

DÁIL ÉIREANN

AN ROGHCHOISTE UM DHLÍ AGUS CEART, COSAINT AGUS COMHIONANNAS

SELECT COMMITTEE ON JUSTICE, DEFENCE AND EQUALITY

Dé Céadaoin, 28 Eanáir 2015

Wednesday, 28 January 2015

The Select Committee met at 2.30 p.m.

MEMBERS PRESENT:

Deputy Niall Collins,	Deputy Gabrielle McFadden,
Deputy Simon Coveney (<i>Minister for Defence</i>),	Deputy Finian McGrath,
Deputy Alan Farrell,	Deputy Dara Murphy (<i>Minister of State at the Department of Justice and Equality</i>),
Deputy Seán Kenny,	Deputy Jonathan O'Brien.*

* In the absence of Deputy Pádraig Mac Lochlainn.

In attendance: Deputy Mick Wallace.

DEPUTY DAVID STANTON IN THE CHAIR.

Estimates for Public Services 2015

Vote 35 - Army Pensions (Revised)

Vote 36 - Department of Defence (Revised)

Chairman: This meeting is convened to consider the Revised Estimates for the Public Services 2015 - Vote 35, Army pensions, and Vote 36, defence. A briefing document has been circulated to members. I welcome the Minister for Defence and his officials and propose that we begin with a brief opening statement from the Minister, followed by questions and comments by members.

Minister for Defence (Deputy Simon Coveney): I am pleased to appear before the select committee today for its consideration of the defence and Army pensions Estimates for 2015. I have a short opening statement, after which I will be happy to take questions from the members.

The combined Estimates for defence and Army pensions for 2015 provides for gross expenditure of €898 million, of which €677 million will be spent on defence and €221 million on Army pensions. Over 73% of the defence Vote goes towards providing pay and allowances, while the remaining allocation provides mainly for the replacement and maintenance of essential equipment and operational costs.

To allow the Defence Forces to deliver effectively on their outputs and undertake the tasks laid down by Government at home and overseas, an adequately resourced Permanent Defence Force, PDF, is required. In this regard, the 2015 defence pay and allowances allocation of some €496 million will provide for a PDF strength of up to 9,500. In addition, it will provide for the pay and allowances of some 625 civilian employees, 350 civil servants, 18 chaplains and 14 Army nurses. Targeted recruitment was undertaken in 2014 and will continue in 2015. In total, there was an overall intake of 416 PDF personnel in 2014. This represented a substantial employment opportunity for people interested in a military career. On the equipment front, the main investment this year will be on the naval vessel replacement programme, together with the necessary acquisition of a range of defensive equipment.

Last summer, as part of the naval vessel replacement programme, an order was placed with Babcock Marine for the third offshore patrol vessel for the Naval Service. By taking up this option under the existing contract, the Department ensured that the third ship will be bought at 2012 prices and will not be index linked. The first of the two ships, the *LE Samuel Beckett*, was handed over at the end of April 2014.

The second ship, *LE James Joyce*, is scheduled for delivery in March 2015 and will replace the *LE Aoife*, which is being decommissioned. The acquisition of three new and modern vessels not only adds efficiency, operational value and durability to the Naval Service, but also represents excellent value for money, as all purchases were made from within existing allocations without recourse to any additional funding. The 2015 provision will also allow for the continued modernisation and improvement of defensive equipment, which will maintain and enhance the capacity of the Defence Forces to deliver effective services across all of the roles

assigned by government.

The year 2015 will see Ireland continue its long standing commitment to overseas missions. At the end of 2014, Ireland had 427 personnel serving in 11 different missions throughout the world. These missions embrace a range of activities, including conflict resolution, peace-keeping, humanitarian missions, crisis management and strengthening international security. Currently, the two largest contingents are serving with the United Nations Interim Force in Lebanon, UNIFIL, with 199 personnel and the United Nations Disengagement Observer Force, UNDOF, in the Golan Heights, with 138 personnel. I will give the committee a briefing shortly on what is happening with UNIFIL currently. Unfortunately, there have been some unwelcome developments there this morning. Last December on my visit to the Middle East, I met with troops serving with UNIFIL in Lebanon, with UNDOF in Syria and with the United Nations Truce Supervision Organisation, UNTSO, in Israel and I observed at first hand the invaluable role all these troops play within very challenging environments.

The 2015 Estimates allocation will facilitate the continued provision of a military operational response to both the civilian power and civil authorities, as required. This is a broad, multifaceted role which is of vital importance to national security. Examples of the type of duties undertaken include, explosive ordnance disposal duties, air ambulance duties, naval boardings and prisoner escorts.

The Reserve Defence Force has also experienced significant organisational reform in recent years. One of the key outcomes emerging from the value for money review of the reserve is the introduction of the new single force concept, an initiative which means we now have Army units with permanent and reserve components rather than having a separate stand alone reserve. In addition, a campaign is underway to recruit further members to the Army reserve and Naval Service reserve in order to reach target strength levels. In that context, some 26,000 training man days are provided for in the Estimates for 2015.

The Defence Vote also makes provision for certain costs related to the Civil Defence. Civil Defence continues to develop its role of providing supports to the front-line emergency services and in 2014 was actively involved in supporting hundreds of community events across the country. Civil Defence volunteers throughout the country continue to provide support to both front-line services and local communities in responding to emergencies. In that regard, I am delighted to say that Dublin Civil Defence, assisted by Civil Defence units from other counties, is supporting the efforts of Dublin City Council in helping to deal with the homelessness and street-sleeping issue. Working alongside professional carers contracted by the city council, a 20-bed temporary hostel was opened at Dublin Civil Defence headquarters at its premises on Wolfe Tone Quay, which will operate each day throughout the winter months.

In conjunction with the Civil Defence response to homelessness, accommodation in St Brigid's military base has been made available to Dublin City Council for use as part of its homeless service strategy. Homelessness is a complex topic and there is no quick-fix or easy solution. However, I am delighted that the Defence sector has been in a position to provide some level of meaningful security, support and service to the individuals affected.

The 2015 Estimate makes provision for expenditure of €18.5 million on new building works and maintenance of existing buildings and also includes funding for work on the military archives building at Cathal Brugha Barracks. The Government is supportive of the decade of centenaries commemoration projects and has made funds available, over the period 2014 to 2016, to improve access to the facilities at the military archives building. The first two tranches

of material from the Military Service Pensions Collection were made available online last year and further material from this historic collection will be released over the coming years.

I would now like to turn to the Army pensions Vote. This Vote funds the payment of military pension benefits of all categories, including retirement pensions and gratuities, disability pensions, spouses' and children's pensions and other miscellaneous expenditure related to the processing of entitlements under the Defence Forces pensions code. The gross allocation for 2015 is some €221 million, over 95% of which relates to the superannuation benefits of former members of the Defence Forces and their dependants. Expenditure under this Vote is primarily non-discretionary and demand-driven. There are currently some 12,000 pensioners paid by my Department from this Vote, a net increase of 1,000 since 2007.

Finally, I would like to refer to the forthcoming White Paper on Defence. The White Paper will provide the defence policy framework for the next decade and beyond. Defence policy is a critical aspect of Government policy and I am determined to ensure that the new White Paper addresses in full the defence response to future security challenges and related resource requirements in a comprehensive way. The preparation of the new White Paper must take into account an assessment of the future security environment and the roles and tasks that we wish the Defence Forces to undertake. The economic environment and the level of resourcing available must also be factored into consideration. This is a fundamental requirement in order to ensure a sustainable defence policy.

Working groups, comprising civil and military representatives, are considering future operational demands and the defence capabilities required to meet projected future operational requirements. This work will inform recommendations regarding defence provision. I have received an initial draft outline of the White Paper and this will be further developed and refined over the coming months. The final draft of the White Paper will be submitted to the Government in due course. I expect I will be looking for Government approval mid summer. I now commend both Estimates to the committee and look forward to dealing with any questions members may have.

Chairman: I thank the Minister.

Deputy Simon Coveney: I wish to add some comments for the benefit of the few members present, who I am sure are concerned about media reports they have been receiving this morning regarding what is happening in southern Lebanon. There has been no official UNIFIL statement yet, but I understand that starting at about 11 a.m. Irish time this morning, there was quite significant activity in an area called the Shaaba Farms, on the eastern side of southern Lebanon, quite close to the Golan Heights. Six rockets were fired from the eastern sector of southern Lebanon, from a town called Ghajar. Subsequently, a rocket was fired at an Israeli Defence Force convoy and afterwards, a further five rockets were fired into Israel from the Shaaba Farms area. I am told Israel has retaliated and responded to that by firing 123 rounds of heavy artillery into the area. There is no official information in regard to casualties or injuries, but all we know is that it looks as if one peacekeeper has lost his life.

It has not been officially confirmed by UNIFIL that it was a Spanish soldier, but this is the area the Spanish control, so in all likelihood it is a Spanish soldier. As a country that is contributing significant troops to that UNIFIL mission, I wish to express my condolences to the Spanish troops in the area and to the Spanish Government. This is not what we want to see happening in southern Lebanon. The suspicion is that it was in retaliation for a targeted strike last week on the Golan Heights when a Hezbollah commander was killed, but we do not know

this for sure. This is a reminder of the dangerous, difficult and unstable environment in which our troops are operating, both on the Golan Heights and in southern Lebanon, where we have a significant presence in both UN missions. I am happy to report that our troops are about 30 km away from where this incident happened. In military speak, they were “in ground hog” this morning when this was happening, in other words, they were taking cover. Nobody was injured and everybody has been accounted for. There has not been any activity in the area where our troops are, but 30 km is not a great distance and, unfortunately, it looks as if there has been a fatality in the Spanish unit.

