

DÁIL ÉIREANN

ROGHCHOISTE UM SHOCRUITHE LE HAGHAIDH GRINNSCRÚDÚ BUISÉADACH

SELECT COMMITTEE ON ARRANGEMENTS FOR BUDGETARY SCRUTINY

Dé Máirt, 21 Meitheamh 2016

Tuesday, 21 June 2016

The Select Committee met at 4 p.m.

MEMBERS PRESENT:

Deputy Seán Barrett,	Deputy Stephen S. Donnelly,
Deputy Richard Boyd Barrett,	Deputy Marc MacSharry,
Deputy Thomas P. Broughan,	Deputy Michael McGrath,
Deputy Joan Burton,	Deputy Hildegarde Naughton,
Deputy Dara Calleary,	Deputy Eamon Ryan.
Deputy David Cullinane,	

DEPUTY JOHN PAUL PHELAN IN THE CHAIR.

Engagement with the Irish Human Rights and Equality Commission

Chairman: As we have a quorum, we shall commence. This is the fourth meeting of the committee. Today, we shall meet Ms Emily Logan, the Chief Commissioner of the Irish Human Rights and Equality Commission. She is accompanied by Dr. Mary Murphy, commission member, Mr. Laurence Bond, head of research, and Ms Niamh Connolly, who is formerly of this parish and who works in the communications section of the commission. We are also joined by Mr. David Hegarty, principal officer, economics division, Department of Finance, and Ms Sarah Swaine and Ms Jessica Lawless, assistant principal officers in the Department of Public Expenditure and Reform.

Before we begin, I wish to draw the attention of witnesses to the fact that they are protected by absolute privilege in respect of their evidence to the committee. However, if they are directed by the committee to cease giving evidence on a particular matter and they continue to so do, they are entitled thereafter only to a qualified privilege in respect of their evidence. They are directed that only evidence connected with the subject matter of these proceedings is to be given and they are asked to respect the parliamentary practice to the effect that, where possible, they should not criticise or make charges against any person, persons or entity by name or in such a way as to make him, her or it identifiable.

On behalf of the committee, I welcome all of the delegates and thank them for meeting us. There was a difficulty about having the meeting tomorrow and I thank them for facilitating us today. As they will be aware, the committee is drawing up a blueprint for the more effective scrutiny of budgetary proposals. There is an opportunity for the Oireachtas to play a greater role in the budgetary cycle. In that regard, having all proposals subjected to scrutiny from equality, poverty and other perspectives will be extremely important. This issue has been raised by members of the committee. That is the reason it is important we hear directly from the members of the commission. I thank them for their submission. I now invite Ms Logan to make her opening statement.

Ms Emily Logan: I thank the Chairman and members of the committee for accommodating us. We have a board meeting tomorrow. That is the reason we wanted to meet today.

Let me make some introductory remarks to put the Irish Human Rights and Equality Commission in context in relation to the committee's mandate. The commission was established in November 2014 as a single legal entity. It is an amalgam of the Equality Authority and the Irish Human Rights Commission. The most significant change is the commission's new level of institutional independence. This is demonstrated by having our own Vote and the fact that the 15 members of the commission were appointed by the President, Mr. Michael D. Higgins. As independent officers of the State, we account directly to the Oireachtas.

The 2014 Act gives us a range of powers, from promotion and education, raising awareness of equality and human rights to significant legal powers whereby we appear before the superior courts in cases as *amicus curiae*. Across that gamut, our role involves promoting human rights and equality standards.

In terms of where we sit globally, we are part of a regional equality and human rights mechanism. We link with our European counterparts and also strongly with the United Nations. We are obliged legally to report independently to the UN treaty monitoring mechanisms, the relevant one being the UN Committee on Economic, Social and Cultural Rights which sat in

June 2015. Essentially, the purpose of the commission in interacting with that committee is to engage in human rights and equality-based critiques of law, policy and practice. The commission's interaction with the committee was very unusual in the sense that UN committees do not normally get into the details of domestic financial matters.

I want to mention two comments that were significant. The committee criticised the State's response to the financial crisis, suggesting it had been focused disproportionately on instituting cuts in public expenditure in the areas of housing, social security measures, health and education without altering the tax regime. It was suggested many austerity measures had been adopted during and after the crisis but without a proper assessment across Departments of their impact on economic, social and cultural rights.

I will conclude on that point, but I wanted to put the Irish Human Rights and Equality Commission in context to ensure members would understand it was not simply an advocacy organisation but one that carried a variety of legal powers. They relate to economic, social and cultural rights and cover the gamut of equality and human rights.

Chairman: It is clear from the submission that the commission is at a stage where it is building. Does it have the staff it needs to help us in undertaking the work we have to do on the equality proofing aspect of the budgetary process and, if not, when does Ms Logan believe the commission might be in a position to have them?

Ms Emily Logan: It is probably fair to say - Dr. Murphy can chip in if I am wrong - the spirit of the legislation and the way it has been articulated demonstrate that it is the commission's job and role to encourage public bodies and Departments. We do not see our role as necessarily providing a service but more as encouraging Departments to, institutionally and politically, embed this thinking in their work. However, we do see ourselves as having a legitimate role in interacting with the committee. Before I started, I should have introduced Dr. Mary Murphy who is a political sociologist and Mr. Laurence Bond, one of our senior members of staff and the head of research who has been working in the area of equality for 15 years.

Deputy Hildegard Naughton: I thank Ms Logan for her presentation. My first question is related to the one asked by the Chairman. How does the Irish Human Rights and Equality Commission, IHREC, propose to engage in the economic and budgetary cycle? What in-house expertise is available to it to assist it in doing so? Does it employ an economist?

The submission refers to the links the Irish Human Rights and Equality Commission has developed with international proofing experts such as the Central American Institute of Fiscal Studies and its in-house experience in gender equality and poverty proofing budgets. It also refers to the prohibition of regressive measures in budgeting. What precisely is meant by this phrase? For example, the submission refers to the recent recession. How would a prohibition of regressive measures in budgets apply in a recession? How will this pan out in the IHREC's interactions on future budgets?

