taking on the point made by Senator Mullen and in the context of our discussion earlier today. I wish to address that on Report Stage.

**An Leas-Chathaoirleach:** The Minister concurs.

Question put and agreed to.

Sections 52 to 55, inclusive, agreed to.

## SECTION 56

Question proposed: “That section 56 stand part of the Bill.”

**An Leas-Chathaoirleach:** Senator Clonan has indicated opposition to the section.

**Senator Tom Clonan:** We are asking that the introduction of a two-step mechanism to register enduring powers of attorney be set aside. We so request because requiring the registration of an EPA after execution will create additional legal work and costs, etc. Those additional costs might deter people from taking that step and that would not be in the public interest. It is estimated that 80% of EPAs in the UK never have to be triggered or registered because the vast majority of donors do not lose capacity in their lifetime. I am assuming, based on the representations that have been made to me by legal practitioners, that a similar situation would pertain here in the Republic and, therefore, registration after execution of the EPA at that stage would prove totally unnecessary in the vast majority of cases, thus creating an additional and unnecessary administrative and cost burden.

In April, the Joint Committee on Children, Equality, Disability, Integration and Youth recommended the removal of this two-step process for registering an EPA. In its report on EPAs, the Law Reform Commission recommended that an enduring power of attorney should only be registered once donors have lost capacity to make essential decisions for themselves, and that there is no requirement to register them just after execution. One of the reasons for registering an EPA after execution was to have any errors regarding EPA documentation rectified while the donor could assist. However, this is no longer relevant because of the provisions in section 57(b) of the Bill.

**Deputy Roderic O’Gorman:** The reason behind the change being made here was to give the relevant person more autonomy. The new role for registration with the DSS rather than with the court will be less costly and should be easier to process than is the case under the current system. The two-stage nature means that for as long as the relevant person has capacity, he or she is in a position to influence or change the various elements around it. We see that as a positive step, rather than having them locked into a process from early on. That is the basis for the approach being taken. It is better to allow the will and preference of the relevant person to influence what is happening for as long as he or she is in a position to do so, but also in terms of making the process less costly. That is how we envisage the revised system. I accept that the Senator may disagree but certainly our sense is that this is an improvement and a step forward rather than a step back.

**An Leas-Chathaoirleach:** Senator Clonan may maintain his opposition to the section if he so wishes.

**Senator Tom Clonan:** I thank the Minister. We will agree to disagree. I hear the logic in what he says, however, in terms of the context in which he made this decision.

**An Leas-Chathaoirleach:** I thank Senator Clonan, who is being totally reasonable, as always.

Question put and agreed to.

Sections 57 to 64, inclusive, agreed to.

## SECTION 65

Government amendment No. 33:

In page 56, lines 2 and 3, to delete “an investigation of the matter which is the subject of the complaint” and substitute the following:

“such review or investigation of the matter the subject of the complaint as he or she considers appropriate”.

Amendment agreed to.

Government amendment No. 34:

In page 56, to delete line 17 and substitute the following:

“(ii) in paragraph (a)—

(I) by the substitution of “well founded, and, in the case of a complaint under sub-

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section (2), notwithstanding section 12 of the Act of 1996” for “well founded”, and

(II) by the substitution of “complaint,” for “complaint, or”,  
and”.

Amendment agreed to.

Government amendment No. 35:

In page 56, lines 26 to 32, to delete all words from and including “completed” in line 26 down to and including “person,” in line 32 and substitute “formed a view under subsection (2A),”.

Amendment agreed to.

Government amendment No. 36:

In page 57, line 15, to delete “and”.

Amendment agreed to.

Government amendment No. 37:

In page 57, between lines 17 and 18, to insert the following:

“(iii) in paragraph (i), by the substitution of “concerned, and that the Register shall be amended accordingly” for “concerned”, and

(iv) in paragraph (ii), by the substitution of “1996, and that the registration of the instrument creating the enduring power under the Act of 1996 shall be cancelled, and such cancellation shall have the same effect as if the registration had been cancelled by the High Court under the Act of 1996.” for “1996.”,”.

Amendment agreed to.

Section 65, as amended, agreed to.

Sections 66 to 70, inclusive, agreed to.

## SECTION 71

Government amendment No. 38:

In page 60, lines 36 and 37, to delete all words from and including “Section” in line 36 down to and including line 37 and substitute the following:

“Section 81 of the Principal Act is amended—

(a) in subsection (1), by the substitution of “subsections (2) to (8) of section 76” for “sections 76(2), 76(3), 76(4), 76(5), 76(6), 76(7) and 76(8)”, and

(b) by the insertion of the following subsection after subsection (1):

“(1A) Notwithstanding subsection (1), an application may, where the Minis-

ter has made regulations under paragraph (b), be made for the registration of an instrument creating an enduring power under the Act of 1996 that has not been registered under section 10 of that Act and—

(a) sections 68 and 69 shall not apply in relation to the application,

(b) the Minister may make regulations to provide for the registration process for the instrument, and to specify any requirements for registration, and

(c) the Director may waive any or all fees under this Part in connection with that registration.”.”.

Amendment agreed to.

Section 71, as amended, agreed to.

Section 72 agreed to.

## NEW SECTIONS

Government amendment No. 39:

In page 61, between lines 3 and 4, to insert the following:

### **“Amendment of section 84 of Principal Act**

**73.** Section 84 of the Principal Act is amended—

(a) in subsection (12)—

(i) in paragraph (a), by the substitution of “advance healthcare directive, or any revocation or alteration thereof,” for “advance healthcare directive”, and

(ii) by the substitution of the following paragraph for paragraph (b):

“(b) subject to subsection (12A), requiring the Director to establish and maintain a register (in this section referred to as the ‘register’) of advance healthcare directives and any revocations or alterations thereof, that are so notified to him or her and that are made in accordance with this section.”,

and

(b) by the insertion of the following subsections after subsection (12):

“(12A) The Director shall arrange for the review of advance healthcare directives, or any revocation or alteration thereof, that are notified to him or her in accordance with regulations made under subsection (12), in order to verify that they comply with this section and once compliance has been so verified, such directives, revocations or alterations may be included in the register.

(12B) The register shall be in such form as the Director considers appropriate.

(12C) The Director shall make such details of the register as he or she shall specify available for inspection—

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(a) by or on behalf of healthcare professionals, where such inspection is necessary to obtain information about a person's treatment choices for the purpose of the treatment of the person,

(b) by a designated healthcare representative of a person who has made an advance healthcare directive, in relation to that advance healthcare directive, and

(c) by or on behalf of any other person who, on having provided a reasoned request to the Director, satisfies the Director that he or she has a legitimate interest, having regard to the purposes of this Part, in inspecting those details of the register.

(12D) The Director may issue an authenticated copy of an advance healthcare directive to—

(a) healthcare professionals, where receipt of an authenticated copy is necessary to obtain information about a person's treatment choices for the purpose of the treatment of the person,

(b) a designated healthcare representative of a person who made an advance healthcare directive, and

(c) any other person who, on having provided a reasoned request to the Director, satisfies the Director that he or she has a legitimate interest, having regard to the purposes of this Part, in receiving the authenticated copy.

(12E) The Director shall keep a record of any body or person that has inspected the register or received an authenticated copy from him or her.

(12F) An authenticated copy of an advance healthcare directive, and, where applicable, any alterations thereof, that is issued by the Director under subsection (12D) and stamped by the Director with a time and date stamp (which may be by automated means), shall be evidence of the contents of the directive, and, where applicable, any alterations thereof, as at the date and time indicated on the stamp.”.”.

**An Leas-Chathaoirleach:** Amendments Nos. 39 and 40 are related and may be discussed together, by agreement. Is that agreed by the House? Agreed. I invite the Minister to speak to the grouping.

**Deputy Roderic O’Gorman:** Amendment No. 39, along with some technical amendments, provides for additional provisions in respect of the maintaining of a register of AHDs by the decision support service. My colleague, the Minister for Health, will have a regulation-making power to establish and maintain a register of AHDs which will be subject to new provisions provided by this amendment. The provisions specify what the content, principles and policies of the regulation should be and will better align the register of AHDs under Part 8 of the Act with the register of other decision support arrangements under other Parts of the 2015 Act.

I am not in a position to accept amendment No. 40. It deals with an issue on which there has been significant engagement, like the issue of the applicability of AHDs that we discussed. As with other amendments to Part 8 of the 2015 Act, this is a matter that is the responsibility of the



Minister for Health, although my Department and the Minister, Deputy Stephen Donnelly, have been in close contact with regard to this issue in the preparation of the Bill. The amendment seeks to allow minors who have reached the age of 16 to make a valid AHD.

*4 o'clock*

This Bill, including its tiers of support, and the 2015 Act were not originally designed to apply to minors. The Bill was designed to apply to adults. That reflects the reality that parents and guardians have specific legal responsibilities in respect of minors. Such guardianship provisions do not apply for those over the age of 18. In the context of certain healthcare decisions, I am aware 16- and 17-year-olds have the ability to consent to surgical, medical and dental treatment. As the Minister with responsibility for children and youth, I recognise minors have agency and I work to foster and support that agency in other areas of my brief. In this instance, however, existing family law architecture must be considered before any amendments can be made.

We have engaged extensively with the Departments of Health and Justice on this issue. I asked both Departments to examine this in the context of discussion we had in the Dáil. I have been advised that this issue, particularly, the issue of allowing young people at the ages of 16 and 17 to refuse consent to various treatments, especially significant treatments, would require a more detailed examination than can be provided for at this stage. There are wider implications and potential, unintended consequences regarding the wider legal position of the rights of minors and guardians. Therefore, I am not in a position to accept the amendment on this occasion.

**Senator Frances Black:** I am disappointed the Minister will not accept the amendment. The age of medical consent is 16, except in respect of mental health treatment. Sixteen and 17-year-olds cannot refuse consent for hospitalisation, electroconvulsive therapy, or any other form of psychiatric treatment. This is clearly discordant and discriminatory. I really do believe that. I am Chair of the Oireachtas Sub-Committee on Mental Health, and we constantly hear about the need for parity between mental health and other health spheres. It is important we work together.

I do not deny that consent is a difficult issue. It gives people the freedom to make decisions we may find alarming or nonsensical, but the reality is it is their decision to make. A 16-year-old can refuse life-saving vaccines or blood transfusions, but under the proposed legal regime for decision support, 16- or 17-year-olds who, with the support of their family, doctor or other trusted adviser, make an advanced healthcare directive when they are well in preparation for the potential of being unwell and unable to give or refuse consent will have their wishes disregarded. This is totally unacceptable.

When Ireland decriminalised homosexuality in 1993, some Oireachtas Members mooted a differential age of consent for gay people, such as that which existed in Britain. This is an example that was rightly rejected as discriminatory. Have we not learned from that lesson? A young person experiencing a medical need should not be disadvantaged or disregarded just because their illness is mental rather than physical.

Part 8 of the mental health (amendment) Bill is set to provide for 16- and 17-year-olds to give or withdraw consent to treatment in mental health services if they are deemed to have capacity. The heads of that Bill state that the Assisted Decision-Making (Capacity) Act 2015

would apply for the purposes of conducting the necessary capacity assessments. However, the Act does not provide for decision supports for under-18s. The omission of 16- and 17-year-olds from decision-making rights is contrary to our obligations under the UN Convention on the Rights of the Child. Ireland will go before the UN Committee on the Rights of the Child in January 2023 and has committed to addressing these issues prior to that examination.

I hear what the Minister is saying and I expect to be told the issues I have raised today will be resolved, possibly in the new mental health Act. The people directly impacted by these issues cannot be told to continue waiting. We cannot reinscribe inequalities and injustices in new legislation as we wait to fix problems in foundational legislation. To fulfil the Government's promises on a progressive human-rights orientated approach to mental health, we must ensure the mental health and decision support legislation are aligned to include 16- and 17-year-olds. I hope the Minister will reconsider this amendment. I would love to have a discussion with him about this amendment again. I hope he does not close the door on it today. I would like him to reconsider it and be open to having that discussion.

**Senator Lynn Ruane:** I welcome the Minister back to the Chamber. I will speak briefly on this only because I have been reminded of the importance of being able to give consent at 16 years in respect of mental health issues. I recently supported a woman whose child was diagnosed as being on the autism spectrum and had generalised anxiety. It reminded me of a similar case I came across years ago when I was in the addiction sector because the situations were similar.

Sometimes giving the child consent does not only empower the person. There are family situations where separated or divorced parents both share guardianship. Sometimes that guardianship is used as a form of control, but yet there is not actual direct relationship with the child or no parenting of the child financially, emotionally or educationally. When it comes to giving consent for treatment, be it for anxiety, attention deficit hyperactivity disorder, ADHD, or several different things, if the 16-year-old does not have the ability to give consent, the consent is sought from the absent parent. That absent parent often refuses to give consent even though they do not have primary carer responsibility for the child. It reminded me of a recent situation whereby a mother had to go back to the courts system to argue the point about dispensing with guardianship to be able to get her child to go on the medication they need.

Although there is an argument for the empowerment of a 16-year-old in consent and decision-making, there are many more complex situations in which the consent of a 16-year-old is necessary because the sharing of guardianship in separation cases causes further issues for the child in accessing the care he or she needs. The amendment would go some way to ensuring children who need the most support get it and that they would have the ability to give consent in respect of their care.