Chairman: We are discussing the Estimates, but I will allow a brief comment on this issue.

Deputy Finian McGrath: To give a further update, I received a telephone call about half an hour ago. My nephew is serving with the United Nations in that part of Lebanon. The message he gave to his family was that they were all safe, but they were very upset and distraught about the death of the young Spanish soldier. It is also an opportunity, as the Minister mentioned, to highlight the great service these young men and women provide for Ireland at UN level as peacekeepers. It is important that we never forget this because they are making a valuable contribution. They are warriors for peace and highly respected internationally.

Deputy Seán Ó Fearghail: I concur with the Deputy and I am grateful to the Minister for briefing us on this occasion. More than anything, it will put the minds of family members across the country at ease. We extend our sympathy to the family of the member of the Spanish defence forces who lost his life. The Minister will be keeping the situation under review and we would appreciate it if he continued to brief us, as appropriate, in the period ahead.

Chairman: We know that the region is very unstable and that the authorities here are keeping a very close eye on what is happening there and will continue to do so.

Deputy Simon Coveney: It is important to emphasise that southern Lebanon has been one of the safest places in the Middle East for the past 12 months. As Hezbollah has been heavily involved in the civil war in Syria, there has not been the friction and the activities that we saw a number of years ago in southern Lebanon and Israel. However, that changed this morning, but the briefing material I have received suggests it may have been in retaliation for what happened on the Golan Heights last week, as opposed to a general escalation of tension between Hezbollah and Israel. I hope that is the case and that we will not see a further escalation, but we will have to wait and see.

Chairman: I propose, with the Minister’s agreement, to go through the Estimates subhead by subhead. The first subhead in Vote 35 is subhead A.1 - administration and pay. As there are no questions or comments on it, I will move on to subhead A.2 - Defence Forces pension schemes and payments in respect of transferred service.

Deputy Simon Coveney: This is the main block of money for pensions. The first is for administration, but the main block is for Army pensions, which is why the figure is big. The Estimate for 2015 is slightly higher than that for 2014 but slightly lower than the outturn for 2014. It should be close to what we will see at the end of the year. The scheme is demand-led and we must make an estimate that is as close as possible to the outturn. There will be no major change from where we have been in the past couple of years.

Chairman: As there are no comments or questions on the subhead, we will move on to subhead A.3 - wound and disability pensions, allowances and gratuities to or in respect of former

members of the Defence Forces. I do not think it includes anything too exciting about which members would want to ask questions. Subhead A.4 concerns payments to spouses of veterans of the War of Independence. There are 121 recipients. The scheme is demand-led and non-discretionary. The number of recipients is dropping.

Deputy Simon Coveney: It decreases every year, for obvious reasons.

Chairman: Subhead A.5 deals with compensation payments, lump sum compensation by the Department for service-related deaths of members of the Permanent Defence Force while serving overseas with the United Nations and on certain other missions. There were no such payments in 2014. The scheme is demand-led and non-discretionary.

Subhead A.6 concerns medical appliances and travelling and incidental expenses. It includes miscellaneous expenses, travel and medical examination expenses incurred by applicants for military disability pensions.

Subhead B - appropriations-in-aid, receipts, includes contributions to the pensions schemes by officers, NCOs, private soldiers and so on. The next subhead makes provision for Defence Forces' pension benefits. That concludes our discussion of Vote 35.

On Vote 36, there are quite a lot of subheads which we will go through one at a time. If members have questions or comments, they should let me know. The first subhead is subhead A.1 - administration and pay.

Deputy Seán Ó Feargháil: We are all conscious of the pressures in various Departments because of staffing constraints. I am thinking, in particular, of the difficulties in the Department of Social Protection, for example. In the Defence Forces there are 9,500 personnel. On staffing, it strikes me as being considerable that in the Department of Defence there are 352 full-time equivalents. How does this figure compare with those for other Departments? We have been given the figures back to 2012, but has there been a significant decrease in the number of civil servants in the Department in recent years?

Deputy Simon Coveney: I will answer the question in some detail, but I can provide further detail, if the Deputy wants.

In the 1980s there were over 600 staff in the Department. As there are now 350, the number has almost halved. This figure can be compared to that for the Department of Agriculture, Food and the Marine, in which there were 4,500 staff, but that number is now down to about 3,300. Defence and Agriculture, Food and the Marine are two of the Departments in which staff numbers have been reduced significantly. Overall, numbers across the public sector are down by more than 10% in the past four years, resulting in an expenditure saving of well over €3 billion. There has been significant change in terms of a reduction in numbers and expenditure, but if a certain line is crossed, the capacity of a Department to do its job is fundamentally undermined. In having 350 staff, I do not regard the Department of Defence to be overstaffed. We have a significant job to do, not least on the White Paper in the next few months, but there are multiple other tasks the Department must perform to ensure it is run smoothly in terms of the Defence Forces and policy and legislation. I understand the committee will soon deal with legislation from the Department. While I am always open to correction and constructive criticism, the 352 staff we have in the Department are needed and provide good value for money.

Chairman: As there are no further questions, we will move on to subhead A2 - administration, non-pay, which provides for the non-pay administrative costs of the Department.

Deputy Seán Ó Feargháil: One of the most critical issues facing Defence Forces personnel is the 21 year contract. Should this matter be resolved in a manner that allows people who have 21 years-----

Chairman: I remind the Deputy that we are discussing subhead A2 which covers costs incurred for office supplies, equipment and information technology, postal and telecommunications services, travel and subsistence expenses, training expenses for civil servants, etc.

Deputy Seán Ó Feargháil: I was looking at the wrong subhead.

Chairman: Do members have comments or questions on subhead A2?

Deputy Simon Coveney: The Estimate for this year is the same as that for last year. The outturn fell slightly and the Estimate has not increased.

Chairman: As there are no questions or comments, we will move on to subhead A3 - Permanent Defence Force pay, which provides for line pay, technical pay and military service allowances for officers and enlisted personnel and the pay of members of the Army nursing service. The provisional outturn for 2014 is €359.59 million and an Estimate of €417.47 million has been provided for 2015. Perhaps Deputy Seán Ó Feargháil might wish to raise the contract issue now.

Deputy Seán Ó Feargháil: Should the issue of the 21-year contract be resolved in such a manner as to allow a significant number of able bodied personnel to continue to serve beyond 21 years? Would such an outcome have a significant impact on the figures before us, given that persons who have accrued 21 years service would be at a considerably higher level on the payscale than persons joining the Defence Forces?

Deputy Simon Coveney: I do not wish to pre-announce the outcome of an adjudication process which has been ongoing for some time. An adjudication hearing is due to be held on 30 January and we expect an outcome more or less immediately thereafter. We will then have a much clearer picture of what compromises are doable. If we were to keep personnel in the Defence Forces for longer than had been expected, it would obviously have an impact on our recruitment programme for this year. Last year 416 people were recruited into the Permanent Defence Force to maintain numbers at 9,500. The recruitment strategy for this year would have to accommodate any decision to allow personnel to remain in the Defence Forces. I do not want to put numbers on this, as I would like to wait until the adjudication process is finalised.

Chairman: As there are no other questions, we will move on to subhead A4 - Permanent Defence Force allowances. This subhead provides for allowances paid to Permanent Defence Force personnel in areas such as security and patrol duties and overseas subsistence. As there are no questions, we will move on to subhead A5 - Reserve Defence Force pay, etc. This refers to pay, training and miscellaneous allowances for the Army Reserve and Naval Service Reserve and also provides for grants for members of the First Line Reserve.

Deputy Seán Ó Feargháil: The continued underspend in this area underlines in a practical way the difficulties that have faced the Reserve Defence Force in recent times. While the Minister's recent statements have convinced me of his commitment to the Reserve, definitive action must be taken to consolidate the position of the Reserve Defence Force. The expenditure provided for this year may be more realistic than the figure provided in 2012.

Deputy Simon Coveney: We are essentially budgeting for increased activity in this area

in which we will actively seek new recruits. Following the publication of the value for money report on the Defence Forces Reserve, a revised strength ceiling of 4,069 was introduced for the Reserve. A campaign is under way to recruit further members to the Army Reserve and the Naval Service Reserve with the objective of reaching the target strength levels. We have budgeted for 26,000 training man days - I am not sure that is politically correct terminology - this year. To achieve this, we must recruit more Reserve members and are actively seeking to do so.

Deputy Seán Ó Fearghaíl and other Deputies have raised this issue at Question Time in the House. There are practical reasons it is difficult for some of those who would like to join the Reserve to do so. For example, the timing of medical examinations, training and so forth may make it difficult for members of the Reserve to hold down a career in another field. We are examining all of these issues and a civilian-military discussion is under way to ascertain how the attractiveness of the Reserve forces could be improved.

Deputy Finian McGrath: Is the current strength of the Defence Forces Reserve 4,069 or is that the target strength? What will be the financial impact of the proposed increase in Reserve Defence Force numbers in 2015-16?

