

DÁIL ÉIREANN

AN ROGHCHOISTE UM AIRGEADAS, CAITEACHAS POIBLÍ AGUS ATHCHÓIRIÚ, AGUS AN TAOISEACH

SELECT COMMITTEE ON FINANCE, PUBLIC EXPENDITURE AND RE- FORM, AND TAOISEACH

Dé Céadaoin, 2 Feabhra 2022

Wednesday, 2 February 2022

Tháinig an Romhchoiste le chéile ag 1.30 p.m.

The Select Committee met at 1.30 p.m.

Comhaltaí a bhí i láthair/Members present:

Teachtaí Dála/Deputies	
Mick Barry,	
Matt Carthy,*	
Bernard J. Durkan,	
Mairéad Farrell,	
Steven Matthews,	
Michael McGrath (<i>Minister for Public Ex- penditure and Reform</i>),	
Jim O’Callaghan,	
Neale Richmond,	
Peadar Tóibín.	

* In éagmais/In the absence of Deputy Pearse Doherty.

I láthair/In attendance: Deputy Ossian Smyth.

Teachta/Deputy John McGuinness sa Chathaoir/in the Chair.

Estimates for Public Services

Vote 11 - Public Expenditure and Reform (Revised)

Vote 12 - Superannuation and Retired Allowances (Revised)

Vote 14 - State Laboratory (Revised)

Vote 15 - Secret Service (Revised)

Vote 17 - Public Appointments Service (Revised)

Vote 18 - National Shared Services Office (Revised)

Vote 19 - Office of the Ombudsman (Revised)

Vote 39 - Office of Government Procurement (Revised)

Vote 43 - Office of the Government Chief Information Officer (Revised)

Chairman: I welcome the Minister for Public Expenditure and Reform, Deputy Michael McGrath, and his officials. We will deal with Votes 11, 12, 17 to 19, inclusive, 39 and 43. I invite the Minister to make his opening statement.

Minister for Public Expenditure and Reform (Deputy Michael McGrath): I am pleased to be in front of the committee today to present the 2022 Estimates for my Department's group of Votes. I am joined by the Minister of State with responsibility for public procurement and eGovernment, Deputy Ossian Smyth. The group comprises a significant number of Votes including: Vote 11 - Public Expenditure and Reform; Vote 12, Superannuation and Retired Allowances, which covers Civil Service pensions; the Votes for a number of offices under the aegis of my Department, including the Vote 14 - State Laboratory, Vote 17 - Public Appointments

Service, Vote 18 - National Shared Services Office, and Vote 19 - the Office of the Ombudsman; Vote 15 - the Secret Service; Vote 39 - the Office of Government Procurement; and Vote 43 - Office of the Government Chief Information Officer. The Minister of State is happy to address questions relating to the Office of Government Procurement and the Office of the Government Chief Information Officer, and I will respond to members' questions regarding the other Votes.

I understand that a detailed briefing has been supplied to the committee by my officials, who were assisted in this task by their colleagues in a number of bodies under the aegis of the Department. Further material is also contained in the Revised Estimates for Public Services 2022, which was prepared by my Department. I also wish to take the opportunity to acknowledge last week's letter from the Chairman in respect of the joint committee's recent Report on the Processes and Procedures Applying to the Appointment of Senior Executives in the Public Service. I will of course answer any questions members of the committee may wish to put to me on that issue.

Covid-19 has presented unprecedented challenges for us all. I welcome the recent unwinding of Covid-19 measures and the opportunity to return to what is euphemistically referred to as normal life. I would add that while this has been a long and difficult journey, I hope that we can now focus our entire efforts on improving the quality of life and living for our people.

In an overall context, the 2022 total gross allocation for the public expenditure and reform group of Votes, which comprises nine distinct Votes, has increased by 5% on the 2021 allocation. The gross figure for 2022 is in excess of €940 million compared to €895 million in 2021. This is largely driven by a significant increase in the estimate provision for Vote 18 and Vote 43, additional EU funding, targeted and minor increases for the delivery of essential services and additional recruitment, and the meeting of additional salary costs. At this point, I will briefly outline the individual Votes in a little more detail.

Vote 11 relates to my Department, which continues to have a wide range of objectives across two strategic programmes, public expenditure and sectoral policy and public service management and reform, which support the two strategic goals of the Department. These are: to manage public expenditure at sustainable levels in a planned, balanced and evidence-informed manner in support of Ireland's economic, social and climate goals; and to drive reform and innovation across the civil and public service to improve service delivery to the public and to enhance strategic policymaking and public governance structures.

The principal element of the 10% and €4.6 million increased 2022 provision is in respect of technical assistance across the subheads that manage EU funding. Most of the €3.3 million increase in the EU subheads will be refunded directly to the Exchequer by the European Union into appropriations-in-aid. The most significant changes to the subhead budgets are: the special EU programmes body funding has more than doubled to €4.9 million following an increase in EU funding for the new programme cycle; €1.7 million for technical assistance and the provision of additional auditors to ensure sufficient auditing resources to match the increase in EU programme funding; and €1.4 million to cover the cost of a small number of extra posts, pay increases and an expectation of a reduction of vacancies at the Department.

Turning to the other Votes in the group, the provision for Vote 12, superannuation and retired allowances, accounts for three quarters of the public expenditure and reform group of Votes allocation and an overall 1% increase over the 2021 provision. The estimate I am proposing today for Vote 12 involves a gross provision of €707.6 million and primarily provides for pension and retirement lump sums for civil servants, including prison officers, and pension

payments for dependents. I note that this Vote required supplementary funding in 2021 of €34 million, which was offset from appropriations-in-aid and gave rise to a technical supplementary estimate of €1,000. This was sought as a result of a higher number of retirements than expected and was approved by the Dáil last year. Year-to-year variation in expenditure on this Vote is primarily driven by the number of individuals who will opt to retire before reaching their compulsory retirement age and whose years of service, and grade and pay level, are variable and uncertain. The increase in gross expenditure is mitigated by an increase in contributions from the single public service pension scheme.

Other bodies under the aegis of the Department, such as the Public Appointments Service, the National Shared Services Office and the State Laboratory, provide important services to large numbers of clients across the civil and public service. The State Laboratory, Vote 14, is the Government's principal analytical chemistry laboratory and provides a comprehensive analytical and advisory service to Departments and Government offices. A 3% increase to the State Laboratory's 2021 Estimate allows the laboratory to continue delivery on their mandate, meet increased pay and recruit additional staff.

The proposed funding provision for the Public Appointments Service - Vote 17 - is reduced by 4% in 2022. This reflects the 57% reduction in capital cost requirements in 2022 given the anticipated mid-year conclusion of the refurbishment of the service's Chapter House office, and a 50% increase in payroll costs with an associated increase on current staffing levels.

Vote 18, the National Shared Services Office, NSSO, is the shared services provider for the Civil Service. The office has played an important role in the reform of public services in recent years, through the delivery of human resources, HR, shared services and payroll shared services to clients across the Civil Service and public service. The National Shared Services Office continues to be in growth and investment mode and will commence its delivery of new services for the whole of government this year. This significant growth is reflected in the additional provision of €11.9 million and a total provision of €73.45 million in 2022, a 19% annual increase in funding. The proposed increased provision in the NSSO's 2022 allocation will facilitate the continued delivery of HR and payroll shared services and enable the office to progress the roll-out of financial management shared services, which is scheduled to go online in the coming months.

The Estimate provision for the Office of the Ombudsman - Vote 19 - and the proposed modest 1% increase will enable its various constituent offices to manage their respective operations; fund the additional costs arising from the pay restoration and increased salary costs; facilitate a continued investment in ICT modernisation; and fund the establishment of the proposed new protected disclosures office. I also welcome the appointment of Mr. Ger Deering to the position of Ombudsman and Information Commissioner and I have no doubt he will build upon the excellent contribution of the previous incumbent, Mr. Peter Tyndall. I wish them both every future success.

The State procures goods and services valued in the region of €8.5 billion annually. The Office of Government Procurement, OGP - Vote 39 - leads our procurement reform programme by providing advice, guidance and systems to promote better public procurement and build capacity and capability across the public service. The proposed 2022 allocation of €19.8 million provides for the cost of staffing as well as the costs associated with recruitment of senior positions, as recommended in the organisation review. The 2022 provision will *inter alia* support the OGP in delivering value for money, quality goods and services in compliance with national and European law; develop procurement arrangements for the delivery of improved procurement

capability in the public service, which will yield financial, performance and risk management benefits to the State; and further develop the overarching policy framework for public procurement in Ireland, including the promotion of social and green environmental considerations.

The State cannot fall behind the productivity gains that 21st century technology is bringing to industry. The Civil Service renewal strategy, Digital First, challenges the Civil Service to deliver 90% of applicable services that are consumed online via accessible, integrated and customer-driven solutions. The Office of the Government Chief Information Officer, OGCIO - Vote 43 - drives the digital transformation agenda across government while providing and developing pan-public service ICT infrastructure, service delivery models and cross-government applications. The widespread adoption of the full range of build to share services, delivered by a single organisation, will address, in large part, the relatively slow pace of digital transformation in government by freeing up Departments and bodies to focus on transformation initiatives rather than simply keeping the lights on. The OGCIO benefits this year from a very significant 90% increase in its €43.3 million Vote. This funding is bolstered by a €23 million EU allocation over two years in respect of the recovery and resilience programme, with some €18.5 million invested in 2022. It will deliver a network that enables all of our State bodies to reap the benefit of 5G technology.

I draw the Deputies' attention to some changes in the presentation of administrative sub-heads in 2022, which arise on foot of the new financial management service system being introduced in some Votes. This change will bring consistency of approach and allow for better comparisons between Votes. An implication of this is that in 2022 there is some discontinuity between 2021 and 2022 figures. I am happy to provide further briefing on any points of detail Deputies may wish to raise in this regard.

I am very pleased to present the 2022 Estimates for the Public Expenditure and Reform group, approval of which will allow the individual Votes to continue to operate and meet their responsibilities to deliver essential services. The Minister of State, Deputy Ossian Smyth, and I are both happy to respond to any questions that members may put.

Deputy Mairéad Farrell: Gabhaim buíochas leis an Aire agus leis an Aire Stáit as teacht os comhair an choiste. I believe committees work better when witnesses are able to attend in person for the over-and-back discussion. While I understand that this is not always possible, now that we are moving towards asking people to work from their offices, it would be better, when possible, to have the witnesses and Ministers in the committee room for the debate. It is unfortunate that is not the case today.

As the Minister is aware, there is a large amount of information in the Votes, so I have a lot of questions I will try to get through. I will first focus on the report and letter sent by the committee to the Minister last week. We now know, as of yesterday, that the salary of the Secretary General of the Department of Health is now €298,000. This is a mind-boggling sum for all those who are struggling to keep their houses warm and the lights on. I want to ask about the €81,000 pay increase. The Minister and I have had many an over-and-back discussion on this matter and he knows my thoughts on it. The Secretary General has indicated he has now accepted this increase. Will the Minister confirm if the acceptance of this increase relates to this year only or if it relates to last year also?

Deputy Michael McGrath: I very much welcome the report published by the committee back in November. I appeared before the committee on another matter shortly after the publication of that report and we had an initial discussion on it then. I have now had an opportunity

to consider the report in more detail. It is a very detailed piece of work, with 288 pages and a significant number of recommendations. Having considered the matter carefully, it is my intention, as Minister, to propose the establishment of an independent external review panel tasked with a number of key objectives. One objective will be to make recommendations to strengthen the recruitment process for senior public service posts, including at the top of the Civil Service and a number of key public service posts, and also to make recommendations on the process of determining the terms and conditions of employment associated with such posts. I am happy to go into that in more detail and to take the Deputy's questions.

On the specific question raised by Deputy Farrell, the issue of gifting a portion of salary is very much a matter for individuals. I am not privy to the details of individual Ministers or civil servants as to when gifting arrangements were put in place or ended.

Deputy Mairéad Farrell: We have quite a bit to get through in all of these Votes and I want to get through as many questions as possible. From what the Minister has said, I understand he is not able to clarify whether that increase relates to last year as well as this year. Is that correct?

Deputy Michael McGrath: The question of gifting is a private matter for any individual. As Minister, I sign an annual gifting form. To date, I have signed forms to a value of well over €50,000. It is not for me to talk about-----

Deputy Mairéad Farrell: We are here to talk specifically about this. The Minister is aware there was public outrage at the time of the €81,000 increase. Is the Minister saying he only discovered that this was no longer being gifted when it appeared in media reports?

Deputy Michael McGrath: Yes, that is correct. This is a provision that is administered under-----

Deputy Mairéad Farrell: The Secretary General did not notify the Minister directly.

Deputy Michael McGrath: If I can answer the question, I would appreciate it. Under the Taxes Consolidation Act, section 483 deals with the issue of gifting of salary on an annual basis. The application is made to the Minister for Finance and it is applied for any purpose or it can go towards the costs of which any public moneys are provided. In other words, the use of the proceeds is a matter for government. Gifts are accepted by the Minister for Finance. Arrangements are put in place by the relevant Department with which the person works. The Minister is then notified accordingly. I would not be notified of that and, therefore, I do not know the precise dates when gifting arrangements were put in place or ended. There is information published in aggregate form every year, as I understand it, but the tax affairs of individual employees and Ministers remain a private matter. This gifting arrangement is anchored in taxation legislation. That is the answer to the Deputy's question.

Deputy Mairéad Farrell: I thank the Minister. I must say that the issue of the €81,000 increase has caused absolute public outcry and outrage. As I have said to the Minister before, the decision to grant that increase was completely out of touch. People are struggling at the moment. It was of interest that over the past two weeks, the Taoiseach and the Minister of State, Deputy Fleming, raised concerns about wage spiralling when the impact of inflation on the rise of the cost of living was put to them. It seems those concerns will impact decisions on whether lower paid workers will see increases in their wages. I recall that the Minister felt that the increase for the Secretary General position was necessary in order to ensure international competition for the job. I note that the Minister of State, Deputy Fleming, said last week that he

was concerned that increasing wages would impact our competitiveness. It is ironic. It seems to me that the Government is only concerned about wage increases impacting competitiveness and wage spiralling when it comes to low-paid workers rather than those at the higher end - the elites who already have vast sums of money coming into their pockets each month. It is different for the ordinary person who is struggling to put food on the table and keep the lights on. What is the Minister's view on that point?

Deputy Michael McGrath: The salary that was sanctioned in December 2020 was for the post of Secretary General in the Department of Health. As the Deputy knows, there then followed an open competitive process which was administered by the Top-Level Appointments Committee and the Public Appointments Service. There were a significant number of applicants, including a number of international candidates who put themselves forward. I acknowledge that the joint committee, along with a number of members of the Committee of Public Accounts, conducted a significant amount of work over the course of last year and furnished a report in November making a series of recommendations for consideration. I have given some consideration to those at this point. We have a public service pay deal, Building Momentum, in place. It involves, in essence, three 1% increases over a two-year period. That pay deal will end at the end of the current year. As the Deputy knows, for both the increases in October 2021 and October 2022, we built in a proviso that there would be a minimum increase for those who are at the lower end of the pay scales across the public service.

Deputy Mairéad Farrell: We are aware of that.

Deputy Michael McGrath: For example, somebody earning €20,000, instead of getting a flat 1% increase, which would amount to €200, will get two and a half times that.

Deputy Mairéad Farrell: We also see that one staff member is going to be earning €298,000. We are aware of that. The point here specifically relates to that €81,000 pay increase. I must say it is concerning that there is no clarity out there as to whether the lack of a waiver of that €81,000 applied last year as well as this year. I am fully aware of the public service stability agreement and the situation around it. The point here is that we have a situation where somebody is earning €298,000. I would be interested to hear if the Minister is concerned there will be further pay claims from other senior and top civil servants. One Minister has said that the €81,000 increase was fundamental and was needed to recruit somebody. Nobody is suggesting the process was not correct. We are talking about the €81,000. We are not suggesting that the person who is in place should not be in place. The point is that we are seeing an €81,000 increase for one particular role. Does the Minister think that as a result of all this, there will be further pay claims from top civil servants who will argue they are just as fundamental as the person in the role of Secretary General of the Department of Health?

Deputy Michael McGrath: To be straight with the Deputy, as I always am, no such claims have been made. Whether we like the position or not, it is the case that the gifting of a portion of a person's salary, which I am happy to do because I think it is the right thing to do, is a matter for each individual. Our public servants and civil servants are entitled to gift a portion of their salary. The question of when exactly it was put in place and when it ended is not information I have or to which I would be entitled. In the first instance, an employee of a Department completes the form, which then goes through the process within that Department and is ultimately conveyed to the Department of Finance. I do not have that information, nor do I intend to seek it from any individual because it is none of my business, quite frankly. My role is to ensure we have a robust system for the recruitment and selection of people to fill key posts in the Civil Service and at senior levels across the public service. I am determined to do that. I am going

to set up an independent review panel. I anticipate it will be completely removed from my Department. It will advise on the pay determination process. I note the recommendation that the Deputy and her colleagues made about reinstituting the higher remuneration review body. That is not a step I am taking now but I am going to ask the independent panel to make recommendations on what it thinks is the best course of action to arrive at decisions relating to senior pay in the Civil Service and across the public service.

I think we need to be careful what we wish for, as I said to the Deputy in November when I had an initial exchange with the committee. The higher remuneration review body was stood down in 2009. In 2007, as the Deputy knows, that body made recommendations that Secretaries General would receive pay as high as €318,000, the Taoiseach would be paid €330,000 and Ministers would be paid €280,000. If we, as an Oireachtas, absolve ourselves of responsibility and if I, as Minister, absolve myself of responsibility and completely hand over control of this matter to a third party body, we may not like the outcome. That is something we must also consider. I am not committing today to the establishment of the higher remuneration review body, which is what the Deputy has sought. We need to think this through very carefully. The external panel I am setting up will advise me in the coming months as to what it thinks is the best course of action. I will take that advice on board and make a decision.

Deputy Mairéad Farrell: I will move on to Vote 11. There is reference to an almost 40% increase in costs related to travel. The increase is from €185,000 to €257,000. We have seen reports in recent times relating to the recommendation of the Garda Commissioner that some Ministers require Garda drivers. Can the Minister confirm if the increase relates in part to that? If it does not, where is this additional spending reflected? I am talking about the increase in costs related to travel from €185,000 to €257,000.

Deputy Michael McGrath: In simple terms, the main reason for that increase is that there was not much travel over the past couple of years and the level of travel will inevitably increase this year as there will be the necessity to attend ministerial meetings and other important international meetings at official level as well as ministerial level. It is important to make that point. Was the Deputy asking if the cost of Garda drivers was included?