**Deputy Roderic O'Gorman:** The central issue is that the law is not clear in terms of the ability of 16- and 17-year-olds to overrule their legal guardians. That is an unclear part of our law in regard to a wide range of areas. The issue is wider than what we are considering in this Chamber. Senator Ruane alluded to the many complex situations in which this arises. I have my own view about where the balance should be, but it is not one that is fully established. Therefore, in the context of this legislation we are not in a position to make a firm or final determination on the view of a 16- or 17-year-old in the context of an AHD they made, when there is disagreement with the parent or guardian, given the question across the wider sweep of guardianship law is still unclear.

We engaged with the Departments of Health and Justice on this to see if it could be written into this legislation that 16- and 17-year-olds would be able to rely on advanced healthcare directives, but because the wider issue has not been resolved, we will not be able to resolve it in the context of this one piece of legislation. I accept the legitimate arguments brought forward. There are constitutional issues. Constitutionally, someone under the age of 18 years is a child and there are issues in terms of the rights of parents towards their children. We have come a long way in terms of the autonomy we extend to young people but there are still some central issues that this legislation is not going to be able to resolve on its own. Unfortunately I am not going to be in a position to accept these amendments.

**Senator Fintan Warfield:** Why is there constitutional difficulty if we are told all the time that physical healthcare decisions can be made by 16- and 17-year-olds without consent?

**Deputy Roderic O’Gorman:** From my officials’ engagement with the Department of Justice, I think there are *ad hoc* situations in which individual types of healthcare, dental practice and so on allow for the consent to treatment but there is no clear legal right for a 16- or 17-year-old to refuse treatment in a situation where that is contrary to the view of a parent or guardian. That is the central issue here.

Amendment agreed to.

**Senator Frances Black:** I move amendment No. 40:

In page 61, between lines 3 and 4, to insert the following:

**“Amendment of section 84 of Principal Act**

**73.** Section 84 of the Principal Act is amended by the substitution of the following subsection for subsection (1):

“(1) A person who has obtained the age of 16 and who has capacity may make an advance health care directive.”.”.

Amendment, by leave, withdrawn.

**An Cathaoirleach:** Amendment No. 41 is out of order.

Amendment No. 41 not moved.

**SECTION 73**

Government amendment No. 42:

In page 61, to delete line 7 and substitute the following:

“(b) in subsection (7), by the substitution of the following paragraph for paragraph (a):

“(a) Subject to subsections (1) to (5) and paragraph (b), an advance healthcare directive shall, insofar as provided for by this Part, be complied with unless, at the time when it is proposed to treat the directive-maker—

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(i) his or her treatment is regulated by Part 4 of the Act of 2001, other than where he or she is detained under that Act on the grounds that he or she is suffering from a mental disorder within the meaning of section 3(1)(b) of that Act, or

(ii) he or she is the subject of a conditional discharge order under section 13A of the Criminal Law (Insanity) Act 2006,

and sections 56, 57, 59 and 60 of the Act of 2001 shall be construed accordingly.”.”.

Amendment agreed to.

**An Cathaoirleach:** Since amendment No. 42 is agreed to, amendment No. 43 cannot be moved.

Amendment No. 43 not moved.

**Senator Regina Doherty:** I move amendment No. 44:

In page 61, between lines 7 and 8, to insert the following:

“(c) by the insertion of the following subsection after subsection (7):

“(8) Nothing in this Act shall prevent a Registered Medical Practitioner from exercising clinical judgment in a life-threatening emergency to disregard an Advance Healthcare Directive, where they reasonably believe it should not apply, or that the patient would not wish it to apply, in those particular circumstances.”.”.

Amendment, by leave, withdrawn.

Question proposed: “That section 73, as amended, stand part of the Bill.”

**Senator Rónán Mullen:** I wish to speak on the section. It will take a few minutes. I am opposing section 73 of the Bill, which amends section 85 of the 2015 Act. That section, as it stands, allows for consideration of the interests of unborn children in a very rare set of circumstances. In summary, the existing section 85(6)(a) provides that where a woman lacks capacity and is pregnant but her AHD does not specifically envisage what should be done if she were pregnant, medical professionals should presume that treatment should be provided or continued if the lack of such treatment would endanger the life of her unborn child. Section 85(6)(b) allows that where a woman lacks capacity and is pregnant, and her AHD states that a specific treatment should be refused even in the event of pregnancy, in those situations an application shall be made to the High Court to seek its determination on whether the refusal of treatment should apply. These provisions have not been commenced in the seven years since they were passed. These provisions were or are a concession to the fact that an unborn child in the womb is a human person and his or her life simply has to be taken into account, at the very least, when decisions are being made in respect of medical care of their mother. Section 73 of the current Bill proposes to remove these elements of section 85 of the 2015 Act.

It may seem in the light of the repeal of the eighth amendment that the logic therefore is that all of these sections that refer to the unborn should be removed. However, that is not the case. I note that in the course of the Dáil debate on the Bill before us, the Minister justified the removal of the references to the unborn from section 85(6) of the 2015 Act on two grounds. First, he

referred to the eighth amendment, the former Article 40.3.3°, when he said that section 85(6) as it stands was required by the then constitutional provision. The Minister then said: “As we know, that constitutional provision was wrong.” We certainly do not know that it was wrong. Some people believed it to be wrong or undesirable. Others - one in three who voted, I believe - believed that it was right and should be kept. Really these were political, legal, moral and personal judgments. They do not amount to it being an established fact that the eighth amendment was right or wrong. The decision in the referendum, in fact, simply provided that the eighth amendment no longer be in the Constitution and that these matters be left to the Oireachtas to regulate. That is probably widely misunderstood. The fact that the eighth amendment was removed by the referendum and no longer exists in our Constitution or in our law does not actually mean that it was wrong. I think that while the Minister is correct in saying that the provisions he is proposing to delete were required by the presence of the eighth amendment, if that is his view, it certainly does not follow that the removal of the eighth amendment somehow requires that all legal rights held to the unborn must be abolished. It is not sufficiently well realised, perhaps partly because it does not suit the political establishment, and it is certainly not sufficiently well realised by the public, that the Oireachtas retains full latitude to extend the availability of abortion or to restrict it in accordance of its perception of what the common good requires. It is in that light that the Minister’s proposed deletion of these sections must be considered.

I have a particular concern. When I looked up the explanatory memorandum to see how it was proposed to explain these sections in the current Bill, removing these provisions from the 2015 Act, of course I found nothing in it, is that not right? All of this arose in the context of the Dáil debate and Dáil proceedings if I am not mistaken. The point is that this is a substantive issue of human welfare and of considerable public sensitivity. It is therefore all the more concerning that something so far-reaching would just be proposed to be removed during the Dáil debate, or indeed that something so far-reaching would be proposed to be enacted during the Dáil debate without there being any significant public consultation at all.

Let us look at what the law requires. Our current law on abortion gives no protection whatsoever to unborn children up to 12 weeks’ gestation. That is a matter of considerable regret to me and to many other citizens. It essentially treats them as unpersons or non-persons despite the heartbeat and other features that we consider to be unique to us as living human beings. My point in saying that is not to lament that section of our abortion legislation but to point to the fact that our law gives a degree of protection to children after the first trimester, after 12 weeks. They can only have their lives ended legally in a couple of specific instances such as where there is a health ground under the relevant section of the 2018 legislation, or in the case of what some people call a fatal foetal abnormality, which I prefer to think of as a life-limiting condition. This protection of unborn children from 12 weeks onwards, inadequate though it may be in my eyes and the eyes of many, is not required by the new provisions of *Bunreacht na hÉireann*, by the removal of the eighth amendment or by the status then of the provisions of the Constitution in light of the eighth amendment’s removal. The protection of unborn children from 12 weeks onward, such as it is, inserted in 2018, is a policy choice of the Oireachtas. That leads to the question about whether the deletion of section 85 of the 2015 Act, which the Minister proposes in this legislation, conflicts with the policy stance of the Health (Regulation of Termination of Pregnancy) Act 2018. If unborn children after 12 weeks gestation are given any measure of protection of whatever degree of significance in the context of abortion, how can and why should their interests be completely ignored in the case of the consideration of an advance healthcare directive? That is the core question here.



The Minister gave a second rationale. He invoked the eighth amendment. I hope I have dealt with that reasonably. His second rationale for deleting section 85 was that this amendment had been drafted by Attorney General. The Minister previously stated, “The Office of the Attorney General identified a need for a related amendment to section 89.” All of us, regardless of our views on the substantive issues at play here, should be very suspicious anytime any Minister invokes the name of the Attorney General when justifying any decision that is being made. I say that with great respect for the Attorney General but he or she is not accountable to these Houses. It is a convention, as we all know, that the Attorney General’s advice is not published and, therefore, his or her view is essentially whatever the Government says it is and we have to take Ministers at their word. This, of course, has led to a long and troubling practice that began, as it happened, under a Fine Gael-Labour Party coalition a decade ago, whereby the Attorney General’s name gets invoked to stymie debate, whitewash controversial decisions or to kill off proposals on supposed constitutional grounds.

It is not just me who is saying this. Professor David Kenny of Trinity College has written that successive Governments have elevated the Attorney General to being a “one-person Supreme Court”, granting one constitutional office holder a power of veto over all legislation. We all know that the advice of Attorneys General has clearly been used and abused for political reasons. I would not want that to happen here in respect of the reasons given for deleting section 85(6). Why would the Attorney General be involved in the removal of the reference to the unborn in section 85?

Following the abolition of the eighth amendment, the question of what rights unborn children have is a matter for the Oireachtas. We can grant the unborn as many or as few rights as we wish and, therefore, it is incumbent on us to think carefully about any of these measures and what their impacts might be. The abolition of the eighth amendment did not mean that all rights of the unborn must be abolished. It certainly does not require the abolition of the protections for the unborn from the 2015 Act. The removal of the references to the unborn is not a constitutional issue, but a policy choice by the Government. I do not understand why the Attorney General would be invoked in that context.

What is section 85, as it stands, attempting to do? Why is it there? Why was it inserted in legislation as recently as 2015? Why is there that acknowledgement of the unborn child? It was introduced as an amendment on Committee Stage in the Dáil by the then Minister, Kathleen Lynch, of the Labour Party. It was passed unanimously by the committee without debate or a vote. Nobody raised any objection to it on any Stage during its passage through the Dáil. In fact, the only objection raised to it was on Second Stage in the Seanad, where then Senator Bacik, admirable in her consistency in some ways, in her absolute hostility to the notion that any child in the womb would have rights as of law, was the only person to raise an objection to it. Curiously, she did not seek to remove it by way of amendment either on Committee Stage or Report Stage when it was before the Dáil recently.

Section 85, and the concession to the right of the unborn contained in, it passed into law without a single Deputy or Senator voting against it and with just one Senator raising any objection. The argument that it was somehow required by the provisions of the former Article 40.3.3° was not even advanced by the Government of the day. It makes me wonder how it is possible that a provision that was totally uncontroversial just seven years ago is now so objectionable that it ought to be abolished.

What we are talking about here is a presumption. All presumptions, as the Minister knows,

may be displaced. However, in the first instance, with regard to the proposed deletion of section 85(6)(a), the AHD is silent on the subject of whether a specific refusal of treatment should apply in the event of pregnancy. It is merely required that it would be a presumption that if the refusal of treatment would have a deleterious effect on the unborn, there should be a presumption that the treatment be provided or continued. As I said, it is often a safeguard in law that something is a presumption in order that it may be displaced if circumstances prove otherwise. I ask Members to bear in mind that there could be very late-term pregnancies and in circumstances where the 2018 legislation gives a considerable measure of protection, according to some people's reckoning. That was certainly what we were told at the time that the legislation was brought forward in 2018. Why is there to be no consideration at all of the claim to protection of a potentially late-term unborn baby in circumstances where the AHD is silent on the subject of what is to happen in the case of pregnancy?

The second part of it is where there is a specific refusal of treatment to apply, even if the person is pregnant. If a healthcare professional was concerned that the refusal of treatment would have a deleterious effect on the unborn, an application should be made to the High Court to determine whether the refusal of treatment should apply. Section 85(6)(a) is much stronger in the claim it imposes on any right-thinking person. Again, let us imagine a situation where, notwithstanding an AHD that said to refuse treatment even in the case of pregnancy, it is a matter of days before a child could survive and where loved ones hope against hope that the child might be saved. If the specifics of an AHD in those cases were to be invoked, not in contemplation of abortion, but at a different point in the past, it seems that an enormous injustice could take place and an awful lot of family members could be left in a terrible situation of grief. In many ways, when we talk about such legislation, we need to be very sensitive because there are all sorts of different human dilemmas behind this. We are talking about these things days today in kind of very careful terms where we are addressing issues of law, and that to some extent is right because we do not want to be trotting out the details of people's tragedies in any kind of glib way but it does not take a huge effort of the imagination to think about the injustice that removal of these two precautionary provisions could lead to. It is a flat order to do or not do anything. There is a presumption in one case and there is an appeal to the court to make a best interest decision, presumably, in the other.

I am concerned by the effect of removing these two provisions, but I am also concerned by what seems like a lack of thought, lack of public debate and the lack of care to the sensitivities of the situation that have gone into this proposal. This proposal does not relate to the eighth amendment. Those sections could have existed, and probably would have existed, if there was never an eighth amendment. Therefore, getting rid of them does not follow at all, as I think I have shown, from the removal of the eighth amendment. It is a question of policy choice and about how one serves the best interests here. It is not the case in the 2018 legislation that children after 12 weeks in the womb are just regarded as having no rights. That is simply not the logic of the 2018 legislation. I ask the Minister to consider this provision again and I will listen with care to his reply.