Deputy Simon Coveney: The target strength is 4,069, while the current effective strength is 2,302. The number of reservists who availed of paid training in 2014 was 1,521. We have work to do to recruit more reservists to increase Reserve strength to the appropriate level. For this reason, we are examining ways in which we could make it more attractive and convenient for people to be members of the Reserve.

Deputy Finian McGrath: On that point, has the Department given serious consideration to how it could facilitate people who may wish to serve in the Reserve Defence Force but would encounter serious problems in their day jobs or personal lives if they were to do so? A number of such individuals came before the joint committee last year.

Deputy Simon Coveney: Ensuring an appropriate balance between voluntary activities and work and home life is a key challenge that is common to individuals involved in many voluntary organisations. The issues raised with me relate primarily to the need to hold medical examinations and fitness tests at times that do not require candidates to take days off work. We are trying to make practical improvements in these areas.

Last year we had 22,992 training man days and are planning to have 26,000 training man days this year. As such, we intend to increase Reserve Defence Force strength and are actively trying to recruit new members. We also have the First Line Reserve, but that is a separate issue.

Chairman: Will the underspend in this area in recent years continue in 2015?

Deputy Simon Coveney: I hope not. The provisional outturn for last year was slightly less than the Estimate provides for this year. If numbers remain as they are, there will be another underspend this year. I am hopeful, however, that we will be able to recruit new members and increase current strength. While we will not reach the target figure this year, I am certain we will improve on the current figure.

Chairman: The next subhead is subhead A6 - pay, etc., for chaplains and officiating clergymen. As there are no comments or questions, we will move on to subhead A7 - Defence Forces civilian support, pay and allowances. This refers to civilian employees attached to units of the Permanent Defence Force and fees payable to medical consultants and specialists in respect of the medical treatment of military personnel.

Deputy Simon Coveney: The Estimate for this subhead is increasing because we intend to recruit more civilians to the Defence Forces. This civilian category does not include civil servants in the Department.

Chairman: I understand there was an underspend under this subhead in 2014.

Deputy Simon Coveney: The number of civilian support staff declined in 2014. In 2013 the number was 535 and there were 517 last year. We are budgeting on an estimate of 625 this year. So we are looking to recruit quite a lot of people, which is obviously positive news that reflects the Defence Forces' complex job across many areas. A reliance on civilian staff is an important element for them.

Deputy Alan Farrell: On that matter, what sort of specialisation is being sought with the current recruitment campaign to get the numbers up to 625?

Deputy Simon Coveney: The main focus for 2015 will be the implementation of a targeted recruitment programme to fill key civilian vacancies that have arisen in recent years. The principal areas where the recruitment of civilian employees is planned to take place are as follows. The central medical unit needs specialist staff, for example, physiotherapists and psychologists to provide the necessary services to military personnel. In the naval base at Haulbowline, there is an apprenticeship programme with four posts to provide training in specialist ship maintenance service. Craft workers are required to fill essential vacancies arising in military workshops. Much practical work is required in terms of maintenance and development of barracks and at the naval base in Haulbowline that does not necessarily require military personnel and can be done by civilian staff. The same argument is made for An Garda Síochána. This frees up soldiers to do the work they have been trained to do.

Chairman: More than 100 will be taken on before the end of the year.

Deputy Simon Coveney: That is the plan.

Chairman: We will be back next year to see if that has happened.

Deputy Simon Coveney: I thought the Chairman's constituency might be interested in that.

Chairman: We now come to subhead A8, defence equipment.

Deputy Seán Ó Fearghail: I am concerned that a fairly significant decrease in expenditure is proposed here of about 20%. Over the past decade or so there was very significant investment in equipment such as the Mowags, which are invaluable to our peacekeepers abroad. What is the lifespan of such heavy equipment? At what stage do we need to consider replacing them?

I am also conscious when we look at this-----

Chairman: The Minister will answer that question first and we will come back to the Deputy's second question.

Deputy Simon Coveney: The numbers go up and down depending on what is needed. Spending the same amount on defence equipment each year does not reflect the reality that sometimes we have to replace a naval vessel or buy Mowags, depending on the role at the time. A high-level planning procurement group comprising civilian and military members meets regularly to evaluate ongoing expenditure trends, prioritise future requirements and maintain oversight on key issues likely to impact on resources.

The lifespan for the Mowag APC fleet is being considered this year. My understanding is that they need an upgrade after ten years, but they are certainly operational for at least 20 years. I had an opportunity to look at a number of Mowags in Collins Barracks. They are fairly indestructible pieces of equipment but they age. My understanding is that they have an upgrade requirement after about a decade. However, they are constantly being upgraded in terms of communications equipment and obviously armoury, weapons systems and such like. Different Mowags have different equipment.

Chairman: I know Mowags are heavy pieces of equipment. Are they very heavy on fuel and expensive to run? Do they break down frequently? Has anybody looked at their reliability over time? Is any record kept of that?

Deputy Simon Coveney: I do not want to pretend I am an expert on Mowags but I understand they are best in class based on what we use them for. They have been an essential piece of our equipment in Golan, for example, where they were tested in pretty difficult circumstances. My understanding is that they are physically pretty heavy and therefore I presume pretty heavy on fuel, but they are very reliable. Ultimately the priority here is not fuel efficiency, but protecting our soldiers and the work they are doing. I can come back to the committee with a more detailed report on that if it would be helpful.

Deputy Seán Ó Feargháil: I am conscious that our overall expenditure on defence is very small - both in percentage terms and relative to what our European partners spend. I take the Minister's point about different demand from time to time.

Deputy Simon Coveney: There will be spikes at times. In addition there are other sub-heads for equipment. I can tell the Deputy what we are spending here. There is an RBS70 missile upgrade programme. There is a 76 mm weapon for the third offshore patrol vessel. There is a replacement of heavy machine-gun programme and replacement of mortar fire control system. These are the kinds of weapons that-----

Deputy Seán Ó Feargháil: I appreciate that but nonetheless there is a 20% cut against a background of a very low level of overall expenditure. I am very conscious of this as I come from County Kildare, where the military are of particular significance. There is concern that arising from the Minister's recent negotiations with the British Government there was a suggestion that the Irish Defence Forces would be getting second-hand equipment from the British army. Is that not correct?

Deputy Simon Coveney: There is no suggestion from me of that.

Deputy Seán Ó Feargháil: There might not be from the Minister but there were certainly media reports to that effect. If it is not happening, we would be very pleased to hear it.

Deputy Simon Coveney: Let me clarify that. We said we would look at possibilities in many areas of mutual interest. There is nothing binding about that MOU; everything is voluntary. For example, if joint procurement in certain areas makes sense for both sides, we will look at that. There was no suggestion that we would have hand-me-downs or anything like that. I can assure the Deputy that any equipment we provide for the Defence Forces will add significantly to our defence capabilities rather than anything else.

Chairman: The committee recently discussed firearms. It was mentioned that in 1979, thousands of firearms were handed over to the Defence Forces for storage. While it might not arise here, is there a cost involved in that? Are there any long-term plans to dispose of those

weapons? Related to that is the storage of obsolete equipment such as Bren guns and Gustavs that are no longer used. Is there a cost of storing those?

Deputy Simon Coveney: I will check it out. I am not aware of it being a significant cost because if it was I would be informed about it. However, if there is an issue, we will come back to the committee. None of the experts on either side of me are familiar with it.

Chairman: The Minister might provide some numbers as to what is there, bearing in mind that we do not wish to breach the security aspect of it.

Deputy Alan Farrell: If these are weapons, why are we storing them?

Deputy Simon Coveney: That would have been a security issue. People were asked to hand over weapons that have the capacity to fire live ammunition. One of the things the Defence Forces are good at is storing weaponry safely; that is what they do. If there was some kind of decommissioning or hand-over scheme, it presumably made sense for the Defence Forces to manage that. I am not sure if we still have them. There may be some security issues with releasing information on that. However, I will check it and come back to the committee. It has clearly been raised with the committee so I will follow up.

Chairman: The next subhead is A9, Air Corps aircraft equipment and support. This provides for the purchase, upgrade and maintenance of Air Corps aircraft and equipment, fuel and training.

Deputy Alan Farrell: Subhead A9, military transport, is of interest to me, bearing in mind a discussion we had not too long ago on the stranded Government jet in America. Is it sustainable for us to be without an operating ministerial aircraft? How are the pilots able to keep their flying hours at required levels, given the limited fleet that we have? Is there a proposal to replace the Government jet with additional aircraft?

Deputy Simon Coveney: As I stated before, when the Gulfstream jet was presented for its due service last summer, many extra problems arose. The closer the aeroplane was looked at, the more issues that emerged with it such as corrosion on the undercarriage. I made the decision then that we were not going to spend any more money on it in trying to make it fit for purpose. Given the budgetary position the country was facing and the Government had to manage in the past four years, we had to ensure we were not spending money on an aeroplane that was really at the end of its life. Accordingly, we stopped spending money. We have since gone through a process of selling the aeroplane to get as much of a return as we can on it. I cannot give the Deputy figures as matters are still being finalised. However, the sales process is under way. An interdepartmental high level working group of officials, chaired by the Department of Defence, is reviewing the medium and long-term options for the future provision of the service provided by the Government jet. I will report to the Government on the group's recommendations once they are finalised.

The Government is operating with one smaller, shorter range Learjet. I do not expect this to change at any time soon. I would prefer to outline my recommendations to the Cabinet before I announce anything at the committee. I do not anticipate that the Government will be buying a new jet any time soon.

