



DÍOSPÓIREACHTAÍ PARLAIMINTE  
PARLIAMENTARY DEBATES

**DÁIL ÉIREANN**

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

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# DÁIL ÉIREANN

*Déardaoin, 19 Feabhra 2015*

*Thursday, 19 February 2015*

Chuaigh an Ceann Comhairle i gceannas ar 9.30 a.m.

*Paidir.  
Prayer.*

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## Ceisteanna - Questions

### Priority Questions

#### Garda Strength

1. **Deputy Niall Collins** asked the Minister for Justice and Equality her views on the fact that the number of gardaí has fallen below 13,000; the optimum level of membership of An Garda Síochána in order to police the country effectively; the further recruitment planned; the further plans she has to expand and integrate the Garda Reserve into the mainstream body of An Garda Síochána; and if she will make a statement on the matter. [7168/15]

**Deputy Niall Collins:** I have tabled this question to ask the Minister for Justice and Equality about further recruitment to An Garda Síochána, given that recruitment has recommenced. The number of gardaí in the force has fallen significantly below 13,000. Will the Minister outline her plans to integrate the Garda Reserve into the force?

**Minister for Justice and Equality (Deputy Frances Fitzgerald):** The Deputy's party when in government introduced a moratorium. I am pleased that the Government has been able to reopen Templemore training college and restart recruitment. There are now 300 recruits in the college in Templemore. This has proved possible because of the improved economic situation and been welcomed by everybody.

The strength of An Garda Síochána on 31 December 2014, the latest date for which figures are readily available, was 12,799. There were also 1,124 Garda Reserve members, with a further 48 in training. In addition, there was a significant increase in the number of civilian staff, as recommended in every report that has analysed the future role of An Garda Síochána. The reports state there are tasks which are appropriate to civilians. Just three weeks ago, 42 more

civilians started work at Dublin Airport, replacing gardaí who did the job previously.

I am pleased to add that my colleague, the Minister for Public Expenditure and Reform, agreed to the resumption of Garda recruitment and, as I said, we now have 300 student gardaí in training. Sufficient gardaí are needed to support the delivery of the policing service which the public expects and deserves. This does mean that an appropriate level of Garda recruitment is needed, not simply to counter the effect of ongoing retirements but also to bring to An Garda Síochána the energy and vitality of young recruits that are so important in the often physically demanding work of policing. I remain in discussions with my colleague, the Minister for Public Expenditure and Reform, on the exact timing of future intakes of Garda recruits.

The Deputy asked about Garda strength. Clearly, many factors impact on the appropriate optimum Garda strength. They include the availability of a modern ICT infrastructure, an issue with which we are dealing effectively, and changes in organisation and work practices to maximise efficiency. A key objective must be to ensure the best use of Garda resources, with which I am sure the Deputy would agree. It has featured strongly in reports we have recently received from the Garda Inspectorate analysing the exact use of gardaí and where they should be allocated. The Garda Commissioner and management staff are examining these recommendations very carefully.

*Additional information not given on the floor of the House.*

As Deputies will be aware, this is against the wider backdrop of a significant programme of Garda reform already under way, including the forthcoming policing authority, and I look forward to their input into these issues in due course.

I fully support the important role of the Garda Reserve in the delivery of the policing service. We are fortunate that over 1,000 members of the public, from all walks of life, have volunteered to help An Garda Síochána in protecting the community. We owe them a debt of gratitude. I certainly want to see the most made of their talents and commitment and I am pleased that the Garda Commissioner is finalising arrangements to extend the powers and functions of Reserve members in order that they can make a greater contribution to policing.

**Deputy Niall Collins:** I am trying to establish what is the official number the Government wants to achieve for the strength of the force. Is it 13,000, 13,500 or somewhere in between? Is it the figure of 12,799? One must factor in the fact that most days up to 500 members of the force could be out sick. I received that information from the Minister in a reply to a parliamentary question. In addition, a further 110 members are on incentivised career breaks. The most significant resource An Garda Síochána needs is manpower. If it is deficient in manpower, it puts the entire system under pressure. Some 113,500 bench warrants are outstanding. The force falls behind in doing that type of work and significant issues can arise as a result. I am, therefore, trying to establish what the Minister's number is for the Garda force. What should the minimum level be? The Garda Commissioner, Ms Nóirín O'Sullivan, stated she wanted to maintain it at 13,000, but it has now dipped below that figure. Will the Government nail its colours to the mast in that regard?

**Deputy Frances Fitzgerald:** I have given the Deputy the current figure of 12,799. To put it in perspective, in 2006 Garda strength was just under 13,000. It is interesting to note that, at the height of the Troubles in Northern Ireland, the average number in the force was between 10,500 and 11,000, at a time when there was no Garda Reserve. I certainly believe the members

of An Garda Síochána can carry out their duties; it is an extremely capable and talented force. The Garda Commissioner has said front-line Garda services will continue to be prioritised. She has also said the crackdown on organised gangland crime and keeping communities safe are absolute priorities. She has spoken about a figure of 13,000 and I am confident that this number will be maintained.

**Deputy Niall Collins:** In order for Garda management to conduct manpower planning and comply with the annual policing plan, it is critically important for it to know with certainty what is the total number of gardaí. Unfortunately, it seems to be a variable factor, which is something the Minister needs to consider. What is her position on further recruitment to the Garda Reserve? Many people are willing to give of their time to the Garda Reserve to augment An Garda Síochána. In general, however, members of the Garda Reserve do not see enough opportunities for progression into the main force. The numbers in training in the college in Templemore who came from the Garda Reserve are quite small relative to the total intake. The Minister's predecessor, Deputy Alan Shatter, stated a review of the Garda Reserve had been undertaken in 2011 with a view to increasing its powers and duties. Has any progress been made in that regard? I would be grateful if the Minister could address these three issues concerning the Garda Reserve.

**Deputy Frances Fitzgerald:** As the Deputy rightly indicates, there is huge interest in the Garda Reserve which has tallied with the new and ongoing recruitment. In fact, 23 members of the first group who entered the college in Templemore had been members of the Garda Reserve. Some 17 former members of the Garda Reserve were in the second batch of 100 new recruits, while 13 former members were in the third batch of 100 new recruits. Recruitment has been ongoing but slowed somewhat in 2014. In view of the recruitment to An Garda Síochána, the Public Appointments Service focused on that. For the information of Deputy Collins who has an interest in this area, this is expected to change in 2015. There will be further, more accelerated recruitment to the Garda Reserve. It is also expected that new powers will be rolled out to the Garda Reserve shortly, and I will keep the Deputy informed as that progresses.

## **White Collar Crime**

2. **Deputy Pádraig Mac Lochlainn** asked the Minister for Justice and Equality her views on the strategy of An Garda Síochána, working in partnership with other State agencies, and the resources available to them; if she will tackle white collar crime, in view of the recent revelations that 350 Irish persons held 892 of the controversial HSBC accounts in Geneva, worth a total of €3.1 billion. [7170/15]

**Deputy Pádraig Mac Lochlainn:** This question relates to a statement in the strategy of An Garda Síochána on white collar crime and follows the revelations that 350 Irish persons held 892 accounts in HSBC Geneva, at this stage, a notorious bank, worth a total of €3.1 billion.