Deputy Mairéad Farrell: Yes. Is that reflected as part of those figures?

Deputy Michael McGrath: It is not. This issue arose after Christmas and a decision was made following a security review that was carried out by the Garda Commissioner. As a result of that, a decision was made that three senior Ministers, including me, would be assigned a Garda driver or close protection officer. The cost of that is not explicitly provided for here. It was a decision that was made subsequent to the budget and subsequent to me bringing forward the Revised Estimates volume in the House.

Deputy Mairéad Farrell: I thank the Minister. As I have questions on that as well, that is interesting. Have the civilian drivers who were replaced due to reasons of national security, as the Minister said, been redeployed or made redundant? As the new drivers will have replaced civilian drivers, I am interested in that. I am also aware there were a number of complaints about the recruitment process for drivers. The Commission for Public Service Appointments, CPSA, reviewed the recruitment process and deficiencies were identified. Will the Minister confirm that none of the complainants were appointed as drivers at a later date?

Deputy Michael McGrath: I thank the Deputy. Her latter point is very much a matter for An Garda Síochána and the Department of Justice, in relation to any complaints that were

made. I am not privy to the details of those or to the identity of any individuals who were involved. There are established procedures available for all of those issues to be considered and adjudicated upon, so that is not a matter for me directly.

On the civilian drivers who are in essence no longer needed, that is a very difficult and highly personal issue for the people impacted-----

Deputy Mairéad Farrell: Of course.

Deputy Michael McGrath: -----because in many respects, this was not the change that was envisaged. We are talking about people who have, in many cases, families, mortgages and so on. We are continuing to consider that issue and what options there may be for them. At the moment it is a very small number of individuals, namely, a handful of people who were previously working for three Ministers up to the end of 2021 but whose services are no longer needed. I expect we will come to a decision on that in the next couple of weeks. We are examining whether there are any redeployment options. Obviously, there is normal severance within the normal public service terms as well.

Deputy Mairéad Farrell: I appreciate it is quite a personal issue for those people but for clarity, can the Minister confirm they are currently still in employment and have not been made redundant yet?

Deputy Michael McGrath: That is correct. At the moment we are talking about five individuals. I am very conscious of the impact of this issue on them because it is such a small number of people. As I said, this is an exceptional circumstance in that this is a change that was not anticipated. Certainly, as a Minister who was directly impacted by the outcome of that security review it is not something I was expecting but it is a decision that was made. We must deal with the fallout from that which is-----

Deputy Mairéad Farrell: Yes. As I am conscious there are many other speakers, I wish to ask quickly about the new protected disclosures office. Will the Minister confirm how many staff will be working there, if there is an average rate of pay and what qualifications are required for appointment?

In addition, will we be incurring a fine for not meeting the transposition deadline for the whistleblowing directive and how much will it be if we are? We received a €2 million for our failure to enact the EU's fourth anti-money laundering directive. Does the Minister think it could be around that figure or could it exceed it?

Deputy Michael McGrath: I thank the Deputy. We have kept the European Commission informed of the progress of this Bill right the way through. As she knows, we sent the general scheme and heads of Bill to the committee and it conducted pre-legislative scrutiny. That took longer than I would have liked. I think it took about seven months. The transposition deadline for that Bill was in mid-December, so we have missed it but, as I said, we have kept the Commission informed all the way through. As things stand Ireland is one of a relatively small number of countries that have an established protected disclosures regime. We will be adding to, strengthening and improving that through the new Bill. The new Bill has now been approved by Government. It will be published in the coming days and I look forward to engaging with the Deputy, her colleagues and all Oireachtas Members in detail on the progression of that Bill. I have carefully studied the recommendations from the committee. Some of them we have directly taken on board and others we will consider on Committee Stage. There may be some

we cannot accommodate but that is an issue for the Oireachtas in the course of the progression of the Bill. That includes her questions on the number of staff, the budget and so on. Those are detailed operational issues we will come to in the course of considering the Bill. I hope Second Stage of that Bill can start within the next couple of weeks or so. I look forward to it.

Deputy Mairéad Farrell: Gabhaim buíochas leis an Aire.

Chairman: On a point of clarification, the Minister mentioned our 288-page report. Will he be responding formally to the content of it? He gave us some good news on one of the recommendations. Will he be coming forward to deal with all the recommendations and give us a clear response to the report?

Deputy Michael McGrath: I thank the Chairman. I am happy to do that and respond in writing to the report. While we are still considering some aspects of it I have come to a view as to what needs to be done in respect of the main recommendations. I am happy to commit to writing to the committee with my response, including a response to each of the recommendations made. What I am confirming today is a significant move. It is the setting up of an independent panel outside the Department of Public Expenditure and Reform. We will provide secretarial and technical assistance to support the work of the individuals who will be on that panel. I need to get the balance of the composition of that panel right in relation to private sector background, as well as public sector background.

I want the panel to do its work as quickly as possible. Quite substantive issues must be considered here, namely, the selection and recruitment of people to fill the most senior roles in our Civil Service and public service. I have already given a commitment to a review of the Top-Level Appointments Committee, TLAC. That will now be folded into this review. This will be part of that work as well. It will look at the composition of TLAC. I am aware the committee made a recommendation that there be a majority of people from a public service background on TLAC. I take a different view. Currently, TLAC has a majority of people from outside the civil and public service, which is a better overall balance, especially when we are trying to attract more people from the private sector into the civil and public service. There is also the issue of pay determination. As I said, I am not accepting at this point the committee's recommendation to set up a higher remuneration review body because having looked over the history of this matter, there are issues that would need to be carefully thought through. I will ask the independent panel to come back to me with a view on that. I will then make a recommendation to Government on that issue.

Chairman: Again, for clarification, my view on the TLAC composition was it should have a majority from the private sector, so I share the Minister's view. Is he saying TLAC and the Public Appointments Service, PAS, will be part of the work of that independent group to look at how these bodies function?

Deputy Michael McGrath: Yes.

Chairman: Both of them?

Deputy Michael McGrath: As TLAC's role is, as the Chairman knows, in filling vacancies at assistant secretary general and Secretary General level in Government Departments, so it certainly will be part of this review. It will be the subject of this review with respect to its composition, role and the processes there. On the PAS, it provides a service across the public service and if certain bodies are seeking to fill a position, such as head of the HSE or another

public body, the PAS would very often be involved in that process. The whole recruitment and selection process for senior positions in the civil and public service will be involved in this review. Thus, it will involve TLAC at a central level and PAS at a certain level because it has a much wider remit in supporting the filling of vacancies at all levels across the public service. I am not suggesting we review all aspects of the PAS's work because it does very good work but-----

Chairman: Okay.

Deputy Michael McGrath: -----when it comes to the role of filling those top-level positions in the public service, that is going to be the subject of this review. There is also the critical issue of pay that I touched on there. I will consider the committee's recommendation on the review body but I do not want to go straight to that because there are issues we must weigh up.

Chairman: As a final point, I wish to put something on record. I have done so numerous times but do so again as Deputy Mairéad Farrell has raised it. The decision to increase the salary of a particular individual or position by €81,000 was a disgraceful decision taken quietly in some back room in Government Buildings. There was the addition of €3,000 and then the increase yesterday bringing it to €298,000. I disagree with the Minister in respect of the gifting. He stated it is a personal matter. Actually, this particular position is so outside the norm in terms of salary that it should be ring-fenced and treated separately. If a person got an increase of €81,000 in 2021-22, I cannot see the logic of him getting two further increases in 2022. Surely because the person got an increase of €81,000, any other increases that were agreed for those at that level within the Civil Service who are paid less should be withheld from that position because of the special arrangements that were made. As I stated, there was no memo of the Cabinet. I do not know from where it originated because, in spite of the 288-page report, the Minister was probably the most forthcoming of all Ministers in terms of the explanation. The Taoiseach, however, was not. Mr. Watt was not. He sent us a copy of the press release. His behaviour since then has been utterly disgraceful.

I question the level of payment he is now receiving. I believe it should be ring-fenced and the two increases we are discussing should not be added on to that increase of €81,000. The Minister stated the gifting is a personal matter. I believe it is but, in this case, the gifting was done publicly by press release. We do not know when it started or when it ended. It seems to have been down to one person to make this decision while blatantly ignoring the Committee of Public Accounts and the finance committee, thereby giving licence to anybody else to just not turn up to a committee and not be held to account by us. The manner in which the increase and the appointment happened leaves a lot to be desired. It did a disservice to civil servants and the public service.

The Minister said there would be no knock-on effects. I am not saying this is a knock-on effect, but I want to compare it. I refer to report No. 42 of the review body on higher remuneration in the public service, on which the Minister gave us a comprehensive response, in respect of senior managers within the HSE, many of them retired. They now are being put through another process to get what they have already been approved for by the Labour Court, yet for one man in one position it is a completely different matter. The public are absolutely outraged, and rightly so. These special arrangements have to stop. If this was a special arrangement - obviously, it was - there should be no further increases. The Minister should be suggesting to the individual who holds this position that it is special and separate, over and above what is there already, and, therefore, the increase should be treated differently. That is what I am suggesting. There has to be fair play here. I said the public are angry. Members of the Dáil were furious

about the way this happened - not just the appointment and the increase, but the total disregard for parliamentary procedure by elected representatives and senior officials. I believe I have to make those comments because I have said things publicly and I wish to place it again on record as Deputy Farrell has raised the matter, and rightly so. I have made my views known. If the Minister wishes to comment, that is fair enough. If not, we can move on.

Deputy Michael McGrath: I will, of course, comment. As always, I greatly appreciate the honesty and frankness of the Chairman. He has made his views known on the issue quite consistently in recent times. However, as a Minister answering questions such as those being put to me, I have to set out the legal position and I cannot go beyond that. The truth is that when it comes to the gifting of a salary, it is anchored in taxation legislation. Every person is an individual taxpayer and has a right to privacy, so it is not for me to declare, even if I had the information, which I do not, when any individual started gifting or stopped gifting. I simply do not have that information and I am not actually entitled to it. I have to present the facts whether we like them or not. I do not always like the facts either but I cannot change them nonetheless.

The Building Momentum agreement involves three single 1% increases. The most recent increase on 1 February was structured around a sectoral bargaining process. There are several sectoral bargaining units that are still involved in a negotiation and may well not use that allocation of funding for a flat 1% increase. They may use it to resolve what they regard as outstanding issues. I expect several of those will come to a conclusion in the coming weeks and some of them will result in the resolution of issues that have been knocking around for quite a long time. That will be welcome. As regards the Civil Service, the sectoral bargaining units that were established have opted for the flat 1% increase under Building Momentum.

To correct the record because I do not wish to give the wrong impression, I think I misquoted at least one figure in the context of some of the recommendations made by the higher remuneration review body in the past. It recommended salaries of up to €318,000 for Secretaries General, €310,000 for the Taoiseach, €270,000 for the Tánaiste, €240,000 for Ministers and up to €270,000 for the heads of various colleges and universities. These recommendations were made back in 2007. I make those points by way of context. We have to think very carefully about the next steps. I am clear what the next step should be from my perspective and that is to have this independent panel, removed from the Department, have a fresh look at this area and make recommendations to me. I will be happy to engage with the committee again on the matter. I will be bringing recommendations to the Government in due course.

Chairman: I put on record again that those are recommendations. The Minister can say “No” to a recommendation. He can say “No” to the €81,000 increase. He could provide the figure for himself. I will not go any deeper into that.

To whom are Secretaries General responsible? Who is the boss after the Secretary General?

Deputy Michael McGrath: The Minister has overall responsibility for the Department. Under the Public Service Management Act 1997, the division of responsibilities is clear. The Secretary General has responsibility for the day-to-day management of the Department but, essentially, takes policy direction from the Minister. The Minister sits at the top of the Department in the sense of setting policy. The Secretary General, in essence, is responsible for executing and implementing that policy in line with the functions that are laid out under the 1997 Act. That is the hierarchy. The question of dismissing a Secretary General is one for the Government as a collective. At the moment, under the Civil Service Regulation Acts we have a system whereby for grades up to but not including principal officer level, disciplinary action is

a matter for the Secretary General. For an assistant secretary or a Secretary General, it goes to the Minister and, ultimately, in the case of a Secretary General, to the Government.

Chairman: Should the Minister for Health have told his Secretary General to appear before the Committee of Public Accounts and the finance committee?

Deputy Michael McGrath: I am not going to get into the business of advising other Ministers publicly as to what they should or should not do. I have always been of the view, however, that co-operating with the work of Oireachtas committees is important. It is very important for Ministers and it is equally important for civil servants. We have to be held accountable, for good or ill, for the decisions we make and the actions that we decide on. I am not going to advise the Minister for Health what he should or should not do but co-operating with Oireachtas committees is an essential part of our democracy. I always ask my officials to attend where they are invited to do so.

Chairman: In the absence of Deputy Tóibín, I call Deputy Durkan.

Deputy Bernard J. Durkan: The State Laboratory is mentioned here. To what extent does it provide services for the country, for the agrifood sector, sciences or health sector?

Deputy Michael McGrath: This is a very important office. The State Laboratory is under the aegis of my Department. It is our principal analytical chemistry laboratory and provides a comprehensive analytical and advisory service to the Government, Departments and offices. Its main clients include the Department of Agriculture, Food and the Marine, Revenue, the Coroner Service and the Office of the State Pathologist. The laboratory also provides services to the Departments of Transport; Enterprise, Trade and Employment; Health; and State agencies including Health Products Regulatory Authority, HPRA, the HSE and the Environmental Protection Agency, EPA. It provides really important services right across the Government and the public service.

Deputy Bernard J. Durkan: Have the services been extended in recent times? Is it proposed to extend the availability of the services from the national laboratories? Do we as a State send samples abroad for analysis now? I know we did in the past. To what extent has the practice changed? Is there an intention to extend the services in the future?

Deputy Michael McGrath: Looking at the outputs from the State Laboratory, we have seen quite a significant increase in activity. Last year, the laboratory significantly exceeded its output target and issued 4,633 statements to assist the work of the courts, including coroners. The target was 4,000. That was due to the large increase in coroners' cases. It also provided expert scientific advice in 455 instances to their clients. That was below the target but mainly due to there being fewer requests for tariff clarification advice from Revenue than anticipated. That was as a result of the pandemic.

The laboratory was considered an essential service right through Covid-19. It remained open throughout the pandemic although the number of food and feed samples submitted for testing reverted to pre-pandemic levels following a slight reduction in 2020. The number of customs and excise samples submitted overall reduced further as Revenue officials were doing fewer on-site inspections last year. I gave the figure for the Coroner. We are seeing a significant overall increase in activity in the work it does.

Deputy Bernard J. Durkan: Have we any information on the extent of samples sent abroad?

Deputy Michael McGrath: I do not have that information to hand but we will take a note and write to the committee with the information.

Deputy Bernard J. Durkan: We get a lot of complaints about procurement and the national procurement services. The general thrust is that the procurement system is slow in general and clumsy in that it is unable to act quickly. Is that true? Is it slow in comparison with similar agencies elsewhere? How do we compete or compare? Is there an intention to make any improvements or updates to address the criticisms that we have all heard from time to time?

Deputy Ossian Smyth: That is a good question: is procurement slow and when we measure its speed, how do we compare with other countries? It is essential that we have rapid procurement but that we also manage to get good value for money, that we obtain goods that are high quality and that we do so in a transparent way. We have to comply with European procurement law, first. Public procurement is all about fairness and giving everybody equal opportunity to compete. That means we do need to advertise and keep the competition open for a certain period. However, it should be done as quickly as possible within those constraints. That particularly applies now because we are in a period of inflation. If a procurement drags on for too long the price will have gone up and the requirements of the project may change over time. The last two years has been a really unusual period in procurement because of the pandemic. The normal rules of procurement were effectively suspended over the last two years. In a period where we had to obtain PPE in a hurry, for example, or anything related to the pandemic such as software to manage the vaccination roll out, while we tried to run competitive tenders they did not have to fit with the normal rules of procurement. We used whatever exemption clauses were available in an emergency. The procurement rules allow that when you have a general threat to public health, and when there is some kind of life and death emergency, you can speed up the rules. I meet every quarter with representatives of small businesses to ask them how they feel the procurement process is working for them and if they have any suggestions how it can be improved. We look at all aspects including Covid and Brexit procurement, disruption, inflation and so on. The issue of speed is not something that has arisen during that time. However, if there is someone the Deputy is representing or he has specific suggestions or an example of a procurement process that went very slowly, I would be happy to investigate if he sends details to my office.

Deputy Bernard J. Durkan: Has the Minister of State heard suggestions in the course of discussions to the effect that the process is cumbersome? I know that we have to go through certain procedures to protect the integrity of State finances etc.

Deputy Ossian Smyth: I have been told that someone might apply for a tender and they must type all their information in a second time, where it might have been there from another bid. So there is a suggestion that it should be stored. That is an IT system shortcoming. We are in the process of obtaining a new e-tenders system. The system for tendering, eTenders, is quite old at this stage. We have been tendering for a new tendering system. We are at an advanced stage on that. I expect that will deliver a better experience, less cumbersome approach and a more up-to-date way of applying to bid for a Government contract.

Deputy Bernard J. Durkan: Is the Minister of State satisfied that the alleged shortcomings will be addressed in the course of the procedure now being undertaken?

Deputy Ossian Smyth: I really think so. I have a particular IT focus myself. There was a lot of consultation with the people who take part in tenders to ask how they would like it to be done better. Any suggestions for improvements were incorporated in the terms recommended

for the new tendering system. I think it will be something that is much faster and easier to use when applying for a contract. I take the Deputy's point about it being cumbersome to apply and not very user-friendly. I genuinely think that will be addressed in the new system.

Deputy Bernard J. Durkan: I am looking at the funding need: major projects advisory group and delivery board, the allocations made in the budget, the national lottery consultancy project, the environmental impact studies for flood relief schemes, an urgent issue, and Project Ireland 2040 information campaign. To what extent does the Department monitor advertising and its cost for State or semi-State bodies on an ongoing basis?

Deputy Michael McGrath: I thank the Deputy. In general, over the course of the Estimates process, we agree a budget for a particular Vote or area for the following year. That involves detailed negotiation, initially at official level, going through all the various subheads and looking at the needs of that particular body or Department. It is then negotiated at ministerial level and adopted as part of the budget, although it is fleshed out further if necessary in the Revised Estimates Volume for the year ahead. That is what we do. It is really a matter for the relevant Accounting Officer to properly account for the expenditure under his or her area of responsibility and ensure there is full compliance with the public spending code and value for money is secured at all times. Those are some of the key pillars on which our expenditure management strategy is based.