Ms Emily Logan: I will ask Dr. Murphy to answer the Deputy's initial questions. The 2014 Act provides a facility for the Irish Human Rights and Equality Commission to establish what are known as advisory committees. This is the means by which we have engaged with and tapped into, if one likes, some of the international experts in the area of human rights and equality on different concepts. As Dr. Murphy is the commissioner leading on this issue, I will ask her to respond.

Dr. Mary Murphy: In building our capacity it very much depends on where we believe we could play a potential role in the various institutional spaces that will emerge to support the roll-out of the range of proofing mechanisms that may emerge. It would probably be useful to make clear from the start that, by necessity, a vast amount of this work can only be done within Departments. As Ms Logan stated, a large part of the Irish Human Rights and Equality Commission's legal mandate is to encourage, but it is also to assist and support. We do not put ourselves forward as the proofing mechanism because, by necessity, the policies that are known and need to be proofed are within Departments, particularly at the most sensitive stage of the budget cycle when one would like to see an engagement with them before they become policy. That is ideally where one would like to eventually place the heart of one's proofing mechanisms, but we do not believe that is necessarily our role. While there may be instances when we may be called in to assist in that role or around the edges of it, there is already the skills capacity to some degree in Departments and it is being used in various ways to engage in proofing. The issue is bringing together these mechanisms to make more sense of them in order that they have an input into the budgetary process to good effect. We are not putting ourselves forward as the proofing mechanism.

The capacities we have been trying to draw up internationally are primarily through the European Network of National Human Rights Institutions, ENNHRI, and Equinet, the European network of equality institutions. These networks have subgroups which engage in information sharing and expertise networks on proofing mechanisms. We have also networked into the New York-based Centre for Economic and Social Rights which is probably the most effective organisation globally for advancing a range of mechanisms centred on bringing human rights principles into proofing mechanisms. Deputy Hildegarde Naughten also referred to the Latin American specialist centre which engages, in particular, in revenue proofing and tax or fiscal proofing and has at its disposal a range of mechanisms it has developed. What we bring, in the first instance, is knowledge of what mechanisms are being used globally and who is using them to good effect. We also know, for example, that when training and experts are required or specific enabling or mentoring is required, we can tap in and quickly make these resources available through our networks. We view this as very much part of the process.

The Deputy asked a question about the Irish Human Rights and Equality Commission's in-house capacity. Section 18 of the legislation allows us to set up a statutory research advisory group, which would include international legal and policy experts with some experience of proofing. The group has already met. Let me give an example of what it is doing. Having scoured the British Isles to some degree, we will on Friday next, 24 June, bring together a range of actors from academic, legal and policy practitioner circles with experience of the various aspects of proofing. We are doing a technical workshop with them in the first instance to find as quick and as effective a way as is possible of drawing out that learning and then shaping it to make it available to these processes as they emerge. We are not saying we have a staff member who can do a proofing exercise in a Department. Neither do we think we should because we do not believe that would be the most effective way of ensuring proofing impacts on the policy process.

I will now address the Deputy's last question on non-retrogression. In terms of human rights principles, there are several policy guidance mechanisms which help guide policy. Some of them are about the progressive realisation of particular human rights, some are about protecting core basic standards which should not be undermined, and others are about looking at tax policy to ensure the maximum available resources are being used to progressively realise rights. The Deputy referred specifically to the principle of non-retrogression. In that context, the UN

International Covenant on Economic, Social and Cultural Rights drew up a series of advices for governments when they are operating in the context of austerity or some type of economic crisis. It advised a policy process akin to proofing and asked governments to engage in this to justify the degree to which any retrogression of an existing human right could be justified. Some of the processes include asking the government in question if it has exhausted all possible other remedies or has it put in place mechanisms to ensure ways to redress the policy once resources become available again.

These processes are quite practical at one level in saying that a government should only regress a right that has already been progressively realised in the event of having gone through particular safeguards in terms of policy process. On the other level, they must ensure the cut has been made in a way that it can effectively be restored. There are a range of principles about how a government does not retrogress the right to the degree that it cannot be brought back once resources become available again. These are all practical, in some respects, in giving guidance as to how policy might better protect rights in a period where they would be perceived to be under threat, perhaps through no fault of a government. It gives almost a governance process through which it can be managed, be more accountable or transparent.

Deputy Hildegard Naughton: If this expertise is not in-house, could this consultative process report back within the correct timeframe?

Mr. Laurence Bond: The commitment in the programme for Government is to put in place policies and procedures for proofing budget-making on an ongoing basis. It will mean a change in the system of how we develop and put out budget policy. However, there is a bit of tension with the fact that we are quite far into this year's budget cycle, an issue which has already been discussed by the committee. It is important to keep in mind that we need to deal in a short-term way but not lose sight of the fact that the commitments to proofing are about how we change the way we do business in a positive way for the future. Essentially, that is not just a one-off in this context.

The key point Dr. Mary Murphy made is that we are talking about changing the system in how we develop budgets through making certain types of information more clearly available, certain choices more clearly articulated, greater transparency and a greater oversight and engagement role for the Oireachtas in that. It is not simply somebody from the outside dipping into that process. Rather, we want to examine the way we develop budgets at each stage of the budgetary cycle and see how we can build in the capacity to ensure that the areas we are discussing - equality, gender and poverty proofing - are taken into account as policies are being formed and there is some assessment of them which is brought to the Oireachtas to inform the debate here. We can try to assist people in terms of thinking around this. We are talking about a change in the budgetary system and it must be filtered through at all levels of that system.