Progress reported; Committee to sit again.

*Cuireadh an Seanad ar fionraí ar 4.31 p.m. agus cuireadh tús leis arís ar 5 p.m.*

*Sitting suspended at 4.31 p.m. and resumed at 5 p.m.*

5 o'clock

### **Impact of Cost of Living Issues on Young People in Ireland: Motion**

**Senator Tom Clonan:** I move:

“That Seanad Éireann:

acknowledges that:

- the housing crisis, the cost-of-living crisis, and the inability to provide adequate care to people with disabilities, medical and mental health issues has led to a situation in which young people are emigrating for better educational and living opportunities;
- students' unions across Ireland have referred to the student accommodation crisis as an 'emergency' and there have been reports of students being homeless, living in tents, sharing rooms with several people or having to couch-surf because they are unable to pay rent;
- while the housing crisis and the cost-of-living crisis affects everyone, it has a more significant impact on young people from socially disadvantaged backgrounds and people who are impaired by medical issues, disabilities or mental health issues; caregivers and young parents are also amongst those seriously affected;

notes that:

- the national average for rent is over €1,250 a month, while in Dublin it is over €1,750 and that the housing crisis and the cost-of-living crisis is getting worse as the rate of inflation is currently over 9 per cent;
- Ireland is being criticised internationally for its housing situation; the French Embassy recently advised all their citizens who move to Ireland they will be subject to significant difficulties, and multi-national corporations have also expressed concerns regarding the Irish housing crisis; this threatens foreign direct investment and potential sources of tax revenue;
- approximately 50 per cent of much needed non-consultant doctors are leaving the country, while 90 per cent of medical students are considering leaving the country; similarly, nearly 20,000 nurses left Ireland between 2010 and 2022; apart from demonstrating issues with the cost of living and working conditions, this also has an impact on the supports that can be provided to people with medical issues, disabilities, or mental health issues;

calls on the Minister for Children, Equality, Disability, Integration and Youth to:

- liaise with the Minister for Housing, Local Government and Heritage to devise and implement a strategy to address issues related to accommodation for young people and their families; this should include making use of vacant properties and providing social housing to those in need;

- liaise with the Minister for Health to devise and implement a strategy to ensure that adequate supports are provided to young people who have disabilities or are impaired by physical or mental health issues; and
- liaise with the Minister for Education and the Minister for Further and Higher Education, Research, Innovation and Science to devise and implement a strategy which will try to ensure that no student is unable to access certain educational opportunities due to their background or family's circumstances."

I thank the Minister of State, Deputy Thomas Byrne, for attending the House. The Independent Group decided to initiate a debate on the cost-of-living crisis and its impact on young persons. I will lead out the debate and my focus will be on the impact of the cost-of-living crisis on young persons and adults with disabilities. I can speak to that issue from my lived experience as a parent and carer of a young man of 20 years who is in second year at Dublin Business School, DBS, and how he is impacted by the cost-of-living crisis.

Europe is at war, as we are all painfully aware. This has provoked an energy crisis and brought with it the prospect of a tactical nuclear strike. Who knows? The cost-of-living crisis for persons with disabilities did not appear this winter as a consequence of the war in Ukraine and other complicating factors such as inflation. People with disabilities in Ireland live in a constant cost-of-living crisis. This has certainly impacted us and our son over the past ten years, in particular, after the financial crash and the imposition of austerity on the most vulnerable people in society.

Before I speak to the experience of people with disabilities, I will talk more generally about young people. I was surprised to be elected to the Seanad in March of this year. Prior to that, I had been lecturing for 22 years in Technological University Dublin and I had the privilege in that space to be dealing with young people every day. They were mainly postgraduate students and they numbered in the hundreds over that 22-year period. As far back as 2004, 2005 and 2006, it became clear that the postgraduate students sitting in front of me - most of whom were in their mid- to late- 20s and beginning to make important life decisions - did not have the modest ambition of owning their own home or having a secure and predictable place to live and within which to make all of their fundamental life decisions. This crisis did not begin in 2022 as a consequence of the influx of asylum seekers and refugees from Ukraine but has been 20 years in the making. This year, I would not even ask students if they had the modest ambition of owning their own home because to do so would be unfair. They are a completely locked-out generation who are being denied one of the most basic fundamental human rights set out in the Universal Declaration of Human Rights, namely, the right to shelter and to have a roof over one's head. That is the more general overview.

I also have young people in my family. My eldest son, Eoghan, has siblings. He is 21 years old and a final year student of law and business in UCD. He and his peer group are preparing to emigrate because they cannot anticipate or look forward to that rite of passage that other citizens across Europe have of leaving the family home, moving into rental accommodation, buying a small place of their own and just having the experience of being an adult. They have been infantilised by being forced to live at home with their parents and are considering emigrating for that reason. There is plenty of work here but, unfortunately, a young graduate or professional working here is looking at living with his or her parents. There is no prospect of renting or affording a mortgage. I saw in a report published in the newspapers during the week that wage someone would need to buy an average priced house in the Dublin region is in excess

of €100,000. Again, this is a situation that has been 20 years in the making.

In respect of people with disabilities and additional needs, I will speak about the financial costs involved. The Department of Social Protection published a report recently which showed that households with a member who has a disability have extra costs per annum of between €9,000 and €16,000. That is before you even open the front door, turn a radiator on or try to put petrol into the car. That finds expression in so many different ways. People have to modify their vehicle and to avail of that, they have to buy a new car that is big enough. For example, in our case we have to accommodate a power chair with a hydraulic ramp to lift it. Straightaway, people have to spend €66,000 on a vehicle, which has to be provided upfront in order to avail of the grants. These are major challenges for any family. My family is very privileged and lucky to be able to manage this but people with family members who have a disability are constantly managing burdens within the family.

In other areas, Eoghan, as an adult, is in receipt of €208 per week under the disability allowance. This was increased in the budget by €12 to €220 per week. That is great but even if we multiply it out, it still does not meet the extra financial burden placed on a household in a given year. I will return to the human cost, not just the financial cost. Eoghan cannot leave the house to spend his disability allowance because he does not have a personal assistant. Ireland is one of the only countries in the EU that does not legally oblige the State to provide carers or care. We have no such legislation. We do not have a social care Act. We are an outlier in EU terms. Therefore, Eoghan cannot leave the house because he cannot leave the house on his own. He needs a personal assistant. It is not provided by the State. His €208 per week would probably buy him ten hours of assistance, and that would be reduced to six hours so that he would have a few euro to buy a cup of coffee or go into town and into McDonalds and have a hot chocolate. He is 20. He is stuck in the house. As was reported in the news recently, another young graduate spoke about how she is forced to live in her bedroom that has become the reign and compass of her world because Ireland is such a difficult place, notwithstanding the cost-of-living crisis, to have a disability in the first place.

The other thing Eoghan is denied is therapy. Again, unlike our other EU partners, we are the only country that is not legally obliged to provide medical therapies such as speech therapy, occupational therapy and physiotherapy to citizens. We are obliged to conduct an assessment of need. There are significant waiting lists but there is no legal obligation to then provide any of the therapies and services. For ten or 15 years, he has had none - zero. His deterioration is measured every year. These are the human costs of having a disability as a young person in Ireland.

We are told that he will get a once-off payment of €500 to offset the cost-of-living crisis. That would provide 22 hours of personal assistant care, if he could find a carer. Therefore, the cost to life of having a disability in Ireland, like the wider population of young people, and the aspiration to live independently and to have a home is even beyond imagination. For example, Eoghan is on the social housing list in Dún Laoghaire-Rathdown County Council. I am told the waiting list for an accessible dwelling is approximately 22 years, so he will be 42 before he could consider leaving our house. Throughout the summer recess, and in the first couple of months that I was in the Seanad, when he was not in college with a PA, Eoghan was at home in his bedroom - a 20-year old man looking out the window at the world going by because the State will not provide him with the personal assistant hours to get out and about. Even before the cost-of-living crisis he was isolated and excluded. This is compounded by the current issues. Even if he did get a house, an accessible dwelling, in 22 years, as things currently stand, he would not have a home care package or assistance hours to enable him to live independently



there. I made inquiries of the HSE about this and, after a lengthy discussion, a social worker in the HSE with responsibility for disability services asked if he had siblings or a sister. I said “Yes”. I was told that she will look after him. That was in 2020, just before Covid, not 1920 or 1820, and that was from a social worker. That is how dysfunctional and out of touch we are. On every measure, Ireland is the worst country in the European Union to have a disability.

A young lady, Evelyne Cynk, who is a German citizen, hopes to study in UCC to do a masters in creative writing. She has 24-hour PA supports and as soon as she was 18 she was put into her own accessible dwelling with all of the wraparound supports that she needs to live a young, self-fulfilled, self-actualised life as a German citizen. She came to visit me in Leinster House with her PAs. They travelled with Ryanair. She spoke to me about her aspirations to come here. It broke my heart. She said she would even think of becoming an Irish citizen. I had to say to her that if she becomes an Irish citizen, she will no longer be an autonomous, independent, assertive young lady, but like my son, she will become a prisoner in her own home and eventually she will end up in a nursing home because there will be no supports for her.

There is a cost-of-living crisis in focus right now with all of the complications of Ukraine, but this is not something that is new to our community, and this is not something that has happened overnight as a consequence of a peak in energy prices or an influx of refugees. This is something that has been growing and evolving and we must and can do better.

**An Leas-Chathaoirleach:** I am reluctant to interrupt such a personal, passionate and very genuine speech but I remind the Senator that if he wants to bring in his seconder, he has an opportunity to do so.

**Senator Tom Clonan:** I lost the clock. I will hand over to Senator McDowell.

**An Leas-Chathaoirleach:** Senator Clonan can continue for a moment if he wishes.

**Senator Tom Clonan:** No.

**Senator Michael McDowell:** I second the motion. I am reluctant to intervene in such a contribution because it is not merely passionate but also educational to hear a first-hand account of some of the realities for young people in Ireland, in particular disabled young people. Senator Clonan’s commitment to those with disability is not simply personal; it is ideological. I admire him greatly for what he has done, the stances he has taken and the voice he is for those who are disabled in Ireland. Their’s is a bleak situation.

I was reminded by my parliamentary assistant today that, in 2017, I wrote an article about the crisis not merely of homelessness but hopelessness among the younger generation in Ireland. It does not just apply to those with disability; it applies right across the younger generation in Ireland. As the motion mentions, the intention to emigrate and escape what appears to be a particularly unattractive future is a reality. It is a political reality. We as a community should not underestimate the voice of youth. Those politicians who are blithely sailing into the next general election are going to find out, to their cost, how serious it is to disappoint an entire generation. My generation is comparatively wealthier and the younger generation comparatively poorer than when I was a young man first interested in politics many years ago.

When I was a young child going to school, we had a cleaning lady in our house. The reason we had a cleaning lady is her husband had lost his job during the cement strike in the 1960s and she had to go out to work and she came to our house to work. She became a real friend

of our family. She used to make my lunch every day when I came back from school, and she explained her family circumstances. I want to put on the record of this House that her daughter, who was a good secondary student, left school at the age of 16 to take a job in a sewing factory in Ballyfermot. Her boyfriend got an apprenticeship at the age of 17 in CIÉ and the pair of them could, by the time they got married at 18 or 19 - I have forgotten the exact age they were - put down a deposit on a house in Tallaght where they had a family of seven children. He was working and she looked after the children at home. Everything has changed utterly. Whether that was a good circumstance or a bad one, that is what they aspired to. They had their own home. No youngsters now have any parallel expectation of home ownership. It is not an ideological point, but if we say to an entire generation, which is the problem for the Government, that they are not going to have a proprietary or economic interest in their community, they might as well emigrate because there is nothing here with high rents, housing shortages and the like. If the Government does not address their agenda, it should not be surprised if the result is a very savage condemnation in political terms. One might talk about the opportunism and populism of those who offer apparently simple remedies to their problems, but if the Government is not seen to address them itself with conviction, and a determination and radicalism to deal with their futures, the result is going to be very serious for the democratic future of this country. Those politicians who think a good budget will see them through are going to be sorely disappointed.

**An Leas-Chathaoirleach:** I thank both Senators, one for a very profound proposition and the other for seconding the Private Members' motion.

**Senator Erin McGreehan:** I welcome the Minister of State to the House to discuss this very important issue. I wrote a few notes as I listened to Senator Clonan's contribution. In conversations with friends and colleagues yesterday evening, one of the complaints I heard about the budget was the lack of new thinking in it around people with disabilities. Rather than punishing people, we should incentivise them to work by changing the tax code and presenting things as supports as opposed to benefits. The budget is a very strong one. I am very ambitious for every person on this island and I firmly believe that it is abhorrent that people with a disability do not enjoy the same access to society as others. Senator Clonan and I share the belief that we must support rather than punish someone who is trying to get on. It is about creating equity in the system as opposed to saying we are all equal because we are not equal unless we are given a leg up and support. I wholeheartedly support Senator Clonan when it comes to these issues.

The budget has good measures on the cost-of-living crisis. There are huge problems in the global economy and national economies. The Government, in the budget, has tried to find ways to support people to get through this winter. That is in the short term but we have also put money away for the long term in case there is worse to come.