**Deputy Frances Fitzgerald:** In so far as the specific circumstances referred to by the Deputy are concerned, I understand that these have been the subject of investigation by the Revenue Commissioners following receipt and assessment of information in regard to those accounts. While the Deputy will appreciate that I have no role in regard to the Revenue Commissioners, it may be helpful to inform the House that information was sought and obtained from the French authorities in regard to bank accounts, purported to be held with HSBC Bank Geneva, that had been linked to Irish nationals or to addresses in Ireland. To date, Revenue has initiated 33 in-

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vestigations as a direct result of the data received. As a result of these investigations, 20 settlement payments were made. The total amount recovered to date is €4.5 million, while a further €174,000 has been received as payments on account in two ongoing investigations.

On the basis of the data provided and the subsequent investigations that were conducted Revenue also took action, in any cases where sufficient admissible evidence was available, to bring a criminal prosecution in regard to any identified tax offences. To date, three persons have been convicted of such offences.

In so far as my Department's remit is concerned, the Garda Bureau of Fraud Investigation, GBFI, is charged with investigating serious and complex fraud matters and has resources and expertise to carry out this function. I have said to Deputy Mac Lochlainn previously that the Garda Commissioner has informed me of the extra resources that she is putting into this area, and we have discussed that here previously. The GBFI works closely with the Director of Corporate Enforcement, the Central Bank, the Revenue Commissioners and the Competition Authority, and GBFI staff are seconded to both the Office of the Director of Corporate Enforcement, ODCE, and the Competition Authority. It is a close working relationship.

The Criminal Justice Act 2011 provided for new procedures to facilitate Garda access to essential information and documentation that they may need to help in the investigation of such crimes. I am continuing to keep these provisions under review, in consultation with my colleagues.

*Additional information not given on the floor of the House*

I am also in ongoing contact with the Garda Commissioner in regard to the arrangements in place to investigate serious crime of this nature. To this end, tackling white collar crime is identified as one of the policing priorities I have set for An Garda Síochána for 2015, and this is reflected in the recently published Garda Policing Plan. The plan also rightly addresses the improvement of crime management and investigation techniques, in the context of an overall programme of modernisation within An Garda Síochána. The Deputy will be aware from our previous discussions that the Commissioner already had underway a comprehensive review and strategic realignment of An Garda Síochána's capacity to deal with emerging and complex crimes, such as those coming under the GBFI's responsibility. This review is ongoing and the recommendations of the Garda Síochána Inspectorate in regard to crime investigation generally are also of relevance in this respect. I look forward to the outcome of this process and will, of course, continue to engage further with the Commissioner on how complex white collar crime can best be tackled.

**Deputy Pádraig Mac Lochlainn:** The Minister will recall that I raised this with her not long after her appointment, in June 2014. It followed the alarming comments of Mr. Remy Farrell SC at the Bar Council's annual conference where he outlined his concerns.

If I might backtrack, I re-read an article by Dr. Elaine Byrne last night. With Ansbacher, there were 289 cases of illegality and not one person has been prosecuted. Following the DIRT inquiry involving 3,675 bogus accounts, how many prosecutions have there been? Following the bank crisis that left the State under the troika and the collapse of Anglo Irish Bank, how many have been held accountable for all of that? Now, there is this HSBC story. It was a fluke that this came to our attention. It fell into our hands through a whistleblower, documents showed up in France and we pursued them.

The concern in all of this is cutbacks. If one looks at the Criminal Assets Bureau, CAB,-----

**An Ceann Comhairle:** I am sorry, Deputy.

**Deputy Pádraig Mac Lochlainn:** I will deal with it in a supplementary.

**Deputy Frances Fitzgerald:** The question Deputy Mac Lochlainn raised with me relates to the HSBC and I have given him the figures of the investigations that were carried out. Criminal investigations, where there was evidence in regard to fraud or a criminal matter, have been pursued, and I have given him the results of that.

The Deputy makes the broader point on tackling white collar crime, which is the key point on which he is focusing. Last year, as I told the Deputy previously, the Commissioner ordered a comprehensive review - really, a strategic realignment - of Garda capacity in this area and capability to deal with these emerging and complex crimes. She is also generally looking at the Garda Inspectorate reports on the management of investigations.

I want to reassure Deputy Mac Lochlainn. The personnel strength of the Garda Bureau of Fraud Investigation is approximately 70. All of the members of An Garda Síochána working in this area have the relevant expertise and are working closely with international colleagues, in Interpol and Europol, and are exchanging information and pursuing any instances where there is a crime, and bringing forward prosecutions wherever the evidence is there. It is one of the policing priorities for this year that have been identified in the policing plan.

**Deputy Pádraig Mac Lochlainn:** Returning to the occasion to which I referred, Mr. Farrell SC stated that the Garda Bureau of Fraud Investigation had been swamped since 2011 and that of the cases it had reached only one in ten ended in prosecution. Mr. Ian Drennan, at the Office of the Director of Corporate Enforcement, has spoken about having only one forensic accountant when there was need for at least five. There are serious problems, not only in An Garda Síochána but across all of the different agencies. For instance, the CAB's budget was cut by 15% over the period 2008-12. The Garda Bureau of Fraud Investigation was cut by 21% over the period 2008-11 while that of the ODCE was cut by 12%. The Government is tying the hands of those who need to be dealing with white collar crime.

I repeat that this type of behaviour brought the State to collapse. It is not the behaviour of those who have not paid their small fines or television licences, who we imprison regularly. It is the behaviour of those who brought us to collapse who know that they will not be imprisoned and will not face fines.

I am aware there was a review. There needs to be an urgent independent reappraisal and analysis of all of the different agencies tasked with it. These include the CAB, the ODCE, the Garda Bureau of Fraud Investigation, the Central Bank, Revenue, the National Bureau of Criminal Investigation, NBCI and the Competition Authority. All of them need to be working together. I believe the Garda should have the overall management of that process so that it can, for the first time in the history of the State, properly deal with white collar crime and send a clear signal to those involved in it.

**Deputy Frances Fitzgerald:** That this is a priority area in the policing plan for this year illustrates the seriousness with which this issue is being taken.

Deputy Mac Lochlainn makes a point about resources. I am pleased that this year we have

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been able to increase the resources to An Garda Síochána for the first time in a number of years and that we are working on the ICT issues, which are essential in order to deal with the type of complex crime which he describes. Progress is being made on all of those fronts.

I assure Deputy Mac Lochlainn that there has been a strategic review within An Garda Síochána to bring the relevant resources, such as he describes, together. There is an increasing focus, as there needs to be, on inter-agency work. We have the legislation in place.

Prosecutions are being brought, there is no question of that. I have given the Deputy the figures on the case to which he referred. I fully support Deputy Mac Lochlainn's point on the need for white collar crime to be a priority area and it is being treated as such.