In the much shorter term, everybody is on the back foot in terms of how we can address the issue of proofing immediately in the budget. It must be approached with a pragmatic mind. To some extent, there may be a need to identify some key areas where it is almost worth learning by doing, that there is an engagement that tries to establish a practice and insight as to how it might be done in the future. It is important to keep the short-term and long-term perspectives in place. Who can do this? While we can assist with it to a certain degree, we cannot do it all for the committee.

Deputy David Cullinane: I welcome the witnesses. Mr. Bond made the point that there is a commitment in the programme for Government to improve input into policy procedures

regarding the formation of budgets. This comes from an OECD report which critiqued the State's previous approaches to budget making. We all agree that in the past, much scrutiny was carried out by Opposition spokespersons almost immediately after the relevant Minister or Ministers presented the budget. The first sight those spokespersons would have of the budget was when it was presented and they had no indication of any of the measures it contained beforehand. Often, the analysis of whether a measure is progressive or regressive comes from the ESRI or think tanks after the budget has been introduced. If we can move away from this to a position where we would have more input before the budget is brought forward, that would be a welcome development.

Dr. Murphy stated that the Departments should carry out the proofing. While I have no difficulty with this, we must ensure we get the proofing tools right first and foremost. This is crucial. I am interested in international best practice in the area and in what works well. At its first meeting, the committee discussed equality, gender, poverty and rural proofing. Some of the media commentary was negative and asked what all this proofing means. Could the witnesses spell out the importance of it in the context of equality budgeting? We must give it that importance first. What tools would be best for the Departments to use? Which body should oversee it to ensure that the tools are working effectively and that we are analysing and scrutinising proposals from both the Opposition and the Government? Are we good at this and how do we measure up against other countries?

Ms Emily Logan: There are two strands to the question. The first is what we describe as the family of proofing tools. The Deputy referred to three of the four that are traditionally used internationally. Human rights and equality are often conceptually separate, then there is gender proofing and poverty reduction. In one of our closest neighbours, Scotland, the department of finance has led the process up to recently, when it was moved to the department of the Prime Minister. It is similar to our having the Department of Public Expenditure and Reform, which has a role for the public reform programme. If something is embedded institutionally in the Department of Public Expenditure and Reform, other Departments will generally follow. The other strand of the question relates to political leadership and whether the Taoiseach's office has a role to play.

Dr. Mary Murphy: It draws on our experience. Ireland showed considerable leadership in the mid-1990s. We were probably one of the first countries to roll out poverty proofing and to try to put in place the institutional mechanisms. Some useful learning is still available to us to draw on. Part of this relates to the role of political leadership. The placement of oversight mechanisms is important in giving enough authority to one Department to persist with other Departments and their engagement in poverty proofing. One of the key international lessons is where the oversight mechanism is placed without the Department and the enabler of the proofing. That is important and we examined the idea of the Departments of the Taoiseach and Public Expenditure and Reform leading. That mirrors the Scottish experience, for example. The oversight mechanisms were located as near as possible to the finance department, which acted as the driver to other departments to know they had to engage with it if they wanted their money. That is an important lesson

Other lessons that emerged from the early experiences of proofing was the degree to which these mechanisms were institutionally embedded as well. The more they are seen to be statutory and not the product of a particular Government but a product of long-term change in political institutions, the better. It is important for them to be embedded. There are related experiences that show they need to be adequately resourced. The type of proofing tools and the type

of data available matter. Mistakes are often made when people think they can take one tool and kill all birds with it. That is not the case across the range of equality grounds. Some grounds simply do not lend themselves to such proofing, perhaps using SWITCH, because the data are not available. Other types of proofing are, therefore, required such as case study approaches or deeper consultation-led proofing approaches. There is a rich range of lessons to learn. Our starting point in thinking about that would be, as Mr. Bond said, for the committee to get the balance right between tactically trying to keep the issue on the agenda in the short term and demonstrating outcomes from proofing exercises in the short term, which is a necessary aspect of trying to make sure it happens, and then strategically giving the time and space to get it right in the longer term in order that it becomes embedded. It is about trying to get the balance right between doing something but not doing so much so quickly that people's support for it is lost. We have had to think a little about this because our impulse is to jump in and say, "Let us do this. There is so much that could be done it would be wonderful".

Deputy Naughton asked what short-term tactical measures could be taken in the budget that would lay the ground for opening up the wider range of deeper, strategic changes that could be embedded over a range of budgets. We have been thinking about that and we have very much asked questions of our assembled experts to give us guidance on Friday such as what is practical now and what would one best spend one's time and money on in this budget in such a way as to ensure that the right doors are being opened up and the right ground work is being laid for subsequent budgets.

With regard to how the commission could engage in this budget, there will be a need to seek the engagement of some Departments which are doing a good deal of this work, for example, for the tax strategy groups and their own policy work but then the issue is how that work is utilised and drawn into the wider budgetary process, including the parliamentary process and the wider public process that goes with that. We have set aside resources in acknowledgment that the commission may have a specific role here and there in the short term in trying to advance a particular model of how something could be done or comparing and contrasting two different models to see if they generate better options. Of the human rights family of proofing options that Ms Logan referred to, we are conscious that we have the least experience in Ireland of that range of options but they have been used to good effect in other jurisdictions, which have creative and concrete tools that could be experimented with or piloted in the short term but there is no Irish context to draw on there.

There is good experience in Ireland of the equality and gender mainstreaming options. In particular, the Department of Justice and Equality led with the equality mainstreaming unit. Much of that has been well evaluated. The learning is still there and the skills are still available and the Equality Authority had that direct experience in-house and could more quickly activate that part of it. The actors involved in rolling out the poverty impact assessment are still in the system and those kinds of lessons are available to us.

We are also conscious that the committee wanted to engage in regional and rural proofing. To some degree the previous poverty-proofing mechanisms engaged in rural questions. We are also aware that, for example, international human rights instruments, such as the Convention on the Elimination of all Forms of Discrimination Against Women, CEDAW, also bring that regional and rural dimension very specifically into their mechanisms for policy proofing.