The specific issues that affect young people are very important. Fianna Fáil has a fantastic young wing, Ógra Fianna Fáil, and a very active disability network. Both of these networks work together to shape policy and work with Ministers and at European level on disability and across every single sector. This issue does not relate only to housing, disability or one Department. The motion rightly highlights the intersectionality of the problems that face people every single day of the week. People from a disadvantaged background will find it difficult to gain entry to university. I would never have been able to go to university without a grant and I would not have been able to do other things without support. I would not have a house now if I had not lived with my parents for four years and saved money. Fianna Fáil understands that it is really difficult for very many people.

I will highlight some of the budget provisions that will benefit young people and everybody else. The budget is sustainable and will help people this year and in the following years. It introduced significant reductions in the cost of public services, education and health. As has been rightly said, it increased social welfare supports and put money back into people's pockets through tax cuts. Overall, the budget is comprehensive, fair and progressive and will tackle this unprecedented crisis.

The budget provides a once-off €1,000 reduction in the student contribution for eligible students in 2022. This is a major reduction in costs and a great support for any family sending a child to college. The once-off double monthly payment for those in receipt of the SUSI maintenance grant is money that will go straight into the pockets of struggling students and will help them to get through the next few months.

We now have full employment. Ten years ago, it was impossible for young people to secure part-time jobs but those jobs are now available. The budget has extended the public transport fare reduction and youth travel card discount of 50%. These are all positive measures that will help young people. The next few months will not be easy for anyone but these budget provisions will help.

Housing is an issue for everyone. We are dealing with a decade of undersupply and under-management of housing policy. We need 50,000 houses to be built each year because there has been no housing delivery for the past ten years. We had Covid and Brexit and now we have the Ukrainian crisis. Houses are now being delivered and there is planning permission in the system for 45,000 homes. Over 23,000 houses have been completed this year and this will affect families and households. There are not enough houses but with this housing delivery, people are moving into homes. We need to do a lot more work and back the Housing for All strategy because it is going to work. Time is of the essence in housing but, unfortunately, I am out of time. We need delivery and that will come with the support of the Minister of State and his colleagues.

**An Leas-Chathaoirleach:** I thank the Senator for addressing the time question while I was distracted.

**Senator Mary Seery Kearney:** Senator Clonan's speech has established a very important point, with which I agree, namely, that there is nothing like keeping lived experience at the heart of politics and reminding Members of both Houses that when we make decisions in here it impacts people's lives. It is important with regard to decisions around disabilities and students that there is accountability. I claim the same place, although obviously to a much smaller extent, when it comes to surrogacy and the failure to act or move. Having people with lived experience at the table is incredibly important. Nothing about us without us is certainly the philosophy of the Joint Committee on Disability Matters. Senator McGreehan and I have been members of the committee for the past two years and we are delighted that we have been joined on it by Senator Clonan. We remind people every week that the decisions being made are very important, and the same applies to the Joint Committee on Children, Equality, Disability, Integration and Youth.

We saw the election in Italy last weekend. We saw the awful danger from the fallout from the financial crash and the manner in which the EU dealt with it, which was very different from the way it dealt with the Covid crisis. Consequently, the Irish Government was also able to deal with things differently. When we look at all of that, we should be very chastened and defensive

of our democracy. I completely agree with others on that.

We need to have not too far off on the horizon a projection of hope that says we see the issues and will deal with them. We do not always deal with issues fast enough but we certainly accept that young persons starting or finishing college do not have the same opportunities to own their own homes and they face challenges in terms of the sheer volume of work. It is a very different experience from the one that many of us experienced. I did not leave school and go to college but left school and went to work. However, we had an aspiration that by the time we reached a certain age we would own property, and I did. We owe a duty of care to young people that we hand them a scenario in which the climate issue, the financial situation and the right to home ownership are being dealt with. We must have a sense of urgency all of the time and a vision of hope.

There are many issues that we can pick out or criticise. There is no question about that. I am not going to begin to attempt to defend what has been the lived experience of people with disabilities, because we have a massive body of work to do in that area. I see people like the Minister of State, Deputy Madigan, and the Minister of State, Deputy Rabbitte, doing a huge amount of work. They are pushing all of the time. Sometimes they are pushing against an inertia that wants to hold onto an old way of doing things. We need to do that.

The Housing for All plan is not being delivered as quickly as I would like. I get frustrated. I have the privilege of sitting on the housing committee so I get to say that on a regular basis. I get the opportunity to input that. However, we see advances. Certainly, my party is a party of home ownership. It is one of my own particular passions. If people do not own their homes, what will happen when they retire and there is a drop in income? Eventually, this will come back on the State if we do not act on it quickly.

In regard to students, yesterday we saw a budget that shows the commitment of the Minister, Deputy Harris, that year-on-year fees will drop. We saw a significant intervention, which was the €1,000 decrease in fees this year. We have postgraduates and PhDs and we are now addressing the third level. It is very much the Minister's passion to make sure that year-on-year we will do better. Similarly, in ensuring we have student accommodation, we have looked at how students are able to give notice of only 28 days. That is unique to them. There are aspects we are building in that are student focused, but we have got to do that.

I thank the Independent Senators for tabling this motion because we have to keep students in focus. We have to ensure they are supported and feel confident that we have a vision for their future while we are acting in the here and now. Some €42 million was allocated to the programme for access to higher education between 2017 and 2022. That is dedicated funding for students from disadvantaged backgrounds and for bursaries. There are other subtle things that do not often get talked about. I wish I could speak for longer, but there you go.

**An Leas-Chathaoirleach:** The Minister of State has agreed that he will wait for a spokesperson from each party to have spoken before he responds. Then we will call further speakers.

**Senator Niall Ó Donnghaile:** We all wish that Senator Seery Kearney could speak for a bit longer, but this is one of those debates that is of great use and great importance. It is one that is particularly relevant at the time we are in.

Gabhaim buíochas leis an Aire Stáit as ucht a bheith linn agus páirt a ghlacadh sa dhíospóireacht thábhachtach seo. Tá an ceart againn é a phlé agus tá sé fiúntach mar dhíospóireacht.

Molaim an grúpa Neamhspleách as an rún a chur os ár gcomhair anocht.

Unfortunately, I do not think that it is a stretch to say that the reality in many cases is that this State has failed its young people. I say that reluctantly. Sadly, we see it every day as we board a train that is crowded with students who are facing an hours-long commute because they cannot find accommodation. We see it as we chat to the barista who tells us that they taking a year out from studies because they cannot afford the fees. We see it as we listen to younger friends and family plan for a life abroad, not because of a sense of adventure, but because of the fear of a future in Ireland. These anecdotes are not the exception; indeed, recent Red C research for the National Youth Council of Ireland suggests they are the norm. It found that more than 70% of young people aged 18 to 24 in this State are considering emigrating because they think they would enjoy a better quality of life elsewhere. Some 80% are fearful of the future; 50% report worsening mental health in the context of the cost of living; 40% are less happy than they were six months ago; and almost 50% say they are struggling to make ends meet. Their fears and beliefs with regard to the cost of living, which is what we are here to discuss tonight in terms of the thrust of the Private Members' business, are not unfounded. The lack of progress on raising the rate of jobseekers' allowance paid to those under the age of 25 to bring it into line with that paid to over-25s, along with the lack of movement on removing subminimal rates of minimum wage for under-20s, means that even as prices continue to soar, there is little change for many young people.

On housing, a recent report by the Residential Tenancies Board shows that the average rent for a new tenancy in the first quarter of 2022 was €1,460 State-wide and €2,015 in Dublin. Such rents are simply untenable for anyone, never mind young people who are starting out in life or seeking to start out in life.

Students are particularly vulnerable to the housing crisis. With only 716 homes available to rent on 1 August, many young people who have spent years studying to get to college are now being forced to reconsider their future. The University of Galway has said that of the 300 students who deferred their places this year, 92 said that accommodation was the reason. Trinity College Dublin has seen a 20% increase in deferral requests from round one of the CAO process and 10% say accommodation is the reason for that.

The case in relation to home ownership is equally dire. A recent report by the ESRI shows that home ownership among people aged 25 to 34 dropped from 60% in 2004 to just 27% in 2019. The same report projects that 50% of young people will not own their own home by the age of retirement. The Government must significantly increase the number of social and affordable houses provided and impose rent freezes for three years to give young people certainty and stop rents rising even further.

We know the cost-of-living crisis is having a devastating impact on young people - many examples have been cited already - and particularly on those who are most disadvantaged and vulnerable. In a recent study of members by the National Youth Council of Ireland, 72% either agreed or strongly agreed that they saw an increase in deprivation among young people in the community as a result of the increase in the cost of living.

Youth work changes the lives of young people like building resilience, confidence and new skills to navigate life challenges, but this crisis is having an impact on the ability of organisations that support young people to provide these vital and crucial services. The new allocation of €1.16 million, a 1.6% increase, will not even cover inflation. This means that in real



terms funding to these organisations has actually been reduced. Funding that should be spent on direct work with young people has to be diverted to cover rising energy, heating and food costs. At the very least, the Government must immediately address the increased overheads on heating, electricity, insurance and food by extending supports provided for community and voluntary sectors to youth work organisations as well.

The toll that this worsening crisis and the lack of effective support has had on young people's mental health cannot be understated. Record numbers of young people are seeking mental health support in the wake of the pandemic and the cost-of-living crisis. Some 1,220 young people presented to an emergency department in 2021 with a mental health issue, which marked a 40% increase in just three years. An emergency department is not the place for anyone suffering from mental ill health. Early intervention is and will continue to be key in effectively addressing mental ill health, but long waiting lists mean young people are left without the professional supports they desperately need. Figures show that there are currently 10,500 young people waiting on primary care psychology, with 4,000 waiting over a year for an appointment. With waiting lists like this, it is no wonder that young people are reporting worsening mental health and reporting to emergency departments. Unfortunately, even where support is provided it may often not be specialist support, as was the case for 115 young people who presented to the HSE for eating disorders and who were referred to non-eating-disorder specialist inpatient facilities.

Young people are in the grips of a mental health crisis. The Government provision of €14 million in additional funding for mental health is woefully inadequate in the context I have just laid out. What future is there for Ireland if we do not invest in our young people? Where will our dedicated young nurses, doctors and healthcare workers be to help to fix our broken health system? Where will the young skilled electricians, plumbers and plasterers be when more and more houses are needed to fix our housing crisis? Where will our highly trained young teachers and childcare providers have gone when we need them to educate the next generation? While the measures contained in the budget for young people are welcome - and I do welcome them - they do not go far enough to effectively address the crisis that our young people are facing. I will finish on this last sentence.

**An Leas-Chathaoirleach:** I thank the Senator for finishing, not because of the sentiments-----

**Senator Niall Ó Donnghaile:** No, the Leas-Chathaoirleach is very good. Much like Senator Seery Kearney, I wish I had more time. I will close by saying that a generation is facing massive cost-of-living challenges that will have long-lasting impacts on their education, careers and mental health. We can do much better and we can do much more. I thank my Independent colleagues for bringing this motion.

**Senator Annie Hoey:** I welcome the Minister of State to the House. The cost-of-living crisis has been hard on the country and based on what we know it looks like it will be with us for years to come. I feel this personally because me and my peers came of age during the last recession. A lot of us left and some of us came back and now it feels like it has all gone to pot again. That is a sentiment I toss around but I am feeling that from my colleagues, friends, peers and younger people I have spoken to and, therefore, I can only imagine how difficult it is for young people today - and I went through this myself - trying to look forward and imagine an Ireland we can live in.

I have been thinking a lot recently about a term that has become an all too common piece of daily parlance in Ireland, “notice to quit”. Notices to quit are being served and issued to a lot of people around the country, many of them young, and they have been served at a particularly escalated rate in this recent stage of the housing crisis. Young people have been served a different kind of notice to quit. In the face of a spiralling cost of living it is a notice to quit aspiration and to quit hoping for the possibility of housing, a living wage, further education opportunities, and the Government to put their needs first. For many that is a notice to quit this island with higher rates of our young people considering taking leave and emigrating.

I am not able to put it into words because it is something I feel so deeply. When the motion was tabled, I put it online for people to respond and they kept coming back to me with a feeling of hopelessness. People were telling me they did not know what to say to me and they did not know how to express to me how they were feeling because they did not even feel like they could not achieve something or get somewhere; rather they just felt nothingness. It is terrible that I have people reaching out to me with those sentiments. The idea of saying you cannot even imagine owning a house feels contrite because that is almost an overplayed term. These people are saying they feel they cannot hope for anything and it is terrible that we have that.

There were a lot of good measures in yesterday’s budget and there was a throwback to the old days of good budgets but it feels like we are in the middle of another throwback, namely the emigration of young people. It is a bit like what we saw in the early 2010s and the 1980s. We are watching this slow trickle, post Covid especially, of our young, talented, hopeful and ambitious generation leaving Ireland. There was a time not that long ago when people were leaving Ireland because they were looking for new job and growth opportunities but people I know who are leaving are doing so because they are looking for the basics. They are looking for secure work, living wages, affordable homes, security of tenure and healthcare. These are standard in many EU nations and we cannot deliver them here. This trickle of people leaving is growing and, as has been alluded to, unless we take radical and swift action, that will continue to grow until waves of people leave. I do not know how we can just sit by as public representatives and let this happen.