Deputy Alan Farrell: Is it sustainable?

Deputy Simon Coveney: I believe it is. Many countries have different approaches in get-

ting Ministers and Prime Ministers - in our case the Taoiseach - to where they need to be. We have changed the approach to the use of the Government jet. No Minister can use it without getting the permission of the Taoiseach. Ministers travel on commercial airlines for most of the travel they need to undertake. It is only in exceptional circumstances that the jet is used. There are certain times when it is necessary, but most of the time Ministers use commercial airlines. Since last summer we have been operating with one shorter range jet which does not have the capacity to engage in transatlantic travel. We will work away on that basis for the foreseeable future. I do not expect any announcement or decision on the purchase of a new Government jet, which is unlikely, given the budgetary constraints that continue.

The Air Corps does a lot more than fly Ministers or the Taoiseach around. In 2014 it completed 18 emergency inter-hospital air ambulance missions. It also completes surveillance work in offshore fisheries and search and rescue missions. There is much more in the fleet than just the Government jet. It was very rare that both Government jets were used at the same time. It would have happened the odd time such as for the St. Patrick's Day celebrations when there would have been Ministers all over the world. In the case of needing to get the Taoiseach somewhere quickly because of an emergency, the use of air taxis is always possible. I suspect, however, that would only happen in the case of an emergency.

Not much has changed in the training hours required to be undertaken by Air Corps pilots. It must be remembered that this subhead also covers presidential travel. We have been managing with one smaller aircraft. I accept that this is not ideal at times, given the number of people who may need to travel with the Taoiseach or the President. However, it has not caused significant problems.

Deputy Alan Farrell: What is the capacity of the Government jet?

Deputy Simon Coveney: Eight. It is normally five persons, plus crew.

Chairman: I note a significant reduction of almost 23% in subhead A10 - military transport. Is there a reason for this?

Deputy Simon Coveney: This subhead provides for the purchase of vehicles and the maintenance of the Defence Forces transport fleet and fuel costs. The breakdown is: purchase of vehicles, tools, equipment, €300,000; maintenance of non-armoured vehicles, €2.4 million; maintenance of armoured vehicles, €2.3 million; fuel and lubricants, €3.7 million. The difference is that there is no purchase of vehicles of any value planned for this year which explains the reduction. I suspect the fuel bill is the same as it was in previous years.

Chairman: We will move on to subhead A11 - Naval Service vessels, equipment and support.

Deputy Alan Farrell: I commend the Department for securing a very good deal in the commissioning of new vessels. Obviously, we have an enormous area to patrol and the Navy does terrific work in difficult conditions. Having the most modern fleet possible is very important. When committee members visited Haulbowline, they had a spin on one of the Navy's vessels.

In excess of over €150 million will be spent on the Navy's vessels for several years, but we seem to be scoffing at the possibility of purchasing a ministerial jet simply because it is a different service being provided. I appreciate the politics of it, but that is my personal view. That is the comparison I would like to draw. The Naval Service is doing a completely different job and there is a necessity to do it. There are other means of transport for Ministers and,

in particular, the President. I find it strange, however, that when President Higgins goes to the United States he will be flying business or first class in a commercial airline. I do not know what is the norm internationally. This probably is the norm for countries of our size. I wish to draw that comparison.

I know the second vessel has been named, is there any light at the end of the tunnel in respect of the third vessel? One of our colleagues suggested that we should find a suitable woman's name. I was not able to think of any literary giants-----

Deputy Simon Coveney: We could get into a long debate.

Deputy Alan Farrell: The *LE Maeve Binchy*?

Deputy Simon Coveney: Most of our fleet are named after women from the *LE Niamh* and *LE Róisín* to the *LE Ciara*, which has now been decommissioned. Traditionally our Naval Service vessels had been named after Irish females and in some cases mythical names. My predecessor, Deputy Alan Shatter, decided to use names that would help to improve the ambassadorial role that naval vessels have when they are abroad so that people would associate Ireland with people and things that Irish people are proud of, one of those areas being literary names. That is why we have the *LE James Joyce* and *LE Samuel Beckett*. There is no final decision yet on the name of the third vessel. The Deputy will have to wait and see.

The figure of minus 36% looks like a big reduction on last year but it is a really significant increase on the years prior to that. The figure last year was to take account of the €70 million spent on a new ship. This year €34 million is being spent on the new ship. Back in the years 2012 and 2013, the total figure would have been in the range of €33 million to €35 million. This is actually still €10 million more than would normally be spent on naval equipment. We are delivering on the commitment to have three new offshore patrol vessels, which is a significant addition.

Deputy Jonathan O'Brien: There will be opportunities for the Naval Reserve to gain more training. Have we considered increasing their number?

Chairman: We will deal with subhead A12 - Barrack Expenses and Engineering Equipment. This subhead provides for utilities-related expenditure together with expenditure on engineering equipment, furniture and bedding, cleaning equipment and printing, binding and stationery services.

Deputy Simon Coveney: This figure is more or less the same as last year. It is a roll-over.

Chairman: Is there a breakdown between the utilities expenditure and expenditure on engineering equipment, furniture and bedding and so?

Deputy Simon Coveney: Yes, the provision for utilities, electricity, gas and so on is €10.7 million; furniture, bedding, utensils is €900,000; cleaning equipment and tools is €1.1 million; engineering equipment is €500,000; office equipment and related supplies is €20,000; printing, binding and stationery services is €300,000, making a total of €13.5 million.

Chairman: Subhead A13 - Defence Forces Built Infrastructure: Construction and Maintenance provides for new building works and the maintenance of existing buildings.

Deputy Simon Coveney: We are doing some refurbishment that we could not afford to do in the past few years.

Chairman: On Casement Aerodrome, the barracks.

Deputy Simon Coveney: The archives.

Chairman: We come to Subhead A14 - Defence Forces Uniforms, Clothing, Equipment and Catering.

Deputy Simon Coveney: Again there is a slight increase under this heading. There was some commentary on Defence Forces uniforms during the year by PDFORRA. We undertook a rigorous examination. I have been told in no uncertain terms by the Chief of Staff that there is no issue with the availability of uniforms. There is a slight increase in this subhead on both the outturn and the Estimate for last year.

Chairman: On subhead A15 - Defence Forces Communication and Information Technology, there has been no major change in that subhead.

Deputy Simon Coveney: It is more or less a roll-over.

Chairman: Subhead A16 - Military Education and Training is more of the same. There is no major change and there is provision for career advancement and leadership appointments.

The allocation under subhead A17 - Defence Forces Logistics and Travel is 5% above the allocation in 2014. Were there pressures in 2014 that needed to be addressed?

Deputy Simon Coveney: The annual travel plans are developed based on anticipated operational training and overseas commitments. It can be demand led. I suspect the figure was up slightly in 2014 because there was extra travel back and forth to New York because of what was happening in the Golan Heights. Certainly I was there and I would not otherwise have been in New York.

Chairman: Under subhead A18 - Defence Forces Medical and Health Care Support, there do not appear to be too many changes.

Deputy Simon Coveney: The Estimate is more or less the same as the outturn from last year.

Chairman: Subhead A19 provides for the maintenance of military lands and the renting of lands and premises for the Defence Forces and the figure is down on last year.

Deputy Simon Coveney: It is down somewhat because we are offloading some of the properties we no longer have a strategic use for, mainly to other State agencies, local authorities or to the Garda Síochána. It would be expected that the Estimate would be down slightly.

Chairman: Subhead A20 provides for equitation and the purchase and-or lease of horses for the Army Equitation School, the feeding and maintenance of horses and the cost of attendance at horse shows. The figure seems to be slightly down on before but it is a very important area. The committee members might like to visit the equitation school at some stage.

Deputy Simon Coveney: In this subhead it is important to note that the figure is being recorded as a reduction but it is actually the same Estimate as last year. If the expenditure goes slightly above we will deal with it. Anyone who has not visited the Army Equitation School should do so, it is really impressive and is not just for people who are interested in horses. For me this is a really important connection with the Defence Forces from an historic point of view.

I would like to see the Army Equitation School involved in broader sport horse promotion . We are working on ways in which that can be done.

Chairman: I have visited it in the past and we plan to go there in the future.

Subhead A21 provides for litigation and compensation costs, compensation for damage or injury arising from traffic accidents involving military vehicles and provides for the payment of settlements, awards and legal costs. The Estimate seems to be up on last year's figure.

Deputy Simon Coveney: This is an Estimate. We cannot know what will come down the tracks, but we have to have a budget for it.

Chairman: What was the difference between the Estimate and the outturn last year?

Deputy Simon Coveney: Last year the Estimate was €5 million and the expenditure was €4.24 million. We have the same Estimate this year.

Chairman: Subhead A22 - Miscellaneous Expenditure provides for a range of miscellaneous items, such as the National Emergency Co-ordination Centre, which we have visited and were impressed by the good work it does, the military service pensions collection project, the Ombudsman for the Defence Forces. Is the Estimate up this year?

Deputy Simon Coveney: The Estimate this year is the same as the Estimate last year. The expenditure was a bit less, but we are just being prudent.

Chairman: Subhead A23 provides for Ireland's participation in the EU's Common Security and Defence Policy. The Estimate is slightly up on the provisional outturn for 2014.

Deputy Simon Coveney: This Estimate is slightly higher than it was last year. Again we are anticipating a slight increase in activity.

Chairman: Subhead A24 provides for Civil Defence and the Estimate seems to be down quite a bit on other years.