Despite what people might think, we do not micromanage everything from the Department of Public Expenditure and Reform. There is extensive ongoing contact between my officials and the officials in relevant line Departments. There are reporting requirements and channels used on an ongoing basis. If any issue of concern came to our attention or was raised by my officials, we would intervene. In general, however, it is a matter for the Accounting Officer of the relevant budget head to manage the expenditure, including on advertising.

Deputy Bernard J. Durkan: What role does innovation take in the procedure within the Department? How does it apply to each Department in order to achieve the most effective and efficient delivery of services while keeping costs in line with the requirements, particularly at a time of potential inflation?

Deputy Michael McGrath: What we really want to see is a culture of innovation as innovation does not belong to any single Department. It is not the preserve of any one Minister and it should be right across government and the public service. The first point to make is we want to see ongoing reforms and new initiatives coming through all the time.

We co-ordinate this to an extent in my Department. For example, we have set up a public service innovation fund and we reward the bodies coming forward with ideas that we believe will have real impact and significant potential. We had a public service innovation week in November last year, which is one of a number of important initiatives that we facilitate under the implementation of the overall public service innovation strategy. I firmly believe that innovation does not come from one document or us telling people they must innovate. People need to identify solutions to problems we are facing and seek continuous improvement in the delivery of services for the general public. A core objective in my Department is to ensure we have good quality public services over a period.

Innovation is a constant but I am happy to provide any information the Deputy needs on the innovation strategy. I am also happy to provide examples of the projects we have funded under the public service innovation fund.

Deputy Bernard J. Durkan: I thank the Minister.

Deputy Peadar Tóibín: Tá brón orm mar bhí orm seasamh amach as an gcrúinniú ar feadh cúpla nóiméad. Gabhaim buíochas leis an mbeirt Airí as teacht anseo chun labhairt linn. To begin with I will speak to a report and I commend my colleagues on the EU committee on the good and detailed report that was considered and developed a number of weeks ago.

It is startling how there are two classes of people in the country today, the insiders and the outsiders. Most citizens have experienced approximately 31 separate price hikes over 2021 alone. Farmers have experienced a tripling in the price of fertiliser and home energy costs have increased by 50%. Inflation in November was at a 20-year high. In real terms, the vast majority of citizens have seen their income and purchasing power reduced over the past 12 months. These people have suffered in real terms. The Government has refused to deal with that income reduction by postponing the increase in carbon tax. It has refused to go to the EU to seek a VAT derogation on fuel, etc. It has instead offered people approximately €100 to deal with the staggering increases in the cost of living.

On the flip side there is another class of people, including a Secretary General who has seen an income increase of nearly 40% in the space of a year. That income has gone from €211,000 to €298,000. It would be a dream of most people in the country for that increase of almost €90,000 to be their total income. The report is quite clear that this was done and a figure was plucked out of the air without process or any international comparators. The Government had no system that could be verifiable or comparable and which could be measured or challenged in any way. The court of public opinion would see this as insiders very clearly looking after insiders. Is the new salary of the Secretary General in question a benchmark for other salaries in the public service?

Deputy Michael McGrath: I thank the Deputy. I will first comment on his earlier remarks and acknowledge that so many people across the country are really feeling the pressure of the inflation cycle we are currently experiencing. It is higher than was envisaged and it is likely to remain higher for longer than anticipated. In the budget last October, the forecast of the Department of Finance was that inflation would average approximately 2.2% across 2022 but it is now likely to be higher than that. As we know from recent Central Statistics Office and EUROSTAT figures, it is well in excess of 5% in the most recent measurement. That is a concern.

The Government responded in the budget, with the information we had at the time, with a package of well over €1 billion on tax reductions, which many people across the House did not support. It is one way of giving workers more money back in their pockets. There were also targeted social welfare improvements. Both measures amounted to well over €1 billion, and many measures on the welfare side in particular were targeted, including the change that came into effect immediately on budget night extending the eligibility to the fuel allowance. There were some very welcome changes to certain carer's allowances means tests and so on that had not been changed for well over a decade.

We made changes that will help but if the question is whether they go far enough, I believe we can never go far enough now given the current level of inflation. We are conscious of it and it is why we are bringing forward the electricity credit of €113.50, including VAT. We will continue to keep that under review because we know people are feeling pressure now. The issue is actively being examined and kept under review.

The Deputy spoke about a report and I acknowledge the work that went into it, as well as its

findings. The Deputy will have heard what I said earlier by way of action points that I am instituting as Minister, having considered the issues. I relayed some background on this a year ago when I came before this committee on the matter. There was a failed attempt to recruit a chief executive officer of the Health Service Executive in 2018 and the process had to be aborted because it was not possible to get a candidate. The salary at the time was over €300,000. As the Deputy knows, it ended up being increased further for the present incumbent who successfully came through the process. On the question of it becoming a reference point, I do not believe this is the case, nor have I seen evidence of it across the Civil Service or public service over the past 12 months. I do not view it as a reference point. A decision was taken given there was a vacancy in the Department at a time of national crisis. The previous Minister and then Secretary General departed the Department of Health on the same day. In the summer of 2020 there was a leadership vacuum. There was no easy way to fill it or address it. The view was arrived at that we wanted to go to the market to get the best candidate who put himself or herself forward. It was agreed there would be an increased salary for the position of Secretary General in the Department of Health. We know what happened subsequently. We had the open competitive process. Some months later an appointment was made. It is important to make these points by way of context.

Deputy Peadar Tóibín: Go raibh maith agat a Aire. The Minister said he could never go far enough but he did go far enough for Robert Watt and his wage. It is very interesting and quite startling that he said this will not form a benchmark or a reference point for other salaries in the public service. What he is saying is that the figure is not part of any process. He is saying it is independent of any system or reference point and it is a personal deal. The Minister is saying it is not possible to use this as a benchmark in future. He is saying that if people argue their salary should be 90% of this salary he will not agree because this is a personal deal with a particular individual in a particular role that is insulated and isolated from the role of everybody else in the Civil Service. By doing this he is simply underlining and reinforcing the whole point the committee has made that this is an individual wage for an individual person.

Deputy Michael McGrath: The Deputy needs to be very careful about saying this is a personal deal of some kind. This was a decision made on the salary for a post. That post is the Secretary General of the Department of Health. That decision was made. The post went to an open public competition advertised in Ireland and internationally. The selection of the successful candidate was recommended by the Top Level Appointments Committee. I do not think the Deputy should call into question the character or good name of the people involved in the process.

Deputy Peadar Tóibín: You said-----

Deputy Michael McGrath: Let me finish and make the point. The Deputy made an accusation that this was a personal deal. In my view he is impugning the good name and character of all of the people involved in the selection process. I do not believe this is fair or accurate.

Deputy Peadar Tóibín: May I make come in?

Deputy Michael McGrath: Of course. I am sure the Chair will give the Deputy loads of time to respond. When it comes to the question of the case being made by others that this is the benchmark or anchor for future public pay policy, people make cases all the time for pay increases. Pay claims come in constantly. I ask the Deputy to point to an example where the salary associated with this post has led to wage inflation elsewhere in the system.

Deputy Peadar Tóibín: Are wages not benchmarked in the public sector?

Deputy Michael McGrath: Will the Deputy explain what he means?

Deputy Peadar Tóibín: Are wages at different grades benchmarked against each other in the public sector?

Deputy Michael McGrath: We have, as the Deputy knows, across the system of Secretaries General a number of tiers at present. We have four tiers or levels of Secretaries General. It is an issue I will examine in drawing up the terms of reference for the independent review panel. There is merit in looking at the respective tiers. We have had significant transfer of functions in recent years. We need to have a fresh look at this whole area. It is not about bringing anyone up to a certain level or to have a benchmark we are working towards. This is not my mindset. I assure the Deputy that anyone making the case he or she should get an increase in pay because of the post of the Secretary General in the Department of Health will not get a good audience from me.

Deputy Peadar Tóibín: Is the post of Secretary General in the Department of Health one of those four tiers?

Deputy Michael McGrath: At present we have Secretaries General working across government in a number of these tiers. I will not ask an independent review panel to examine figures and make recommendations to me on pay levels. This is not what this is about; what it is about is examining the process. It can make recommendations. The Deputy and his colleagues have already made a recommendation that we would set up a higher remuneration review body. I am not clear whether the Deputy's intention is that such a body would decide on pay and, therefore, that the legislation underpinning the power I or future incumbents in this role have to make a decision would be removed and given to an independent body outside of the Oireachtas. The Deputy might wish to provide clarity on this. Is he saying that such a body would make a recommendation to the Minister? Under the law it is the Minister who makes the decision.

Deputy Peadar Tóibín: I am only asking the Minister whether salaries are benchmarked. I asked the Minister whether this wage is part of the four tiers and I did not get an answer on it. I did not get an answer with regard to the benchmarking in the public service.

Deputy Michael McGrath: I will give the Deputy a simple answer. There is no benchmarking process under way.

Deputy Peadar Tóibín: My point is that salaries operate in comparison to each other. They relate to each other. They are not independent of each other. In answer to the question I asked on this particular salary the Minister said this particular salary is fully independent and isolated from all other salaries and will not be used as a benchmark or a tool by anybody to look for salary increase in future. This underlines and reiterates the points in the report and the public concern about this. This salary debacle was independent of any process or system and independent of other people's salaries.

Deputy Michael McGrath: I have already said to the Deputy that people will always make the case for a pay increase. They will always point to other people and ask why they earn that while they earn this. I have also given the Deputy a very clear statement that no one has made the case to me on this particular post.

Deputy Peadar Tóibín: Yet.

Deputy Michael McGrath: Nobody has. If anybody did and sought a pay increase on the basis of perceived relativity with that particular post it is not something I would sanction. It is a matter for future Ministers as to what they might decide to do.

Deputy Peadar Tóibín: The Government sees itself as a government of fiscal prudence. It regularly tells people to lower their expectations with regard to pay rises. Whole sectors of the public service, such as the Defence Forces, have been waiting for pay rises for a long period and have been refused them. Yet we have this significant largesse at this critical level of the Civil Service. Is the wage performance-related?

Deputy Michael McGrath: There is a system of accountability in place. It is a matter for each Minister working with the Secretary General of the Department to agree the strategy and business plan for the Department for the year ahead and then, on an ongoing basis, to monitor performance and discuss the achievement of the milestones set out. This is certainly the basis on which I operate and run my Department. It is in a spirit of collaboration. We all expect the highest standards of performance from the people sitting at the top of the Civil Service in our respective Departments. I certainly do and I certainly get that performance also.

Deputy Peadar Tóibín: The country is quite shocked by what happened in the mental health services for children in Kerry, as detailed in the report just released. If other cases of HSE failings of children were to occur, that could potentially have a downward effect on the Secretary General's salary of nearly €300,000.

Deputy Michael McGrath: It is not necessarily fair to conflate directly those issues. What happened in Kerry with the provision of services was an appalling failure that should never have happened. The leadership of the Department of Health and the leadership of the HSE have a deadly serious job of work to do now to fix that and to support those families in any way they can. However, linking that to a reduction in someone's salary is just not-----

Deputy Peadar Tóibín: I am linking it to performance. Surely there is accountability. The Minister mentioned that there is a performance-related element to this as well.

Deputy Michael McGrath: As I said, it is a matter for the line Minister to come to a view on the performance of his or her Secretary General. It is not for me to judge the performance of another Secretary General in his or her day-to-day work.

Chairman: I call on Deputy Carthy.

Deputy Matt Carthy: The Minister was part of the decision to award an increase of €81,000 in the salary of the Secretary General of the Department of Health. The Minister has talked about some of the deliberations involved. Will he remind us who brought the proposal for €81,000 specifically to him and to the other senior members of the Cabinet who were part of this decision?

Deputy Michael McGrath: That question was the subject of the committee's work and was answered in the course of that work and a very lengthy report that has issued. If the Deputy wants me to go over the history of the matter, I am happy to give him a summary.

Deputy Matt Carthy: No. I just want to know who it was. Who was the individual or section or Department that brought that specific figure to the Minister's attention for approval?

Deputy Michael McGrath: As somebody who, I believe, was involved in the compila-

tion of the report, the Deputy will be familiar with the background to this and the fact that in, I believe, late October 2020 there was a meeting in Government Buildings. The Minister for Health convened the meeting and explained to those present, including me, the Taoiseach and the Secretary General to the Government, that there was a need to appoint a Secretary General to the Department of Health. As I said earlier, the previous incumbent left at the same time as the previous Minister-----

Deputy Matt Carthy: It is a very simple question. Was it the Minister for Health who brought the proposal for €81,000 to that meeting or was it somebody else who-----

Deputy Michael McGrath: I think the Deputy is very familiar with the report and with the process and the steps involved. If he wants me to take him through it-----

Deputy Matt Carthy: I take it that the Minister is not going to answer the question.

Deputy Michael McGrath: I have answered it but-----

Deputy Matt Carthy: I will ask my second question. Did the Minister, in his role, question that figure? Did he ask why it was not €51,000 or €101,000 as opposed to €81,000? Was he happy, on the basis of the information that was brought to his attention, that €81,000 was a fair increase to be sought for this position in the context he has outlined?

Deputy Michael McGrath: I am happy to answer every one of the Deputy's questions but I ask to be given time to do so. There is no point in just firing questions at me and not allowing me the scope to answer them. There was a very open and frank discussion at the meeting to which I referred a moment ago. I believe the minutes of that meeting were provided to the committee and have been published. A number of options were looked at at that time as to how the issue could be faced up to. We were dealing with a global pandemic. The Department of Health was under enormous strain and there was a leadership vacuum there. Somebody was acting up and doing the very best they could, but there was a need for a permanent appointment. The collective view arrived at was that in order to attract a top-quality candidate, there would be a need to go beyond the normal terms. We discussed previous examples of that and the history of it. As I said earlier, there was, in 2018, a failed attempt to recruit a CEO for the HSE on a salary that, I think, exceeded €300,000. That was the reality. One of the options that was looked at was whether anyone from among all the existing Secretaries General would be interested in going into the role on a permanent basis. In the round, however, the collective view was that an enhanced package was warranted and that there should be an open, public competition. I was particularly keen, especially if we were to offer an enhanced package, that everyone should be given an opportunity to apply for the position. That is subsequently what happened when that process took place in the subsequent months. There was a lot of interest in the role, as one would expect, including a number of international candidates. The candidates selected came through the top-level appointments committee process and through a number of interviews, and the Minister for Health was offered one name out of that process. He then brought that name to the Government for approval.

Deputy Matt Carthy: In fairness, the Minister had ample time to respond on that occasion. I have asked him two questions so far, neither of which have been answered. I wish to make that point.

As for the rationale the Minister and some of his colleagues have given for approving this salary level, the first, which the Taoiseach outlined no later than an hour or so ago when I raised

this with him in the Dáil, was that the Department of Health and our health services are in need of substantial reform and improvement and, therefore, the person at the helm would want a significant salary package. Does the Minister agree with that?

Deputy Michael McGrath: I agree about the centrality of the role of the Department of Health, not just during a global pandemic. Of course, there will be an aftermath, a legacy and consequences of the pandemic. Unfortunately, the immediate consequence is increased waiting lists. The person sitting at the top of the Department of Health, working with the HSE, will be instrumental in meeting the Government policy objectives, one of which is to have a fit-for-purpose, single-tier health service and to implement Sláintecare. We have provided a record budget, as the Deputy will know, of over €22 billion to make progress in that regard. There is an enormous body of complex, challenging, difficult work that needs to be done in the Department of Health to improve the Irish health service, and I and my colleagues across the Government regard that as a key priority in the coming years.

Deputy Matt Carthy: In the Minister's previous answer to another Deputy, he talked about the accountability mechanisms and the arrangements between the Secretary General and his or her line Minister. Is there a mechanism in place that would allow for a reduction in the salary of the Secretary General?

Deputy Michael McGrath: I do not have the contract with me, but I imagine, in the absence of a renegotiation of a contract, that that is very unlikely. As I said, I do not have the contract here. I cannot give the Deputy a definitive answer to that question, but a provision in a contract providing for a downward revision for a Civil Service appointment I would regard as unlikely. However, I would have to check that.

Deputy Matt Carthy: I agree with the Minister on that. A substantial salary package - the highest ever awarded to an Irish civil servant and, in fact, one of the highest packages available to any civil servant in the world - is attributed to a position on the basis of the importance of the job the holder of that position has to do. The Minister mentioned the policy objectives: the implementation of Sláintecare, reform of the health services, addressing waiting lists and dealing with the aftermath of the pandemic. Nevertheless, the Secretary General could fail in all those respects. He or she could oversee growing waiting lists, continued mismanagement and a move from one fiasco to another in the health services, but the Secretary General's salary would continue to grow and his or her pension entitlements would continue to be locked in regardless. Does the Minister see that as a failure of the contract that was put in place for this position in that it undermines the credibility of the argument the Government has put forward?

Deputy Michael McGrath: It is open to the Government to remove a Secretary General. The Government can do that but that step is not taken lightly. There is-----

Deputy Matt Carthy: There are two streams, therefore.

Deputy Michael McGrath: An accountability framework is in place. The responsibilities of the Secretary General are clear under the legislation. It is about day-to-day management of responsibility, while the Minister has overall policy responsibility and makes decisions in respect of policy. The relevant Minister in each Department must ensure that there is adequate performance measurement. I have such a process in place and I have no doubt every other Minister does too. It is important, when we are agreeing on the plan for the Department for the year ahead, that we clearly define the goals and milestones and what we expect to be achieved. The removal of a Secretary General is a matter for the Government, although it is not something

that is countenanced lightly, as would be expected.

Deputy Matt Carthy: The second justification we have heard in respect of this salary increase is that it allowed the Government to ensure that the best person internationally for the job could be attracted to it. Is that something the Minister agreed with as part of the rationale?

Deputy Michael McGrath: In essence, yes. When a post is advertised in open competition, we never know who will apply. For a position of that importance for the State, we certainly want the best people in the world to apply. Having a revised salary was certainly an attraction for people to apply. A number of international candidates applied to the process and, ultimately, the members of the Top-Level Appointments Committee, TLAC, conducted the interviews with the support of the Public Appointments Service and arrived at a single name. One name was provided to the Minister for Health and he brought it to the Government. It is up to TLAC to provide up to three names. In my case, for example, as Deputies will be aware, I decided on an open competition for a successor appointment in my Department and I was given three names by TLAC following that open competition process. It was then a matter for me to consider the options and to bring one name to the Government, and that is what I did.