In my life I am surrounded by people my age who have gone, some of whom have come back and some of whom are leaving again. I am of an age where people are on the move out of Ireland for a second time and some are contemplating leaving right now. My best and oldest friend is in my house; she was served notice over the summer and she said she had nowhere to go and had no other choice. She is in my house and has been living with us for a couple of months and she is moving to Brussels. I am so excited for her and for the opportunity she is going to have, for the life she will live and for the affordable rent she will have. Rent in Brussels is 45% lower than in Ireland and she will have access to healthcare and a lower cost of living. She will have a brilliant and wonderful life but she should not have to be leaving; she is leaving out of necessity. My best friend is leaving in the morning because there is nothing here for her and that is not good enough. It is not good enough that she is working and contributing; not that it is a requirement to do so. She loves being here and she has to leave because the Government and Ireland are not even giving her a glimmer of hope that she can stay here. She can stay in my house as long as she wants and she can live with us for the rest of our lives. We have lived together for years so that is not a problem but that is not what she wants. She wants to be able to have her own life, future and opportunities here and this Government and country cannot give her even a semblance of hope that this is an opportunity for her and that is not good enough.

This is not just about teens and young people. Our President, Michael D. Higgins, once said

in the Dáil that in a republic there is no floor below which we do not let people fall and I do not know that we have any concept of where that floor needs to be. We have lost an understanding of it where it is so normalised that people just have to move back home and they are couch-surfing and going to food banks. I have a story on my phone from a woman who is saying:

Me and my partner have two full-time jobs and rely on a food waste charity to bulk up our meals. We do not think we are going to be able to keep our mould-infested rental warm throughout winter and the thoughts of electricity bills have me on the verge of a panic attack. If I get my usual cluster headache cycle this winter I will not be able to afford the medication. I already cannot afford the suma injections that would be most effective. Up to now I have been able to buy one or two boxes and I only use them for the most beyond all reasonably excruciating attacks. Now I will just have to suffer every single attack because one box is over 30 quid and with the cost of everything else I am simply going to have to choose to keep the lights on over my health.

These are the stories and I have so many of them. We all want to have more time but I have so many of these stories but the Leas-Chathaoirleach might will allow me to finish on one last short message I got from someone. My heart just broke when she sent me this message. She said:

Annie I have no hope. I just want to live a regular life here in Ireland and right now I feel like a ghost, barely living and like no one will listen. Annie I feel so alone.

It is not even the cost of living that young people are talking about now. They are talking about just feeling alone here in Ireland. If the Government does not get to grips with that message we will not have anyone of this generation left and it is a disgrace if that is what happens.

**An Leas-Chathaoirleach:** It is apt that at this juncture that I welcome the young people in the Gallery, some of whom are from the Union of Students in Ireland. They are welcome.

**Senator Frances Black:** I congratulate Senator Hoey for a fantastic speech in which she hit the nail on the head. Her friends and colleagues are in the age group we are talking about today and that was powerful. On behalf of the Civil Engagement Group I also want to commend my colleague, Senator Clonan, on this timely motion. Hearing his story about his son was powerful and that is the reality of life today and that is what we are talking about. It is devastating.

The motion is welcome in that it addresses the cost-of-living crisis for people, both in the context and the language of human rights and intergenerational justice. That is what we are talking about today. On housing, while the crisis has been the subject of extensive political debate for the best part of ten years, I just want to take a little step back. There has been a housing crisis for decades and the core part of it is the financialisation of housing and the idea that housing is a commodity and not a human right. If someone has an apartment that he or she can afford, he or she is lucky. One of my children lives in Kildare and she can afford to live there while my son barely lives in Dublin. It is shocking. There has been much discussion about home ownership and the idea of young people starting families and the situation has evolved so much that we are going beyond generation rent to generation stuck at home. The ability of young people to live independently is not just a question of having housing but it is about having freedom that they may not have in a family home, including the freedom to explore, participate in new spaces and form adult relationships while learning new things about themselves

and the world. This is denied to so many of them in Ireland.

Many people may have recently seen the poem by Alice Kiernan about the relationship many young people feel they have with our capital city. She said: “I love my home but my home doesn’t love me back”. The fact that so many of our young people relate to this feeling of being unwanted and excluded from Dublin is not a natural phenomenon. It is a symptom of the policies that have been enacted over previous decades that prioritise profit over people. This feeling of exclusion and dejection has real consequences. A survey carried out by Red C on behalf of the National Youth Council of Ireland showed that more than 70% of young people in Ireland aged between 18 and 24 are considering moving abroad for better quality of life. Most of my colleagues have spoken about that. To achieve a better quality of life in this country, there are concrete steps we can take. They are steps that are not reliant on the private market and which the State can take to guarantee the dignity and rights of all. First, while the reduction in the student contribution is welcome, it must be abolished and SUSI rates must be increased. Education is not a commodity. It is a social good and must be treated as such.

On housing, earlier this year the Seanad passed a motion proposed by my own group, the Civil Engagement Group, calling on the Government to introduce progressive long-term solutions such as committing to the definancialisation of housing as a core principle of future housing policy, ending the State’s over-reliance on the private market, addressing the shortcomings in Irish housing, establishing a State-owned and State-operated construction company and investing radically in the development of public homes on public land. Instead, we see poor use of State money. For example, instead of spending over €102 million last year on leasing for social housing and planning to spend an additional €98 million this year, the State could be using that money to spend on building social housing to be owned by the State and occupied by the people.

This country is failing young people who are disabled, who are from disadvantaged backgrounds, who suffer from mental health difficulties, who are LGBTQ+, or who are lone parents. We know from the Indecon cost of disability report that households with disabled persons face additional annual costs of between €8,700 and €12,300 and that the bulk of these costs are unmet by current supports. Once-off measures such as the €500 lump sum payment for disability allowance recipients are welcome, but they simply do not scratch the surface of what is needed to tackle the true cost of disability. A key component of the UN Convention on the Rights of Persons with Disabilities is Article 19 on living independently, which intersects with issues of housing and participation in the community. When will Ireland take the long-overdue step of ratifying the optional protocol so that this right and all others can be vindicated and made enforceable?

On poverty, young people from disadvantaged backgrounds and those who are single parents are more at risk of poverty. In devising proposals regarding social welfare payments, is the Government using the minimum essential standards of living developed by the Vincentian Partnership to inform the actual rates of payments people need to live, and not just to survive?

In this country, young people are left waiting for healthcare, housing, a living wage and a decent quality of life. In many cases, they are waiting for real life to begin. The State bears the ultimate responsibility and it must undertake transformative structural change and action including the measures outlined in this motion. Young people desperately need change and require their rights to be vindicated. If this does not happen, those who can leave will leave and those who cannot leave will be condemned to survival, not living. James Joyce famously said

that Ireland is the old sow that eats her farrow. It seems that this statement remains true today. I hope with all my heart that it will not be true in the future. I wholly commend the motion and say well done to Senator Clonan again.

**Minister of State at the Department of the Taoiseach (Deputy Thomas Byrne):** Ba mhaith liom mo bhuíochas a ghabháil leis an Seanadóir Clonan as an rún seo a chur os comhair an Tí. This is a very important motion. We have heard heartfelt statements from lived experience, particularly that of Senator Clonan. It is a welcome opportunity to raise these issues; to discuss, as the Seanad does in a reflective way, where we are as a country; to challenge the Government; to raise important issues; and to see how we can do better.

The Minister, Deputy O’Gorman, is busy with Dáil and official business. He hoped to be here but times changed and so on. Up until ten minutes beforehand, he was hoping to be here. He was going to take the debate as he is the Minister with responsibility for young people and children. He sends his apologies that he cannot be here.

Young people in Ireland, despite all the challenges, have shown themselves to be resilient, capable and creative. It is young people who have led the way in ensuring that Ireland is a more caring and compassionate society, for example by supporting and driving through marriage equality; by repealing the eighth amendment; by speaking about mental health, as Senator Ó Donnghaile mentioned; and by pushing governments to take stronger action on climate change. Senator Clonan has very eloquently outlined the challenges that people with disabilities and their families face every day in this country.

In the past the voices of young people were silenced, sometimes shamefully. The importance of learning from the past by building a society where we do not fail children, as happened in previous decades, means that the voices of children and young people must be heard and taken seriously by all of us. Ireland has now become a world leader in listening to young people. We have a national strategy for children and young people’s participation in decision-making, the first such strategy in Europe. We have Comhairle na nÓg which is actually having a real impact. In recent years, the Irish Second-Level Students Union, ISSU, has become centrally involved in exam planning, which is what you would expect. Comhairle na nÓg worked hard on the youth travel card with the National Youth Assembly of Ireland and the Rural Youth Assembly. Our national LGBT youth strategy was a world first.

Young people should and do offer us a definition of our modern republic that we must all aspire to, faced with the challenges that have been outlined, rather than scorn or deem unrealistic. I am not going to deem any of the challenges that have been mentioned by Senators as unrealistic or impossible to meet. Young people face great economic and climate challenges, structural inequality and a more unstable world than I enjoyed in my youth. When we were in college, and Bill Clinton was in the White House, it seemed like every global problem could be resolved through talks with the Americans. That was the way we viewed things, but that seemed to change at some point. I am acutely aware of the difficulties in areas like education, health and building a family life. We can all do better for everyone, regardless of background.

A common theme, apart from what Senator Clonan spoke about in terms of disability services, was housing, which is obviously a key problem in this country. I am conscious that young people are disproportionately more likely to be renters and face severe challenges in getting and keeping accommodation. The number of young adults experiencing homelessness in Ireland has increased, and we are deeply concerned about that. The programme for Government com-



mits to developing a youth homeless strategy and we have the Housing for All strategy. We now have the highest number of first-time buyers since 2007. I accept fully that the average age of a first-time buyer has gone up - there is no question about that - but we have the highest number now since 2007. Our top priority is to solve the housing crisis and get more houses built.

I will make a few more points before I read the script that the Minister has provided and reiterate the sentiments that he wanted to emphasise in his role as Minister with responsibility for children and young people. Our emigration rates are significantly lower than they were when I started secondary school. The only contribution with which I had a quibble was that of Senator McDowell, when he spoke about the golden era of the 1960s when an 18-year-old cleaner could buy a house in Tallaght. I accept that the average age of home buyers has gone up, but I must say that in 1960 my mother was taken out of school at the age of 13 to work in a café. My father lived in a house in Drogheda with ten children and two adults and the father was a garda. Senator McDowell talks about the idea that there was some golden era that was richer, but that is not the case. This is a transformed country, despite the problems that have been outlined by people in this debate. I accept that there are problems and I do not reject them but this is a transformed country for every sector of society, including young people. In 1960, there were 2.8 million people, young and old, in this country. We now have 2.5 million people working. The country has been absolutely transformed beyond all recognition. We have one of the highest rates of participation in third level education. There is a cohort of young people in Trinity College Dublin, UCD or the technological universities which simply would not be there in Britain or France because the rates are much lower in those countries. I do not say all of that to reject any of the challenges that the Senators have outlined or to reject the stories that they have told, which I accept are utterly heartfelt and are designed to rightly challenge us to pursue even better policies, but simply to make the point that this is a transformed country.

I will turn to homelessness, which is of huge concern. We have a Government youth homelessness strategy. The aim of this strategy is to help people between the ages of 18 and 24 who are homeless or at risk of being homeless. It is recognised that the causes of youth homelessness as well as the experiences of young people in emergency accommodation system are totally different from those of the older homeless population.

*6 o'clock*

The strategy is looking at the causes and experiences of homelessness among young people with a view to putting in place strategic interventions to prevent entry into homelessness and improve services and supports to help people get out of homelessness. The Department of Housing, Local Government and Heritage is currently finalising actions and liaising with key stakeholders, including the Department of Children, Equality, Disability, Integration and Youth. We hope the strategy will be published next month. This is part of the overall Housing for All strategy to get more houses of all types, not just private houses, houses for first-time buyers, social houses, affordable purchase or affordable rental. We constantly challenge ourselves to build as many as possible, notwithstanding the challenges we face, because that all feeds into it.

Senator Hoey raised the issue of notices to quit. There is a significant problem in that regard at the moment and it is one the Government is working to address in a way that is sustainable and works to protect renters but also ensures housing supply. The State has to be a major supplier of housing, and it is. We want to get the numbers up but we are providing significant volumes of social housing, way more than were provided at many times in the past.

The issue of mental health was raised by a number of colleagues. Sharing the Vision is the national mental health policy and provides the framework for the future development of the mental health system, including for children and young people. It aims to enhance the provision of mental health services and supports across a broad continuum from mental health promotion, prevention and early intervention to acute and specialist mental health service delivery from 2020-30. The 2023 mental health budget will be approximately €1.2 billion, a record budget for mental health services. Funding provided in 2023 will enhance services in a number of key areas, including access to cognitive behavioural therapy, expanding art therapy and online mental health supports for children and young people.

As regards education, Ireland has among the highest participation rates in education in the world. I know there are people who have deferred college places. Some of them have said the housing crisis was responsible for that. The truth is that as the Minister, Deputy Harris, has outlined, deferral rates are in line with previous years. There is a lot of talk about emigration. Emigration rates are substantially lower than they were in 2013, and way lower than they were in 1960. There is hope. I attended the GradIreland fair today. Our best and brightest were there, looking at career options. I was very impressed by the number of people who came to listen to me and a representative of the European Commission talk about careers in EU institutions. Our best people were there, looking to see what options were available to them. A significant number of those options and opportunities were in those country, including in the European institutions in Dublin and in County Meath.