We believe the range is rich enough and it is not necessary to invent something. What complex blend of them would work best in our institutional settings at this time is a matter of short-term and longer-term experimentation. How we lay out a path to do that is of tactical and

strategic importance. We would be very willing to tease that out more and that is what we are equipping ourselves to do on Friday. We are very aware that this is a significant opportunity but the bigger aim is to try to achieve it in a way that it becomes institutionally embedded and would last across governments.

Mr. Laurence Bond: As Dr. Murphy mentioned, we carry out some proofing at the moment. The Deputy mentioned that through the simulating welfare and income tax changes, SWITCH, model, for example, we assess some of the impacts of tax and social welfare measures in particular. However, that occurs mostly after the budget in a public domain. Some of that is carried out within Departments in the lead-up to the budget. Some of that is done for the tax strategy group. There is a commitment to bring the tax strategy group papers into the budget debate earlier this year, although still quite late.

There is an argument for trying to find what has already been done and bring it into the deliberative process of the Oireachtas now rather than after the budget as part of the very short-term things. The kind of micro-simulation modelling that has been used with SWITCH can be adapted for other purposes. For example, the Equality Authority commissioned a pilot study of how SWITCH could be used to analyse gender impacts. In principle it can be used to analyse impacts on some of the other grounds to a limited extent because obviously it is very much dependent on the data in the model.

That type of thinking about impact assessment only works for certain types of policies, essentially tax and welfare type policies. Of course a huge amount of expenditure on policy is not on those types of things. It is important to think about the types of mechanisms required to assess other types of spending commitments in terms of their impact on poverty, gender and equality. That is harder to build on because to some extent we are not talking about an off-the-shelf model that can be used or applied.

However, there is important experience of how that is done in other jurisdictions. Obviously, Oireachtas Members have frequently visited Scotland to learn from its experience. In its budget formation it focuses on equality proofing. As Departments are preparing their budget framework, their budget bids, they are required to prepare an equality impact assessment that is matched to their budget framework. All that is published together. They publish a draft budget considerably ahead of their final budget so it allows them to do that. To do that, they have systems and tools in place partly at departmental level and partly co-ordinated at a central level.

There are some things in the system already that allow for some kind of assessment of certain policies, but at the moment that is not coming forward early enough in the policy formation process. Most people other than those in the Departments are hearing about it *ex post*. To bring that up to *ex ante* in the process would be a first step. There are also specific experiences, for example, in Scotland, whereby in the development of budget policy around other types of expenditure there are mechanisms for equality impact assessment and poverty impact assessment, some of which mirror stuff we may have tried but left behind in earlier years.

Chairman: I thank Mr. Bond. I call Deputy Calleary.

Deputy Dara Calleary: As I was called away some of the questions I am about to raise may have been asked. Ms Emily Logan is coming towards the end of establishing an office that is different from and has far more powers and independence than some people may have wanted it to have. One of our tasks is to look at the creation of an independent parliamentary budgetary office. If that office is established and its head lifts the telephone to Ms Emily Logan what

advice would she give in terms of what she and her colleagues have learned about establishing a powerful body that has the right to challenge and how it would get around the various challenges presented to it? Dr. Mary Murphy made the point that the commission will not be the proofer; that is the capacity within Departments. Mr. Laurence Bond touched on it in terms of the Scottish model. Will a Department official be sufficiently empowered to call out their line manager, principal officer or Secretary General if they consider that not enough quality proofing is taking place in the budget presentation? Mr. Laurence Bond mentioned that the Scottish model has systems and tools in place partly at departmental level and partly co-ordinated at a central level. Is there some type of clearing house where, if somebody within a Department holds the view that an issue has not been addressed within the Department, he or she can send it to him? If an agency that feeds into the Department considers that the budget submission is failing that test is there a clearing house mechanism? If the commission is not going to be the proofer, would it be the “caller out”? If a budget fails the test of equality is the commission the organisation that will call it out?

Ms Emily Logan: I might start with the first part of the question in terms of interacting with Departments. The Deputy is absolutely right, institutional independence is critical. My previous role as Ombudsman for Children gave me huge autonomy in terms of what I could say and, certainly, what I could say publicly without any interference whatsoever. That has been my experience in the past 13 years. I may have had a telephone call but certainly I have never had any attempt to interfere so it does protect the institution if we are independent officers of the State. Interaction and accountability to the Oireachtas is a fundamental tenet of the credibility of an institution like that. In terms of our interaction with Departments, we would have quite considerable interaction around draft legislation when it is at general scheme stage. We have a provision to interact with Department officials who are writing legislation and, yes, we are giving some of the hard messages. We are accustomed to navigating that space where we try to hold a Department to account or encourage it to do the best job it can while respecting that it has a job to do. If that is done in a respectable way, it is possible to navigate that independent path but certainly it would be welcomed.

The second part I want to pick up on is in relation to the “caller out”. One of the other provisions I would encourage parliamentarians to use is what is called our section 42 in the 2014 Act. That section deals with public duty. One will hear the commission speak about this from the autumn and we will get greater publicity around it. Essentially, it is a new legal obligation on all public bodies from 1 November 2014 to try to eliminate discrimination and have regard for human rights and provide opportunity of treatment and inservice provision of equality. That is a calling out piece. There is a compliance piece for us. At the moment that is not very well understood or certainly not well communicated across the public bodies in terms of the obligation they now have. As an independent institution we have done some work already with local authorities. I met representatives of Dún Laoghaire Rathdown County Council in respect of Traveller accommodation. That is about trying to encourage public bodies to understand that the lens through which they make decisions must be human rights and equality compliant. I appreciate it talks about principles rather than quantitative economics but it is about a different approach to decision making for people who will be in very powerful positions and making decisions that can profoundly affect people’s lives.