### **Garda Station Closures**

3. **Deputy Shane Ross** asked the Minister for Justice and Equality her plans to improve policing in the Stepside area in County Dublin; if her attention has been drawn to the spike in burglaries in the area since the closure of the Garda station there; if she will provide figures for crime in the area since the station closed; if her attention has been drawn to the fact that, since the station closed, residents and businesses in the immediate vicinity of the station have been targeted by criminals; if her attention has been further drawn to the number of arrests and convictions secured for such crimes; if she will reconsider the re-opening of the station, in view of the sense of insecurity felt by residents of the neighbourhood, since it closed; her plans to carry out a review of the Government's disastrous decision to close many Garda stations nationwide, in particular, the mistaken decision to close the station in Stepside; and if she will highlight the successes achieved in catching criminals in the area, since the closure of this station. [7330/15]

**Deputy Shane Ross:** In view of the fact that Stepside Garda station was closed in March 2013, that the number of burglaries in the area has rocketed and that the residents of the area are victims of crime on a daily basis, will the Minister outline her proposals for what she intends to do about this, in particular, to revisit the disastrous decision by her predecessor to close the Garda station?

**Deputy Frances Fitzgerald:** The publication of crime statistics is a matter for the Central Statistics Office, as the independent national statistical agency. The CSO is carrying out, at my urging having met it, an investigation and detailed analysis of certain issues raised by the Garda Inspectorate on the recording, classification and reclassification of crime to see whether and to what extent they may have implications for the crime statistics which that office produces. There has been some comment about the last quarter of last year not yet being available. That is because they are doing this exercise, and I want to put that on the record of the House. Those statistics will be available shortly and I will make them available to the Deputy.

I am very aware of the concerns in regard to burglary and I am working closely with the Garda Síochána and other relevant criminal justice agencies to ensure an effective, whole-of-system response is in place. The general trend fell in 2013, as the Deputy knows, but there has been an increase overall in burglary offences. It is a heinous crime and has a dreadful impact on people.

The Garda Síochána is reacting to those increases, very often carried out by mobile gangs moving into an area. The Garda has responded through Operation Acer, which is in force

throughout the Dublin metropolitan region. I have had discussions with the Garda Commissioner and other relevant agencies on this. The operation involves burglary response units attached to each division taking the lead, which is very important. There have been a number of initiatives in the Deputy's area. This work is monitoring the movements of burglary suspects and has resulted in many successful arrests. These operations are being co-ordinated by the Garda in a very careful way. Since Operation Acer commenced in early 2012, there have been almost 5,500 arrests, 2,746 charges and 1,087 convictions for burglary in the Dublin area up to 3 February 2015.

The Deputy asked what I am doing. There is clearly a practical operational issue for the Garda in this regard but, equally, I am looking at the legislative changes that may be necessary and the criminal justice response to burglary. We need to consider an inter-agency response to make sure we are bringing together all of those working on crime prevention and that we have support in the communities, as is being developed in the Dublin area, where communities are themselves taking action through text messaging and various other initiatives. I am examining whether other legislative changes ought to be introduced in regard to this issue.

**Deputy Shane Ross:** The Minister's reply, unfortunately, is totally unsatisfactory. With regard to Stepside specifically, I looked for the figures but they have stopped producing them, I presume because they are so embarrassing and, as there is an epidemic of burglaries, they do not want to expose themselves to the accusation that the closure of the station was a disaster and was wrong.

This is of epidemic proportions. I have spent the last three days being telephoned and going out to the Stepside area to meet people who have been burgled there. We do not need Garda responses to burglary; we want Garda prevention of burglary. The idea that the smart policing which was introduced by the last Minister and the last Commissioner is more effective is complete and utter nonsense. They are very good at arriving after the crime and giving counselling and comfort to those who have been burgled in Stepside but they are not good at preventing that crime. What we need is prevention, and that is only achieved if criminals think they are going to be caught.

What I am asking of the Minister is to have a permanent Garda presence in that area, as was there before, to reassure people so they can feel secure, and also to send the message out to the criminals that there is a Garda presence. The Minister may not be aware of this but, since the closure, virtually every shop on one side of the street in Stepside has been robbed or broken into. One of the bookies was done twice in two weeks because the criminals got such a good haul out of it, the pub has been done once, the hairdresser has been done, and many houses close to the Garda station have been done.

**An Ceann Comhairle:** The Deputy's time is up.

**Deputy Shane Ross:** I am sorry. It is an emergency.

**Deputy Frances Fitzgerald:** I agree with the Deputy that prevention is critical, the Garda response is critical and working with the community is critical. In Stepside, the area Deputy Ross is specifically addressing, the decisions that have been taken by the Garda involve increased Garda visibility and patrol hours. As I said, a high percentage of these crimes are committed by gangs who are very mobile and who arrive into an area. What we need is for the Garda to have the ability to respond and to interrupt that, and to have the intelligence that will

allow them to interrupt and prevent it.

Gardaí are working on all of those issues on a continual basis. They recognise there is a spike in this type of crime and they are taking action to deal with it. There is increased patrol mobility and flexibility in the area, which is resulting and should result in an improved policing service. The Deputy spoke about the closure of the Garda station but gardaí want to ensure there is the visibility through patrol cars and increased patrolling in the area, as well as increased engagement with the community. As the Deputy knows, various Garda clinics have been open on a regular basis to his constituents since that decision was made.

There is no evidence or specific information to suggest that criminals are targeting local businesses or residential areas in Stepside. I take the Deputy's point about an increase. I want to reassure him that this is a high priority for the Garda in its work for this year. We have seen reductions in the area the Deputy is speaking about, for example, in regard to serious assaults and a range of other issues, including violent crimes against citizens. There are reductions in many areas. We get these changing patterns in crime and the Garda has to respond to the particular spikes that emerge for a variety of reasons. One I mentioned relates to the mobility of these gangs, namely, the number of extra patrol cars in the area following the investment by this Government in transport for An Garda Síochána.

**Deputy Shane Ross:** The Minister is right that the gangs are very mobile. That is why they come to Stepside. They know it is easy pickings because it is open season there. They come out there and they are not the slightest bit impressed by the fact there are a few more patrol cars, which there may or may not be. They come and they operate there with impunity.

At a local meeting some time ago, I asked the local gardaí how many convictions there have been and how many arrests they had made for all of these burglaries. They could not or would not answer the question. I know why. It is because they do not believe there have been any or, if I am exaggerating slightly, there have been virtually none. They do not catch anybody any more. Once the criminals know that, they are going to keep coming, which is what is happening. If we put the gardaí back on the beat, with a presence in the area, this would keep them out.

The Minister should acknowledge that the idea of smart policing, which is a kind of phantom garda idea where they go around playing cops and robbers, and they are very quick in arriving after the burglars have escaped, is *passé*. We have to re-establish the Garda in the community and have gardaí as a permanent presence in such a large area that has been afflicted so badly.

**Deputy Frances Fitzgerald:** The Deputy is not correct that gardaí are not arresting people for burglaries. That is not accurate.