Deputy Matt Carthy: I wonder whether the people who were sitting in that room, who approved the €81,000, did not feel like awful eejits afterwards. They committed €81,000 of taxpayers' money to get the best in the world, and, lo and behold, the best in the world was here all along. In fact, he was actually in the Minister's Department, which is responsible for the prudent management of public finances, all along. Did nobody think of asking Mr. Watt whether he would be willing to take on the role permanently at his existing salary? Was that question ever asked?

Deputy Michael McGrath: The salary that was agreed on was a salary for the post. In filling the post, the decision was made to hold an open competition. When there is an open competition, the Minister no longer has control of the outcome. He or she must trust, quite rightly in my view, the integrity, competence and professionalism of the people involved in the selection process. We are fortunate to have really good people serving on TLAC. They are given a mandate and they go about their work. They went about their work, narrowed down the applicants, interviewed a range of candidates and made a recommendation to the Minister for Health. That was the outcome-----

Deputy Matt Carthy: I do not know how I would feel if I had agreed a salary package with an additional €81,000 and it subsequently turned out that the person who got the job was already doing it for a substantially lower figure. I am not sure how any business person could consider himself or herself as such after that.

It was mentioned earlier that, on top of the €81,000 pay rise that has been discussed, the Secretary General of the Department of Health got a subsequent increase, in November, of almost €3,000. He got a further increase of €3,000 yesterday. Did the Minister sign off on, or have any role in agreeing to, those two wage hikes?

Deputy Michael McGrath: No, there was no requirement to sign off on that because a public service pay deal, Building Momentum, applies across the board. It applied last year and again applies this year. As part of that, there are three separate 1% pay increases, in October of last year and February and October of this year. The February increase, which has just occurred, is slightly different for some public servants because we offered an opportunity to form a sectoral bargaining unit. Instead of using the money for a flat 1% increase, it could be used to

settle outstanding grievances. A number of sectoral bargaining units are continuing to negotiate in that context and I expect that will conclude in the coming weeks. In the Civil Service, none of the sectoral bargaining units decided to use the envelope for anything other than a flat 1% increase, so that has been applied in accordance with the circular that issued to implement this element of the pay deal.

Deputy Matt Carthy: It is automatically - hey presto - an increase of €3,000 in each of the three months. Is another pay rise for this post coming?

Deputy Michael McGrath: The public service pay deal provides for an increase of approximately 3% over a two-year period to the end of the current year. Two of those increases have been implemented. For all public servants, including civil servants, the third leg will come into play on 1 October of this year.

Deputy Matt Carthy: On 1 October, therefore, the Secretary General of the Department of Health will get a further pay rise of almost €3,000. Is that what the Minister is saying?

Deputy Michael McGrath: Under the current pay deal, which applies to every public and civil servant who is party to the pay deal, as the overwhelming majority are, there will be a further increase of 1% on 1 October. That will apply to the Deputy and his colleagues and to civil servants across the board.

Deputy Matt Carthy: “Yes” is the answer to the question I put.

The Chairman asked this question earlier. Did it not strike anyone as sensible to ensure, contractually, that these pay hikes would not be applicable to this position given its unique and bizarre nature and the fact we had already, through the Minister’s good offices, approved an €81,000 pay hike? Did nobody say the position did not need a further €9,000 within a 12-month period from November of last year?

Deputy Michael McGrath: The way the negotiation of public service pay deals works is that there is a collective negotiation between the employer side and representatives of the employees. The employees are represented by the unions, which are affiliated to ICTU. What is negotiated is a collective agreement that applies to everyone who comes under it across the public service and the Civil Service. What is not done in a collective, national agreement that covers about 360,000 people is to seek to carve out one cohort, or perhaps the Deputy is suggesting one individual. That is not the way a collective agreement for public service pay is negotiated.

Deputy Matt Carthy: It strikes me that the agreement is collective when it suits and is an individual arrangement when it does not. The Minister was asked earlier about the position of waiving salaries and he mentioned that I, as a Deputy, will get an increase at some stage this year. I will waive it, in the same way the Minister does in respect of a portion of his salary. He said something that I thought was strange. He stated it was none of his business whether people waive a portion of their salary. Am I not correct in stating that when anybody within the public sector waives a portion of his or her salary, that goes back to the Exchequer to be spent on other areas?

Deputy Michael McGrath: The point I was making was I do not have a legal right to accessing that information. The Deputy is correct in stating the money I give back every year, and that which the Deputy and others give back, comes into the central Exchequer and is used accordingly for all the purposes for which we spend public money. My point was that the mechanism for waiving the money, or actually gifting it back to the Exchequer, is through the

Taxes Consolidation Act; it is anchored in taxation legislation. It is a fundamental tenet of our tax system that people do have a right to privacy, so I do not have a right to know how much an individual is gifting back every year. People can make a voluntary declaration if they so wish. On the other hand, they do not have to. I am just outlining what the factual position is.

Deputy Matt Carthy: I appreciate that.

Deputy Michael McGrath: It goes back into the central Exchequer through the Minister for Finance. I do not get a report on it. It is not the case that I am sitting on information that I am not prepared to give to the Deputy. I do not have that information and I do not get it, nor do I think I would be entitled to it.

Deputy Matt Carthy: Okay, so taking that on board, and on the understanding that people make their own personal decisions in that regard, this was a peculiar decision. The Government press office and the press office of the Department of Health issued a statement on the day of Mr. Watt's appointment as permanent Secretary General in the Department of Health. The statement that was issued through a public body stated that Mr. Watt was delighted to take up the position and that he was waiving the increased portion of his salary for an unspecified amount of time. This is my final question in this regard. Does the Minister think it would be helpful in the interests of transparency and accountability if Mr. Watt were to outline in a public fashion the period of time he waived that portion of his salary?

Deputy Michael McGrath: I think it is entirely a matter for himself. I do not want to get into the space of calling on someone to do anything. I am a Minister and I have legal responsibilities in regard to the functions I have to discharge in the Department. I always believe in being as open and transparent as possible. I, as a Minister, and senior civil servants are accountable. We are accountable to relevant Oireachtas committees. As the Chairman acknowledged, I co-operated fully with the work this committee did and with the Committee of Public Accounts. A year ago, today, I appeared before the committee on this issue and I also provided as much documentation as I had regarding it. What I cannot do is go beyond the legal parameters. It is very much a matter for each individual. I am happy to declare I have made a substantial gifting of salary. I am happy to do so, but I am not going to call on anybody else to declare what their own personal intentions are in that regard.

Deputy Matt Carthy: I did not ask the Minister to call on anybody; I just asked if he thought it would be helpful. I note his answer.

Will you indulge me, Chair, to ask questions on different matters or are other members seeking to come in?

Chairman: The Deputy is due to wind up, but he can go ahead as he is representing Deputy Doherty.

Deputy Matt Carthy: The Government previously revised pay rates for CEOs of State bodies, including Horse Racing Ireland, HRI. Does the Minister think that was a mistake, considering that he has essentially reversed that decision with the most recent appointment of the new chief executive of HRI?

Deputy Michael McGrath: I think it is important to make the point that there is no increase in salary relative to what the previous incumbent was on. The salary for that particular post has not been increased. We went through a process with the Department of Agriculture, Food and the Marine and NewERA on this. Because it is a commercial State body, my own

role as Minister in this regard is to give consent or choose not to give consent to a salary level that is being proposed by the Minister. There was contact over a number of months between the two Departments. My Department requested further information from the Department of Agriculture, Food and the Marine in relation to it. We would have requested a business case. A business case was prepared and assessed by NewERA and it recommended the salary level that ultimately was agreed upon. It fell to me then as Minister to give consent, which I did. In that particular case the level of salary was at the same level as the previous incumbent in that post.

Deputy Matt Carthy: Previously, it was agreed that the salary for the new position, when it became available would be approximately €137,000. The package that was signed off on is closer to €200,000. The Minister mentioned that the Department examined a business case. Is it correct that the business case was compiled by Horse Racing Ireland itself?

Deputy Michael McGrath: No, it would have been compiled by NewERA, which advises the Government on its relationship with commercial State bodies.

Deputy Matt Carthy: So NewERA-----

Deputy Michael McGrath: It provides independent advice to the Government on that.

Deputy Matt Carthy: Did NewERA compile its own business case on this issue?

Deputy Michael McGrath: The Department of Agriculture, Food and the Marine would have made a request or a recommendation that would have come to me. My officials would then have got involved in seeking a significant amount of additional information and would have sought the advice of NewERA, including a business case. Ultimately, it would have come to us then with a recommendation on the salary level that was sanctioned, which was at the same level as the previous incumbent.

Deputy Matt Carthy: That is interesting news to me, because my understanding was that the business case was compiled by HRI itself. If it was compiled by NewERA, is it possible for this committee to receive a copy of the business case?

Deputy Michael McGrath: I will examine that for the Deputy, but there may well be some issues of commercial sensitivity. It is not a document that I own, but I will make inquiries on that. I would be happy to come back to the committee in writing on that.

Deputy Matt Carthy: That would be welcome, because commercial sensitivity is mentioned quite a bit in relation to some State bodies that have no commercial competitor, so it often strikes me as a bit strange.

I want to ask a few very brief questions on the freedom of information unit that lies within the Minister's Department. How much funding did it receive last year and what is the estimated budget for 2022?

Deputy Michael McGrath: I ask the Deputy to bear with me. I am not sure I have the specific figure for the unit to hand. I will look through the briefing pack, but I am not sure it goes into that level of detail. If I do not have it, I will certainly come back to the Deputy. I do not think I have it.

Deputy Matt Carthy: Does the Minister have an idea about the percentage increase or is it standstill funding?

Deputy Michael McGrath: Just by way of background, as the Deputy is aware, we are doing a major review of the FOI legislation. We have already held one round of public consultation and we had more than 1,200 submissions, so there is a huge amount of interest in it. In the coming months I hope to bring proposals to the Government for legislation to reform, modernise and update our freedom of information system. The FOI unit within my Department does not process FOI requests that go to all of the Government, it only deals with the ones that come to the Department. It also provides support and policy advice at a central level to all of the other FOI officers that are across the system. It is important to be clear on what we do. We do manage and have responsibility for the overall policy on FOI, but the FOI office in my Department only deals with the freedom of information requests that come in to us.

Deputy Matt Carthy: Yes. I am talking about the policy itself. I note the Minister's remarks about the review that is ongoing. In a bid to be helpful, my own party colleague, Deputy Mairéad Farrell, has published legislation in this regard. I understand it is being brought to the Dáil tomorrow evening. Will the Minister support the legislation?

Deputy Michael McGrath: We have agreed as a Government to bring forward a timed amendment to the legislation, for the reason that it raises a number of issues but, to be frank, the Bill needs to be entirely redrafted. It proposes to publish the names of certain individual recipients of pensions, but the way it is drafted copper-fastens the existing position. I do not believe we should vote against the Bill, as I understand where it is coming from but the comprehensive Bill that we are preparing will be the best vehicle to bring about the reforms that are needed to the freedom of information system. We will have the proposals finalised in the coming months. Is it not a pattern though that when legislative proposals for reform are being brought, Government either rejects them, nods them through with no intention of proceeding or, in this instance, puts forward a timing amendment to kick it down the road?

Deputy Michael McGrath: I examine each Bill on its own merits. In the weeks ahead, for example, I will be going through a detailed legislative process with Deputy Farrell and others on the Protected Disclosures (Amendment) Bill 2021. I am open to amending that Bill. I am open to accepting Opposition amendments. I am not precious about these things at all. I am very pragmatic. If I believe a Bill moves things on in a positive way, I will embrace it.

We did, however, examine the Bill to which the Deputy referred and it does not do what it sets out to do; let us just say that much. It would require an enormous volume of work and that is work we are doing anyway in the context of our own Bill. I felt it was a much more efficient and better use of our resources to work on the Government Bill. If there are amendments, as I said, I will certainly consider them on their merits, wherever they come from.

Deputy Matt Carthy: Time will be the judge of that. There have been a number of high-profile incidents where Ministers, in particular, have not been following the guidelines set out in the Freedom of Information Act 2014, particularly with regard to backchannels of communication or the deletion of private messages.

The Minister's Department sets guidance that I believe dates back to 2015, which states that public bodies must advise individuals when a "person who without lawful excuse and intention to deceive destroys or materially alters a record". Do those requirements and provisions apply to Ministers and their special advisers?

Deputy Michael McGrath: I do not believe it is legal for anyone to destroy records that are the subject of an FOI request. I am aware of one of the provisions in the Private Members'

Bill to which the Deputy refers that provides for a referral to SIPO. One of the issues that arose when we examined that was it was not clear what SIPO would do with that or what powers it currently has. That issue could not just be dealt with amending the freedom of information legislation. One would also need to look at the accompanying ethics legislation and the legislation underpinning the workings of SIPO. That just gives an example of the complexity of it. Certainly, to my knowledge, no one is exempt from the requirement that a person should not destroy records to deliberately avoid FOI requests.

Chairman: Deputy Carthy will have to leave it at that.

Deputy Matt Carthy: This is my final question. It is with regard to current policy. Are there policy guidelines in place specifically dealing with the use of private messaging services, whether it be text message, WhatsApp or other such services, by members of Government in their conduct of Government business? If so, where is that guidance or policy set out?

Deputy Michael McGrath: Every Department has its own data management policy that sets out the requirements relating to the management and keeping of records. Those policies are in place and publicly available. Everyone obviously must be compliant with them insofar as they can.

Deputy Matt Carthy: What happens then if a Minister, for example, is not compliant and deletes something he or she was obliged to retain under the Freedom of Information Acts and the guidelines that have been set down?

Deputy Michael McGrath: That is one of the issues we will have to examine as part of the review. It is absolutely wrong. It is the subject of sanction whereby anybody in possession of documents or information that needs to be retained for FOI purposes must retain that. If a person wilfully and deliberately destroys documents to avoid disclosure by way of FOI, that is the subject of sanction. We will provide those full details of the current position in that regard to the Deputy and also details of the review that is under way by way of a written reply.

Deputy Matt Carthy: I have one very last question. What is that sanction?

Deputy Michael McGrath: I do not have it at my fingertips.

Deputy Matt Carthy: That is fine.

Deputy Michael McGrath: I do not want to mislead the Deputy or the committee. I will get those facts and come back to him in writing.

Deputy Matt Carthy: I thank the Chairman for his indulgence.

Chairman: The Minister might clarify a couple of questions. He answered questions with regard to that new appointment in Horse Racing Ireland. He said that was not a new pay increase. I am looking at a newspaper headline that notes a “€52,000 pay rise for Horse Racing Ireland chief”. When was that pay rise granted? Was it with that new appointment or previous to that?

Deputy Michael McGrath: I do not have that article in front of me. I assume it refers to the increase a person would have received having been promoted to the position of chief executive. The salary that was sanctioned did not represent an increase relative to the person who previously held that position. I assume that is where that article got the figure from. Certainly, I distinctly recall this issue coming to me. It was very clear that the salary in question did not

constitute an increase for the post.

Chairman: I do not understand that. It was an increase offered to the individual who was taking up that position. Is that not correct?

Deputy Michael McGrath: In the same way that anyone being promoted from assistant secretary to Secretary General is going to get a pay increase. The level of pay sanctioned for this position was the same as the level of pay the person who previously held the post was earning.

Chairman: Okay. When was that increase given to the person who previously held the post?

Deputy Michael McGrath: The increase was in respect of being promoted and when someone is promoted, he or she generally gets an increase

Chairman: Unless the Minister is telling me this article is completely incorrect, it refers to “a €190,000 annual salary with a company car” and “the starting salary set for the role had been ... €137,356”. I am raising this to clarify the issue. Deputy Carthy brought it up in his first question. The article goes on to state, “The contract also said a car allowance of €13,150 along with reasonable mileage would be paid to the new chief executive.” It would appear that at some stage, this increase was sanctioned and that an allowance for a car and mileage was also sanctioned. It was for the person taking up the office of chief executive. There was, therefore, an increase.

Deputy Michael McGrath: To be thorough about this and make sure we get it right, I will write to the Chairman in detail on it. Certainly, the information at my disposal was that the salary for the incumbent CEO of HRI at that time was the figure that has been quoted of a little over €190,000. I will examine that and read the article to which the Chairman refers.

Chairman: It is similar to some of the articles people would have read, for example, about the fact that some car company sponsored a car for the chief executive of the HSE. I do not know whether that is true or false. I do not know whether Government sanctions that. It is just to make sure from the Minister’s perspective and the work of this committee that whatever information is out there is correct or is misleading.

Deputy Michael McGrath: Of course.

Chairman: That is the point I am making about HRI and similarly in respect of the HSE and the salary in that regard. Is it true that some car company sponsors the car? I do not know that. I am asking because we are asked as we go about our business in our constituencies. The Minister might come back on that.

He mentioned collective agreements. We could call the pay increase for school secretaries a collective agreement. Presumably, it had to be cleared by the Minister’s Department. That has not been paid yet. Is that being held up by the Department? Is it in the process of approval? Where is it at? If he does not have the answer, he can come back to me.

Deputy Michael McGrath: First, to be clear on Horse Racing Ireland, the briefing note I have, which is consistent with my memory of it, is that the terms do not represent an increase in the terms for the outgoing CEO. I will certainly check it out once again and come back to the Chairman. With regard to the provision of a car to the CEO of the HSE, my understanding is

that was consistent with the package that was agreed in 2019. We will drop the Chairman a note on that although it is primarily a matter for the Department of Health and the HSE.

Chairman: I understand that.

Deputy Michael McGrath: In relation to the school secretaries, I am anxious to see that agreement implemented. I believe that there was a hearing in the past week, ten days or so. There is a further outstanding issue in relation to pay or pay during periods of leave. I will seek an update on that from my officials and from the Department of Education but I am anxious to have that issue resolved. We all hold in high regard the work of our school secretaries and, indeed, our caretakers. I will follow-up on that and see what the current state of play is, but that is my understanding of where it currently stands. It has been before the Workplace Relations Commission, WRC, and there is now that outstanding issue that needs to be resolved.

Chairman: In relation to procurement, I ask the Minister of State, Deputy Ossian Smyth, about the procurement of legal services across the various Departments. Each of us would be aware of the amount of money that can be spent or racked up by legal firms in relation to the Department defending a case or other. For example, the victims of Thalidomide have their 25th Minister for Health in the course of all of this issue being debated publicly and in their efforts to seek a solution, and it is tied up in court. I wonder on issues like that if there are specific procurement rules with which each Department must comply with regarding the appointment of legal representatives and who keeps control on them. Who says, for example, in the middle of the debate around the Thalidomide issue, "That is enough, because we will spend too much on legal fees, and let us reach an agreement"? Is there any common sense applied as it goes along?