Dr. Mary Murphy: I will start by saying that we will not be the proofer. I will end up being quoted on that in all the wrong ways. In any event, what I meant was that it is not really an issue of our capacity - to some degree that is not relevant question - rather, it is simply not appropriate for the Irish Human Rights and Equality Commission to be the proofer. The proofer

should be the Department that is considering the development of the policy and that is responsible for building the proofing mechanisms as early as possible into that policy process - right from the very start in fact. That is why we should not be the proofer. There may be instances - for example, learning-by-doing or enabling instances - whereby we would be perfectly willing to engage in partnership exercises with specific Departments at certain stages in the development of the skillsets they may need. Some of these are in-house in any event and it is a matter of using them in a different way or perhaps sometimes in a different spirit. That is why we should not be the proofer. The aim is to embed the process of proofing as early as possible in the Department's process and to make that information available to all the actors in the policy process, preferably as early as possible. That is the reason. It is not about our capacity. The IHREC orients its capacity and tries to play a role in giving support to the process rather than the execution of it. That is what I mean about building up networks, providing quality training, information, briefing sheets and so on. In other words, our role is an enabling role as well as serving as the body that calls out when it is appropriate.

I thought it might be useful to comment on the other question by reference to the Scottish process. Those involved took the view that it was important institutionally to drive forward the process and keep it on the road when it was sometimes a little shaky using what they called EBAG. I would not particularly recommend that acronym but it stands for Equality and Budget Advisory Group of the Scottish Parliament. That is the term they use but this committee might think of a more creative name for it. They try to get together relevant people such as, for example, the Chairman of this committee, senior civil servants of the lead Department and perhaps organisations like the IHREC, as well as one or two others. It brings together the central actors and tries to keep the show on the road in the most tactical and strategic way. That group minds and nurtures the process over time. It engages in problem-solving, troubleshoots and tries to anticipate where things may need to be called out. As far as I know, it is a sensitive group and the people on it are charged with minding that area and behaving maturely. The various actors have to co-operate because they will have a different range of interests. It seems to work well and it may be a model worth looking at, especially now at this formative stage.

Deputy Stephen S. Donnelly: I thank the members of the deputation for coming in. I will run through some questions. Then perhaps the members of the deputation can address them as they see fit.

My first question relates to who is responsible for equality budgeting. I take the point made by the representatives of the IHREC to the effect that the Departments need to do this in the first instance because it needs to be part of the policy development process from the start. In fact, it needs to seep into the mindset as well. I recall carrying out some policy work in the United Kingdom. At the end of it, someone asked me if I had gender proofed it. I had never heard of gender proofing. I thought about the work I had been doing and I realised that I had not. Not only is proofing good for the analysis but it actually changes the way people think fundamentally. I fully understand that.

There is a quality control role similar to the relationship the Irish Fiscal Advisory Council has with the Department of Finance and the Department of Public Expenditure and Reform. Even with the best will in the world, civil servants may come under political pressure. There may be a culture that does not necessarily seek the absolute truth. Certainly, that is the case in some Departments. The basic distributional analysis we get on budget day is politicised and basically sets out best-case scenarios. I can come up with scenarios of how a given measure affects Linda and her two sons versus the scenarios that come out on budget day from the Depart-

ment which hide all the bad news and highlight all the good news. The only vaguely equality-proofed document we get is a political one and there is nothing independent about it. Therefore, someone needs to be in a quality control role. I am of the view that it would be useful for the relevant people to report to the budgetary committee with their view on the analysis in the same way the Irish Fiscal Advisory Council, IFAC, does for the Departments of Public Expenditure and Reform and Finance, particularly as questions arose in respect of attempts at political interference. It is something to consider. The only two groups I am aware of that could do that are the commission and, potentially, the ESRI. It does not have the capacity now but it could hire it in. From an analytical perspective, it could do it. I would like the witnesses' thoughts on that.

In terms of scope, the witnesses said they are bringing together a group of experts on Friday, which is great to hear; I would be grateful if they could send us a copy of their findings. Do they have a position for this committee and the subsequent budget committee? If we take the standard equality budgeting framework, there are nine dimensions. Some of them are more important than others. Do the witnesses have a view on those? There is also poverty proofing, which is slightly different from equality budgeting and requires a different analytical approach, and the rights-based approach requires an entirely different quantitative and qualitative approach. It is a big piece of analytical work, both qualitative and quantitative. In terms of this budgetary cycle, if the Oireachtas was to pick three or five areas, and there is the standard distributional one, should it be gender, geography, age, race or disability? What are the areas the Oireachtas needs to get its head around quickly?

In terms of timing, I notice the witnesses' report states that it is an ongoing process with the budget but this committee is looking at the arrangements for the full committee that will come into force. When do they believe the permanent committee should be getting substantive equality and human rights proofing analysis from the Departments, with input from them? By what month does the committee need to get its head around those issues? This is somewhat of a chicken and egg situation in that budgetary measures are not announced until budget day but if one wants to do an *ex ante* analysis one needs to know the measures ahead of time. It is a difficult one.

In terms of the standing committee, presumably someone will have to come up with a detailed specification on equality proofing, poverty proofing or whatever the catch-all phrase is for this process. A detailed specification will have to be put together with exactly the kind of analysis the sectoral committees and the budget oversight committee will need. Perhaps that will be the commission but do the witnesses have a view as to who should do that and how quickly the standing committee can get that?

In terms of the Civil Service, I was surprised to hear Dr. Murphy say that she thought the expertise already existed. Section 42 of the 2014 Act is a big piece of legislation; it is potentially a game changer. I would be happy, but surprised, if the Departments have that capacity because it is a new task they are being asked to do. It is a very specialised skill set. I was surprised to hear Dr. Murphy say that is not a criticism of the Departments. It is a new piece of work they have not had to do previously. Why does Dr. Murphy believe, especially in the middle of a hiring embargo, that they have this very specialised skill set already in-house?