Deputy Simon Coveney: It is the same Estimate as last year but the outturn last year was slightly higher. Most of this money goes to local authorities because the Civil Defence works closely with the local authorities in their area. We cover the cost of 70% of that work.

Chairman: Finally, subhead A25 provides for a grant towards the running costs of the Irish Red Cross Society.

Deputy Simon Coveney: That is the same as last year and the outturn was the same as well.

Chairman: There was no change.

We will now deal with subhead B - Appropriation-in-Aid. This subhead comprises moneys received by the Defence Forces. The Estimate seems to be down a good deal. Are bank escort duties no longer being performed?

Deputy Simon Coveney: In the 2015 Estimates receipts from banks for cash-in-transit escorts have been reduced to €6.8 million from €8.1 million in 2014.

Chairman: Are there final comments?

Deputy Simon Coveney: I thank the committee for giving me the opportunity to discuss

MESSAGE TO DÁIL

the Revised Estimates. If there are further developments in southern Lebanon or on the Golan Heights on which members require to be briefed, they are free to contact my office directly. We will try to be as open as possible.

Chairman: That concludes the select committee's consideration of the Revised Estimates for Vote 35 - Army pensions and Vote 36 - Defence. I thank the Minister and his officials for their attendance and assistance in our consideration of the Revised Estimates.

Message to Dáil

Chairman: In accordance with Standing Order 87, the following message will be sent to the Dáil:

The Select Committee on Justice, Defence and Equality has completed its consideration of the following Revised Estimates for public services for the year ending 31 December 2015: Vote 35 - Army pensions; and Vote 36 - Department of Defence.

Sitting suspended at 3.40 p.m. and resumed at 4 p.m.

Garda Síochána (Amendment) (No. 3) Bill 2014: Committee Stage

Chairman: This part of the meeting has been convened to consider Committee Stage of the Garda Síochána (Amendment) (No. 3) Bill 2014. I welcome the Minister of State at the Department of Justice and Equality, Deputy Dara Murphy, and his officials to the meeting. We have received apologies from Deputy Mac Lochlainn, for whom Deputy Jonathan O'Brien is substituting. Deputy Wallace is also in attendance. I ask everybody to turn off mobile telephones or put them on airplane mode because they can cause interference with the broadcasting system.

Section 1 agreed to.

NEW SECTIONS

Deputy Jonathan O'Brien: I move amendment No. 1:

In page 3, between lines 14 and 15, to insert the following:

“Amendment of section 65(1) of Principal Act

2. Section 65(1) of the Principal Act is amended by the substitution of the following subsection for subsection (1):

“(1) The Ombudsman Commission is to consist of 1 member, who is to be appointed by the President on -

(a) the nomination of the Government, and

(b) the passage of resolutions by Dáil Éireann and Seanad Éireann recommending their appointment.”.”.

I apologise on behalf of Deputy Mac Lochlainn for his absence. I understand he is chairing the

Joint Committee on Public Oversight and Petitions.

Chairman: That is correct.

Deputy Jonathan O'Brien: This amendment changes the structure of the Garda Síochána Ombudsman Commission under section 65(1) of the Garda Síochána Act 2005 to provide for a single Garda ombudsman instead of three members. A single ombudsman would ensure greater accountability and prevent the possibility of dissenting opinions or diverging findings.

Minister of State at the Department of Justice and Equality (Deputy Dara Murphy): I apologise on behalf of the Minister for Justice and Equality, Deputy Fitzgerald, for her inability to attend this meeting. The Minister appreciates this amendment is one of a series of changes to the 2005 Act recommended by the Joint Committee on Justice, Defence and Equality, which took the view that a single member commission would provide greater accountability and strengthen its position. She has considered the amendment carefully. There is, of course, more to the issue than merely a change to the number of commissioners. In particular, she is conscious of the advantages that flow from a three-person body.

In that context, the underlying rationale for the establishment of the three-person model was to facilitate expertise and experiences across a range of sectors. It was also considered to be of practical advantage that at least one commissioner would always be available to direct staff operations. The Minister is aware that at an operational level, GSOC views this as a significant advantage given its unpredictable working environment. Some of its most serious and sensitive cases have arisen at weekends or during holiday periods. Moreover, a three-person commission with a legally required gender balance and range of expertise conveys a strong public assurance that fairness and sensitivity are at the core of GSOC's approach at the highest level. It also helps that potential differences between an individual commissioner and key interlocutors do not impinge on the smooth and effective running of the organisation. It is accepted that until recently, the interactions between GSOC and the Garda Síochána have not functioned as effectively as they should but substantial work is currently ongoing in this area by both organisations. Finally, additional powers are in the process of being conferred on GSOC under the Bill.

In these circumstances, the Minister is reluctant to alter the current GSOC structure unless it can be shown that significant advantage would accrue from doing so. Deputy O'Brien will appreciate that serious consideration has been given to the amendment and the recommendations of the joint committee but I hope the Deputy will be in a position to withdraw his amendment.

Deputy Jonathan O'Brien: I thank the Minister of State for his reply. Deputy Mac Lochlainn has asked me to press the amendment and he will examine the Official Report of this debate before revisiting the matter on Report Stage. He may resubmit a similar amendment but for now I will be pressing the amendment.

Amendment put and declared lost.

Deputy Niall Collins: I move amendment No. 2:

In page 3, between lines 14 and 15, to insert the following:

“2. Section 67(2) of the Principal Act is amended by the insertion of the following paragraph after paragraph (h):

“(i) to hold the Garda Commissioner responsible, in his capacity as the Commis-

sioner of An Garda Síochána but not in his capacity as head of national security, for the operations of An Garda Síochána.”.”.

This amendment would bring the Garda Commissioner under the remit of GSOC. Much of the commentary on GSOC has related to its ability to hold all members of An Garda Síochána properly to account. It is fair to say that GSOC's independence and ability to operate are hindered when it cannot hold to account the head of the organisation which it is charged with overseeing to the same extent of other members. If GSOC is to be seen to be totally independent, the Garda Commissioner, as head of the Garda, should be subject to the same level of scrutiny as every other member of the force. The amendment excludes national security issues from such oversight, which I think people would accept. The legislation gives powers to the Minister to direct GSOC to investigate certain activities of the Garda Commissioner, which raises the prospect of political interference by a Minister or Government. This amendment would permit a clean break.

Deputy Finian McGrath: I support this amendment because it is important that we strengthen the independence of GSOC. I strongly support the principle of holding the Garda Commissioner to account. In light of the incidents of the last 15 months, accountability, trust and confidence have to be restored in the Garda. All of us want it to be a quality service that is accountable to the people of this country. Recently we have seen major damage being done to confidence and trust in the Garda. I will support amendment No. 2.

Deputy Dara Murphy: I thank Deputy Collins for his amendment. He is correct in the first instance that the core function of GSOC is to investigate complaints made against the members of the Garda Síochána. As things stand, however, GSOC cannot investigate a complaint made against the Garda Commissioner. Section 7 of this Bill changes the position by inserting a new section into the Garda Síochána Act 2005 to bring for the first time - it is important, Chairman, to emphasise this very significant change - that for the first time the Garda Commissioner will be brought within the remit of GSOC. In addition, section 10 of the Bill amends section 106 of the 2005 Act to allow GSOC to examine, of its own volition, any practice, policy or procedure of the Garda Síochána for the purpose of preventing any complaints arising in respect of those practices, policies or procedures. The Minister believes the changes provided for in sections 7 and 10 are important and will significantly enhance the capacity of GSOC to carry out its functions.

The effect of the Deputy's amendment is to include among the functions of GSOC a requirement to hold the Garda Commissioner responsible, in her capacity as the Commissioner of An Garda Síochána but not in her capacity as head of national security, for the operations of An Garda Síochána. The Minister is not sure if this was intended on the part of Deputy Collins, but one of the consequences of his amendment would be to make the Commissioner generally responsible to GSOC for policing matters even though such matters fall outside the functional and operational remit of GSOC.

In this context, Deputies will be aware that the Minister has published the general scheme for the establishment of the proposed independent policing authority, which, among other things, will be charged with providing oversight of the Garda Síochána in respect of the provision of policing services. The Minister believes that this is the approach that should be adopted, and the establishment of the policing authority is a major element of the Government programme of criminal justice reform. The scheme has been the subject of scrutiny by the Joint Committee on Justice, Defence and Equality and the Bill is being prepared on a priority basis. The Minister

looks forward to publishing this legislation and bringing it before the Oireachtas as quickly as possible.

In all the circumstances, the Minister cannot accept the Deputy's amendment and would ask him if he might withdraw it.

Chairman: How stands the amendment?

Deputy Niall Collins: With the permission of the Chair, may I ask the Minister of State for clarification of the following point: is it the case that the Bill effectively proves that, should a member of the public wish to make a complaint against the Garda Commissioner, he or she cannot do so unless the Minister agrees to it?

Deputy Dara Murphy: I think a member of the public can make a complaint against the Commissioner, but the Minister for Justice and Equality is part of the process of the investigation. That is correct. To give the Deputy a more complete answer, the issue of the Minister's consent is being dealt with by later amendments which are before us.

Deputy Jonathan O'Brien: Would it not be fairer to say that the Minister does not have a role in the process but what is actually a veto over the process?

Deputy Dara Murphy: That is a use of language. The Minister has a role in the process.