The Government is conscious of the cost of third level education. As a former spokesperson on education, I know this is a deeply difficult debate. In her time as a student leader, Senator Hoey was very vocal in pushing for free fees. We are going in that direction now. None of us wanted to grasp that nettle but it turns out that the public finances are such that we can now do it. As Senators will be aware, the Government announced in the budget a once-off reduction of €1,000 in the student contribution fee because the public finances have been managed in an appropriate way and people have worked really hard, including students, and paid tax to enable us to be able to redistribute this. There is a reduction in the contribution fee for apprentices, a one-off extra payment on the student maintenance grant and a once-off increase of €1,000 to support SUSI-qualified post-graduate students.

When the previous Government was in power, Fianna Fáil's priority in opposition was an issue of which Members will not have even heard unless they are in that sector. The priority of Fianna Fáil and its leader, the current Taoiseach, was to restart SUSI grants for post-graduate students. We worked really hard behind the scenes to bring that about. Those grants had been abolished but they are now back. The maintenance grants were abolished in 2011 or 2012 but we got them back. I would like the grants to be higher. Their abolition had a negative effect on participation rates at third level. Students and researchers told me they were almost lonely in the laboratories or libraries because there were fewer numbers there. We believed it was very disadvantageous to people from a poorer background not to be able to do research or postgraduate study. It was also bad for Ireland Inc as we depend on those students to be able to do the work that modern companies need to be done.

The Government has increased the student assistance fund, introduced a reduction of €500 in the contribution fee from next year for applicants earning up to €100,000 and increased student maintenance grants. We have also changed the non-adjacent and adjacent distances and that has helped many people, particularly in the Dublin commuter belt.

I make the point in reply to Senator Clonan that we discussed the state of disability services all summer with the Taoiseach. I am sure he has spoken to the Taoiseach on the matter but, if he has not, I am sure the Taoiseach would be more than happy to speak to him. We know that things are not working. We know that more money than ever before seems to be spent yet the lived experience, as the Senator described it, is that people are not getting the services. All present know that from our constituents coming to speak to us on it. My wife works as a nurse in respite services for children with intellectual disabilities, so I know what is going on at the coal face. Leaving aside the improvements delivered in the budget, I was speaking to the Minister of State, Deputy Rabbitte, last night. There is a lot of work going on to bring about a structural change in the way services are delivered for people with disabilities to recognise, as the Senator put it, their right to be participating adults and participating citizens in society. That is a priority for us and for the Taoiseach. I know that not everything is perfect but I believe we have made good progress in special education. There are far more special classes coming on stream again. When I was education spokesperson in opposition, I insisted the Government bring in legislation to force schools to open special classes. It was not the case that every school was refusing to do so but some were refusing and may still be. We fought to change that and the then Minister for Education and Skills, Deputy Bruton, eventually agreed to it. This is our commitment. We are working hard on it. Having spoken to the Minister of State, Deputy Rabbitte, I have hope that in the coming months there will be big changes in how disability services are delivered. There will always be room for improvement but we will always strive to do our best.

I am proud of what we did in the budget yesterday, which is giving real help to people. It has been possible this year with a budget surplus. We could decide to just go to the markets and borrow even more money and spend it, which would be lovely because we would be able to do many of the things to which the Senator referred. We are aware that there would be consequences to that, however. We have seen from the experience next door that if you go to the markets to borrow money, you have to do what the markets want you to do. This year, because the economy is going okay and people are working hard, we are not going to the markets in the way that would have been necessary a few years ago. That is positive for the economy and I hope it is positive for overall sustainability as well in making sure that we can keep these tax receipts, encourage business to come into the country and, as was done last night in a financial resolutions passed by a vote of the Dáil, save up, strategic funding from some of the corporation tax receipts so that we can protect these services into the future.

**An Leas-Chathaoirleach:** Go raibh maith agat, a Aire Stáit, as ucht an freagra cuimsitheach sin.

**Senator Victor Boyhan:** I thank the Minister of State for coming to the Chamber to deal with the motion. I thank my colleagues, Senators Clonan and McDowell, for teeing up and leading off on what we think is a constructive motion. It was never our intention to create division but, rather, to share our lived experiences. That is key in all of this.

I only have one ask of the Minister of State and I wish to stay specific in that regard because this is a broad topic. My ask relates specifically to homelessness in Dublin. Yesterday was budget day. Yesterday evening, however, I decided to walk the streets of Dublin and meet at first-hand representatives of many of the wonderful agencies - they are not State agencies, although they receive State funding - and see the work they do. I took two trips: one last night and another very early this morning. What did I see? I met people of different traditions, cultures and economic backgrounds who were waiting in long queues for food support. They were not all homeless. There were people who were in bedsits and accommodation who, unfortunately, do

not have much money to feed themselves. I met people dishing out cold pizza - several of the stations do not have the facilities to provide it hot. I do not wish to identify the specific parts of Dublin I visited as doing so would not be helpful. On streets off O'Connell Street, I met children. I spoke to a woman from the Roma community who shared her experiences of domestic violence. She had two children with her and thought it was easier to go out and look through bins on the streets. She described how a kind pizza company leaves pizzas in a box and she knows where to go, as do many other people in her community who live in the heart of Dublin. I spoke to three Ukrainians and all they were looking for was water. They were in supported accommodation here in Dublin. Two were men and one was a woman. What really disturbed me was the number of children - teenagers. I keep two books on my desk since coming to the Seanad. One is the Constitution of Ireland and the other is the United Nations Convention on the Rights of the Child, which is a really important book that everyone should have on their desk.

I went back this morning and met some more people. By arrangement, I was told to go to McDonald's on Grafton Street where there was a kind person who brought people in to offer them a free €3.03 breakfast burger. It actually happened this morning because I met them. I made the trip there this morning and had one of the burgers. What an amazing organisation it is that does this outreach, and it is not a State agency either. There were a variety of people and circumstances there.

On my way back, I came through these parts, around Molesworth Street and Grafton Street. I counted 16 people, more than half of whom were below 18 years of age. Three were huddled together at St. Anne's Church on Dawson Street, two were in half a tent that had blown down on South Frederick Street. It was really shocking.

What are we saying? These people are someone's son, daughter, brother, sister or child. They all have some connection. These are vulnerable young people, particularly the ones I engaged with. They are exposed to exploitation, prostitution, criminals, and opportunistic people wanting to take advantage of them and of the circumstances they are in.

What are we doing about it? My request is we focus on Dublin in particular. There are many issues but I want to speak about the challenges facing our city. In the streets and lanes around our Parliament are young people who are left exposed to all sorts of issues, who are vulnerable, and who need our support. When I say a responsive and a holistic approach, I mean a targeted approach within days where State agencies see how they can focus specifically and reach out to these people, overtly or covertly, by engaging with An Garda Síochána, the HSE and other services. I have given a commitment that I will continue to link in daily with these agencies for the next ten days. I would like to think our emergency agencies would be out responding.

I will finish on the United Nations Convention of the Rights of the Child, to which Ireland is a signatory and under which we have given certain guarantees. Children have the right to be treated equally; the right to have their best interests considered by the people making decisions about them; the right to information; the right to be protected from harm; the right to be with their family or those who can care for them best; the right to be safe from harm and neglect; the right to healthcare, nutritious food and clothing; the right to housing; the right to education; the right to rest; importantly, the right to play; and the right to be treated fairly by a just system. I will finish on that. My appeal to the Minister of State specifically on this issue is that we respond immediately and reach out to young people. When I say young people, they are all below the age of 18. They need our help and our support. I ask the Minister of State to use his influence and good offices to keep the focus on this matter.

**Senator John Cummins:** I welcome the Minister of State to the House. I thank the Senators for bringing forward this Private Members' motion. I will focus on the housing elements. The motion calls for a plan to be devised and implemented to address issues related to accommodation for young people and their families, making use of vacant properties and providing social housing to those in need. As someone who sits on the Oireachtas Joint Committee on Housing, Local Government and Heritage, who is a strong advocate for bringing derelict and vacant properties back into productive use and who has actively worked on many projects in my city and county of Waterford, I could not agree more that more needs to be done in this space. It is important, however, to point to the schemes that are in place and that are not being utilised to the necessary extent by local authorities. There is the repair and lease scheme, and 50% of all repair and lease units have been delivered in Waterford. While this is great for us in that it has provided one- and two-bed accommodation in city centre locations, it should not be the case that Waterford has 50% of all the units. There are nine local authorities in this country that have failed to deliver even a single unit under this scheme, despite the fact there are 100 units being delivered at this time in Waterford under the same scheme. If it can be delivered in Waterford, there is no reason it cannot be done in other locations. There is also the new Croí Cónaithe towns and villages scheme to activate derelict properties for use by owner-occupiers. There is the repair and lease scheme I mentioned, the Living City initiative, which was extended in the budget yesterday to 2026, and the buy and renew scheme for local authorities to bring those vacant units back into use. More needs to be done by our local authorities. It is not that the finance and the tools are not there. It is that they are not being utilised in certain areas to the extent they should be.

On supporting those who want to own their own home, it is important to point out the initiative that was introduced in 2017, which is the help-to-buy scheme. The certainty of this scheme was brought about yesterday by a two-year extension. This will be welcomed by individuals and families who want to get their foot on the property ladder. That scheme has helped 36,500 people, including 850 in Waterford, to purchase or build their own home. Not to be scoring political points here in the Chamber but it is important young people understand that every Opposition party wants to remove from young people that essential support which helps them get a foot on the property ladder. Those parties are saying they will give one month back in terms of tax credit for renters, which we have gone a long way towards addressing in yesterday's budget with €500 per year, per person. A couple in a house will get a €2,000 tax credit in January if they are renting. What the Opposition are saying is they will give a month's tax credit but will take €30,000 away with the other hand. That is very disappointing and it is disingenuous for parties to be presenting themselves as in some way supporting home ownership when in reality they are doing absolutely nothing or not even proposing anything and are looking to take away supports already provided by Government.

I will touch on the area of student accommodation. The Government needs to take more direct involvement in this area. The Minister for Further and Higher Education, Research, Innovation and Science, Deputy Harris, has been to the fore in saying we need to do more in this space. The State has to get involved actively in delivering along the lines of the cost rental model we have introduced for new homes being delivered in Ireland. This has to be rolled out for student accommodation too because there is a viability issue where student accommodation is being built that is unaffordable for many students. We have to look at the cost rental model where subsidies are put in place by the State to make the rents affordable for students in the long term. This accommodation will be in the stock of universities and colleges for many years to come.



In the area of housing, nobody on the Government side is saying more cannot be done. Of course, more can be done but we have to acknowledge and be honest with people by saying that only five or six years ago we were building 5,000 homes in this country. We are now up to 26,500 homes and we will continue to ramp that up over the coming years. We have a plan. We will stick to that plan and we will deliver the homes required for this generation and the next. We have to support young people to be able to own their own homes. That is why the help-to-buy scheme, the new shared equity scheme, the local authority affordable purchase scheme and cost rental are key to delivering, as is focusing on social homes for those who need them most.

**Senator Aisling Dolan:** I thank the Senators who tabled the motion, which allows us to discuss the issue of young people and the challenges they face. We know that we are in uncertain times, that there is a lot of anxiety and that the past two years, when we had to deal with Covid and the lockdowns, have been harrowing. This has impacted all age groups but particularly young people. As a spokesperson for further and higher education, research, innovation and science, I am very aware of that. I am a member of the Joint Sub-Committee on Mental Health, as is Senator Black, who chairs it, and we have heard from so many groups that tell us of the day-to-day challenges.

I represent east Galway and Roscommon. I come from Ballinasloe, which is an area that has its own challenges, especially around the Pobal deprivation index. We have a delivering equality of opportunity in schools, DEIS, band 1-level school in Ballinasloe. I am very proud that we are seeing investment in DEIS supports. These are supports for schools to get access to DEIS-level supports. That is now one in four schools throughout Ireland. More than 1,000 schools are getting access to those supports.

We have also seen an increase in special education teachers. An extra number of places have been introduced under the Minister of State at the Department of Education, Deputy Madigan, and the previous Fine Gael-led Government. This Government has had a focus on special education. It is very clear that there has been a major focus on children from the Minister for Social Protection, Deputy Humphreys, and her Department with an increase in child benefit. For primary school level, we want to see that we are maintaining teachers in our schools in rural areas, which is about reducing the pupil-teacher ratio. We are looking at reducing that again by one point.

On students, last week we passed phenomenal, landmark legislation, namely, the Higher Education Authority Bill 2022. This will provide for the funding agency for third level. This Government has created a brand new Department for further and higher education. The Government has focused on and prioritised students. We are seeing an increase in respect of SUSI grants and the student assistance fund. This fund is to allow students in difficult situations to access this fund through student unions. PhD students, through Science Foundation Ireland and Irish Research Council programmes, are also seeing an increase of more than €500.

The Minister for Further and Higher Education, Research, Innovation and Science, Deputy Harris, spoke last week about accommodation, as my colleague, Senator Cummins, mentioned. We need to see that technological universities have the wherewithal to purchase, create, design and develop accommodation for students. In the short term, the rent-a-room scheme has been promoted by all universities in cities and towns throughout Ireland. The reason technological universities are so crucial for young people is that we now have university campuses in towns across Ireland and not just in our cities. We are now seeing them in towns across the west. The Atlantic Technological University and the Technological University of the Shannon in Athlone

have been crucial in developing third level excellence in areas outside our main city centres and urban areas. We want to encourage families living in those areas to participate in rent-a-room schemes. They will be people who potentially were students who have gone through the system.