**Deputy Shane Ross:** It is accurate in Stepside. Will the Minister provide the figures?

**Deputy Frances Fitzgerald:** Gardaí are investigating burglaries, prosecutions are going to the District Court and people are being jailed for periods. Clearly, what we have to do is focus on those recidivists, those repeat burglars and serious offenders who we specifically need to ensure are not free to commit burglaries as they do. That is the focus of the work between the Prison Service, the Garda Síochána and the probation and welfare service.

I agree with the Deputy that this is a heinous crime. As we all know from those who have suffered this crime, it is a very serious crime and it is being dealt with seriously by An Garda Síochána. Prosecutions and investigations are taking place. The Deputy is not correct that

people are not being apprehended because they are being apprehended.

**Deputy Shane Ross:** Can I have the figures?

**Deputy Frances Fitzgerald:** The whole focus now is to have what the Deputy decries, namely, the kind of effective and smart policing that is necessary. It is that kind of policing we need, policing that is out there patrolling, gathering intelligence and interrupting these crimes.

*10 o'clock*

This is the approach being taken by An Garda Síochána.

### **Gambling Legislation**

4. **Deputy Niall Collins** asked the Minister for Justice and Equality her plans to adequately regulate gaming and casinos venues; and if she will make a statement on the matter. [7169/15]

**Deputy Niall Collins:** The gambling control Bill proposed by the Minister's predecessor seems to have dropped away in priority and significance. In the hearings of the Oireachtas Joint Committee on Justice, Defence and Equality during 2013 it became clear from the comments of people such as Mr. Barry Galvin, former head of the Criminal Assets Bureau, and representatives of the Licensed Gaming Association of Ireland that significant revenue losses were accruing to the State because of the unregulated nature of many gaming venues. What are the Minister's plans in this regard?

**Deputy Frances Fitzgerald:** The Deputy is aware that there are detailed proposals in the general scheme of the gambling control Bill for the licensing of casinos in Ireland for the first time. This is the first Government to bring forward legislative proposals for changes in this area. My colleague, the Minister for Finance, is bringing forward the Betting (Amendment) Bill 2013 which was debated in the Seanad yesterday. It will extend the licensing regime to cover the operations of remote bookmakers and betting intermediaries. The activities of such operators can then be taxed.

There is no provision in Irish law for the licensing of casinos. Some 47 private member gaming clubs are registered with the Department under the provisions of section 109 of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010, as amended. The Department's anti-money laundering compliance unit conducts inspections of these premises to assess compliance with the 2010 Act. It is understood some of these clubs offer casino-type games.

Under the proposals set out, the Minister for Justice and Equality will assume a regulatory role for all forms of gambling, with the exception of the national lottery, on enactment of the Bill. As its Title indicates, the aim of the Bill is to establish a system within which gambling can take place openly, fairly and in accordance with terms and conditions, in other words, within a controlled environment. The Bill will operate on the basis that all gambling is illegal, unless it is of a type permitted by law and even if it is permitted, it may be carried on only if it is licensed and in compliance with terms and conditions attached to the licence. The general scheme is with the Office of the Parliamentary Counsel awaiting drafting. I cannot indicate precisely at this point when the Bill will be published. I take the Deputy's point, however, that this area needs to be regulated.

**Deputy Niall Collins:** The figures brought to my attention and that of the Minister are staggering. It is estimated that there are up to 19,000 unlicensed gaming machines in the State at any one point in time and that this results in a loss of licensed revenue to the State of almost €10 million per annum. When one factors in that the average profit per gaming machine is in the region of €19,200 per annum, this means a turnover of approximately €364 million is potentially untaxed. It is a huge area in which there is a loss of revenue to the Exchequer. Proposals have been made, of which I know the Minister is aware, and given to the Minister for Finance for the introduction of a number of interim measures in advance of publication of the gambling control Bill. Will the Minister consider introducing them, given the scale of the loss of revenue to the Exchequer?

**Deputy Frances Fitzgerald:** The legislation is seriously out of date, about which there is no question. The betting laws date from 1931, while those on gambling date from 1956. Increasingly, gambling is carried on by remote means and is not regulated. I agree with the Deputy that enforcement has suffered as authorities grapple with outdated laws and constant technological changes. A large and growing section of the market is unregulated, with attendant risks to consumers and a loss to the Exchequer. That is why we need new legislation and the Bill is with the Office of the Parliamentary Counsel for drafting. The Betting (Amendment) Bill 2013 which is going through the Houses deals with certain elements of betting. We need more comprehensive legislation to deal with the points made by the Deputy. Amending other legislation will not get us very far. We need a comprehensive scheme, which is the better approach. The Deputy is familiar with some of the provisions which will be included in the heads of the Bill.

**Deputy Niall Collins:** The Betting (Amendment) Bill 2013 being progressed by the Minister for Finance, Deputy Michael Noonan, will not address the issue I am raising. I want to get a sense from the Minister when the gaming Bill will become a priority for the Government. I know that she recently met Mr. Barry Galvin, the former head of the Criminal Assets Bureau and the legal representative of the Licensed Gaming Association of Ireland. He has a proven track record and come up with a sensible interim proposal which would not require the drafting of a big Bill to address the shortfall in revenue accruing to the Exchequer. A staggering number of unlicensed gaming machines - 19,000 - are being operated throughout the State, resulting in a loss of revenue of almost €10 million and producing a turnover of up to €364 million. The numbers are truly staggering. When one considers medical card issues, local authorities and people who are looking for grants, the State needs this revenue. Mr. Galvin has made sensible proposals which should be progressed.

**Deputy Frances Fitzgerald:** The proposals made by Mr. Galvin, an expert in the area, will certainly be examined. I will take serious note of his suggestions. The Department is working on the legislation which is with the Office of the Parliamentary Counsel and on which I want to make progress as quickly as possible. It must, however, take its place among the Department's priorities, but I understand the urgency in regulating the industry to protect vulnerable people and the revenue being missed by the Exchequer. I agree with the Deputy that it is important legislation which I will progress as quickly as possible. I will meet the various stakeholders to discuss it.

*Dáil Éireann*  
**Garda Operations**

5. **Deputy Pádraig Mac Lochlainn** asked the Minister for Justice and Equality the plans of An Garda Síochána and the resources available to it to tackle the criminal gangs involved in diesel laundering, cigarette smuggling and petrol stretching across the island. [7371/15]

**Deputy Pádraig Mac Lochlainn:** This question is about the plans of An Garda Síochána and the resources available to it to tackle the criminal gangs involved in diesel laundering, cigarette smuggling and petrol stretching throughout the island.

**Deputy Frances Fitzgerald:** The point made by the Deputy about criminal gangs involved in diesel laundering, cigarette smuggling and petrol stretching throughout the island but concentrated to a degree along the Border is an extremely serious one. The issue is receiving the attention of the PSNI and An Garda Síochána which work in close co-operation through the joint policing strategy and the North-South crime conferences which are held regularly. I am very pleased to say co-operation between the PSNI and An Garda Síochána has never been better. Recently I met Theresa Villiers, Secretary of State for Northern Ireland, to discuss this and other issues and we both welcomed the fact that co-operation was so effective. This co-operation is necessary to deal with the type of crimes about which the Deputy is asking.