Deputy Ossian Smyth: For a start, the question is, does one have to use the frameworks for legal services or do Departments have to use the centrally agreed arrangements. It is Government policy - it is a decision of Government - that all divisions of Government need to use the available arrangements where they apply.

There are frameworks for legal services. There are some that are specialist and niche covering particular areas and then there are general frameworks. One is meant to draw on those unless there are exceptional circumstances where one can show why one should not use them.

I think the Chairman's specific question is, is it possible to negotiate outside of that to get better terms. Is that what the Chairman is asking, where there is a particular circumstance that this would apply?

Chairman: No. Where one enters into a procurement process, one has one's legal team representing one and the case drags on. Is there any way within that procurement process where somebody can step in and say that one has racked up huge amounts of money here in terms of costs and fees and what one should be doing is finding a resolution to the problem? At what stage in the procurement process can one call a halt to what is going on and negotiate the outcome rather than be on the steps of the court?

Deputy Ossian Smyth: It is sensible always to use arbitration options where they are available. One cannot opt out of the legal process. If somebody wants to take one to court, he or she can. It is not always clear who is to blame in those cases when there are two parties and one cannot dismiss somebody, for example, as a candidate for a bid, because we have spent so much money on legal services or because we are having a fractious relationship. I agree that where a negotiated or arbitrated form of decision or arrangement can be made, the courts should always

be avoided. That is usually the case. Most people avoid litigation where they can.

There is a commercial skills academy which is provided by the Office of Government Procurement to train up procurement officers across the public sector so that they will have the skills to be able to carry out the negotiations that are required on large public sector contracts. Of course, the goal is always to avoid the legal option.

Where there is a protracted legal dispute, it is not always clear who is to blame, who is in the right and who is in the wrong on that case. It is important that our procurement staff are properly trained up.

Chairman: Maybe to give a more stark example of this, the children's hospital goes through the procurement process, all the t's are crossed and i's are dotted, and they follow the rule that the Minister of State has set down in terms of procurement. It is fair to say that it has all gone wrong. Was it that the procurement process itself was weak, was it that the contracts are weak, or what has caused not only that problem but others across the various Departments? Is the Minister of State examining that because some paperwork within all of this process has failed?

Deputy Ossian Smyth: When one has a procurement that ends up in protracted litigation, that certainly is a bad outcome. It is an expensive outcome for all sides and it is not something that anybody wants. When that happens, it is important to examine, carry out an inquiry and find out what is the cause of that. I guess that is why the report on the children's hospital was commissioned to see how things could be done differently. I do not want to comment on that particular case but the Chairman has extended it to the more general case.

When people end up in litigation when they are in a contract with each other, it often comes down to a failure to disambiguate the terms at the start of the process and to make sure that people are not at cross purposes over what services or goods will be delivered and when, and that the contract is fully disambiguated as well. I guess there is a learning for the Government and there is a learning for State agencies, and there is a learning as well for people who are bidding for contracts, in that.

The Chairman asked me what has been done to avoid that. The commercial skills academy is an important part of that. It is important that the specification of our projects in future is carefully done. We have a number of new structures that have been put in place in the past couple of years to monitor very large procurement projects. It has been a particular interest of the Minister, Deputy Michael McGrath, to make sure that the very large projects that are included in the national development plan have monitoring processes in place to keep track of those projects and to make sure they are on track and that they do not drift off and move into protracted litigation.

Chairman: Does the Minister of State monitor the non-compliance with the procurement strategy that he has set out? Are there Departments or agencies that are particularly bad at using the system? Is there a monitoring role in the Department to show up these weaknesses?

Deputy Ossian Smyth: The Comptroller and Auditor General has a role in assessing to what extent there have been non-competitive procedures used for procurement across all Departments. The Comptroller and Auditor General goes in and compiles a report to see what proportion of contracts are non-compliant or non-competitive. Sometimes it is possible to have a non-competitive contract which is compliant. There are cases where a competition is not warranted and the contract is still in compliance with the law. For example, if there is only one

person who can offer that particular service, then there will not be a competition. The result of that is the Comptroller and Auditor General publishes that report and it goes to the Committee of Public Accounts. If one wants to compare across the different Departments and agencies, one can see who has the highest level of non-competitive contracts or non-compliant contracts. I suppose that provides an opportunity for Oireachtas committees, such as this one, to invite in the Accounting Officer to ask why he or she is not complying or is purchasing goods and service for his or her Department without going through a competitive process.

Chairman: In terms of the SME sector, what would the Minister of State say to the SME when it expresses concerns about being excluded from some of these contracts? Some of them are held locally. They do not hold them anymore, because a bigger firm has gotten it. They may be used as part of the delivery chain. What words of comfort does the Minister of State have for the SME sector?

Deputy Ossian Smyth: I have more than words of comfort. We have done a lot of work with the SME representative bodies to make sure that they are included in these contracts, that they are fairly treated and that they are not pushed out by larger, better-resourced organisations that might then deliver a worse service to Government. We are therefore keen that we get small firms that successfully tender for business. The majority of the spend on public procurement in Ireland goes to SMEs. Most of it goes to companies that are situated within Ireland.

I regularly meet with representatives and I ask them what changes they would like to see in the procurement framework and in the way that we do our procurement. They come to me with specific problems. Over the last year, they have come to me with questions about inflation, professional indemnity insurance, Brexit, emergency procurement during Covid-19 and how they can bring contracts, for example, during the pandemic. I meet with people who represent all of the different sectors. For example, the Construction Industry Federation is there, as is the Small Firms Association, ISME and IBEC. We have a co-operative relationship. I am rarely unable to help them in their requests. We work together to make sure that Irish companies get a fair share of the pie and they can competitively obtain contracts.

One of the things that I particularly want to do is to make sure that smaller, high-tech companies can win contracts for software services in Ireland. This is because many of the most innovative companies tend to be fairly small. We managed during the pandemic to award contracts in an emergency process to smaller companies. We are looking at, for example, the strategic platforms for innovation and research in the Department of Enterprise, Trade and Employment and seeing if within that mechanism we can include more smaller high-tech companies in Government contracts.

Chairman: I should say to the Minister that at a private session today we agreed to review the Ministers and Secretaries Act. He mentioned a further Act of 1997. We would welcome any background materials that he might have regarding those Acts, how they were changed or how the Minister might like to see them changed or reformed in the future. This is because most of what we are talking about goes back to accountability and responsibility. It is time that many of those Acts, as well as other amending Acts, were taken and examined in the context of modern HR management and of the responsibilities of senior people within any organisation, just as we are doing with the senior executive accountability regime and the banks. Of course, it is always a point of interest for me that I clock in every day that I come up here. Does the Minister think that the Secretaries General should clock in, the same as everyone else, or are they an exempt breed?

Deputy Michael McGrath: The Chair probably clocks in because the Houses of the Oireachtas decided that he should clock in. Perhaps my own Department and office has had some role in that in the past, but in general-----

Chairman: It certainly has.

Deputy Michael McGrath: -----the Oireachtas is responsible for running the Houses of the Oireachtas. We have a role in sanctioning expenses, allowances and so on. However, we will provide the Chair with a detailed note on that issue he has raised about accountability, as well as who is responsible for what. This is because the Ministers and Secretaries Act has been subject to significant amendment. I have been looking into this in detail. We will share that with the committee to assist it in its work.

Chairman: That system of which the Minister spoke earlier is outdated. It takes no account of the work we do elsewhere. As part of reform, Members of the House do not like to talk about it, because the media gets upset over it. However, I firmly believe that it is time that we show some respect to Members of this House. I do not mind accounting for anything and everything. I believe that that should be the case. However, it is how one does it and who is excluded. We have to work and do our business by example.

That brings us to the end of this part of the meeting. I thank the Minister and the Minister of State for their attendance, as well as for the attendance of their officials. I also want to thank both of them for going beyond what was on the agenda in terms of the questions they were asked, and for participating fully in the meeting in an open and transparent way.

For the information of the House, we have concluded our consideration of the Revised Estimates, Votes 11, 12, 14, 15, 17, 18, 19, 39 and 43, the Department of Public Expenditure and Reform grouping. The clerk of the committee will send a message to that effect to the Clerk of the Dáil, in accordance with Standing Order 101. That has been agreed by the Members.

Message to Dáil

Chairman: In accordance with Standing Order 101, the following message will be sent to the Dáil:

The Select Committee on Finance, Public Expenditure, Reform and Taoiseach has completed its consideration of the following Revised Estimates for Public Services: Vote 11 - Public Expenditure and Reform; Vote 12 - Superannuation and Retired Allowances; Vote 14 - State Laboratory; Vote 15 - Secret Service; Vote 17 - Public Appointments Service; Vote 18 - National Shared Services Office; Vote 19 - Office of the Ombudsman; Vote 39 - Office of Government Procurement; Vote 43 - Office of the Government Chief Information Officer.

Sitting suspended at 3.46 p.m. and resumed at 5.15 p.m.

Estimates for Public Services 2022

Vote 13 - Office of Public Works (Revised)

Vice Chairman: I welcome members and viewers of Oireachtas TV to today's second public session of the Oireachtas Select Committee on Finance, Public Expenditure and Reform, and Taoiseach. Members are reminded of the long-standing parliamentary practice to the effect that they should not comment on, criticise or make charges against a person outside the House or an official either by name or in such a way as to make him or her identifiable. I also remind members of the constitutional requirement that they be physically present within the confines of the place in which Parliament has chosen to sit, namely, Leinster House, Dublin, to participate in public proceedings. I will not permit a member to participate where he or she is not adhering to this constitutional requirement.

We have before us the Revised Estimates for Public Services 2022 for the Department of Public Expenditure and Reform. I welcome the Minister of State at the Department of Public Expenditure and Reform, Deputy Patrick O'Donovan and his officials. Members will have received the briefing document provided by the Department that was circulated in advance of this meeting. The purpose of this meeting is to consider the Revised Estimates and performance information regarding the outputs and impacts of programme expenditure. The programme-based structure of the Estimates should allow the committee to focus on what the OPW is committed to achieving in terms of actual outputs and outcomes; to consider whether the performance targets included in the Estimates are a sufficiently complete description of the service provided by the OPW; to determine whether those targets strike the right balance in terms of the needs of society; to consider whether the information provided by the Department makes clear how the moneys available are allocated between services; and to consider whether these allocations are the most appropriate in the circumstances. I call the Minister of State to make his opening statement.

Minister of State at the Department of Public Expenditure and Reform (Deputy Patrick O'Donovan): I am pleased to appear before the committee to present the 2022 Revised Estimate for the Office of Public Works. The gross allocation for 2022 is just shy of €597 million, which comprises €143 million for flood risk management and €454 million to be invested in estate management.

Given the recent easing of restrictions by Government, I pay tribute to the staff of the Office of Public Works who maintained a full service for client Departments and the public during the pandemic. Parks and heritage sites provided much-needed relief from the restrictions and the building and engineering services allowed Departments and local authorities to continue to deliver critical functions throughout the pandemic. The OPW now stands ready to move forward in 2022 and I will now set out the investment priorities for the coming year.

The structure of the OPW Vote remains unchanged. However, in line with the Government's infrastructure investment programme of €165 billion under the National Development Plan 2021 to 2030, the OPW Vote has seen a 30% increase in its capital allocation. This funding will contribute to the ambitious plan for a greener, more efficient, connected Ireland as part of our climate goal to cut emissions by 50% by 2030.

While the OPW funding allocations, projects and scope of work continue to expand, the two main strategic programmes of work on flood risk management and estate management have grown in parallel. Since I last addressed this committee, the threat of climate change has been reinforced at events such as COP26. It is clear the State needs to introduce measures to decarbonise but it also needs to introduce measures to adapt to the impacts of climate change. As I have highlighted regularly, Ireland is an island and the sea is rising around us. This is one of our greatest risks.

Under its flood risk management brief, the Office of Public Works continues to co-ordinate Ireland's whole-of-government approach to managing Ireland's flood risk from rivers and the sea, the primary source of Ireland's flood risk. The OPW's core objective is to reduce, to the greatest extent possible, the impact of flooding to the families and businesses in those communities known to be at significant risk from flooding. I have seen at first hand the damage flooding can cause.

The flood risk management plans launched in May 2018 give evidence to support the Government's investment in flood risk management over the lifetime of the national development plan. This investment supports the progression of some 150 flood relief schemes. As Deputies know, delivering flood relief schemes is a very complex process, involving the following distinct stages: understanding the source and extent of flooding, identifying the preferred option to protect at-risk areas, securing the relevant consents and planning permissions, and constructing the scheme. Throughout all stages, public consultation and detailed assessments of the environmental impacts are key to informing a flood relief scheme for a community.

Tomorrow, I will be visiting Bantry, County Cork, for the contract signing to appoint engineering and environmental consultants to progress a flood relief scheme for the town to protect 198 properties.

The prioritisation of schemes means work is now under way to protect 80% of at-risk properties with proposed solutions for the other 20%. Flood risk projects require expert input and knowledge from engineers in hydrology. As we progress future schemes, the Office of Public Works will continue to make the most efficient use of all available resources, including these specialised and limited personnel.

One of the greatest challenges to Ireland's flood risk comes from climate change. In designing and building all our schemes, provision is made to ensure schemes can meet the risk posed by climate change. The Office of Public Works assessment of that risk is fully supported by the evidence from the Intergovernmental Panel on Climate Change.

Outside these major schemes, local authorities can address local flooding issues through funding from the OPW's minor floods mitigation works and coastal protection scheme. This provides 90% of the funding required by local authorities and, since 2009, has protected some 7,500 properties.

In addition to the major and minor flood relief schemes, the allocation of €143 million to flood risk management in 2022 will allow the Office of Public Works to maintain some 11,500 km of channels and 800 km of embankments as part of its statutory maintenance duties. This maintenance provides drainage outfall to 650,000 acres of agricultural lands and a level of protection from flooding to urban areas and critical infrastructure, including some 20,000 properties.

The second major OPW programme, estate management, continues to fund the design, upkeep and modernisation of a significant number of properties within the State's property portfolio. These include heritage sites, Civil Service office accommodation for all Departments, An Garda Síochána and many State agencies. In all, the OPW manages more than 2,500 properties on behalf of the State, which include some of Ireland's most significant heritage properties, monuments, gardens and arboreta. Properties range from Leinster House to Sceilg Mhichíl and office buildings. This management role includes the curation and presentation of 30 major historic properties and 700 national monuments as well as the State's art collection, artefacts, plants and trees. This work makes a significant contribution to the health, enjoyment and well-being of the public, particularly in recent times and for which the OPW is quite rightly recognised.

I was especially pleased with the impact of the Government decision to waive entry fees to heritage sites in 2021. Indications are approximately 8.5 million people visited our sites throughout the country over the past 12 months. The initiative has reignited an appreciation for our heritage assets and refocused the idea of staycations. This year the Office of Public Works will continue to be instrumental in the State commemorations marking the decade of centenaries with many events at OPW-managed sites, including the recent commemoration event at Dublin Castle, which was a tremendous success.

In 2022, Office of Public Works heritage sites will play a key role in the return of Ireland's tourism economy particularly with the opening to the public for the first time of Annes Grove gardens in north Cork and newly refurbished visitor exhibitions at the Blasket Centre in Kerry and Céide Fields in Mayo.

In the context of office accommodation, the OPW is charged with designing the workplace of the future for the Civil Service. It aims to deliver accommodation that allows more agile ways of working to meet our future needs. Across 890,000 sq. m of office accommodation, the OPW continues to undertake the maintenance and constant updating of a diverse and complex portfolio of accommodation.

Deputies will be aware that, as a consequence of Brexit, physical infrastructure is required for customs, social protection services and health check controls at Dublin Port, Rosslare Europort and Dublin Airport. The Office of Public Works, on behalf of the Revenue Commissioners, the Department of Agriculture, Food and the Marine, the Department of Health and the Department of Transport, has delivered infrastructure at these ports and airports in the past two years. The OPW will continue this important work in 2022. The additional allocation of €1.8 million in current resources will progress the project at Rosslare Europort under a new subhead funded by the Brexit Adjustment Reserve.

A gross sum allocation of €454 million has been provided for estate management within the 2022 Revised Estimate. A total of €64 million of this has been allocated as part of the EU national recovery and resilience plan. This funding was made available to Ireland to contribute to climate action projects. This will ensure the Office of Public Works is well positioned to continue to contribute towards Europe's climate and energy objectives and support the recovery of the tourism sector and the wider economy. Protecting the environment is at the heart of everything the OPW does in all aspects of our work, whether that be maintaining our national heritage sites or arterial drainage works.

I have only referred to a small section of the work of the OPW. It goes without saying the scale and complexity of the OPW's responsibilities in the delivery of its two infrastructural pro-

grammes have a considerable impact nationwide and are dependent on its people. The nature of the work of the OPW requires the input of a dedicated team of professional, technical and administrative staff, working in multidisciplinary teams, across a wide range of property management and engineering functions. The roles cover professional managers, valuers, architects, engineers, mechanical and electrical specialists, surveyors, planners, financial advisers, property economists and project managers, supplemented by various other specialists as required. These staff play a vital role in protecting, promoting and sustaining rural and urban areas.

I can say with confidence that the OPW stands ready to deliver key programmes for Government as outlined in 2022. I would be happy to take any questions on the OPW's Revised Estimate requirements for 2022.

Deputy Mairéad Farrell: Gabhaim buíochas leis an Aire Stáit. It is great to see him appear before the committee. As I said earlier, I need to attend another committee after this and, unfortunately, I will need to leave after I ask my questions.

I thank the Minister of State, Deputy O'Donovan, for appearing before us. He will be aware of recent media reports that a former senior civil servant and valuer with the OPW has written to leaders of different parties. In a letter, he described a system that he called "dysfunctional and wasteful" and that he claimed had led to hundreds of millions of euro in taxpayers' money being wasted. He stated that the "exposure of persistent gross mismanagement" of the portfolio in recent years had "achieved nothing in the way of change". He listed a number of noteworthy examples: the overpayment of €10 million by the State for the rental of the Department of Health's headquarters; the series of missed opportunities that saw the Garda missing out on, and being forced to vacate, its command headquarters on Harcourt Square in Dublin at a potential loss of over €100 million; significant unutilised investment, notably a Georgian office complex on Merrion Square in Dublin that was purchased for €23 million in 2007 and left vacant for seven years; the Hammond Lane site in north Dublin, which was purchased in the late 1990s, has never been used and has recently been earmarked as a site for a much-delayed new family courts complex; and the "inexplicable" way in which the OPW became involved in the children's science museum project on Earlsfort Terrace in central Dublin. At the start of this week, there were media reports about a whistleblower who had made a protected disclosure to the Minister for Justice alleging that Legal Aid Board property leases worth millions of euro were "unlawful". An allegation was also made about the use of an OPW building in County Kerry.