I again thank the Senators who have tabled this motion because it is very important to highlight that while we see these benefits coming through the budget, that does not underestimate in any shape or form the mental health challenges that are out there. We see high levels of addiction in some of our towns. We are seeing that happen and we need to have those supports in place. Through the Department of Health, we are looking at the supports that have been put in place around disabilities and those networks, and around the community healthcare organisation, CHO, schemes throughout Ireland. We need to see our public health services working with communities on the ground. We need to see recruitment in place in our CHOs and, in particular, that people are recruited into those services at rural level. That can be very difficult when there are vacancies in some of those roles. In the area in which I live, we are looking for a psychologist post for our day hospital in Ballinasloe. That is crucial and it is needed. We need those posts to be in place. We need addiction services in place in rural areas and we need to see that as soon as possible.

I thank the young people who are with us here today. The voices that are being heard are crucial. The Minister, Deputy Harris, in implementing the legislation relating to the Higher Education Authority, made sure that student voices are included when it comes to boards of management for universities. It is also crucial that the students' union voice is included.

**Senator John McGahon:** I am 31 years of age and I am the youngest Member of this House. I was thinking back to 2009 when I did my leaving certificate. We were coming out of the height of the economic recession and some of the toughest financial times, not just this country but the world had seen. When I think about people I know who emigrated back then, they did so out of economic necessity because they were no jobs in this country. It was not just young people. Those who had been in employment for 20 or 30 years in construction, etc., had to move. It affected all age groups in society at the time. When I fast forward ten or 12 years and look at some of my friends who emigrated in their mid-20s to places such as the UK, US, Australia, New Zealand and across the board, it is safe to say that the number of people who emigrate out of economic necessity is much lower than it was between 2008 and 2011 when the country and its economy were at rock bottom.

Of course, people still emigrate today out of economic necessity. That is absolutely the case. I am not trying to deny that but they also emigrate for other reasons, such as advancement in job opportunities, the ability to experience another country, the ability to live and learn in another country and to experience a different type of culture. At the age of 31, I have seen most of my friends who have spent their 20s abroad making the decision to come back to Ireland. They come back much more rounded and educated and with professional ability. They are able to come back and get good jobs. Obviously, the cost of living and housing are difficult situations, but there is no country in the world where everything is great and it is a promised land of milk and honey and so on. That is not the case. Everywhere has its own opportunities but everywhere also has its own-----

*(Interruptions).*

**Senator John McGahon:** If it is all right, I am just trying to speak without the theatrics. We are all allowed to express different points of view. The people who have tabled this motion, quite rightly, have a point of view but those on this side of the House also have a point of view.

*(Interruptions).*

**Senator John McGahon:** Unfortunately, no speakers from the Gallery are allowed, only Members, whether people put their hands up or not.

The point is, without the theatrics, I am putting forward a point of view based on my experience as a young person in this country. I am someone who came out of the height of a recession in 2009. I have seen what my friends in their 20s have done throughout that period and what they are coming back to this country for now. That is important to recognise. I am not saying that everything is well and good but it is important to recognise that is the case.

When we look at the cost of living for students and young people in this country and the things we have done in the past couple of weeks, one of the big issues I have talked about is transport. Where I come from, Dundalk, the vast majority of people commute to Dublin. This has always been the way, whether it is getting on the bus to go to Dublin City University, Trinity College Dublin or wherever else. That is the way they do it. We have reduced public transport fares by half. One thing we did not do is reduce fares for privately funded transport and the main way people get from my town to Dublin is via private transport. We listened to young people throughout the country who take that private transport and in the past couple of weeks we have now expanded that 50% to include private as well as public transport. To outline the real-term difference, three weeks ago, someone taking private transport from Dundalk to Dublin was paying €17 to get a return ticket. They are now paying €5.50. This is real-term money. That is a small but key example of something we are doing to try to tackle the cost-of-living crisis. I have said previously in the Seanad that I feel young people got a terrible rap from certain sectors of society and the media at the height of the Covid pandemic for doing nothing more than enjoying themselves, including being told to move along when they were in public spaces and whatever else. We need to realise that through no fault of anyone's - it was a worldwide pandemic - young people lost two years of some of the best years of their lives, a time when they get to make lifelong friends and have really good experiences that shape their 20s and their adult outlooks. Those two years were taken away from them. We should have cut them more slack throughout the pandemic and we did not.

My sister Ruth is 21. She has just finished in UCD. She is now spending a year doing the 400 free hours of work experience she needs before she can do a masters because she wants to become a social worker. I have listened to what she has said to some of her friends. When I was 18, 19 and 20, the concept of mental health was not even spoken about among people of my age. When I speak to Ruth now and people of her age, it is spoken about. People are now prepared to speak out about mental health, about issues they are facing and about the funding that is going into it. Ten years ago, when I was 17, 18 and 19, it did not exist. It was still a taboo to talk about mental health. That is less than a decade ago.

Young people in this country are to be commended on their courage, ability to stand up and their ability to call things out whether they agree with it or not. People are perfectly entitled to agree or disagree. The whole purpose of the debate we are having today is to test opposing

opinions and discuss what we think young people in this country need and want. This has been a very good debate and I commend my Independent colleagues on bringing the motion forward. I look forward to the rest of the contributions.

**Senator Malcolm Byrne:** I thank Senator Clonan and the Independent Members for introducing this motion on the situation of young people in Ireland. During the Covid pandemic young people have suffered more than any other sector of society. This is something we have discussed at length in this House. I hope to address many of the issues in the motion and discuss how we might find solutions.

One of the most transformational aspects of Ireland over the past 40 years has been in the levels of educational attainment. During the 1970s, fewer than two out of every ten in the 18 to 20 age cohort went on to higher education. That statistic is now approaching two out of every three. That excludes those who are going on to further education and training where far more opportunities are presented now. In the space of two generations, Ireland has transformed itself through educational opportunity. That has been done under different Governments and through a variety of means.

It was often argued that our economic and social development was based on two key things: tax and talent. The tax argument is no longer really there. Our argument for the 21st century will relate to talent. We need to ensure that we have domestic talent and also that we continue to welcome international talent. We have always been an open and tolerant country and I hope that will continue.

We have some very specific challenges at the moment. The number of places available in higher education continues to be expanded. We saw it in the budget yesterday. I am particularly glad that a significant number of the 1,000 places that were provided in the budget are in the medical and paramedical area and also in medical-related programmes. It needs to go further. One of the concerns I have related to the graduate medical programme which I believe should be expanded. The Fottrell report recommended a more attractive programme in terms of the quality of students because they would have done an undergraduate science degree or whatever and then done medicine at postgraduate level. That is beyond the means of many students.

With Bank of Ireland pulling out of the loan market for students, we need to address that question. While it is of benefit for medical graduates to be able to go abroad and get experience, we should also look at the State providing greater funds to our medical students on the proviso that there would be an expectation that if the State is giving them a grant, they would work for a period within and contribute to the public health service here.

I welcome some of the improvements that were made in the budget relating to higher education. I am happy with some of the Student Universal Support Ireland, SUSI, grant reforms. I was concerned that if there was only going to be a cut in student fees, it would not benefit the most disadvantaged students because they do not pay fees. My concern relating to the higher education budget is that the net increase in core funding to higher education was only of the order of €40 million. When we saw the report on funding our future published earlier this year, the estimated shortfall in higher education funding is of the order of €307 million. While the benefit to individual students is welcome, we still have not tackled the question of the core funding crisis.

As part of the housing budget, money will be made available to higher education institutions

for on-campus accommodation. We need to move to the European and American model where there is extensive on-campus accommodation. Due to the cost of construction at the moment, renting at a commercial rate is beyond the scope of the average student. Therefore, the State will need to subsidise the provision of some of that student accommodation with a view that in the long run, universities will be able to benefit from that by renting out the accommodation during the summer months. However, we need to be radical in our approach in some of those areas.

There is a specific challenge with some of the career paths that graduates can follow if they are expected to live in expensive areas. Very extensive public sector pay negotiations took place, but it is very difficult to expect graduate teachers and graduate nurses to be able to work in a city as expensive as Dublin when they are paid the same rate as somebody who is living in a rural community, for instance in the west of Ireland. We need a debate on the possibility of Dublin weighting or weighting for the major urban areas when it comes to graduate salaries. That is important in order to balance it.

This debate is worthy of consideration. We should not knock the extent of the progress we have made as a country. However, we have an obligation to ensure we address some of the challenges.

**Senator Jerry Buttimer:** I welcome the opportunity to speak in this very important debate. I thank the Independent Senators for putting the motion to the House. I welcome the young people who are in the Gallery. I thank them for being here, not just to listen to the debate on the motion before us but perhaps to engage with many of us after. This is an important motion. As somebody who has been involved in education all of my life as a teacher and as a GAA activist, at 55 I think I am still young. I still think I am relatively in touch with young people. Recognising in this debate that we have significant challenges in a post-Covid world, we may need to reconsider how we as a society and a country engage with young people.

I listened to the contributions of Senators Hoey and Clonan. I recognise particularly in the disability sector that many disabled people - both young and old - feel not just marginalised but feel they have not been listened to at all for a long time. That is a fault of society and of Governments for generations. We need to look at that.

We have a starting point for the strategy for the participation of children and young people in the decision-making process. Government should look to the citizens' assembly, the Convention of the Constitution, as a model for that young people's forum. Former Deputy Katherine Zappone, when she was the Minister with responsibility for children, had a young person's LGBT strategy. I was struck by the number and quality of engagements with young people who were willing to participate and, in fact, rushed to do so.

Understandably, there are challenges we must work on, and they have been articulated. We must overcome those challenges. The Government must recognise the importance of young people being able to buy their own homes or rent homes at a good price. We must provide a quality environment for them to live in and quality education. To be fair to the Minister for Further and Higher Education, Innovation, Research and Science, Deputy Harris, he is recognising the apprenticeship model. As a teacher myself, I recognise that the leaving certificate is not for everybody. The applied leaving certificate is available, as it should be, and is being used as a career pathway by many young people. We in this House should support that. I have spoken about that issue many times.



It is important to recognise that we will have divergent views on this motion. I believe we live in a great country. It is the best in the world. People may smile when I say that and disagree, which is fine, but we do live in a great country.

**Senator Mary Seery Kearney:** We do.

**Senator Jerry Buttimer:** We are near full employment. We have quality educational establishments. People do emigrate. I did my leaving certificate in 1984. Many of my friends left these shores to go to Boston or Melbourne to work. Many did not come back. Many of my friends left Cork as gay men and women because they could not be gay in my country. Some of them never came home. We live in a much better Ireland today.

**Senator Mary Seery Kearney:** Hear, hear.

**Senator Barry Ward:** Hear, hear.

**Deputy Thomas Byrne:** Hear, hear.

**Senator Jerry Buttimer:** There are challenges and issues but we can address them with a collective mindset governed by the need to do better. We must always remember that this is a land of opportunity. We are on the periphery of Europe and yet at its heart. Our housing system needs to be addressed. The quality of engagement in many parts of our communities needs to be looked at. I want to praise my colleague, Senator Mary Seery Kearney, for the work she is doing in her area. The issue of mental health, which was raised by Senator McGahon, was never spoken about 30 or 40 years ago. For a man to say he was suffering from depression or could not cope was unheard of. Today we can talk about that and have that conversation. That is positive.

Yesterday's budget has been described as making significant changes to many different issues facing parts of the Government programme. There is a new tax credit for renters. There is free contraception. The help-to-buy scheme has been extended. Imagine the consternation in this House 20, 30 or 40 years ago if a Minister - and a former Minister for Justice, Senator McDowell, is here - said we are giving free contraception to people under 30. Imagine the consternation there would have been.

**Deputy Thomas Byrne:** It would have been illegal.

**Senator Jerry Buttimer:** That is correct. That is the point I am making. We have many challenges but there are also many positives.

I ask the young people in the Gallery to please engage with us. Do not take us for old fogeys who are out of touch and not living in reality. We live in reality. We have nieces and nephews. Many of us in this House have sons and daughters who understand the challenges of going to college or, as someone mentioned earlier, being in a box room for the past two years and using Zoom, being unable to socialise and giving up everything. I understand that fully. Jesse Jackson, in his 1988 Democratic convention speech said, "Don't you give up ... keep hope alive ... don't surrender". To the young people in the Gallery, I say do not give up or surrender. Continue to work to make our country a great place. We in this House will work with you. The Government will facilitate and work to bring change.

I suggest to the Minister of State that we consider a citizens' assembly for young people. We have had assemblies for a myriad of other topics. It is important that we have a citizens'

assembly devoted to young people, their issues and concerns, and their hopes and aspirations.

**Senator Barry Ward:** I welcome the Minister of State. This is a great debate on an important subject if for no other reason than it puts in the spotlight this incredibly important issue. Young people are not just young people today. They are the people who will occupy this House in a few years' time. In a few decades' time, they will be running this economy and country and contributing in businesses, lecture theatres, classrooms, hospitals and courtrooms all over this country. We can never place too great a value on the importance of providing what we need to provide for them.

In the context of this debate, it is important to acknowledge that life is not easy in this country for young people today. We should be doing everything we can to make it easier at every step along the way. I note that people now come back to Ireland. We have net inward migration. People are coming here. Other people, of course, leave. I left and came back. As Senator McGahon said, there are many legitimate and good reasons for people to leave Ireland. We hope that most of them, if not all, will return. There are only three children in my family and my two sisters live abroad. Edel lives in London and Emily has just moved from Bern to The Hague. We all hope they will return home. They have ambitions to do so within the next couple of years. I note there is now net return to Ireland, which is positive.