Just this month, as a result of a joint intelligence-led investigation, officers from Revenue's Customs service, supported by An Garda Síochána, and officers from Her Majesty's Revenue & Customs, supported by the PSNI, carried out searches in a number of premises along the Border in both jurisdictions. As a result, seizures of cigarettes with a value of €167,000 were made in this jurisdiction, together with the seizure of a tobacco processing plant, 2 million cigarettes and 12 tonnes of tobacco in Northern Ireland. One can see the scale of the issue involved. A significant oil laundering plant was uncovered in County Monaghan. It had the capacity to launder an estimated 20 million litres of fuel per annum. These are just some examples of what is being done by the enforcement agencies.

Tackling organised crime, in all its guises, is a priority for An Garda Síochána. This is reflected in the policing commitments for the year ahead. An Garda Síochána has a strong and productive relationship with the PSNI and takes actions to counter security and crime threats which face the island, including the activities of the organised criminal groups to which paramilitary groups are inextricably linked. This is a very challenging criminal justice area which is getting focused attention, North and South, to deal with the issues. A cross-Border policing strategy is in place to improve public safety and to disrupt this kind of criminal activity.

**Deputy Pádraig Mac Lochlainn:** In April 2013, I made a speech in this House in which I referenced the presentation of Retail Excellence Ireland to the justice committee. It had brought to our attention that 12% of all diesel sold in Ireland was illegal. Nineteen oil laundries were detected and closed and 690,000 litres of oil were seized. It also made the point that almost 25% of the cigarette market is sourced from the black market and 109 million illegal cigarettes with a value of €45.9 million were seized. It estimates the Exchequer loses €861 million annually. This is a real threat. I wish to send two messages today. The first is to business people who work with the criminal gangs and to people who purchase cigarettes on the black market. We need the taxes on cigarettes for health services. When people smoke, as is their right, they will be unhealthy and will have to go to hospital. Those taxes, therefore, need to be paid to cover all of this.

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**Deputy Frances Fitzgerald:** This is a very serious crime. Organised crime gangs are involved in it and they have tried to spread their activities throughout the island. It is clear that a combined approach by the Revenue Commissioners, the Garda Síochána and the PSNI is being used to deal with this issue. These crimes are being interrupted and the figures show this. We will take every action we need to with respect to dealing with this and prioritising it. There is a cross-Border taskforce on tobacco and cigarette smuggling and also on fuel laundering.

In 2014, there were 1,109 detections of marked fuel oil and two oil laundries were detected and shut down resulting in 50,000 litres of oil being seized. There were 5,852 seizures of cigarettes made by the Revenue Commissioners resulting in the seizure of 53 million cigarettes with a value of €25 million. This is an indication of the scale of the issue. There have been recent surveys on this. The Deputy quoted a figure of 25% for the number of cigarettes on the market which were brought into the country illegally or were smuggled. I understand that this figure is lower now. I will give the Deputy up-to-date figures.

**Deputy Pádraig Mac Lochlainn:** The second message I wish to send, as a Sinn Féin spokesperson on justice, is that the people involved in these activities, despite comments from one or two journalists, are not the IRA that supported the peace process and that have gone away. They are not republicans. They are criminal gangs. I am saying very clearly today, as a Sinn Féin spokesperson for justice, that those involved in these activities which I have asked about are criminal gangs. Anyone with information should assist the PSNI and an Garda Síochána in tackling them. The consequences are very severe for this State and the North. They are anti-peace process and are clearly criminal. I wish to put it on the record and send out a clear signal from everyone in this House that those involved in these activities are a threat to all of us.

**Deputy Frances Fitzgerald:** I agree fully with the Deputy. This is absolutely serious criminal activity which has very serious implications for people's lives in this country. Everything possible will be done to interrupt this activity. There are links to paramilitary groups. I take the Deputy's points. These are criminal gangs and are being dealt with clearly as such by the PSNI and an Garda Síochána. No effort is being spared in terms of addressing this issue. On Monday, the British-Irish Parliamentary Body will be presenting a detailed report on these issues in the Seanad when it has its meeting. I have already met with it to give them my views and the views of An Garda Síochána, as have the relevant authorities in the North of Ireland. We are focusing on this issue again through this group. Senator Coghlan and others have been involved in this work and they will be reporting on it on Monday.

## Other Questions

### Legislative Measures

6. **Deputy Maureen O'Sullivan** asked the Minister for Justice and Equality under the Redress for Women Resident in Certain Institutions Bill 2014, if liaison officers will be appointed to assist Magdalen women in obtaining their enhanced benefits under the Bill; her views that these changes should be welcomed and are vital at the next stage of the Bill; and if she will make a statement on the matter. [6975/15]

**Deputy Maureen O’Sullivan:** My question relates to the Redress for Women Resident in Certain Institutions Bill and the need for liaison officers and support for the survivors of the Magdalen laundries to ensure they obtain their enhanced benefits as proposed under the Bill recently passed in this House.

**Deputy Frances Fitzgerald:** I thank Deputy O’Sullivan for her question and her interest in this area and the support last night for the passage of the Bill which provides for medical services for women who were in the Magdalen homes. I am very pleased to say the Redress for Women Resident in Certain Institutions Bill was passed in the Dáil without a division and I thank all Deputies on the opposite side of the House for this. The Bill makes special provision for free access to health services for women who were resident in Magdalen laundries and similar institutions. These women do not have to pay the statutory charge for public acute hospital inpatient services and the *ex gratia* payments will not be taken into account in the financial assessment of means under the nursing home support scheme.

There is no provision in the Bill for the appointment of liaison officers. Neither was there any such provision in the Health (Amendment) Act 1996 which dealt with women who had Hepatitis C. However, I wish to assure the Deputy that, once the Bill is enacted, there will be a liaison contact in the HSE to assist the women concerned. The unit in my Department has a staff of eight who have been in daily contact over the past year with the women concerned. They have been dealing with them in respect of the *ex gratia* payments. However, if other issues arise in their contact with the women, they have been helping the women with these as well.

I have also been examining how the women can be supported via an advocacy group. This is not on a statutory basis but on an administrative basis. I will continue to examine this.

**Deputy Maureen O’Sullivan:** As discussed earlier this week, we know there are survivors who are capable of obtaining the benefits to which they are entitled. I thank the Minister for taking the suggestion I made about a comprehensive and simple-to-understand guide for the ladies. However, we know there are ladies who lack the necessary mental capacity, because they have been in an institution and have been institutionalised or because they had a mental health issue before they went in. How many women are we talking about in this particular situation? These are women who need extra help. I acknowledge the work of the national advocacy service and the trained personnel which are available. It is good that the Minister is going to look at this aspect further.

However, there are women who are in a very difficult situation and who are extremely vulnerable. These women have been taken advantage of in so many ways during their lives. With these benefits accruing to them, the hope is that their remaining years, however many they may have, will be much better and that a better quality of life is ensured.