I have one question. How many analysts will the commission have to do the analysis? I know it will not do the proofing but I refer to the people who will attend the standing committee to give an expert opinion on the equality proofing of the measures that will come from the Departments. What will be the size of its analytical team? Will it comprise Mr. Bond, Mr. Bond plus two others or Mr. Bond plus 20 others? Can the witnesses give us a sense of the number

the commission has been sanctioned to hire? How much fire power will it have? Can it hire serious people? Is it hiring 22 year olds with a master's degree or serious analysts with a PhD in econometrics? This is a technical area and it is not one the Oireachtas knows its way around terribly well.

I have a thought in terms of our report. There is an initial piece of training to be done. There is probably an annual piece to be done. Continuous professional development is one thing about which the Oireachtas does nothing. This is really technical stuff and really important stuff, so even one-off training or, ideally, refresher courses every year or at the start of a Dáil term for everyone on the committee might be something to consider. It seems that this group might be the right people to run that kind of training.

Chairman: That is a good suggestion. The witnesses have some questions to which to respond.

Dr. Mary Murphy: I am just trying to figure out how many questions even to answer. Where to start?

Ms Emily Logan: There were about six questions. Deputy Donnelly's first one was about who should do equality budgeting. He mentioned institutional independence, with which I agree. Autonomy gives one freedom to comment in a different way. We see ourselves occupying a different space in civil society to that of NGOs. Deputy Donnelly mentioned the ESRI. If I sound reluctant to answer that question, it is largely because Dr. Murphy and I represent one of 15. In terms of our institutional independence, we are open-minded. Would that be fair to say, Dr. Murphy? I am trying to consider our staff because it is easy for me to say yes to these things without committing, but more to the fundamental issue of the independent nature of that commentary, rather than what Deputy Donnelly described as a very obviously politicised commentary.

Regarding the five dimensions, Dr. Murphy is probably the best person to ask. When we went before the Committee on Economic, Social and Cultural Rights, we referred to gender equality, disability, minority groups and Roma and Traveller groups, so we referred to specific groups that have the potential to be disproportionately affected by any budget. They may be at the margins, but any policy decision may disproportionately affect them or push them further into the margins. They were some of the groups that I thought of. Dr. Murphy, would you add to that? Deputy Donnelly asked if we were to pick five, which ones might we pick.

Dr. Mary Murphy: In terms of keeping a thought process at the beginning, regarding the potential IHREC quality control role, there is that idea that IHREC could be the one that holds the system to account in commenting on the overall quality. We would need to talk that out with the Deputy, to be honest, practically and strategically. There is also IHREC as the enabler of civil society to do that, and that might be more about the training and so on. For example, training journalists to be properly able to engage in commenting on the quality of proofing may be as important as IHREC itself doing it. I do not want to kick to touch on it, but-----

Deputy Thomas P. Broughan: Sorry, folks.

Dr. Mary Murphy: I think that-----

Ms Emily Logan: Is that one of the 22-year-old graduates to whom Deputy Donnelly referred earlier ringing Deputy Broughan?

Deputy Dara Calleary: Go on, Deputy Broughan is dying to know who it is.

Dr. Mary Murphy: Many of the evaluations of all of these types of proofing mechanisms ultimately end in asking whether it generated change or actually changed the policy that would have been implemented. It is very hard to get the evidence for this because civil servants in Departments will not say that they changed something after having proofed it. Nonetheless, it seems more that the power of the proofing mechanism is what it does to the overall capacity of society to hold the democratic system to account regarding the distribution of resources. That is about using the more transparent and accountability-related mechanisms and bringing more alive the capacity of society to hold Governments to account about the distribution of resources, and there are very many ways IHREC can engage in doing that. One of them is coming into an expert committee and stating whether something is of good enough quality or not. It may not be the best way for us to do that, and choosing to do that may distract from or deter us from other potential roles that might actually be more fruitful, so it is worth thinking about that, but-----

Deputy Stephen S. Donnelly: Ms Logan and Dr. Murphy are setting up the organisation. My view is that there is great value to the budgetary process and the policy development process for somebody to be providing an expert quality control, QC, role, just like IFAC does. IFAC is feeling its way into its role, but it is a very useful piece. Some Departments are excellent and have the expertise and the culture to really drive this. Some of them are brutal: they have neither the expertise nor the inclination to do such equality budgeting work. The Irish Human Rights and Equality Commission is a statutory body which matters, as opposed to being an NGO. This gives it weight that an NGO just will not have. In the absence of an IFAC equivalent, the standing and sectoral committees will be beholden to each individual Department to give them an expert independent analysis that may end up making the line Minister look really bad. There is a valuable role for someone to play in this area. I ask the delegates to think about that role in their deliberations as they grow into this space.

Dr. Mary Murphy: We will certainly think about it. I suppose the trade-off is whether this might detract from our capacity to play enabling roles, to win the trust of Departments and to have the conversations we will need to have if they are to take risks and try out certain mechanisms. While there are trade-offs in this regard, my sense is that it is not a case of one or the other. If the IHREC is to have some quality control role, it will be working with others as part of something like the EBAG process I have mentioned. Some process like the IFAC process would be needed to facilitate the coming together of assessments. While this process would not involve the IHREC alone, I certainly envisage that we would be an actor in it.

The Deputy asked many questions. He spoke about training, which is worth mentioning. I would see the provision of expert training, including media training, to which I referred, as part of the role of the IHREC. For example, we already have an institutional relationship with the Institute of Public Administration. We run certificate programmes in human rights and equality. It would be very feasible to see us running specialised diploma-level programmes in proofing. That would be a way of signalling that people need to avail of such training if they are to get on in the service.

Deputy Stephen S. Donnelly: I also asked about the belief of the delegates that Departments already had sufficient capacity to implement section 42 and to do this big new work.