I wish to raise these matters with the Minister of State, Deputy O'Donovan, because he is before the committee. I have a few questions on them. In light of these claims in the media, the general conversation and the problems with the management of State properties as identified by a former senior civil servant in the OPW, what has he done to ensure that they do not arise again? That is important, given that these are State assets.

Deputy Patrick O'Donovan: I am a Member of this House as well and I take allegations of that nature seriously. Some of them were circulating in the media prior to my appointment as Minister of State with responsibility for the OPW. None of the allegations that have circulated recently is new and many of them are historical. Most have been the subject of internal audits within the OPW. Some do not involve the OPW at all despite being attributed to it.

I have answered questions on Miesian Plaza in the Dáil. The question of how two different measurement standards, for want of a better term, were attached while the lease was being negotiated has been well documented. In the time since my appointment, the OPW has taken a proactive approach to engaging with the property owner on trying to make good, from the

public's point of view, our long-term relationship with the owner while acknowledging that the owner has done nothing wrong. Within the next number of weeks, although possibly longer than that, I hope that we might be in a position to bring forward some positive news about a different relationship between the OPW and the property owner.

The Deputy referenced Hammond Lane and the family law courts. The Courts Service, which is a separate entity to us, hopes to move forward with a planning application. The Deputy also referenced the National Children's Science Centre. It is an historical issue that somehow wound up with the OPW. It is part of an arbitration process, so I am limited in what I can say.

Most of what has been raised in media commentary about property management is historical. Some of it does not even relate to the OPW but the OPW has wound up with it and is now dealing with it. Since my appointment, there has been a proactive response by the chairman, the commissioners and the senior staff in the organisation to dealing with legacy issues that have been left to the OPW's current management. I am confident that procedures are in place to ensure such situations cannot arise again. The team in the OPW must ensure safeguards are in place, in particular double-checking and cross-checking, because this is the public's money. We are trying to ensure that we provide good office accommodation for our public services, not only in Dublin but the rest of the country as well, that there is a good blend of owned office and rented office accommodation, and that the organisation has the necessary skill set to do this.

Some of the issues that the Deputy raised have been aired on television or in the broadsheets. I have answered parliamentary questions on most of them. Some have been addressed at the Committee of Public Accounts and others have been addressed on the floor of the Dáil. Some of the issues have been closed out and we are making progress on some of the others.

Deputy Mairéad Farrell: I thank the Minister of State. I will take his word about there being historical issues and how some others do not fall under the OPW. Those of us in the public eye are aware that issues like these that are in the media could cause reputational damage to any organisation.

The Minister of State referred to cross-checking and double-checking. What are the new procedures that the OPW has introduced to ensure issues like these do not recur? Will the Minister of State provide details in this regard?

Deputy Patrick O'Donovan: The chairman is the organisation's Accounting Officer and is answerable to the Oireachtas. I am not the Accounting Officer. The day-to-day operation and management of the organisation are matters for the Accounting Officer. He has been before the Committee of Public Accounts dealing with, in particular, the steps that have been taken as regards valuations. In the immediate aftermath of the Miesian Plaza issue, he answered questions on how there were two different measurement standards to ensure that cross-checking could be brought into force and how that was being reinforced within the organisation. More has been done to beef things up.

From our point of view as an organisation, we must take the public's trust seriously. The OPW has a very strong brand, not only in terms of the flood alleviation work that we do in the Deputy's constituency and other constituencies, but in providing accommodation across the country. We maintain 2,500 properties on behalf of the State. There have been issues with a very small number of those - I believe the Deputy identified five. We have a portfolio in every town and village in Ireland amounting to 2,500 properties. Invariably, we will have issues relating to vacant properties and so on, but we have shrunk them down to a handful. That is still too

many, though, and we will reduce the number even further.

Deputy Mairéad Farrell: In 2020, I asked the Minister of State about the vacant buildings that the OPW held. As he said, there are 2,500 properties. At that time, just over 80 buildings were vacant. How many are vacant now? If the Minister of State does not have the exact figures, that is fine. I do not expect him to have the parliamentary question from 2020 in front of him or to have all the answers. A few of those were of interest of me. Three were listed as sale agreed and 14 were being prepared or considered for disposal. I am looking for an update on that. Have they disposed of? We have seen other ones retained for strategic purposes.

Deputy Patrick O'Donovan: We have made significant progress in this area. We have made a lot of progress with local authorities in particular. When I was appointed, I was very keen to engage with local authorities and other public bodies so that if there was a vacant property, we would give local authorities and other public bodies first refusal and ultimately get to community groups if community groups had a viable interest and could demonstrate that with the support of a Leader company or local authority, it would not become a burden on a local community. In other words, community groups would not come looking to us for grants. Only as a last port of call, would we put a "For Sale" sign on it. At the moment, 4% of properties are vacant so the number has decreased considerably.

Deputy Mairéad Farrell: What is the figure?

Deputy Patrick O'Donovan: It represents 99 buildings. Of those, 36 are Garda stations. They represent 36 of the 139 that would have been in the original number that had been closed as part of the consolidation of Garda stations. The number has dropped considerably. We have a plan for all of them in terms of the number of properties that are unoccupied. In other words, we are working through them. By the end of the year, we estimate that the number will have decreased even further.

Deputy Mairéad Farrell: Did the Minister say there were 94 vacant properties? In the reply to my parliamentary question in 2020, I was informed that the number was 80. That means there has been an increase.

Deputy Patrick O'Donovan: Some properties may have come on to the list but I can tell the Deputy that at the moment-----

Deputy Mairéad Farrell: What I might do is-----

Deputy Patrick O'Donovan: In total, we have 31 sites and 68 buildings.

Deputy Mairéad Farrell: So it has dropped by 12.

Deputy Patrick O'Donovan: There are 99 properties, of which 31 are sites and 68 are buildings. So the number of buildings has dropped.

Deputy Mairéad Farrell: So the figure had been 80. I will not ask for these details now because-----

Deputy Patrick O'Donovan: For the benefit of the committee, I can say that 36 are former Garda stations, eight are other former Garda stations that predate the closures that are historic, two are former Garda residences, eight are Coast Guard properties, two are former customs properties, one is a former Met Éireann property and there are several other properties. Of the sites, seven are decentralisation sites, one is a Coast Guard site, five are customs sites and one

is a former Met Éireann site. There are 17 other sites bringing the total to 99 properties. We have a plan for each one of them. Most of them are being worked through local authorities. The Deputy will appreciate that there are many issues relating to title because many Garda stations predate the foundation of the State. Some Garda stations were taken off old estates. They were barracks prior to the formation of An Garda Síochána so many of them do not have clean title. Even if community groups or local authorities want to take them, many of them do not have clean titles. In such circumstances, we have to establish title. This means that the Office of the Chief State Solicitor and others must try to establish title, which can take years because we are going back through defunct estates and it can take an awful lot of time. While a local authority might want to take these buildings off us for a house, we cannot transfer them for no value because it is against the law. We must get the actual purchase price and to do that, we need clean title and the Office of the Chief State Solicitor is finding it extremely difficult to establish that title.

Deputy Mairéad Farrell: When the Minister of State mentioned Garda stations, it reminded me of the issue of the Military Road and the new Garda headquarters. It is said to be too small by quite a distance to hold all the gardaí who are supposed to move from Harcourt Square. Could I get an update on that and the risk of a loss if they are not moved out of Harcourt Square in time?

Deputy Patrick O'Donovan: Military Road is not too small. It is important not to believe everything you read in the papers.

Deputy Mairéad Farrell: I do not believe everything I read in the papers.

Deputy Patrick O'Donovan: Military Road is on schedule, target and budget. It will be opened and we will vacate Harcourt Square-----

Deputy Mairéad Farrell: Will everyone be out of Harcourt Square by the end of the year?

Deputy Patrick O'Donovan: Yes. The new premises is being built to the specification of An Garda Síochána. It is not too small. It is built as per the security specification laid out to the OPW. We do not lay down the specification. It is laid down to us so we agreed it with An Garda Síochána. Gardaí will be in well before the time by which we need to vacate Harcourt Square. The contractor is comfortable in that.

Deputy Mairéad Farrell: What date does An Garda Síochána need to be out of Harcourt Square?

Deputy Patrick O'Donovan: The date is 31 December.

Deputy Mairéad Farrell: So there will be no overspill at all and no additional budget allocation because of overspill. Is the Minister of State 100% certain?

Deputy Patrick O'Donovan: We do not anticipate delays in terms of vacating Harcourt Square. However, we always have contingencies, which is only right because it is our national police force.

Deputy Mairéad Farrell: What are the contingencies and how much are they?

Deputy Patrick O'Donovan: I am unable to discuss them here.

Deputy Mairéad Farrell: I do not mean how many. I meant-----

Deputy Patrick O'Donovan: Military Road is being designed for 880-odd gardaí so it is a massive undertaking. The movement of gardaí into will start in October. We must give Harcourt Square back to the property owner by 31 December and we are on track to do that.

Deputy Mairéad Farrell: The Minister of State is fully confident about that. He indicated that there would be contingency plans with other buildings. How many other buildings would that apply to and how much would it cost?

Deputy Patrick O'Donovan: I do not have that detail in front of me.

Deputy Mairéad Farrell: Could the Minister of State furnish the committee with that detail after the meeting?

Deputy Patrick O'Donovan: Within reason, we can provide whatever detail we have available to us.

Deputy Mairéad Farrell: The Minister of State knows nearly as much about flooding in Galway as I do. I am in Galway city but the Minister of State and I have had many conversations about Clifden. I know how much it impacted him at that time. Could he give me an update regarding Galway city? I know he visited there in November.

Deputy Patrick O'Donovan: I understand that there is a lot of interest in the Galway scheme. I was glad to get the perspective of the engineers from the city council, our own people on the ground and some local people. Many people have many different perspectives about what should or, more importantly, should not happen. You will always hear about what should not happen. We know it is a very vulnerable part of the coast line, particularly around the Spanish Arch. This area has many very old properties and residents and is really vulnerable. The situation is not going to get better any time soon. Great credit must go to Galway City Council for the interim measures it deploys, which work. However, they only work up to a point. The design consultants were appointed in November 2020. It is due to go into planning permission in the second quarter of 2024. If everything goes to plan, it will commence construction in 2025.

My view is that a massive overhaul of the planning legislation around not only flood relief schemes but major public infrastructural projects is needed so we can deliver them faster. The reason being that if we do not, as the Deputy knows as she represents a coastal community, the climate will be changing faster than how we, the OPW and Galway City Council, are able to respond to those communities. How many more storms like Storm Barra will lash the west of Ireland? The opportunity falls to the Oireachtas to decide which is more important. Is it the legislation that we are saying is not up for negotiation by way of say, for instance, judicial review, or the communities whom we claim to represent? I think that that is going to be fundamental to the people we represent. We must grapple with that because I have with me the files of the flood relief schemes and the bulk of them are stuck somewhere in a court somewhere in Ireland. That is not sustainable.

Deputy Mairéad Farrell: The Minister of State has said that he hopes the scheme will be delivered by 2025. If it is delayed then how much time does he think we have in, for example, Galway city? How long will the current plan be sustainable for? If the situation progressively worsens with climate change does he think such a scenario will have an impact? If the scheme is delayed further than 2025, how much time does he think we have?

Deputy Patrick O'Donovan: Anecdotally, Senator Denis O'Donovan, from west Cork,

told me when we were in Bantry, which is where I am going tomorrow, that when he was growing up a massive Atlantic storm was likely to hit Bantry once every ten or 15 years but now the area is hit by four or five Atlantic storms every two or three years. We are playing Russian roulette with these communities unless we can get on and deliver to them. However, we cannot deliver to them and pretend that the legislative basis on which we have been asked to deliver to them is fit for purpose. It simply is not. I know that people will cry foul of the Aarhus convention and all of that. That is all very well and good when one has the Atlantic Ocean coming through your front door when you are living in the Claddagh. There is no one going to say protect the Aarhus convention when there is a wave coming bursting through the front door in Salthill so we have to get real. We cannot continue in the way that we are going.

As Minister with responsibility for the OPW, I must be honest with people. I cannot protect the communities that I am being asked to protect while I have the legislative basis on which I am being asked to deliver on. I ask my colleagues, as a Member of this House, to please bail me out. The way that I need to be bailed is that I need a new legislative basis in the planning Acts. When the Minister of State, Deputy Peter Burke, says that he is talking about a judicial review for housing that sounds like manna from heaven to me because everything that I am trying to get delivered across the country at the moment is tied up in court and the only beneficiaries that I seem to hear at the moment is not the people who must use pales to get water out of their houses but people who are in courtrooms. The only people who seem to benefit from the work done by the OPW are the people who seem to be getting largesse out of courts and that is not sustainable. It is not sustainable where we have communities waiting 20 years, and in some cases more years, for flood relief schemes, especially when we know that the sea is rising at the current rate. A 1 metre rise in the Atlantic Ocean will wipe out whole communities on the west coast. If I am saying to people in the Deputy's constituency, and in my constituency up the Shannon estuary, that they have to wait 20 years then they may as well start asking themselves if they are better off moving now because we will not be able to protect them. This Oireachtas must respond in a positive way to climate change. I do not mean to start saying how much emissions we will claim to cut and clapping ourselves on the back saying we are great for cutting emissions by 30% and 40%, and that means absolutely nothing. I am talking about how are we actually going to deliver physically to these communities, and I do not mean cheques to barristers and solicitors who are the real winners at the moment.

Deputy Mairéad Farrell: I am very aware of the impact that flooding has had on Galway city and Clifden. As the Minister of State said, we need to do everything to protect communities in the Claddagh, and the businesses around the Spanish Arch and Salthill, that are so affected by flooding every time there is a storm. As the Minister of State said, these storms are becoming ever more frequent and that causes a huge amount of anxiety and stress for the people of that area. Indeed, we have seen that in other parts of country, as he has outlined.

I wish to ask one final question before I must leave to attend my next committee meeting. I understand that there are 1,400 guards in Harcourt Square and all of them will be facilitated on Military Road. Is that correct?

Deputy Patrick O'Donovan: The number that I have is 883 gardaí. We can check and I can revert to the Deputy in writing.

Deputy Mairéad Farrell: I thank the Minister of State.

Vice Chairman: Deputy Neale Richmond is on his way. I will ask a couple of questions in the meantime. I have an ongoing interest in the work for which the Minister of State is respon-

sible and I congratulate him on the work that he has done.

On buildings at risk such as period houses, castles etc. up and down the country, is the progress sufficient to address the multitude of such cases in the shortest possible time?

Deputy Patrick O'Donovan: I thank the Vice Chairman for his question. Every building is different and we have a mixture that are in our custody. Over the last two years, the same as every element of construction, work has progressed on a stop-go basis due to Covid and we had to meet social distancing requirements but luckily now that has all stopped. Yes, is the short answer. We have our own limitations. We would like to have more outdoor staff and more craft workers. We have the apprenticeship programmes that the former Minister of State, Brian Hayes, resurrected when he had my role. We definitely would like to have more such programmes, particularly stonemasonry as it is a craft for which the Office of Public Works is renowned. Anybody who travels through the properties that the Office of Public Works is responsible for is in awe of the restoration works done by OPW staff. The Vice Chairman need only look at sites in his own constituency to see an example of the work that the OPW can take pride in, whether it is historic properties, the national monuments or any of the buildings. One does not need to go outside the four walls of this building to see an example of the work done by OPW staff and the pride they take in it.

Yes, is the short answer. We would always like to have more resources. Skilled labourers are very difficult to get. We must compete with the private sector in the form of the construction sector. We have a very good story to tell in terms of new entrants. When one joins the public sector one joins an organisation with a lot of pride. It is like a family and there is career progression. Also, there is a great opportunity not only to progress in terms of skilled labour but to progress into other elements of the organisation and to train and develop in different forms of careers. The OPW affords opportunities and flexibility at that level to those who join it. Whether it is in Castletown House, Kilkenny, Leinster House, Sceilg Mhichíl or elsewhere, we have in our portfolio some of the most iconic buildings in the world. We are very proud of them. Our workforce is limited. We would like to take on more and to do more. We would like to be able to expand our ambition for 2022.

Vice Chairman: I thank the Minister of State. There are still many stately homes and residences that have fallen into disrepair. A prominent one, with a large acreage attached, was purchased in the past few days. It is great to see such properties being purchased because it means they will be retained and refurbished. Does the Minister of State's Department keep an ongoing watch to identify such properties and deal with them on the part of the State?

Deputy Patrick O'Donovan: We do.

Vice Chairman: I am not opposed to private-----

Deputy Patrick O'Donovan: Absolutely, we do. Private owners of listed properties have an obligation to ensure that they look after them to a given standard. There is an obligation on us to look after them to a standard. We receive properties into our possession on occasion. I mentioned in my speech Annes Grove in County Cork. I was there during lockdown. Its story is one of lockdown, really. It will be open shortly this year. It is one of the newer properties in the sense that it is new to our portfolio. Properties do come into our portfolio from time to time, but perhaps not as often as I would like. Then again, we are not a bank. We do not have deep pockets. They are certainly not as deep as I would like to have. However, where the attention of the State is drawn to particular properties, the chairman and the commissioners always evalu-

ate them and make a decision in the best interest of the State. When they make such a decision, they do so having weighed up the asking price and costs in the best interest of the State. They routinely acquire property for the State. It is the commissioners who make the decision, in consultation with the Department of Public Expenditure and Reform, but having regard to the need to achieve the best value for the State. Adding value and assets to the State's property portfolio is the right thing to do, but only at the right cost. As I stated, we are not blank-cheque merchants and we add to the portfolio only where it is the right thing to do.

Vice Chairman: Deputy Richmond has made his way all the way down from the upper reaches of the House. We thank him for that. I am sorry we could not make contact but electronic equipment does not always work.

Deputy Neale Richmond: The fault is probably all at my end, so I apologise to the Chairman and Minister of State, Deputy O'Donovan, for the messing about.