**Deputy Frances Fitzgerald:** Approximately 40 women in this situation have been identified. These women need to be helped as envisaged by the provisions in the Assisted Decision-Making (Capacity) Bill 2013. They may need support and there will be a range of options. The Bill provides for decision-making assistants, co-decision makers and decision-making representatives and the public guardian. I wish to reassure the Deputy that a medical assessment is sought if there is any indication that an applicant under our scheme has capacity issues. As the Deputy knows, there has been a large number of payments made and which now total €18 million. A huge number of women successfully applied and have been dealt with. However, there

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are 40 women who we have identified either with the information already available or following a medical assessment as having capacity issues. These women will need to be helped and will require these kinds of representatives.

**Deputy Maureen O'Sullivan:** There are many positive aspects to what the Minister has just stated. It is when we look at these capacities that we will see if it does work. It is good that there are options available for these particular ladies, who are a particularly vulnerable group. I take this opportunity to acknowledge the work of support groups such as Justice for Magdalenes, which have been both tenacious and persistent in their efforts, and I thank the Minister for the role she has played.

**Deputy Frances Fitzgerald:** I thank the Deputy. I want to ensure that the health legislation we passed in the Dáil will progress through the Seanad in order that the relevant health services will be made available to the women as quickly as possible.

### **Drugs in Prisons**

7. **Deputy Niall Collins** asked the Minister for Justice and Equality the action she has taken to implement the recommendations of the strategic review of penal policy; the way she will address the drugs crisis in our prisons; her views that the current justice system is addressing the problem of drugs effectively; and if she will make a statement on the matter. [6987/15]

**Deputy Niall Collins:** In light of the strategic review of penal policy, will the Minister outline how she intends to address the crisis of drug use and addiction in both our prisons and the wider community?

**Deputy Frances Fitzgerald:** The Deputy's question relates to the report of the Penal Policy Review Group. Some of the group's recommendations can be implemented in the short to medium term but others will require a more long-term approach. As an initial step, last November - shortly after the report was published - I obtained permission from the Government to follow through with some very key recommendations. These include bringing forward legislative proposals to establish the parole board on an independent statutory basis; preparing proposals and options for Government on reform of sentencing policy, including a review of the threshold at which presumptive minimum sentences relating to drugs and other offences apply; preparing proposals for Government on legislating for the review's recommendation that courts should set out in writing their reasons for imposing custodial sentences; preparing proposals on the potential for increased use of earned remission; and pursuing options for an open prison for female offenders. These are the first recommendations from the report of the review group with which we have chosen to proceed. I am also establishing a group to oversee the implementation of the report's recommendations in general, with representation from key stakeholders. I recently appointed Dr. Mary Rogan - who was a member of the review group and is a former chairperson of the Irish Penal Reform Trust - to serve as the independent chair of the new group. Dr. Rogan is an extremely competent person and I am sure her appointment will be widely welcomed.

The availability of contraband, especially drugs, in our prisons continues to be a major challenge for the Irish Prison Service. It is clear that this availability is a huge barrier to prisoner rehabilitation and reform. The Irish Prison Service is currently examining a number of key measures relating to drugs, including the enhancement of existing search capabilities and procedures, the expansion of the canine unit, the introduction of a confidential telephone line by

means of which information on drug trafficking into our prisons can be given in confidence and the introduction of new technologies to prevent mobile phone. It is also considering measures to improve treatment in prison for drug addiction. The head of the Irish Prison Service is very conscious of the challenges drugs pose. Of course, those challenges must be faced by the criminal justice and prison systems in other jurisdictions. We will continue our efforts, including by means of introducing new initiatives, to deal with this scourge in our prisons.

**Deputy Niall Collins:** Does the Minister envisage a timeline regarding the implementation of measures to drastically reduce the availability of drugs to those in our prison system? Members of the public often, and quite rightly, comment on the reported casual availability of drugs and mobile phones in prisons. Some of the most hard-core drugs are apparently available in prisons and it is reported that inmates are using them quite openly. This beggars belief and people are wondering why action has not been taken. What measures will be introduced to combat this problem and what will be the timeline involved?

A recent edition of the *Evening Herald* contains some stunning images of people shooting up in broad daylight in the Dublin's north inner city in a location close to children's play areas and a number of national schools. It is reported that each year up to 12,000 used needles are removed from Dublin city centre streets and disposed of by organisations such as Dublin City Council, the Ana Liffey Drug Project and Dublin Town, which represents traders. That is a staggering number of used needles and we just do not know how many more might be found on the city's streets. The report to which I refer highlights the crisis that exists in Dublin's city centre in the context of open drug taking and the consequences that flow from it.

**Deputy Frances Fitzgerald:** As already stated, the issues of both drug addiction and the availability of drugs in our prisons are receiving the most serious attention. I have spoken to the director general of the Irish Prison Service in respect of this matter and he assures me that addressing it will be a key strategic action which will involve the introduction of the range of measures I outlined earlier. This issue is not dealt with casually within our prisons. There are serious and ongoing efforts to interrupt any attempts to bring drugs into prisons, including Limerick, Mountjoy etc., and I am sure the Deputy is aware of them. Every effort is made to deal with the new and ingenious ways people visiting prisons try to smuggle in drugs and the means by which those in prison try to obtain access to drugs. This is a persistent issue in prisons in Ireland and internationally. As stated, new initiatives are continually being put in place and I have outlined those that will be implemented during the course of this year in order to interrupt supply of drugs into prisons and to deal with the problems to which they give rise.

**Deputy Niall Collins:** The Minister stated that the Irish Prison Service is going to introduce measures. Is she in a position to provide a more definitive timeline in respect of what will be rolled out and when? Will she also outline the key indicators that will be used in respect of the targeted reduction of drug availability within our prison system? I reiterate that the public cannot understand why drugs and mobile phones are so openly available in prisons. Mobile phones give some members of the prison population the technological capability to direct the commission of crimes outside the prison system. What is the timeline involved and what key performance indicators have been set for the Irish Prison Service in respect of this matter?

**Deputy Frances Fitzgerald:** Key components of the new drive will include an increase in the number of drug detection dog teams. Training in this regard is ongoing and all teams will be fully operational by the end of May. The introduction of a standardised screening procedure across the prison estate will ensure a consistent response to this issue in all of our institutions.

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The confidential telephone line to which I referred earlier and which is similar to that used by An Garda Síochána will come into operation shortly. I urge any person with useful information regarding the smuggling of drugs into prisons to use this service and assist the authorities in tackling this problem. As we are aware, intimidation can take place in respect of people who may be visiting prisoners. We want to ensure that people in possession of information or intelligence relating to this matter will report it by means of the confidential telephone line. All of these initiatives will be put in place. There was a reduction in the amount of drugs available in prisons in 2014. However, the Irish Prison Service is committed to reducing the figure in this regard even further, particularly in light of the negative effects - including self-harm, assaults, bullying and, unfortunately, even death - to which drugs smuggled into prisons can give rise.

### **International Terrorism**

8. **Deputy Niall Collins** asked the Minister for Justice and Equality if she will provide an update on the threat posed to the State by acts of terrorism; the action she has taken to address this threat; and if she will make a statement on the matter. [6988/15]

**Deputy Niall Collins:** Will the Minister provide an update on the threat posed to the State by acts of terrorism, be they domestic or international in nature, particularly in light of the activities of the so-called Real IRA and the Continuity IRA and the fact that up to 30 Irish citizens are known to have travelled to conflict zones in the Middle East?