Deputy Jonathan O'Brien: The Minister has the power either to agree or not to agree to the opening of an investigation against the Garda Commissioner. Therefore, whether it is a use of language or not, the reality is that the Minister has a veto.

Deputy Dara Murphy: The Minister for Justice and Equality has a role in the process. This has been discussed at some length. It is important to acknowledge that there will be a reporting structure in place to give a rationale to the process. When a complaint is brought, there must be a reason for the complaint and a reason must also be given as to why the complaint is not being taken on by the Minister.

Deputy Jonathan O'Brien: It is my understanding that the rationale will be given back to the Commission, but is it the case that it will be made public, or not?

Deputy Dara Murphy: It is a matter for GSOC.

Deputy Jonathan O'Brien: Is it up to GSOC whether to reveal the reason the Minister decided against an investigation?

Deputy Dara Murphy: Yes. One would imagine it would be in GSOC's interest to do that. It would be a matter for GSOC.

Chairman: Deputy Collins, how stands the amendment?

Deputy Niall Collins: I will press it.

Amendment put and declared lost.

Section 2 agreed to.

NEW SECTIONS

Chairman: Amendment No. 3 in the name of Deputy Mac Lochlainn. Amendments Nos.

3, 4 and 6 are related and will be discussed together.

Deputy Jonathan O'Brien: I move amendment No. 3:

In page 3, between lines 17 and 18, to insert the following:

“Amendment of section 73 of Principal Act

3. Section 73 of the Principal Act is amended by the insertion of the following subsection after subsection (3):

“(4) The Ombudsman Commission and the Garda Inspectorate may, for the purposes of an investigation, recruit a pool of independent investigators in place of designated officers.”.

Amendment No. 3 is straightforward. The rationale behind Deputy Mac Lochlainn’s amendment is to ensure that gardaí are not always investigating other gardaí. I think this requires some consideration.

I will now comment on amendments Nos. 4 and 6. Historically, GSOC would be stopped in its tracks if we prevented it from continuing with an investigation by telling it that certain information was not available to it or would be delayed on the basis that it was an issue of national security. To ensure this information is correct and to ensure it is supervised and not used as a mechanism to hamper GSOC investigations, we would like to see the introduction of an independent adjudicator who would decide whether that information was in fact an issue of national security. It is to bring a level of independent oversight to the decision.

Chairman: I see that Deputy Wallace is offering.

Deputy Mick Wallace: I give notice that I wish to introduce an amendment on section 4.

Chairman: As Deputy Wallace intends to move an amendment to section 4, he must wait until we are discussing section 4.

Will the Minister of State comment on Deputy O’Brien’s proposal?

Deputy Dara Murphy: The suggestion in the Deputy’s amendments is that GSOC is not currently able to recruit its own investigators, but this is in fact not the case. Section 67(4) of the Garda Síochána Act 2005 provides that GSOC is independent in the performance of its functions. In its capacity as an independent statutory body, GSOC has recruited its own complement of experienced and independent investigators who are designated officers and who, under section 98 of the 2005 Act, have effectively the same powers as members of the Garda Síochána in the conduct of investigations.

It was recognised that, in order to conduct high quality investigations, GSOC would need expertise at the highest professional levels. These designated officers have been drawn from many different backgrounds. They include public servants, former senior police officers from Ireland and other jurisdictions and former police oversight personnel. In addition to Irish personnel, GSOC staff have been drawn from a variety of countries, including Australia, New Zealand, Slovakia, South Africa and our near neighbour, the United Kingdom.

In addition, the three members of the Commission are vested with the powers of members of the Garda Síochána at or above the rank of inspector. GSOC has ensured that all staff receive

appropriate training to ensure that they are capable of carrying out their functions.

I should also mention the increased funding of €1 million in GSOC's allocation for 2015.

Amendment put and declared lost.

Deputy Jonathan O'Brien: I move amendment No. 4:

In page 3, between lines 17 and 18, to insert the following:

“Amendment of section 74 of Principal Act

3. Section 74 of the Principal Act is amended by the insertion of the following subsection after subsection (4):

“(5) The Ombudsman Commission and the Garda Inspectorate may, for the purposes of an investigation, recruit a pool of independent investigators in place of designated officers.”.

Amendment put and declared lost.

Section 3 agreed to.

NEW SECTION

Chairman: Amendments Nos. 5 and 8 to 10, inclusive, in the name of Deputy Pádraig Mac Lochlainn are related and will be discussed together.

Deputy Jonathan O'Brien: I move amendment No. 5:

In page 3, between lines 20 and 21, to insert the following:

“Amendment of section 82(1) of Principal Act

4. Section 82(1) of the Principal Act is amended by the substitution of the following subsection for subsection (1):

“(1) In this Part, unless the context otherwise requires—

‘admissible complaint’ means a complaint determined by the Ombudsman Commission under section 87 to be admissible;

‘breach of discipline’ means conduct specified in Schedule 5;

‘complainant’ means—

(a) a person who makes a complaint,

(b) a person on whose behalf a complaint is made, and

(c) where a complaint is made on behalf of another by a person authorised to do so under section 83, the authorised person;

‘conduct’ includes any act or omission and a reference to the occurrence of an any conduct includes the doing of an act or the making of an omission;

‘disciplinary proceeding’ means a proceeding conducted in accordance with the Disciplinary Regulations;

‘Garda Commissioner’ includes a Deputy Garda Commissioner or an Assistant Garda Commissioner acting in place of the Garda Commissioner under section 32;

‘Independent Adjudicator’ means a member of the judiciary chosen to adjudicate on disputes between the Ombudsman Commission and the Garda Inspectorate;

‘member of the Garda Síochána’ does not include the Garda Commissioner;

‘member of the public’ means a person other than a member of the Garda Síochána or the Garda Commissioner;

‘misbehaviour’ means conduct that constitutes an offence or a breach of discipline;

‘serious harm’ means injury that—

(a) creates a substantial risk of death,

(b) causes serious disfigurement, or

(c) causes substantial loss or impairment of mobility of the body as a whole or of the function of any particular bodily member or

organ.”.”.

As the rationale behind amendment No. 5 is the same as that outlined previously, I will not repeat it. Amendment No. 9 would provide for the removal of powers from the Minister to allow GSOC to retain its independence. The rationale behind this group of amendments is to ensure GSOC will be as independent as possible of the Minister and the Department of Justice and Equality.

Deputy Finian McGrath: Amendment No. 5 is very important. It is very strong and decisive and would provide for the recruitment of a pool of independent investigators in place of the designated officers. It would improve efficiency and accountability under the Bill. It would up the game with regard to having confidence and trust in An Garda Síochána.

Deputy Dara Murphy: Deputy Jonathan O’Brien is correct that the effect of the amendments would be to remove from the Minister for Justice and Equality the function under section 96 of the Garda Síochána Act 2005 of determining whether certain information or material could be made available to GSOC where it had been claimed that matters of national security were involved. The Minister has considered the amendments very carefully and is of the clear view that given that the security of the State is a priority function of the Government, the task of deciding whether information or material can be withheld on security grounds should remain with the Minister for Justice and Equality in her or his capacity as a member of the Government.

In the context of this group of amendments, the Minister has emphasised the fact that it is incumbent on the Minister for Justice and Equality to ensure the relevant functions under section 96 are discharged properly and impartially. As Members will be aware, this is one of a number of areas where important security-related matters are dealt with by the Minister, including authorising the interception of communications. One of the features of the amendment is that they involve a specific role for a member of the Judiciary. In that regard, Deputies will be

aware of section 100 of the Garda Síochána Act 2005 which provides for the appointment, by the President of the High Court, of a designated judge to keep under review the operation of certain provisions of the Act, including section 96, that relate specifically to the security of the State. The Minister believes these arrangements are prudent and sufficient to provide for an appropriate level of judicial oversight. Accordingly, the Minister does not believe it would be appropriate to accept the changes proposed in the amendments and is, therefore, not accepting them.

Deputy Jonathan O'Brien: This brings us back to our previous amendment which sought an independent adjudicator in dealing with such issues. Whether we like it, sometimes citing national security can be used as a mechanism to delay investigations. I know this from personal experience. Before being elected to the Dáil, I used to work as a roofer. I was offered a job at the Haulbowline naval base and applied for security clearance, but I was refused. When I inquired about the matter, I was told I could not be given a reason for the refusal on the basis of national security. Even when my union took up the matter, it was given the same response. To this day, I still do not know why I was refused security clearance to work at the naval base. An independent adjudicator could examine such issues. As I accept that the Minister of State is not going to change his position on this issue, I will be pressing the amendments.

Deputy Dara Murphy: On the issue of national security, I obviously cannot explain why the Deputy was prevented from working at Haulbowline naval base. However, there is a provision in section 100 of the Garda Síochána Act 2005 to allow a designated judge, appointed by the President of the High Court, to review the operation of certain provisions in this regard. It is vital that the role and functions of the Minister for Justice and Equality in safeguarding national security be maintained.

Amendment put and declared lost.

SECTION 4

Question proposed: "That section 4 stand part of the Bill."

Deputy Mick Wallace: I give notice that I intend to submit an amendment to this section 4 on Report Stage.

Chairman: Will the Deputy give us more detail on the substance of the amendment to be proposed?

Deputy Mick Wallace: Under the Bill it is proposed to substitute the words "within the period of 12 months" for "within the period of 6 months", but in certain circumstances, particularly in the case of issues of a very serious nature, a case could be made to extend the period to two years, if the conduct in question merited it.