There are three areas I want to ask about. The Minister of State referred to all of them in his opening remarks. I just want more elaboration and meat on the bones. The first point, which is pertinent, relates to commemorations and the important calendar of events over the past two years. The events were held in very difficult circumstances. I would appreciate it if the Minister of State could elaborate on the impact that Covid-19 has had on the commemorations in respect of his Department's need to be flexible. Were additional costs incurred or savings made? What was learned that can be taken forward into 2022, remembering that the pandemic has not completely gone away, although we hope we are out of the worst of the emergency phase?

Deputy Patrick O'Donovan: In general, commemorations are managed and operated by the Department of the Taoiseach. As the Deputy knows, the OPW is an agency that supports the Department of the Taoiseach. In many cases, we do much of the back-of-house work or donkey work for the commemorations. We do all the heavy lifting and get none of the recognition, for want of a better way of putting it. Most of the commemorations happen on properties run by the OPW.

May I use this opportunity to thank the OPW staff because it is they who do all the heavy lifting and the putting together of the nuts and bolts for many of the commemorations? They bring in the outside bodies to put the events together. Without them, we would not have what we see on television, namely showcase events that in many cases involve military precision. The back-office teams at many of those events are the men and women of the OPW. I pay tribute to them. The events are routinely held in historical properties run by the OPW, most notably Dublin Castle. Covid limits the number of people who can attend them. Invitations are sent out primarily by the Department of the Taoiseach. It would have the protocol people but we would have the people who do the heavy lifting in respect of the mechanics.

The years 2022 and 2023 will see the Department of the Taoiseach and the Department that is headed by the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media, Deputy Catherine Martin, leading the commemorations. We are getting into the more difficult and sensitive commemorations, involving the outbreak of the Civil War and the events at the Four Courts. We have a role in that we have already finished the restoration of the cupola at the Four Courts. There will be a role for the OPW in future commemorations.

With regard to the party political element of commemorations, it is important to point out that I recently took the opportunity to remind political parties that there are State commemorations on State properties for a purpose. I have asked them to be mindful that we would like

State commemorations only on OPW properties and that we will not entertain party-political commemorations on them. This is because the OPW properties are the properties of all of the people of the State. They are the properties of people who vote for my party, every other party and no party. For that reason, I wrote to all political parties and asked them to respect the fact that the properties are to be used to facilitate State commemorations and, in some cases, commemorations led by local authorities. I asked them to respect these commemorations only and stated we will not be facilitating party-political commemorations. That goes across the board.

The easier commemorations, covering the period from 1916 to 1919, when the First Dáil was established, are now over. It gets more difficult from now on. That is why the staff of the OPW, in particular, must be respected by individuals of all political parties and none. Events should be run in conjunction with the Department of the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media and the local authorities only. Everything else should be outside the gates, precincts or curtilage of the national monuments or State properties operated by the OPW, because they are the property of all the people regardless of who they vote for.

Deputy Neale Richmond: I really appreciate that. There is heavy lifting in the literal sense and every other sense. It is a credit to the men and women in the Minister of State's Department.

I would like to move on to an extremely topical issue to which the Minister of State referred in his opening remarks. It relates to the construction and installation by the OPW, in co-operation with the Revenue Commissioners and the Customs and Excise, of Brexit infrastructure, be it at Rosslare Europort or Dublin Port. It is hard not to refer to the really disappointing announcement made only in the last hour by the North's agriculture Minister that checks at the Port of Belfast are to be halted. Those behind the announcement are daring the British Government to renege once again on an international treaty. The work of the OPW to which I have referred is ongoing. This work is not done only once in that constant modifications will be needed, particularly considering the much-needed and planned expansion of traffic through Rosslare Europort but also the potential for expansion at Dublin Port and possibly the Port of Cork and other ports. I would appreciate if the Minister of State fleshed out the expected timeline the Department, in co-operation with Revenue, has for expected additional infrastructure. Last week, I raised this with the Minister, Deputy Donohoe, in a discussion on Estimates and expected staffing requirements for Revenue. It will be the same for the OPW. What further work is possibly required? Is this issue something that receives ongoing updated analysis? As we have seen even today, things can change rapidly.

Deputy Patrick O'Donovan: I thank the Deputy. He is absolutely right. We have an ambitious programme for Rosslare Europort. The Deputy is also right that this is not an insignificant investment that we are about to embark on. It involves the OPW, Irish Rail, Wexford County Council, the local community, the Department of Agriculture, Food and the Marine, the Revenue Commissioners and a host of local agencies. The investment is enormous by local standards. It is worth €150 million. It represents a site of 10,700 sq. m. made up of 19 buildings that will provide a new border control for the country. We have seen the traffic into and out of Rosslare Europort in recent months. The additional new services operated in the port dictate we have to provide additional new services for hauliers coming in and out of there. The OPW has been charged with this. The spend to date by our Brexit unit on a range of measures is €81 million. This is capital spending across all of the headings provided for.

In his question the Deputy mentioned the work we have done on Dublin Port. Our short-term ambition for this set of Estimates is focused on Rosslare. We see the potential for Rosslare

to be an additional node into the country and the additional border control point we need given the traffic being generated through the port. We know remote access from the port causes difficulties in terms of time delays. It is about ease of access out of the port. Wexford County Council, Iarnród Éireann and the hauliers will provide support in terms of anecdotal evidence, as will Revenue and other port users, as to the final design. This will be supported by the European Union and will represent a massive investment into County Wexford. The Deputy has seen the scale and finished product of what the OPW did in Dublin Port. Other Deputies may not have seen it. The manner in which we were able to turn it around and the speed with which we were able to turn it around are a credit to OPW staff, including our internal architects and engineering staff. We were asked to do it in a very short period of time. The same will be able to be accrued in Wexford.

Deputy Neale Richmond: It is very interesting. It is a massive investment but one that will lead to a return for the State particularly in Rosslare Europort, with the increase in traffic and the increase in opportunities. As the Minister of State rightly said, essentially it is doubling the capacity.

I have another set of questions on an issue the Minister of State touched on briefly. It is an issue I raised with the Minister, Deputy Donohoe, last week. It is on remote working and encouraging a move in the Civil Service to achieve 20% of staff working remotely. The Minister of State referenced it briefly in his remarks. The detail is quite important with regard to how it can be achieved and how the Civil Service can be a model for the semi-State sector and the private sector. This is something worth pursuing. It is doable and affordable. I would appreciate if the Minister of State would elaborate on the strategy for remote working being co-ordinated in terms of being facilitated by the OPW. While the Estimates for this year are set in stone, is this an area that will grow in terms of funding requirements and the amount of work required?

Deputy Patrick O'Donovan: The short answer is that it is not set in stone. It is up to every Department to identify how it will manage it. It is then up to us when asked how we will support it. We already support not only our own staff to work from home but we have also supported other Departments in this regard. There will be fundamental questions on office accommodation in this city. If we are going to have hybrid working environments there will be a requirement for the Government as an employer to have discussions with our employees on the type of working environment we will have. If 20% of people will be in a different type of working environment there will be a question as to whether we will own the buildings or lease the buildings. There will be different types of conversations not only in Dublin but throughout the country. Someone in Longford or Sligo may be working for the Department of Social Protection. Wherever people are they will be in an OPW-owned, operated or leased building. This will happen organically over a period of time. It will require conversations between us and the parent Departments once the parent Departments have worked out what hybrid working looks like for them.

I have had this discussion with our internal management board and the chairman. We need to start looking at other elements of the public sector, such as local authorities and other State agencies. We have begun to look at partially filled buildings that house local authority buildings, semi-State companies or public agencies. We are looking for Civil Service gaps to be filled by people working in a different environment, such as somebody who might be looking for a remote working environment in Stillorgan. We know the local authority does not have full capacity in that area. We need to start seeing the Civil Service and public sector as "Ireland Inc." rather than two different entities. We need to start looking at how we can collaborate all of

our working environments as one “Ireland Inc.” working environment. We need to make sure we maximise all of these working spaces before we start looking at building any more. This is very important. It is something the OPW has already started to do in regional Ireland. We need to see whether workspace is available from local authorities, the HSE and other State agencies before we start going off entering into leases, buying buildings or building buildings.

This is what hybrid working and various forms of working will look like as well as working from home. People have jumped to a conclusion that hybrid working will be working from home. It will also be about remote working and working in a local authority office but being a civil servant or being a local authority employee working in a Civil Service office. We have to be open to change. A motor tax official for Dún Laoghaire-Rathdown County Council could be working beside somebody from the Department of Social Protection. We are all working for “Ireland Inc.” and we should be prepared to look at these models and not be so protective of the type of offices we are working in.

Deputy Neale Richmond: I thank the Minister of State. I apologise as I must leave to go to the Dáil Chamber.

Deputy Pearse Doherty: I welcome the Minister of State to the committee. Many of my questions deal with flood risk management. In the capital allocation for 2021, €88 million was allocated for flood risk management. In 2020 it was €88 million. Back in 2019 the chair of the Office of Public Works made a pitch to the Department that the funding needed in 2019 was €103 million, in 2020 was €112 million in for 2021 was €114 million to continue to provide existing services and implement the flood protection schemes in 30 areas in the CFRAM proposals. The allocations provided to the OPW were €70 million less than this over the three years. Will the Minister of State explain this? I am conscious of planning issues but I am also conscious of the fact that if the Minister of State does not have the money he cannot authorise a scheme to go to the next stage. Even before a scheme can go to planning or somebody can object to it, the design will need to be done. I am sure there are many schemes in my constituency, and the constituencies of others, that have not been able to go on to that stage because the funding was not required. Will the Minister of State explain why the request of the OPW at that time was left €70 million short in respect of flood risk management?

Deputy Patrick O'Donovan: The Deputy has answered his own question in a way. The main issue we have is planning-related. These are major schemes so when we anticipate, as we do, we plan on the basis of a forecast that things will move along smoothly and, naturally enough, we will build into our capital plan a sufficient amount to allow for that. For instance, the profile for 2019 to 2021 combined Crossmolina, Glashaboy, Enniscorthy and the River Poddle. When the four of them are put together, there is a combined underspend coming in of approximately €75 million. All of those schemes are at different stages. We could get into each one individually to see where they are or, more important, where they are not.

We have to build into our profile each year a sufficient money for each one of them to be able to proceed because we do not know what is out there on the horizon, or what rock one of them will hit, during the planning process. We have to build a sufficient amount of capital into our profile to allow them to move on. We hope and anticipate that they will move smoothly. Unfortunately, some of them are fairly big in scale, such as Enniscorthy, a town with a population upwards of 10,000 people. These are not small schemes but major ones. We are carrying over capital for fairly substantial population bases. We do not want to carry over that capital, but we are doing so due to factors outside our control, primarily judicial review. As I said to the Deputy's party colleague earlier, I hope that as part of the upcoming legislative review in this

context we will get to a situation where we will not have towns throughout the country that are waiting more than 20 years for flood relief schemes.

Deputy Pearse Doherty: I understand that. That is a very genuine issue, which we have discussed previously. I acknowledge that issue, but it has nothing to do with the fact that funding requested by the OPW was left €70 million short over those three years.

Let me give the Minister of State an analogy. If ten schemes are approved and, as he said, funding has to be profiled for those schemes, and we then hit roadblocks from judicial reviews and all the rest, and half the funding cannot be spent in a given year, for example, the problem is there are no other schemes that can pick that up.

Deputy Patrick O'Donovan: There are.

Deputy Pearse Doherty: When the €70 million that was requested was not provided, it meant other schemes that could have been sanctioned and where the train could have left the station, were not able to do so because the money was not profiled.

Deputy Patrick O'Donovan: There were other schemes. There are a load of schemes in the station that cannot get on the train because, unfortunately, the judicial review process has a knock-on consequence. There is a finite and limited number of staff who can work on all these schemes, whether they are in the engineering or environmental elements of them. We do not have people sitting around doing nothing. All our people are tied up all the time. When the schemes run into judicial review, people do not just sit back and do nothing. They move on to the next scheme, whether it is Ennis, Limerick, King's Island, Morrison's Island, any of the ones in Kilkenny, Ballyhale, any of the ones the Minister wants, Donegal or any of them. The pipeline is continuously being filled. This year, for instance, we are moving to construction for seven schemes; Douglas, Springfield, the River Morell in Deputy Durkan's constituency, the River Dodder, Templemore, Ashbourne and Athlone, all of which are swallowing up at various stages some of what would be regarded as part of that underspend.

Deputy Pearse Doherty: Is the reason the allocation was €70 million less than the chairperson of the OPW requested over three years because the Minister of State believed it could not be spent anyway? Is that what he is trying to say to me?

Deputy Patrick O'Donovan: No.

Deputy Pearse Doherty: What was the reason? I have heard a lot of stuff. I know there are issues but I still have not heard the reason.

Deputy Patrick O'Donovan: Some of these schemes that are stuck are much bigger than the ones coming on behind them. Even though some of the schemes coming on behind are smaller, that does not mean they require any less environmental consideration, any less engineering and any less attention from the OPW or local authorities. It does not mean that just because they are-----

Deputy Pearse Doherty: Is there a capacity issue?

Deputy Patrick O'Donovan: It is not a capacity issue.

Deputy Pearse Doherty: What is it?

Deputy Patrick O'Donovan: It is because the towns are bigger. Enniscorthy is a much

bigger town than some of the towns that are coming on behind it. It means that the contract we will be giving out for Enniscorthy is a lot bigger than that for some of the towns coming on behind it, but the resources available to us are the same. The number of people we have available to us for environmental impact assessments is the same. They are the same people.

Deputy Pearse Doherty: Is it a capacity issue within the OPW?

Deputy Patrick O'Donovan: No, it is not a capacity issue.

Deputy Pearse Doherty: Okay. What is the issue? Is it because Enniscorthy is a big town that the budget was cut by €70 million? I cannot understand what the Minister of State is saying.

Deputy Patrick O'Donovan: Does the Deputy know of the concept of near and far away?

Deputy Pearse Doherty: Yes.

Deputy Patrick O'Donovan: Enniscorthy is a huge town. It will require a large amount of capital. I will give another analogy. Rathkeale is a small town that does not require the same amount capital to fix it. However, the same number of people are required to do the environmental impact assessment for a small town as for a big town. We have set aside a significant amount of capital for a big town. That means that carryover will hit our books. That is what it is.

Deputy Pearse Doherty: It is not about carryover. The OPW chairperson asked for €103 million, €112 million and €104 million; he was given €88 million. I want to know why there was such a cut in the budget.

Deputy Patrick O'Donovan: He is also anticipating that we will have good news on some of these schemes and that we will actually be able to start them. We do not know what might come out of the courts, but we have to have a sufficient amount to be able to start. We believe we have a sufficient amount to be able to start these schemes.

Deputy Pearse Doherty: Was the chairperson of the OPW wrong in his assessment that-----

Deputy Patrick O'Donovan: No, he is not wrong.

Deputy Pearse Doherty: -----this is what is required to continue to provide existing service and implement the flood protection schemes in 30 areas within the CFRAM programme?

Deputy Patrick O'Donovan: Is that not exactly what I just said?

Deputy Pearse Doherty: The funding was cut by €70 million. He was left short €70 million.

Deputy Patrick O'Donovan: On his profile-----

Deputy Pearse Doherty: Yes, on his profile.

Deputy Patrick O'Donovan: On the profile, we have a sufficient amount to carry us over, notwithstanding the fact that we are bogged down in court with an awful lot of the very big ones.

Deputy Pearse Doherty: I acknowledge that is a genuine issue. I understand the resource implication for a large scheme as against a small scheme, but what I hear all the time is that it appears there is a capacity issue in the OPW and that is not the fault of the Department's because it is into a judicial review, JR. I am sure it is not the case that departmental officials sit back. They have to service that process as well. What is the solution to this?

Deputy Patrick O'Donovan: I have advocated the solution and I hope the Deputy will support it.

Deputy Pearse Doherty: If the Minister of State is talking about legislation-----

Deputy Patrick O'Donovan: We need a legislative remedy.

Deputy Pearse Doherty: That will not stop any of the JRs that are going through at present.

Deputy Patrick O'Donovan: I hope when it comes before the House, because it will affect the Deputy's constituency, that he will support it. We need serious legislative reform in the area of JR. He should not come into the Dáil crying to me when Donegal town is raised as an issue in the House because it is taking ten years to get its scheme advanced and it is bogged down in the courts.

Deputy Pearse Doherty: First, that scheme is not in a JR. The second thing-----

Deputy Patrick O'Donovan: There is a statistically high probability of all of them ending up in that process.

Deputy Pearse Doherty: Sinn Féin wants to reduce the number of JRs and we can do that through a proper planning process-----

Deputy Patrick O'Donovan: Exactly.

Deputy Pearse Doherty: -----to make sure that, downstream, it is adequate and fit for purpose. The Minister of State mentioned me coming in crying about Donegal town. It is a good analogy because it is the people of Donegal town who have been left in tears on many occasions-----

Deputy Patrick O'Donovan: Absolutely.

Deputy Pearse Doherty: -----when the waters have come in on them, time and time again, and they are seeing no response from the Government.

Deputy Patrick O'Donovan: They actually are.

Deputy Pearse Doherty: I will ask the Minister of State this because I asked it two weeks ago in the Dáil. Some €157,000 was approved in 2018, but what we have is not in the first phase. He gave a response stating that it was not in stage one and he talked about some schemes potentially being moved up to stage one, but it appears Donegal town was not in that. He said: "...Donegal town is not in the first phase of projects to be progressed, the OPW and DCC are working closely to ensure that it will be commenced as early as possible in the current programme of investment". Has there been any movement on the commencement of this work? Has a date for commencement been chosen? I am not the person crying. The people of Donegal town are screaming out for this time and again. I outlined to the Minister of State regarding

the floods that if it was not for the work of public officials, who did tremendous work the last time around, many other houses would have been at risk. What is the date for commencement for these works in Donegal town? There are no judicial reviews involved.

Deputy Patrick O'Donovan: The Deputy asked me that question a week ago, and I am going to give the same answer now as I did then. I do not have a date for the commencement. It has to go through a planning process. The Deputy just said we cannot usurp the planning process. Therefore, I do not have a date.

Deputy Bernard J. Durkan took the Chair.

Deputy Pearse Doherty: Have all the stages been approved to allow planning permission to be applied for?

Deputy Patrick O'Donovan: No. I did not say that.

Deputy Pearse Doherty: Okay.

Deputy Patrick O'Donovan: I am due to meet representatives of Donegal County Council within the next fortnight-----

Deputy Pearse Doherty: What stage is the process at?