**Deputy Frances Fitzgerald:** We take the opportunity to express our sympathy with to those impacted by the appalling terrorist activity in Europe in recent days, weeks and months. Considerable concern has been expressed at the meetings of the Justice and Home Affairs Council where this item is top of the agenda for discussion in terms of security across Europe. Hundreds of young Europeans have gone to fight and some have returned and are radicalised.

These events show that all states must remain vigilant and attentive to the risks posed by international terrorism. Ireland, like any other democratic country with similar values, is not immune to a threat from international terrorism. While an attack on Ireland is possible, it is not assessed at present as likely and there is no specific information relating to threat to Ireland. An Garda Síochána is keeping the level of threat from international terrorism under continuous review in the light of the ongoing developments and is continuing to take all appropriate measures to counteract this threat. Of course, it has the full support of the Government in this regard.

Approximately 30 people of Irish origin have travelled to these areas. We need to keep some perspective on this number. There has been some distortion in regard to the analysis of this number which includes individuals who travelled to Libya, Tunisia and other Arab states to take part in the popular uprisings known as the Arab Spring, which began in 2010. Some of these individuals have returned and approximately three have died in the conflict.

There are a small number of people based here who support extremism and who would try to facilitate others to travel to conflict zones. Their activities are closely monitored by An Garda Síochána and there is very close co-operation with the security services in other jurisdictions.

*Additional information not given on the floor of the House*

The Government is committed to ensuring the necessary legislation is in place to address

terrorist threats. The Criminal Justice (Terrorist Offences) (Amendment) Bill 2014 has already passed all Stages in the Seanad. The Bill, when enacted, will create the three new offences of public provocation to commit a terrorist offence, recruitment for terrorism and training for terrorism. These offences will carry sentences of up to ten years imprisonment on conviction on indictment. It is expected that the Bill will be brought before the Dáil shortly.

Any response to this issue must be proportionate to the level of the threat and multifaceted in approach. Engagement with minority or at risk communities is essential. In that context, An Garda Síochána operates a progressive programme of community engagement with minority communities. The aim of these programmes is to build a sense of inclusiveness among minority communities and to address feelings of marginalisation to avoid providing fertile ground for radicalisation and those seeking to radicalise others.

The radicalising affect of online propaganda must also be dealt with. Ireland, with its European counterparts, will also seek to work with all relevant stakeholders to develop further initiatives in this domain. From the perspective of domestic terrorism, the ongoing threat from paramilitary groups remains a matter of the highest concern for the Government. Garda actions to disrupt and prevent actions by paramilitary groups continue. The Garda will continue to use all lawful means at its disposal to bear down on the paramilitaries and will continue to work very closely with its counterparts in Northern Ireland and elsewhere in the United Kingdom to this end. This excellent relationship between the Garda and the PSNI is key to security co-operation and it has consistently been emphasised by the two police chiefs as essential and successful. This operational relationship is mirrored by ongoing contacts at ministerial and official level.

**Deputy Niall Collins:** Will the Minister comment on her statement that she could never rule out the possibility of an attack but that it is not likely at present because her colleague, the Minister for Foreign Affairs and Trade, Deputy Charlie Flanagan, said Ireland must remain on alert? The European Commission has estimated that approximately 5,000 people have travelled from Europe to fight in the wars in Syria and Iraq. Up to 30 Irish citizens have travelled to the war zones and a number of them are under surveillance. There were reports that quite a senior person from that cohort, who lives in south county Dublin, was allegedly engaged in organising finance. Will the Minister provide us with an update on the oversight or monitoring of the threat posed to the State as a result of these people travelling to these war zones in view of the fact that up to 5,000 people from Europe have travelled to Syria and Iraq?

**Deputy Frances Fitzgerald:** Let me repeat what I said because we want to be accurate in regard to this. Like any country with democratic values, Ireland is not immune to a threat from international terrorism. An attack on Ireland is possible, but it is not assessed as likely and there is no specific information on a threat to Ireland. However, as I have said and as all other Ministers at the Justice and Home Affairs Council meeting agree, we all need to be vigilant and to share information. I ask our MEPs to support the law on passenger name records to ensure appropriate information is exchanged and that every possible security initiative needed is taken.

I will bring forward legislation in the next few weeks when Dáil time is available to deal with it. We will create three new offences of public provocation to commit a terrorist offence, of recruitment for terrorism and of training for terrorism. The Garda Commissioner, others and I have discussed this issue and we will keep it under review. The Garda Commissioner has the full support of the Government in this regard. I am satisfied this is an area of high priority for An Garda Síochána to ensure Irish people are safe.

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**An Ceann Comhairle:** Question No. 9 is in the name of Deputy Michelle Mulherin who is not present.

*Question No. 9 replied to with Written Answers.*

### **Legislative Measures**

10. **Deputy Niall Collins** asked the Minister for Justice and Equality the way she will address defamation of persons which occurs online; her views on amending the law to allow for defamation cases online to be dealt with in a more-cost effective and timely manner; and if she will make a statement on the matter. [6990/15]

**Deputy Niall Collins:** On many occasions, we have discussed the issue of cybercrime and cyberbullying in this House. It is an issue about which we all share a huge concern because of some of the consequences of it, in particular on the younger members of the community. However, there is also the issue of defamation online. We all know of instances where people believe they have been defamed online, of the difficulties they have experienced in trying to have that situation corrected and of the avenues available to them to seek justice if they believe they have been defamed or their character or good name has been taken. What are the Minister's plans to address defamation online?

**Deputy Frances Fitzgerald:** As the Deputy is aware, the law on defamation in the State was reformed in the Defamation Act 2009. It is important to say the Act draws no distinction between online, print or broadcast media and provides for a number of remedies. The primary relief under the Act is an award of damages with a jury deciding the amount to be awarded if the defamation action is successful. Either nominal or compensatory damages can be awarded. Given the nature of online defamation, the priority for the plaintiff might be to have the defamatory statement removed. Under section 33 of the 2009 Act, a plaintiff may seek a court order prohibiting the publication or further publication of a defamatory statement. Injunctions are an important remedy in responding to online defamation.

As the Deputy knows, the print media are regulated by the independent Press Council of Ireland which was granted recognition under the Act. The complaints system operated by the Press Council provides a useful, efficient and cost free remedy for members of the public who are affected in the way the Deputy described.

The e-commerce directive, Council Directive (EC) 2000/31, which comes within the remit of the Department of Jobs, Enterprise and Innovation, sets down a number of provisions regarding the duties and obligations of website providers, including to remove potentially defamatory material when notified. There is now evidence of a trend across Europe of courts imposing greater responsibility on online service providers for user-generated online content.

Recently, I held a meeting in Farmleigh House with all of the Internet service providers in this country to discuss their responsibilities, how we can work with them and what legislation is needed, if more is needed, to deal with the online issues which are increasingly a feature of our lives. These companies are taking a huge range of initiatives to ensure personal online safety and they are interrupting criminal material when posted online. We see this, in particular, in the area of child sexual abuse online which, sadly, is a growing feature of online activity.