Dr. Mary Murphy: I said they had significant capacity. We have already established that there is a range of proofing mechanisms, some of which rest at the level of distribution analysis of key policy proposals. We know that Departments do this already. We know that they use

the SWITCH model. We know that advices go to the tax statutory group, etc. Some of these skills are available. However, as the Deputy suggested, the skills more relevant to section 42 such as knowing the best way to use policy to advance equality are not part of our culture to the same extent. While we may have a track record with regard to defensive proofing, I do not think we tend to be very rich in the skill set associated with the more creative uses of proofing, for example, to progressively realise rights, advance equality and achieve outcomes. I take the Deputy's point in that regard. When I spoke about the capacity available in Departments, I was saying some of them had a track record of engaging in distributional analysis. They do not make such work accountable or transparent, but they engage in it to a greater extent than might seem evident in the broad public policy process.

Deputy Stephen S. Donnelly: My final question was on the size of the analytical team. I think my question on training has been answered. What is the IHREC's analytical capacity from both qualitative and quantitative perspectives? How many members of its staff can look at the departmental analyses and subsequently tell this committee that, for example, the Departments of Education and Skills and Public Expenditure and Reform are spot on, but the social welfare analysis is wrong because it does not include cuts to public services?

Ms Emily Logan: How do we answer that one?

Dr. Mary Murphy: I suppose we answer it by saying we are growing the IHREC and have the capacity to grow. It would depend on whether the work referred to by the Deputy would take precedence over other priority areas of work that we could do. That, in turn, would depend to some degree on how our role developed as these institutional spaces emerged. It is a question of the spaces and roles in which we find ourselves getting involved. We have spoken about the various potential roles the IHREC could play, including encouraging, enabling, compliance and quality control roles. We are probably not going to do all of those things. It will depend on the degree to which we can deliver in the roles we decide to adopt by buying in capacity - the ESRI does this, as the Deputy said - or growing in-house capacity. Obviously, it will be a mixture of the two. One of the reasons we quickly decided to bring together a group of independent actors and experts from those easily available to us in the English-speaking world was we saw a short-term need to buy in specific expertise and capacity. We are putting in place arrangements to ensure we can easily call in such expertise in a fluid manner.

Chairman: I ask Deputy Seán Barrett to ask a brief question.

Deputy Seán Barrett: Do I have to be that brief?

Chairman: No.

Deputy Seán Barrett: I am not speaking for the sake of it. I just want to get my head around this issue. Our job is to talk about the arrangements for the setting up of a budgetary scrutiny committee. We have been talking in general terms about inputs into budgets and all the rest of it, but I am interested in the role of such a committee and the statutory input into this whole process that will be made by the IHREC as a statutory body. Anybody who has been fortunate enough to serve at Cabinet level, as I have, will know that the development of a budget varies depending on numerous factors, including the mix of parties in government and what their politics are. Budget day is spoken about as the big day but it is not really the big day, it is just a tiny part of the whole process.

Maybe we should look at the process of drawing up a budget and a finance Bill in the con-

text of the entire period from the date on which bodies like the IHREC start to make an input until the date on which the finance Bill is passed. On budget day the Minister outlines general principles and so on. At the end of the evening, we vote on a couple of motions, the effect of which is to increase the rate of tax imposed on cigarettes and drink, etc. From then on, it is a question of considering the finance Bill. Should we not suggest that rather than having a budget scrutiny committee, we should have a budget and finance scrutiny committee that focuses on the period between the announcement of the budget and the publication of the finance Bill? That is the important period because it is when all the changes can be discussed and debated. No Minister will openly discuss what he or she is thinking about in his or her budget prior to the announcement of that budget.

I am looking at this purely from a practical point of view. I am not getting into an academic discussion but am focusing on the practicalities as I see them. Maybe I am wrong. I would hope that a body like the IHREC would establish general principles that should be incorporated in every finance Bill and budget. In other words, I want to hear its perspective on the general principles applying to every budget and finance Bill that are important to the role of the IHREC as a statutory body. The IHREC is conscious of the need for the principles in question to be adhered to regardless of the composition of the body of politicians who are framing the budget. That is basically one of the things I am asking about. Is it possible to do this? Do the witnesses agree that when we are producing a report and talking about arrangements for future budgets or finance Bills, we should be looking at this in a broader sense? That is all I want to say.

Mr. Laurence Bond: The Deputy is highlighting the point that to some extent, it is inevitable that the nitty-gritty process of focusing on and making decisions on budget items is going to be constrained by the way budgetary politics work. I think that it true. The process may be long or short, or may be constrained in slightly different places. The key argument for proofing is not that it should substitute for this process, but rather that it is to be encouraged as a means of ensuring processes are built into the system of developing budgets so that when the specific point is reached at which decisions come to be made, those making such decisions have before them details of the implications of their decisions for equality or poverty, to be taken into account in the discussion. The key point we have been making is that this cannot be done on the hoof when something is presented on the floor of the House. We believe it has to be built into the process at all stages. That is what is meant by proofing.

Clearly, proofing does not substitute for politics. Proofing is part of the process of working through the issues in a transparent manner and understanding what various decisions imply. It is clear that decisions are ultimately made within a political framework. In this context and in addition to the role of the oversight committee, Members have a role in setting the terms of the independent budget office.

Deputy Donnelly referred to the important issue of quality control. In some sense oversight is about controlling the quality. It is partly about setting standards for what constitutes good proofing, to which one then holds the Departments to account. For example, I do not want to comment specifically on whether the distribution analysis that is published with the budget is political or otherwise, but it is certainly only a particular way of doing it. The information could include other factors and it could be presented in different ways. To some extent we need to have agreed standards as to what constitutes the kind of information that has to be made available. That is not just a political process, it makes the information transparent and makes the impacts clear. The oversight committee has a role in setting those standards and in seeing they are applied. I also believe - we suggested this in our original letter to the committee - that

to some extent the role of the budget office may play an important part in terms of the quality control in that process.

With regard to Dr. Mary Murphy's point-----

Deputy Seán Barrett: Mr. Bond, may I interrupt? The question I am putting to you, as a body, is whether the IHREC has four or five key points that should be automatically laid down for whatever government is framing a budget and that the government will have to test its budget against the four, five or six recommendations set? In other words is it fair to ask - or am I asking the impossible - that you as the IHREC could give us five or six key points for our report, so that no matter who is in government, these are key to framing a budget and finance Bill?