Chairman: Is the Deputy referring to the time period within which a complaint can be made?

Deputy Mick Wallace: Yes.

Question put and agreed to.

NEW SECTIONS

Deputy Jonathan O'Brien: I move amendment No. 6:

In page 3, between lines 23 and 24, to insert the following:

“Amendment of section 91 of Principal Act

5. Section 91 of the Principal Act is amended by the insertion of the following subsection after subsection (2):

“(3) The Ombudsman Commission and the Garda Inspectorate may, for the purposes of an investigation, recruit a pool of independent investigators in place of designated officers.”.

Amendment put and declared lost.

Chairman: Amendments Nos. 7, 11 and 15 are related and will be discussed together.

Deputy Niall Collins: I move amendment No. 7:

In page 3, between lines 23 and 24, to insert the following:

“5. Section 96(1) of the Principal Act is amended by the substitution of the following subsection for subsection (1):

“(1) For the purpose of an investigation under section 95, the Ombudsman Commission—

(a) may require a person who, in its opinion, possesses information or has a document or thing in his or her power or control that is relevant to the investigation, to provide that information, document or thing to the Commission, and

(b) where appropriate, may require that person to attend before the Commission for that purpose,

(c) may require the Garda Commissioner to provide the Commission with access to the Garda Síochána Police Using Leading Systems Effectively (PULSE) computer system, and the person and/or Garda Commissioner shall, subject to subsection (4), comply with the requirement.”.

Not to labour the point, but this relates to the old chestnut of access to PULSE.

Deputy Dara Murphy: The Minister fully agrees that GSOC should have access to PULSE for the purposes of its investigations. However, on her behalf I can assure the Deputies that, at this stage, it is an aspect of co-operation that is being fully catered for operationally.

While I am aware it is an area that has given rise to difficulties for GSOC in the past, the commission has confirmed to the Minister’s Department that it is satisfied with the level of access to PULSE that is currently being provided. As part of the processes involved, appropriate training has been provided for GSOC personnel. For the Minister’s part, she believes it is appropriate that GSOC’s access to the PULSE system should be provided within the general framework of the co-operation that takes place between the Garda Síochána and GSOC. This is specifically provided for in the 2005 Act and the Minister does not consider that there would be any advantage in making separate provision for one isolated area where information is exchanged. Also, legislating for access to a named information system, as proposed, has the potential to give rise to practical difficulties, for example, if the title or name of the system were

to be decommissioned.

Additionally, section 9 of the Bill contains a provision that will underpin any requirement on the Garda Commissioner to provide information to GSOC. That section inserts a new section 103A into the Garda Síochána Act 2005 and places a statutory obligation on the Garda Commissioner to provide GSOC, as soon as practicable, with information that GSOC requires for the purposes of carrying out its functions.

In the circumstances, the Minister does not consider that new legislative provisions along the lines proposed are necessary. I ask the Deputy to withdraw the amendment.

Deputy Jonathan O'Brien: With regard to amendment No. 15 tabled by Deputy Mac Lochlainn, the committee recommended that access to the PULSE system by GSOC should be put on a statutory footing, not by way of protocol. I understand that was in its report, which said that the access to Garda systems is of integral importance to the operation of effective oversight of An Garda Síochána. It said that while in practice this process is already in operation between the Garda Síochána, GSOC and the Garda Inspectorate, it is only by means of protocols which have been put in place. The committee recommended that this be placed on a statutory footing to ensure that no party can opt out of the protocol.

Deputy Mick Wallace: It is absolutely imperative that it is put on a statutory basis, and I intend to table an amendment to that effect on Report Stage.

Deputy Dara Murphy: To reiterate, the Minister fully agrees that GSOC should have access to PULSE but we must have regard to the fact that the commission has confirmed to the Minister and the Department that it is happy with the level of access to PULSE. For the reasons I outlined, it is considered that the amendment it is not required. I have outlined the difficulties in isolating this single area of access and with the title and other legal difficulties. We must also acknowledge some previous difficulties that existed between the commission and the Garda Síochána, which is not now the case. The commission is satisfied with the access it has in all areas.

Chairman: I can see the point. Representatives of the Garda Inspectorate appeared before the committee recently and they said that PULSE is 1990s technology and that it should be massively upgraded. If we put PULSE into the legislation, we will have to change it again if PULSE is changed to something else in the future.

Deputy Dara Murphy: It is fair to point out that PULSE is coming to the end of its time. It has to be decommissioned or reconditioned and updated.

Amendment put and declared lost.

Deputy Jonathan O'Brien: I move amendment No. 8:

In page 3, between lines 23 and 24, to insert the following:

“Amendment of section 96(4) of Principal Act

5. Section 96(4) of the Principal Act is amended by the substitution of the following subsection for subsection (4):

“(4) A person may not be required under subsection (1)(a) or (3)(a) to provide any information, document or thing that is designated, or is of a class designated,

under section 126 as relating to the security of the State, and where a dispute occurs the matter shall be referred to the independent adjudicator.”.”.

Amendment put and declared lost.

Deputy Jonathan O’Brien: I move amendment No. 9:

In page 3, between lines 23 and 24, to insert the following:

“Amendment of section 96(5) of Principal Act

5. Section 96(5) of the Principal Act is amended by the substitution of the following subsection for subsection (5):

“(5) If a person required under subsection (1)(a) or (3)(a) to provide any information, document or thing claims that subsection (4) applies in relation to the matter, the Ombudsman Commission shall refer the matter to the independent adjudicator.”.”.

Amendment put and declared lost.

Deputy Jonathan O’Brien: I move amendment No. 10:

In page 3, between lines 23 and 24, to insert the following:

“Amendment of section 96(6) of Principal Act

5. Section 96(6) of the Principal Act is amended by the substitution of the following subsection for subsection (6):

“(6) If the Independent Adjudicator determines that the disclosure of all or part of the information, document or thing specified in the requirement would not be prejudicial to the security of the State or that its disclosure is necessary for the proper investigation of a matter concerning the death of, or serious harm to, a person as a result of Garda operations or while in the care or custody of the Garda Síochána, the Independent Adjudicator may issue a direction—

(a) specifying that all or part, as the case may be, of the document, information or thing be disclosed, and

(b) imposing any conditions or restrictions relating to the security of the State that the Independent Adjudicator considers appropriate.”.”.

Amendment put and declared lost.

Deputy Niall Collins: I move amendment No. 11:

In page 3, between lines 23 and 24, to insert the following:

“5. Section 98(1) of the Principal Act is amended by the insertion of the following paragraph after paragraph (g):

“(h) the search of the Garda Síochána Police Using Leading Systems Effectively (PULSE) computer system for any purpose relevant to the investigation being conducted by the designated Officer of the Ombudsman Commission.”.”.

Amendment put and declared lost.

Sections 5 and 6 agreed to.

SECTION 7

Chairman: Amendments Nos. 12 and 13 are related and may be discussed together.

Deputy Niall Collins: I move amendment No. 12:

In page 4, line 18, to delete “and subject to the consent of the Minister,”.

This relates to the issue of the Minister having consent or, as Deputy O’Brien correctly said earlier, a veto. The optics and intent of it are wrong. If GSOC is to be truly independent in carrying out its role and fulfilling its remit, providing for ministerial veto or approval is wrong. The amendment seeks to delete that from the legislation.

Deputy Jonathan O’Brien: I concur with Deputy Collins.

Deputy Mick Wallace: It makes a mockery of the notion of strengthening GSOC if a veto is left in place. It is imperative that under no circumstances should the Minister have a veto in this situation. I will table an amendment to that section when the time comes.

Deputy Dara Murphy: The Minister acknowledges that there are important issues at stake here and she is willing to give this further consideration and discuss it on Report Stage. In that context, it can be kept on the table if it is withdrawn. It is reasonable that further discussion of this should take place on Report Stage.

Question, “That the words proposed to be deleted stand”, put and declared carried.

Amendment declared lost.

Deputy Jonathan O’Brien: I move amendment No. 13:

In page 4, to delete lines 28 to 30.

Question, “That the words proposed to be deleted stand”, put and declared carried.

Amendment declared lost.

Question proposed: “That section 7 stand part of the Bill.”

Chairman: Deputy Wallace wishes to draw our attention to a proposal he wishes to make on Report Stage in respect of section 7.

Deputy Mick Wallace: Yes. It relates to the issue of substituting “the Garda Authority” for “the Minister”. I wish to challenge, with an amendment, the idea of the Garda Síochána Ombudsman Commission being able to investigate the Commissioner only with the consent of the Minister.

Chairman: The Deputy is giving notice of his intention to table an amendment to that effect on Report Stage. It is duly noted.

Question put and agreed to.

SECTION 8

Deputy Dara Murphy: I move amendment No. 14:

In page 5, line 23, before “by” to insert “in subsection (1),”.

This is a purely technical amendment to make it clear that the proposed new paragraph (c) is being inserted at subsection (1) of section 103. The need for this amendment has been identified by the Parliamentary Counsel and I hope it can be accepted.

Amendment agreed to.

Section 8, as amended, agreed to.

NEW SECTION

Deputy Jonathan O’Brien: I move amendment No. 15:

In page 5, between lines 28 and 29, to insert the following:

“9. The Ombudsman Commission may, if the investigation so requires, access the PULSE system.”.