Deputy Patrick O'Donovan: -----along with officials of the OPW. I hope to have a clearer picture then of where the flood relief scheme in Donegal town stands. From our perspective, and I wish to make this point very clear, because I know the Chairman of the committee is concerned with issues in Kilkenny as well, there is not an issue with schemes being held back or anything like that. We have been clear we will progress flood relief schemes that need to be advanced, and we are anxious to progress them.

We must, however, also be upfront with people. I will need a clear legislative reform agenda to be advanced by this Oireachtas if we are to make progress. I had a good discussion with Deputy Doherty's colleague, Deputy Mairéad Farrell, concerning the situation in Galway. This type of problem is not unique to any part of the country. It was the same situation when former Deputy Moran held this portfolio. The problem has been going on for years. I refer not just to a problem with flood relief schemes but also to major public infrastructure projects. It does not matter who is in government. We must deal with the planning system in respect of the delivery of major public infrastructure projects and how quickly they can be realised.

I refer to the planning system, and the OPW is no different from any local authority or any public utility in respect of how quickly it can negotiate the process. I also want to make it clear that this is not an issue with money. I have more than €1.2 billion profiled for spending out to 2030. We are anxious to spend that allocation in my county, in Deputy Doherty's county, in the Vice Chairman's county and elsewhere.

Deputy Pearse Doherty: All big money. I am not going into the planning issues because I agree they exist. Let us take the scheme in Donegal town. It is a simple scheme. Houses are at risk of flooding and people have been in tears. The Minister of State mentioned that aspect. What stage is that project at and what is required to take it to the next stage?

Deputy Patrick O'Donovan: As I said to the Deputy last week and again a while ago, the project in Donegal is a tranche 2 scheme and the council and the OPW are working closely to see how it can be advanced. Funding of almost €400,000 was allocated in 2019 by the OPW

to Donegal County Council to carry out minor works there. It is part of an overall €2.5 million approved for Donegal County Council since 2009 under the heading of minor works. I hope to visit there in the coming weeks.

Deputy Pearse Doherty: Okay. That is great. I am glad that the Minister of State will, it is hoped, meet residents-----

Deputy Patrick O'Donovan: I will, as I do everywhere.

Deputy Pearse Doherty: I am glad the Minister of State will do that, and in fairness to him, he is available to meet people. Returning to this issue, though, because he talked about the big numbers and that there is no problem in the context of the billions of euro available, there is a desire for the Donegal town project to proceed. Is it not the case the Minister of State needs to give approval for it to go to the next stage?

Deputy Patrick O'Donovan: No, it is not.

Deputy Pearse Doherty: Okay. What needs to be done?

Deputy Patrick O'Donovan: I know the Deputy might try to come in and try to pre-sume-----

Deputy Pearse Doherty: No, I am genuinely asking this question. What is it that needs to be done?

Deputy Patrick O'Donovan: I have answered the question, Vice Chairman.

Vice Chairman: One speaker at a time, please.

Deputy Patrick O'Donovan: I have answered the question in the Dáil and now here. I do not know what kind of a platform Deputy Doherty is trying to create, but I have answered the question. I have answered it in the Dáil and three times here already. I will be meeting with representatives of Donegal County Council in the next fortnight specifically concerning the scheme in Donegal town.

Deputy Pearse Doherty: Okay.

Deputy Patrick O'Donovan: I will revert to Deputy Doherty at that stage.

Deputy Pearse Doherty: I appreciate that. As a representative for that area-----

Deputy Patrick O'Donovan: By the way, the Deputy is not unique in addressing this problem. Deputy McHugh has also raised this issue with me, as have individual councillors.

Deputy Pearse Doherty: I would never suggest I am unique. I am just making the point that as a representative for that part of the constituency, as are others, I have a genuine question I need to ask the Minister of State. I know he said he has answered it three times-----

Deputy Patrick O'Donovan: Yes.

Deputy Pearse Doherty: The people and all the public representatives in Donegal want that scheme to go ahead, so can the Minister of State explain to me, because he says it is in tranche 2, if it is Donegal County Council, the OPW, the Minister of State or the Department which has the power to move it ahead? What are we waiting for?

Deputy Patrick O'Donovan: This is not a case of either-or. This is a decision that will be moved ahead jointly.

Deputy Pearse Doherty: Who has to make it?

Deputy Patrick O'Donovan: This is a decision that will be moved forward jointly by Donegal County Council and the OPW. I know the Deputy is trying to trivialise it and to distil it down-----

Deputy Pearse Doherty: No, that is not-----

Deputy Patrick O'Donovan: Yes, the Deputy is.

Deputy Pearse Doherty: That is not fair.

Deputy Patrick O'Donovan: He is trying to trivialise and distil it down into a situation where someone is holding something back. That is not fair to the people the Deputy is trying to represent.

Deputy Pearse Doherty: Therefore, it is Donegal County Council, and the members in-----

Deputy Patrick O'Donovan: The Deputy can try as much as-----

Deputy Pearse Doherty: No. I want to know the process-----

Vice Chairman: One speaker at a time, please.

Deputy Patrick O'Donovan: I am around this place now as long as Deputy Doherty-----

Vice Chairman: I ask the Minister of State to hold on for a second.

Deputy Patrick O'Donovan: -----and I will not have words put in my mouth.

Vice Chairman: Stop for a second, please.

Deputy Patrick O'Donovan: I have answered the question, and the Deputy is now trying to put words in my mouth. I am not going to have words put in my mouth by the Deputy or anybody.

Vice Chairman: No. Order, please. I want to make one thing clear to the Minister of State. No good will come from having an argy-bargy across the floor. It does not achieve any progress. I ask both parties, therefore, to please respect the other's view. Deputy Doherty can ask the question-----

Deputy Patrick O'Donovan: And it has been answered.

Deputy Pearse Doherty: With respect-----

Vice Chairman: One speaker at a time, please.

Deputy Pearse Doherty: I thank the Vice Chairman for that intervention. With respect, we are going through the Estimates here and we are supposed to look at the outcomes.

Deputy Patrick O'Donovan: Well, it would be good if we got back to the Estimates.

Deputy Pearse Doherty: This is about the Estimates. We are supposed to look at the num-

bers and the outcomes.

Deputy Patrick O'Donovan: Yes.

Deputy Pearse Doherty: I am asking about the process of authorising this type of work and asking the Minister of State to help me to understand this process. Is the next stage a joint decision-----

Deputy Patrick O'Donovan: Yes.

Deputy Pearse Doherty: -----in the context of which Donegal County Council has the authority to move this work along to the next stage in conjunction with the Department? Is that the process?

Deputy Patrick O'Donovan: This decision will be taken jointly between Donegal County Council and the OPW.

Deputy Pearse Doherty: It is the OPW. Okay. Donegal County Council wants to move this project on, so why has the OPW not-----

Deputy Patrick O'Donovan: As I said already, and not to repeat myself, but I think I have answered this question now maybe five times. Once my officials and I have had an opportunity to meet with representatives of Donegal County Council, I will then be able to give a detailed response to Deputy Doherty, and all the members of the Oireachtas who have raised this issue, regarding this scheme in Donegal and other issues relevant to that county.

Deputy Pearse Doherty: It would be helpful if the Department or the OPW can send to the committee information regarding the different stages of a programme like this and who authorises them. I would like to see the details of the joint authority Donegal County Council shares with the OPW, which the Minister of State has said he has referred to on five occasions, and how that process works. I ask that because if the block is in Donegal County Council, then we need to know that.

Regarding Ballybofey and Stranorlar, a start-up concerning that project was held by the OPW and Donegal County Council. More than €157,000 was approved back in 2018, and the total budget is more than €1.92 million. A total of 59 properties are at risk. Where do we stand with this project?

Deputy Patrick O'Donovan: The project costs for the scheme at Ballybofey are just short of €2 million. The estimated spending to date has been just less than €207,000. Consultants were appointed by Donegal County Council in April 2021. The scheme is at stage 1, and it is due to move into the planning phase early next year and into the construction phase in early 2025.

Deputy Pearse Doherty: Okay. Regarding the situation in Lifford, when I raised this project with the Minister of State last year, he explained that consultants had been appointed at the design stage and that the public exhibition stage would begin in early 2022. Will the Minister of State let us know where we stand regarding progress there? I also ask him to give us an update on any progress in Burnfoot and Castlefinn.

Deputy Patrick O'Donovan: The OPW is the contracting authority in Lifford. The scheme is programmed to be submitted for planning in the third quarter of 2023 and for construction to begin in 2025. The estimated spending in Lifford to date has been €344,000. At Burnfoot,

consultants were appointed in June 2020, and that scheme is programmed to be submitted for planning in the first quarter of 2023, with construction to begin in 2024.

Deputy Pearse Doherty: Okay.

Deputy Patrick O'Donovan: All these schemes are pretty much due to come to fruition, with construction getting under way in early 2024. Most of them will wind up in construction at the same time.

Deputy Pearse Doherty: Please God, all going to plan.

Deputy Patrick O'Donovan: Hopefully we will have support for a legislative remedy from all sides of the House.

Deputy Pearse Doherty: In fairness, not every project-----

Deputy Patrick O'Donovan: I hope we are relying on more than prayers.

Deputy Pearse Doherty: Not every scheme requires a judicial review or is subject to judicial review. Some of them have not been given approval to move to the next stage, such as the Donegal town scheme, as I have discussed at length with the Minister of State. The families do not care whether it is Donegal County Council or the OPW that is at fault.

Deputy Patrick O'Donovan: It is important to point out that there is nobody at fault in these matters. My officials and the officials of Donegal County Council, every county council and the OPW - those responsible for the north west are sitting in the Gallery - are at pains to point out that they are often in people's houses when they are flooded. They have to brush out the faeces, the urine and the excrement at 3 a.m. or 4 a.m. The officials in the Gallery today from the OPW are not in any way holding back anything, in any county in the country. I can assure members of that.

Deputy Pearse Doherty: In fairness, the chairperson asked for €70 million more than the Minister of State allocated over the past three years so I would agree with that statement from the Minister of State. However, that does not mean nobody is at fault because some projects are delayed or not given approval. Sometimes that approval is not given sufficiently quickly.

I would like to ask about the River Clady, where there was flooding and serious damage. Kevin Boxer Moran came out to visit the site, which is in Bunbeg, County Donegal, and tried to work through this issue with the residents. I am not sure if Donegal County Council and the OPW ever progressed the application for funding for upstream flood mitigation. Will the Minister of State look into this?

Deputy Patrick O'Donovan: Did Donegal County Council submit an application for minor works?

Deputy Pearse Doherty: I believe that they did. There was discussion between them. The former Minister of State, Kevin Boxer Moran, was very hands-on in regard to this issue. I ask the Minister of State to pick that up.

Deputy Patrick O'Donovan: I do not know if an application for minor works was submitted. I can check to see if an application was made. Unless an application for minor works was made, obviously we would not have been able to approve it. If an application was made, I can check it out and revert to Deputy Doherty. Is it the bridge in Bunbeg?

Deputy Pearse Doherty: It is. I appreciate that.

I have raised another issue in the same vicinity with the Minister of State previously. Numerous Garda stations have been closed down by previous Governments and some are lying idle. One of them is the old Bunbeg Garda station, which was hit by lightning. It was not actually closed down by the Government; it was hit by lightning. It is in a bad state. Is the OPW open to providing that site to the nearby primary school, which has an issue with car parking?

Deputy Patrick O'Donovan: My understanding is that the former Garda station in Bunbeg went for public auction and was sold. The new one is up by the údarás facility.

Deputy Pearse Doherty: It is near the industrial estate.

Deputy Patrick O'Donovan: I am informed that it is to be sold in July. There have been a number of auctions. Deputy Farrell queried us about disposals earlier. She had previously raised the issue of reducing the amount of properties on our books. We have been at pains over the past 12 months to try to reduce those. There is a date assigned for the former Garda station in Bunbeg, and that is in July of this year.

Deputy Pearse Doherty: I pay tribute to the staff in the OPW because they engaged in the past with regard to potentially leasing it to community groups at a nominal value, as has happened in other areas. There is an issue across the road from that site. This small Garda station was hit by lightning and had serious damage done to it. I am not sure what other use it could be used for. There is a school across the road. The Department of Education approved an extension because of the increased pupil numbers in the school. There is no car parking facility whatsoever. This is one potential remedy, although not completely suitable. I strongly urge the Minister of State to engage with the Department of Education and the board of management of the school to look at this option before it goes to public auction. There was a willingness in the Department to offer this site, as it has done with other sites in the past, to community groups.

Deputy Patrick O'Donovan: We can look at everything. One of the things we have been doing in the OPW is that we have exhausted local authorities, community groups, Departments and bodies such as the HSE. I served on the Committee of Public Accounts, as did Deputy Doherty. One of the things we cannot do is dispose of State assets for anything above the market value. If we were to do that, no doubt somebody else would be writing a report about it. Deputy Doherty would probably be the first person to be very critical of me for doing that. What we must do is get market value.

Deputy Pearse Doherty: Or a 100-year lease.

Deputy Patrick O'Donovan: We have to get value for the State in the first instance. We will consult the Department of Education. I presume the Bishop of Raphoe is the patron in this case. The OPW will ask if the patron has an interest. However, we cannot operate on a *mañana* basis. I know the site. The former Minister of State, Dinny McGinley, is a good friend of mine so I know it. We cannot leave derelict sites in the middle of villages. If we do, Deputy Doherty will be on to me to say there is a clapped-out former Garda station in the middle of the village. The local Tidy Towns committee will be asking for it to be cleaned up, and the Deputy will be writing a different letter to me. We are damned if we do, and damned if we do not.

Deputy Pearse Doherty: I have never damned the Minister of State on that issue.

Deputy Patrick O'Donovan: The Deputy has damned me for many things.

Deputy Pearse Doherty: I would not jump to conclusions. If the Minister of State wants to take that approach, that is fine. He is entitled to do so. I am making a point. He might be familiar with that site.

Deputy Patrick O'Donovan: I am.

Deputy Pearse Doherty: As he said, Dinny McGinley used to be the headmaster of the school opposite. Currently, people park on that site we are discussing. I was not aware of its planned sale in July, which will increase the problem in regard to parking and road safety in that area, even before the school is extended, as already approved by the Department. This is a genuine issue. There has always been an openness in this respect. The OPW was willing to lease it to a community group in the past. Unfortunately, that did not materialise due to an issue on the part of the community group.

Deputy Patrick O'Donovan: I can understand that because the community groups are taking on a fair burden.

Deputy Pearse Doherty: Yes, exactly.

Deputy Patrick O'Donovan: We will engage with the Department of Education and the patron in the full knowledge that the patron would be taking on the liability of the building. We will exhaust that option in advance of any potential auction. I commit to doing that.

Deputy Pearse Doherty: I appreciate that. I thank the Minister of State.

Vice Chairman: I thank the Deputy. We do not have many deep sea ports in Kildare. We have quite a number of harbours, albeit canal harbours, but they are still there. In regard to the development of facilities for educational and tourism purposes, however, we have quite a number of historic houses, some of which are under the guidance of the OPW already. Moneys have been spent and continue to be spent. As the Minister of State mentioned, the Morell River drainage scheme was held up by judicial review. I understand it is now going ahead.

As one drives around the country, there are houses that catch one's eye. A few of them are in County Kildare. Is there a mechanism for houses that might be at risk of disappearing into decay and disrepair? Some of them may be on private property, which creates a problem. Some of them may be on public property, which does not create a problem. What mechanism might the Minister of State have, create or avail of to deal with them in order to protect them?

Deputy Patrick O'Donovan: To answer the second question first, the Minister for Housing, Local Government and Heritage in the first instance is the line Minister with responsibility for the protection of those buildings. It is an anomaly that probably should be corrected at some stage. The Minister for Housing, Local Government and Heritage actually owns many of the properties that we have responsibility for maintaining. It is not ideal but it is what it is and we have to get on with it. It is a legacy from a bygone day when somebody above our current paygrade decided to split them and leave them in the current legislative lacuna. It is probably best to raise that issue with the Minister for Housing, Local Government and Heritage.

The Vice Chairman will be glad to know that the eastern division is making considerable progress with the Morell. It is a big project which will be finished in 2025 and will cost about €10 million. Many homes in the Vice Chairman's part of the world will benefit. It is being done in conjunction with Kildare County Council. It has had its problems, but luckily those are behind us now. All going well, completion will be in 2025.

Vice Chairman: The works that have already been done have made an enormous improvement. Hundreds of acres were regularly flooded - it was not just once every ten years. That is good.

Grace O'Malley was a very progressive lady and built a number of castles along the western seaboard. Some of them have been restored and upgraded but some have not. How can the rest of them or the best of them be safeguarded and refurbished? Is that planned?

Deputy Patrick O'Donovan: I presume the Vice Chairman is talking about Clare Island.

Vice Chairman: They are not only on Clare Island; they run along the coast.

Deputy Patrick O'Donovan: I do not have a detailed note on the ones the Vice Chairman is talking about. I can send a written answer to him in the next couple of days. I presume some of the castles he is talking about will be in our custody and some will not be. I can get a detailed response for him in writing.

Vice Chairman: That would be fine.

I hope the Minister of State will be visiting my constituency shortly.

Deputy Patrick O'Donovan: I was very disappointed that the last time I was supposed to go there, the Vice Chairman stood me up.

Vice Chairman: It was not possible for me to turn up on the last occasion because three other issues needed to be dealt with on that day. There are a few very ancient buildings there that have been pinned in an effort to hold them together. The work on Taghadoo Abbey and the round tower will not last for ever. The tower will need its walls and roof to be sealed. If the walls can absorb water, any building that is not sealed will have problems.

Deputy Patrick O'Donovan: There are a number of issues in the Vice Chairman's part of the world relating to flood-risk management, estate management and historic properties. I look forward to going to County Kildare and meeting representatives of Kildare County Council with him.

Vice Chairman: Despite the level of interest early on, the interest has waned.

As some members have requested that further information be sent to the committee, I propose that we agree that the consideration of the Revised Estimates has concluded, subject to the committee receiving supplementary information, as requested. The clerk will circulate the information once received. Is that agreed? Agreed.

Message to Dáil

Vice Chairman: In accordance with Standing Order 101, the following message will be sent to the Dáil:

The Select Committee on Finance, Public Expenditure and Reform, and Taoiseach has considered the following Revised Estimate for Public Services - Vote 13 - Office of Public Works.

SFPERT

Under Standing Order 100(2), the message is deemed to be the report of the committee.

The select committee adjourned at 6.55 p.m. until 1.30 p.m. on Wednesday, 9 February 2022.