Mention has been made of the budget measures that were put in place yesterday specifically for young people. We can talk about those measures. I could list them but I do not know if I need to do that because people have heard them already. Yesterday's budget was a positive one for young people, as it was for many sectors of society. Senator Buttimer may already have made this point more eloquently than I can, but Ireland is vastly improved even compared with when I was a young person, which I like to think was not very long ago. It is a more progressive, accepting and inclusive place, a better place to live now than it was ten, 20 or 30 years ago. We are improving all the time. That does not for a moment mean that things are perfect. It does not mean that we should not keep trying to make it better, and to make sure it is more inclusive, progressive and accepting, and easier for people to live here. We can celebrate our progress but we can also use it as an inspiration to say we can do more and better. I would like to think that people who are young in Ireland today, irrespective of their sexual orientation, ethnicity, family background, ability, personal health, mental health or whatever else, are in a better position today than they would have been decades ago.

That does not mean there are no problems. Housing has been mentioned. I have been in UCD twice in as many weeks and I know from speaking to students there just how difficult it is for them to find accommodation. UCD is better than many third level institutions around the country. The Institute of Art, Design and Technology, IADT, in my own area in Dún Laoghaire has supported a private development of student housing nearby at Baker's Corner, which will be great if and when it is built. It is years away from being built. Even then, it will still be expensive for people. An issue mentioned by Senator Cummins was the cost of off-campus private student accommodation. That must be looked at by the Government in the longer term to ensure it is affordable and accessible to everyone.

Senator Clonan mentioned his son, and I am particularly well acquainted with his family, being a neighbour. I know well what he has gone through. I know that senseless and unthinking measures have been in place in the past. They have been corrected by Senator Clonan and I hope I worked with him to ensure, for example, the Minister, Deputy Harris, dealt with one particular issue of which I am aware. That is the way it should be. When we see these things

that do not work and are not there for a good reason, we should take conclusive and swift action to correct them. Not everything can be fixed and made better overnight. There are, however, many little things that need to change for the better and to be brought in tandem with the things which work well. That is the attitude we have to take.

I know the Minister of State will be communicating to his Government colleagues that the message from this House is we need to do better, although we have done a great deal. A particular phrase comes to mind in that regard and I will not trot it out here. However, we have done a great deal to develop this country as a place where young people want to be. Young people are returning to this country. Non-Irish people are coming here to make their lives in this country. I am not only talking about people who are forced to come here because of the circumstances in their own countries. Other people choose Ireland for their future, which is a good thing. We need to strive every day, week and year, through every budget and piece of legislation that goes through, to ensure we are building on the success of the past and dealing with the issues that young people face to make it as easy as possible for them. As I said at the start, this is a great motion because, if nothing else, it is a spotlight. As other Members have said, we will disagree on the minutiae, which is as it should be, but this motion shines a spotlight on an incredibly important issue for all of us and for the future of this country. It is appropriate that we shine a light on those issues and, as a country, develop solutions to the greatest extent possible. I congratulate my Independent colleagues on the motion.

**Senator Rónán Mullen:** Cé mhéad ama atá agam? Six minutes. As I was listening to Senator Buttimer, I thought “Oh my God, not another citizens’ assembly.” It seems to me that the Government reaches for a citizens’ assembly every time it does not have the answer to a complex problem and every time it wants to hide behind people rather than take responsibility. The Oireachtas is the first and foremost citizens’ assembly. I am all in favour of citizens’ assemblies to consult and to take the temperature of public opinion. That is all well and good but we need less talk about citizens’ assemblies and more talk about how we can be a more effective Oireachtas by testing Government policy, getting a genuine hearing for amendments we propose and so on instead of the rubber-stamping exercise that is very often carried on in this place.

The other thing I was struck by as I was listening to Senator Buttimer was the narrative of praise and saying that this is the best country in the world. That is a phrase I associate with politicians on the other side of the Atlantic. I take the view that we have a slightly more sophisticated view in Europe and that thinking and reflective people tend to realise that, while this country is great in some ways, it is terrible in others. That is the truth of the matter. Let us have none of this Harold Macmillan notion that we have never had it so good. The Government is playing to the gallery and has given people free contraception and this, that and the other. That is not the test of our country’s welfare. Despite all the progress people can point to in many areas, which I accept, we have gone backwards in many ways as well. Until we have politicians who are ready to talk about that and fess up to it openly, we will not be doing a service to the young people in galleries whom we want to address. This country is an extremely violent place for some. It is more violent than it ever was before. There are people caught up in drug addiction and in multigenerational educational disadvantage to a greater extent than was the case in the past. This country has disimproved in many ways while improving in many others. Let us be honest. There is a lot of misery and suffering in our country. There are many people who face tremendous challenges in their lives. Senator Buttimer referenced mental health. How much was there for people with disabilities and mental health challenges in the budget?

I had a conversation with the Minister for Public Expenditure and Reform on my way into

this room. He rightly pointed out to me that it is good we were able to pay for all of this without borrowing. That is true. He rightly pointed to the situation of our friends in Britain and the challenge they face right now. I observed to him that there was another side to this. I can remember when there was a big giveaway budget under Charlie McCreevy but there was a hell of a different mood in the country. There is not a celebratory mood in the country now. People are worried about what is coming around the corner. Senator Ward wants to make a comment. I will always give way to him.

**Senator Barry Ward:** Senator Mullen said that the test for welfare was not what Senator Buttimer outlined. What is the test? How is it assessed?

**Senator Rónán Mullen:** The test is whether there is a human dignity-led approach to policy and legislation across the board and whether attention is being paid always to the most vulnerable in our society. There is a protest taking place on the quad in my alma mater, which has now been renamed the University of Galway, at 6 p.m. this evening. I commend those who are keeping the real issues on the agenda. It is not going to be possible to provide free GP care for an additional 400,000 people. In my view, people earning between €20,000 and €30,000 do not stand to benefit very much from the budget announcements we have heard in recent days.

As a member of the Joint Committee on Education, Further and Higher Education, Research, Innovation and Science, I particularly want to address the student accommodation crisis. I spoke to a university president here in Dublin last week and he made the point to me that unless there is a subvention from the State for student accommodation established by the universities, they will have to charge students €14,000 a year to get a return on their investment where they provide student accommodation. If we do the maths and divide that by the number of months in an academic year, we get €1,400 or €1,500. How can people afford that? The current generation needs an awful lot more than platitudes. We have to acknowledge that the emerging generation faces challenges that their parents and the people of my generation who are halfway between them, the mezzanine generation, did not face.

It is time for us to reflect on the nature of our political system and the seeming inability of the Government machine to deal with problems that it should be able to see coming down the tracks. Since March of this year, it was obvious that there was likely to be a major issue with student accommodation this autumn and yet the Government seems to have been caught flat-footed on this and other problems. We have heard the horror stories. The editor of *The University Times* in Trinity College Dublin, Ailbhe Noonan, brought to us an interview with a student who was living out of a van due to the unaffordability of student accommodation.

I realise that it is easy for me to get up here and point to the problems but I only do so because it is our job to continue to reflect on the inadequacies in our system and how they are affecting people. Issues with accommodation and practical realities such as access to good-quality healthcare are connected with mental health and the question of the resilience of our country and its people into the future. I appeal for a sense of urgency. There are things to celebrate about advances in this country but there is also a hell of a lot to regret and a hell of a lot of problems we seem very reluctant to talk about seriously in these Houses.

**Senator Tom Clonan:** Gabhaim buíochas leis an gCathaoirleach agus leis an Aire Stáit and I thank all of my colleagues for their responses. If I heard the Minister of State correctly, his father was a garda.

**Deputy Thomas Byrne:** No. His father was a garda.

**Senator Tom Clonan:** That is something we have in common. My grandfather was a garda. He married a woman from Drogheda and had nine children. He lived in the community he policed. He had his own home and was able to send his children to school. Even back in those days, some of them actually went to university and became engineers, teachers and nuns. My dad became a garda himself and, like my grandfather, he could live in the community he served. He had his own home and five children, all of whom he put through university. I believe this is what Senator McDowell was talking about. He was not referring to any kind of a golden age. We all recognise the inequalities that existed. It was a matter of human capital and social mobility. Our parents' generation and our grandparents' generation forged a republic in which everybody had a stake in society and where there was mobility.

**Deputy Thomas Byrne:** My generation was the first to go to university in my family rather than my parents' generation.

**Senator Tom Clonan:** I grew up in Finglas. I was the first person in my family to go to Trinity. I do not consider myself as having come from a disadvantaged background but I certainly went to school with boys who did and who went on to become senior gardaí. I was in Vienna this week with a boy from Finglas who I sat next to in school. He is one of our senior police officers and is heading up the organised crime and drugs task force in this Republic. That is because in 1972 when this country did not have a pot to - I will not complete that sentence-----

**Senator Rónán Mullen:** Drink from.

**Senator Tom Clonan:** -----we were building houses. I remember standing at the end of Ballygall Avenue in Finglas with my sister in 1972 and seeing prefabricated houses going past on the back of lorries, on their way to build west and south Finglas. They were not perfect but from those estates came the boys I went to school with and the girls who went to school with my sisters and they went on to make a big contribution to Irish society. I have mentioned my friend but every professional group and area of public life is populated with people who had the advantage of a roof over their heads. I absolutely accept the Minister of State's bona fides and his commitment to ensuring that we rectify this problem but, if you are living in a family hub or a hotel, all that human capital is lost.

*7 o'clock*

Despite the economic indices mentioned by many here, and it is true that Ireland has been transformed through membership of the EU and foreign direct investment, in terms of social indices, the inequal distribution of wealth and advantage has worsened.

**Deputy Thomas Byrne:** That is absolutely untrue.

**Senator Tom Clonan:** If the Minister would let me finish. We can agree to disagree.

**Deputy Thomas Byrne:** The opposite is the case. All the research shows that.

**Senator Tom Clonan:** Like Senator Buttimer, I did my leaving certificate in 1984 but if I am correct, in 1984, we had Ministers who were in their 20s. I think Mary Harney was appointed Minister in the 1980s in her 20s. We gave responsibility to young people. In fact, young people forged this State. They had a citizens' assembly, which Senator Buttimer called for. They assembled outside the GPO and took matters into their own hands. That is what



young people are going to do. Before long, the young people here will be on this side of the glass and I do not think it will be in decades. I am hoping some of them will keep me on this side of the glass in the next couple of years - I hope they will pass the word among their fellow Trinity graduates.

I worked with young people in Lebanon in the 1990s. We used to bring 18- and 19-year-old soldiers in the armoured convoys, drop them off at the observation posts at night and give them a 7.62 mm machine gun and 2,000 rounds of ammunition. What does one do if one is hit up by Hezbollah? Fire up the green flare. What does one do if hit up by the Israelis or their proxies? Fire up the red flare. Prevent oneself from being forcibly disarmed. We gave them responsibility and recognised their potential and they rose to every challenge they met because we took them seriously and did not infantilise them. There is no point in having free condoms if one does not have somewhere to go and a roof over one's head.

Do I believe that Micheál Martin, Leo Varadkar and Eamon Ryan are sincere about rectifying this very pressing crisis? I do. When the results of the general election in 2020 came in, on the first working day back here in Leinster House, and I am sure the Taoiseach will not mind me saying this, the Taoiseach invited me in for a conversation. He made me a cup of tea and I felt heard by him. I was very struck by his speech when he assumed the role of Taoiseach. He spoke about his adult children and said that they would hold him to account. I was very struck by that part of his speech. It did give me hope that he is a sincere person who does value young people and wants to have an impact on this social indices and rectify them.

Do I trust Leo Varadkar? When Eoghan was in transition year, we happened to meet Leo Varadkar. He met and interacted with Eoghan on his level and listened to him. In fact, he said, "You can call me Leo". He said, "The rest of them in here will have to call me Taoiseach", so we will take him at his word. It was the same with Mary Lou McDonald.

I accept the positive and constructive responses here but these are the people who have to hear that narrative. We hear about Gen Z, Gen X and Gen Y. They will consider us Generation F for failure if we fail to convince them that we are doing our absolute utmost to help them realise their full human potential and self-actualisation. Housing is one of the cruellest and most pressing challenges. The consequences of it might be expressed in a certain amount of emigration but also at the next general election and the local elections. We need to be very clear in our narrative and public discourse that we will remake and reshape this Republic in the image of those who forged it. They were young people like my grandmother, who was setting fire to police stations in south County Dublin when she was 19. If my daughter, who is 18, suggested that she might do that, I would have a lot to say about it.

**An Cathaoirleach:** I hope you would.

**Senator Tom Clonan:** I commend the young people for coming into this House but I can tell them as a newcomer to this House, I have not met one person in the Seanad or Dáil who is not working in the utmost good faith to improve the situation and to make this country the best place not just to live and have an economy but the best place to live as a citizen in a society.

**Senator Michael McDowell:** Well done.

Question put and agreed to.

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

**Senator Mary Seery Kearney:** At 10.30 a.m. tomorrow.

Cuireadh an Seanad ar athló ar 7.07 p.m. go dtí 10.30 a.m., Déardaoin, an 29 Meán Fómhair 2022.

The Seanad adjourned at 7.07 p.m. until 10.30 a.m. on Thursday, 29 September 2022.