Amendment put and declared lost.

SECTION 9

Deputy Jonathan O’Brien: I move amendment No. 16:

In page 5, line 35, to delete “as soon as practicable” and substitute “within thirty days”.

While I acknowledge that placing time limits on things sometimes can be impractical, one concern of Deputy Mac Lochlainn is that sometimes - not always and I do not wish to cast aspersions on members of the Garda - gardaí can cause undue delays when providing information or data to GSOC investigators. Sinn Féin wishes to ensure this is not the case and can never be the case by including a time limit. The Minister of State obviously will outline his reasons for not accepting the time limit but I give notice that this is something to which Sinn Féin may come back on Report Stage.

Deputy Mick Wallace: I also wish to table an amendment to the section on Report Stage.

Chairman: On this particular section?

Deputy Mick Wallace: On the wording that it be provided “as soon as practicable”. I want to put a precise time on the provision of information.

Chairman: I thank the Deputy and that is noted. I ask the Minister of State to respond.

Deputy Dara Murphy: The aim of the new section being inserted is to place a statutory obligation on the Garda Commissioner to provide to GSOC any information it needs for the purposes of either the investigation of complaints or matters comprehended by sections 102 and 102B. The requirement is that this information will be provided as soon as practicable, that is, as soon as it is feasible to do so. This contrasts with the amendment, which allows for up to 30 days for material to be provided. I believe all agree on the requirement for things to happen as quickly as possible, but the formulation in the Bill, rather than a specific timeframe,

is preferable because it recognises that from time to time, there will be instances in which the information cannot be obtained - within 30 days in this instance - or whatever the specific timeframe. The Minister is aware there have been situations in which the amount of time taken to supply information or material to GSOC has been unacceptable. There have perhaps been too many times when this has happened, but she has considered the position carefully and is satisfied that the new provision as drafted is sufficient to ensure that GSOC will be able to obtain any necessary information in a timeframe that is appropriate to the individual complexities and specifications of whatever case might arise. In this context, the Minister would stress that the main purpose of the new section is to place a specific statutory duty on the Garda to provide the information sought and she believes this will be successful. Consequently, in the circumstances the Government will not be able to accept the amendment.

Deputy Mick Wallace: I wish to give notice that I wish to add another section to this to-----

Chairman: We will get back to it when we finish with this particular amendment. We are just dealing with this amendment at present.

Deputy Mick Wallace: I believe it is within the same topic. Am I wrong?

Chairman: Yes, but it is a separate kind of thing. I will give the Deputy time in a moment to put it down. I have notice of it here and we will not pass over it.

Deputy Jonathan O'Brien: I understand fully what the Minister of State is saying and I am sure that when Deputy Mac Lochlainn reads back the transcripts, he will disagree with him. While I can see where the Minister of State is coming from, there must also be some sort of mechanism put in place whereby if there is an undue delay in providing information, somebody must at least give an explanation as to what that delay is and whereby it cannot simply be open-ended. I do not know whether the Government can consider this matter before Report Stage. I am sure Deputy Mac Lochlainn will consider trying to reword it to ensure the avoidance of long delays where information is not forthcoming with no explanation as to the reason.

Deputy Dara Murphy: The spirit of the amendment tabled by Deputy Mac Lochlainn is accepted. It is just that it is not practical to put a specific number of days for every eventuality. However, I believe the spirit of what the amendment is trying to achieve is included, in so far as is practical and possible, given there occasionally will be cases in which the complexity requires that were one to specify 30, 45 or whatever number of days, it would not-----

Deputy Jonathan O'Brien: Could a mechanism not be put in place whereby if a long period of time has elapsed, someone must come forward to explain the reason the information has not yet been provided? This would not put a specific timeframe on it but at least would avoid a position where the delay runs into two, three, four or five months without the information being provided and with no one knowing why it has not been provided. It would offer more transparency and accountability and would resolve the issue. Perhaps those responsible for drafting the legislation could consider doing this to ascertain whether it is possible to include such a safeguard without putting in a specific timeframe. If it is possible, that would be great. I take on board that the Minister of State understands from where Sinn Féin is coming. While we do not wish to be restrictive either, we wish to avoid a situation in which it is just open-ended with no explanation as to why the information is not forthcoming.

Deputy Mick Wallace: On that topic, expecting things to be done in the spirit of things is one reason GSOC has been so fettered for a number of years. From discussions with GSOC, I

am aware that this is a huge problem for the commission. It is far too open-ended and the potential for non-co-operation without a serious restriction being put in place is too easily abused on the part of the police force.

Deputy Dara Murphy: Again, this will be dealt with as an operational matter between the Garda Síochána and GSOC. I will restate the ambition of having issues dealt with as efficiently and as quickly as possible. There are many instances - I have discussed this with the Deputy many times in our previous roles - in which it would be beneficial to have time-bound requirements. Unfortunately, given there can be complexities and different cases, it is not possible in this instance to include a number of days in the provision.

Deputy Jonathan O'Brien: Will the Minister of State at least commit to considering the possibility of including a mechanism for reporting if the delay reaches a certain timeframe within the process? Someone could then at least report back to the commission to tell it not all the information has been acquired, the reason for it, and that it is hoped it will be provided within a number of weeks.

Deputy Dara Murphy: I am happy to bring this matter to the attention of the Minister again and if she considers it appropriate to bring it further, there can be further discussion on Report Stage. However, the Government will consider it further.

Chairman: There is something in this and it should be examined because this issue has led to many problems. Something could be triggered if the commission considered that it was not getting information in a timely fashion. It should be able to move on it and that would be-----

Deputy Dara Murphy: There is no dispute on the ambition. It is a question of finding a way to achieve the ambition and the Government certainly will continue to examine this. It has received considerable-----

Deputy Jonathan O'Brien: While I will leave it in the Minister of State's capable hands, if he fails I am sure we will-----

Deputy Mick Wallace: The Deputy knows where the Minister of State lives.

Deputy Jonathan O'Brien: I actually do.

Deputy Dara Murphy: He does know where I live.

Chairman: Let us stop the constituency love-in and return to amendment No. 16.

Deputy Jonathan O'Brien: Given that the Minister is willing to examine it again before Report Stage, I will withdraw it.

Amendment, by leave, withdrawn.

Question proposed: "That section 9 stand part of the Bill."

Chairman: Deputy Mick Wallace wished to bring something to our attention in respect of this section.

Deputy Mick Wallace: Given that the Commissioner could be under investigation, it could be necessary to compel the assistant Garda Commissioner to provide information, if so required. I wish to add this as an extra section.

Chairman: That is in order. The issue is noted.

Question put and agreed to.

SECTION 10

Question proposed: “That section 10 stand part of the Bill.”

Chairman: Deputy Mick Wallace has brought it to our attention that he wishes to insert an amendment in this section on Report Stage.

Deputy Mick Wallace: I am considering the insertion of the words “the Garda Authority” in place of “the Minister” who is mentioned at numerous places in the section.

Chairman: Has sufficient detail been provided? I believe the Deputy mentioned the Garda Síochána Ombudsman Commission at times.

Deputy Mick Wallace: Do I need to go through all of it?

Chairman: The Deputy should give a brief overview of what he intends to do, without going into great detail.

Deputy Mick Wallace: There are about ten instances where “the Minister” is mentioned. I wish to replace the term with the words “the Garda Authority”.

Chairman: I hope that is sufficiently detailed for consideration on Report Stage. If the Deputy is happy with it, we will note what he said.

Deputy Mick Wallace: I have a great deal of detail, but the meeting would go on for some time if I were to go through it all. As recommended by the United Nations, most recently in the concluding comments of the Human Rights Committee in July 2014, section 106 has been amended in the Government’s draft to allow GSOC independence to initiate investigations into the practices, policies and procedures of the Garda. Prior to this, the Minister’s consent was required before GSOC could initiate any such investigation. The last three Ministers have refused permission to investigate the Corrib policing controversy for overtly political reasons.

Section 106 reports will be made to the Minister who may or may not redact parts of them before laying them before the House. Once the policing authority is established, it appears it would be more appropriate for GSOC to present these reports to the authority. The amendment would make that change, while allowing the Minister to retain the duty to lay the reports before the House, subject to national security considerations. However, where there was a dispute between the Minister and the Garda Authority over exclusions from the reports on national security grounds, a right of appeal to the designated judge under section 100 of the 2005 Act should be provided for.

Chairman: We will note that proposal.

Question put and agreed to.

SECTION 11

Question proposed: “That section 11 stand part of the Bill.”

Chairman: Deputy Mick Wallace wishes to bring to our attention a proposed change for

MESSAGE TO DÁIL

consideration on Report Stage.

Deputy Mick Wallace: Again, it is a proposal to replace the words “the Minister” with the “Garda Authority”.

Chairman: We will note that proposal.

Question put and agreed to.

Sections 12 and 13 agreed to.

Chairman: Amendment No. 17 is out of order as it entails a potential charge on the Exchequer.

Amendment No. 17 not moved.

Section 14 agreed to.

Title agreed to.

Bill reported with amendments.

Message to Dáil

Chairman: In accordance with Standing Order 87, the following message will be sent to the Dáil:

The Select Committee on Justice, Defence and Equality has completed its consideration of the Garda Síochána (Amendment) (No. 3) Bill 2014 and has made amendments thereto.

The select committee adjourned at 4.55 p.m. until 2 p.m. on Wednesday, 4 February 2015.