Ms Emily Logan: That is certainly possible, acting as an institution.

Deputy Seán Barrett: Do you see the point I am getting at? As distinct from talking generally about the budgets and politics-----

Ms Emily Logan: That is a more pragmatic approach.

Deputy Seán Barrett: That would change, depending on who is in government, whether we like it or not.

Ms Emily Logan: What the commission is interested in is trying to be as helpful as possible, regardless of what government is in power.

Deputy Seán Barrett: Correct.

Ms Emily Logan: I take the Deputy's point about limiting the mandate to the budget and not extending it to the finance Bill. That is a matter for Members.

We, the commission want to have as much impact as possible but it is totally legitimate to suggest on a practical basis that the commission could come up with some high level principles or guidance-----

Deputy Seán Barrett: Correct.

Ms Emily Logan: ----- for any Department to use, whether it is the Budget Statement or the finance Bill.

Deputy Seán Barrett: That is possible?

Ms Emily Logan: Yes, I think so.

Deputy Seán Barrett: I thank the Chair.

Chairman: Deputy, "sweet child of mine", Broughan, do you wish to put a question? Sorry for the musical interlude.

Deputy Thomas P. Broughan: I note that Mr. Bond referenced Scotland a few times. Is there not one difference, as up to very recently Scotland did not have independent tax setting powers? Are there any better examples in the European Union of countries where sister organisations of the IHREC and the budget committee of the parliament were able to interact?

Mr. Laurence Bond: I was specifically referencing Scotland to some extent precisely to do with the practice they have developed in regard to proofing types of expenditure that are not

tax and welfare, which to some extent are to a significant degree handled by SWITCH-type approaches and not just SWITCH. In that sense, that there are significant types of expenditure that one cannot model only through SWITCH, but it is important to know what is their impact in terms of poverty, inequality or equality. The system the Scots have put in place precisely addresses that to some extent because they have not had tax and welfare capacity and have therefore been able to focus on it.

Deputy Barrett asked if there were other examples, I do not have an example that springs immediately to mind, but we have just introduced section 42, where there is a duty on public bodies to take account of equality and human rights. That seems very positive to us and is a great step forward but it is the case already in certain countries, for example Finland springs to mind, where those types of requirements are built in on a constitutional level and to some extent they would have a system whereby they have an office that has some oversight in regard to decision making of government and whether it is taking human rights into account. As I do not have the exact mechanism clear in my head, I would not like to propose it specifically. The reference to Scotland is precisely to do with non-tax welfare spending and the need to look at mechanisms and systems to proof that expenditure also, not just to restrict what we are talking about to tax welfare spending. In that context, I know that there is a reference in the Government's submission to the committee to the fact that the Department of Public Expenditure and Reform is looking at trying to develop a wider social impact assessment. It is quite important to look at what is proposed and how it can be built on to actually address the concerns being considered here. Similarly, there is a commitment in the programme for Government to develop the broader policy impact system that operates through regular impact assessments to take account of some of these issues, partly through the Cabinet office. It is very important to look at what is proposed at the Cabinet to ensure it takes on board the equality and poverty proofing mechanism. To some extent, there are things that can be built on, but they need to be developed further. It is not that we are doing nothing on these issues, it is just that we clearly need to develop and build on what we have in place to take account of equality and human rights.

Deputy Thomas P. Broughan: We always felt that in each budget there was a box ticking exercise in terms of poverty and equality proofing generally and that serious efforts were not being made in that regard. Did the Irish Human Rights and Equality Commission or its predecessor organisations ever take a view on actual budget presentation? I agree with Mr. Bond in his general point that what evolves from this committee and the independent budget office should ultimately be the organisations that hold Governments to account in equality proofing budgets. Does the Irish Human Rights and Equality Commission have a track record in this regard in pointing to where Governments have failed dismally?

Mr. Laurence Bond: The box ticking comment is important. On the poverty proofing of policy and budgets, some of the systems and processes put in place in the 1990s worked positively for a while and appeared to be having some influence, but then for various reasons, they slightly died on the vine and it became a routine process. There is an issue about how one puts in place systems and processes that will be meaningful and sustained, not just something that has to happen. It is important to look at what happened. For example, there is a commitment that when measures are being brought before the Cabinet, they must be proofed, yet much of it seems to have become a little routine and not that meaningful. It would be useful to look at why that has been the case and what must be behind the system to make it meaningful. Part of the difficulty is that it is a chicken and egg scenario; one must build on what one has and try to make it work as well as possible and make it as efficient as possible in order that people do not feel as if they are going through a meaningless exercise but one that requires them to buy

ENGAGEMENT WITH THE IRISH HUMAN RIGHTS AND EQUALITY COMMISSION

into the idea that this is a way of improving policy making and decisions taken that are for the benefit of people as against a bureaucratic exercise.

Dr. Mary Murphy: It is probably fair to say the previous Irish Human Rights and Equality Commission probably did not engage in socio-economic rights agendas, but since its inception the current commission has been quite proactive in using whatever international mechanism are available to us to hold the Government to account on impact assessments and proofing. We received fairly strong recommendations from the United Nations committees in that regard which we have been trying to use, including trying to open up the space to make arguments in favour of extending proofing and impact assessments, particularly of taxation policy, which has not been the culture in this country. We have already demonstrated a track record in terms of our seriousness in that regard which perhaps is encouraging.

Chairman: I thank Dr. Murphy. I thank the delegates for making themselves available to come before us. If the commission has five or six key points against which Departments can be measured, as requested by Deputy Barrett, it should, please, feel free to submit them. They will be included in our final report. I again thank the delegates for attending.

The select committee adjourned at 5.20 p.m. until 10 a.m. on Wednesday, 22 June 2016.