**Deputy Niall Collins:** There are two dimensions to online defamation. There is the overt dimension where somebody who engages in online defamation is readily identifiable and then there is the covert dimension where somebody uses an alias and opens up an account with a bogus name and engages in online abuse and defamation. There are two dimensions to it which the Government needs to consider addressing in a radical manner because it is a source of huge concern. We know of the bullying of younger members of society. Ordinary decent people, who are entitled to their good name, often find themselves at an exceptional disadvantage. My Fianna Fáil colleague, Senator Thomas Byrne, had to go to the courts to get a court order to get Google to act in regard to something about him which was not true but which was available. That was not good enough. Does the Minister have plans to introduce legislation to deal with the overt and covert dimensions? I accept that she met the Internet service providers. That was a welcome move, but they need to be in a position to act faster to acknowledge their role as a stakeholder in the act of defamation. They might not be the people who wrote it, but they are the people who are broadcasting it.

**Deputy Frances Fitzgerald:** This is an increasing focus among the providers. They are taking many more initiatives than people are aware of, where there is any indication of criminal activity online. For example, more efforts are being made to keep the online evidence, which can effectively be, as the Deputy describes it, a crime scene - we have to think about it like that. There are more and more initiatives coming from the Internet service providers. The Law Reform Commission is examining this area in its fourth programme of law reform, which commenced in 2013. One of the projects it is looking at is crime affecting personal safety, privacy and reputation, including cyberbullying, which is the point the Deputy is raising. I look forward to getting that. It has asked for submissions and is examining a number of points relating to this issue such as the efficacy of injunctions, the relevance of damages or remedy when the harm caused by online defamation is in many ways irreversible and the cost of civil proceedings. It put a number of questions for public response or submission regarding what remedies or reforms should be provided. I will be guided by that law reform report when I receive it in the near future.

### **Spent Convictions Legislation**

11. **Deputy Pádraig Mac Lochlainn** asked the Minister for Justice and Equality the current delay in completing Report Stage of the Criminal Justice (Spent Convictions) Bill 2012. [6984/15]

**Deputy Pádraig Mac Lochlainn:** It is over a year since the spent convictions Bill was to be brought back for Report Stage. The UK Court of Appeal case the Minister referred to as delaying it was upheld by the Supreme Court in the United Kingdom over six months ago. She will be aware that Deputies and Senators are repeatedly getting representations from people who a long time ago were involved in some misdemeanour that is affecting their ability to move on with their lives and avail of employment. We must pass this Bill. There is an urgent need to resolve the issue as soon as possible.

**Deputy Frances Fitzgerald:** I recognise the interest in this House in the Bill and the need to have it enacted. I intend to bring the amendments to the House before the summer. There was a new situation, following on from the case to which the Deputy referred, before the Bill could be taken on Report Stage. A 2013 UK Court of Appeal judgment necessitated a review

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of the disclosure provisions in both the National Vetting Bureau (Children and Vulnerable Persons) Act 2012 and the Spent Convictions Bill. That review has been completed and amendments to the vetting Act and consequential amendments to the spent convictions Bill are being drafted. I recognise how important this is for individuals and the difference progressing this legislation could make to their lives. The amendments are being worked on and I will be bringing them forward before the summer.

**Deputy Pádraig Mac Lochlainn:** There is obviously a very lengthy pipeline of justice Bills. I urge the Minister to ensure these amendments are through by the summer and that the Bill is moved through the Houses. Some of the people to whom I have spoken are the most up-standing citizens, but sometimes when one is younger, one might have got involved in a scuffle on the street and done something stupid. That should not prevent one from moving on with one's life. This really does cause distress. The whole idea of society is that when people make a mistake, they pay their debts, are rehabilitated and then have the right to start again. This Bill was welcome and I just want to see it progressing. I appreciate the Minister's assurance that it will be dealt with by the summer. All I am asking is that it be fully honoured and delivered.

**Deputy Frances Fitzgerald:** I agree with the Deputy. This is a very important Bill, particularly for people who may have been convicted of a minor offence many years ago in a District Court, which has hung over their entire life. That is why we have brought in this legislation and I will have the amendments before the House in this term. Section 3 provides that certain employments are exempt from the Bill. These include any work with children or vulnerable adults, employment with the Defence Forces, employment with An Garda Síochána, other criminal justice appointments, and Central Bank or NTMA appointments. Section 10 also provides that spent conviction provisions do not apply to certain applications for licences such as firearms licences, taxi licences, PSV or road haulage operator licences, and so on. I think people would understand this. I am not amending those provisions, but I have a number of amendments that had to be made following on from the Court of Appeal decision in the United Kingdom. They are being drafted and I will ensure we will have it before the summer.

**An Ceann Comhairle:** The time for parliamentary questions has expired, so we must move on.

*Written Answers follow Adjournment.*

### **Estimates for Public Services 2015: Messages from Select Committees**

**An Ceann Comhairle:** The Select Sub-Committee on Finance has completed its consideration of the following Revised Estimates for public services for the service of the year ending 31 December 2015: Votes Nos. 7, 8, 9 and 10.

### **Irish Collective Asset-management Vehicles Bill 2014: From the Seanad**

The Dáil went into Committee to consider amendments from the Seanad.

**An Ceann Comhairle:** I understand the Minister of State has indicated his intention to seek a Clerk's correction under Standing Order 140 on the Irish Collective Asset-management Vehicles Bill 2014.

**Minister of State at the Department of Finance (Deputy Simon Harris):** Before we commence proceedings, I would be obliged if, in accordance with Standing Order 140, the Ceann Comhairle would direct the Clerk to make the following minor drafting corrections to the text of the Bill: first, on page 101, line 25, insert “of” after “date”; and, second, on page 110, line 11, delete “the reference to” and substitute “the reference in”. These amendments are being inserted in the interests of textual clarity and do not effect any substantive amendment.

Seanad Amendment No. 1:

Section 2: In page 12, lines 19 and 20, to delete “*section 85*” and substitute “*section 85*”.

**Deputy Simon Harris:** Amendment No. 1 is a technical proofing amendment to correct an error that arose in the publication of the Bill as passed by Dáil Éireann.

**Deputy Anthony Lawlor:** This probably relates to the overall perspective-----

**An Ceann Comhairle:** We are dealing with a particular amendment now.

**Deputy Anthony Lawlor:** I will speak to the amendment. It seems strange to me that we spent a long time in the Dáil going through this Bill, yet we have so many amendments coming back from the Seanad. The Bill has been before the Government for a long time, since we sat down with the Labour Party and discussed it. Perhaps the Minister of State might explain why so many amendments were put by the Department to the Seanad and we are now back discussing it.

**An Ceann Comhairle:** We cannot have a general debate. We are dealing with individual amendments. This is a technical amendment.

**Deputy Anthony Lawlor:** I have a general question.

**An Ceann Comhairle:** Deputies may not ask general questions on amendments from the Seanad. If I were to allow the Deputy to ask a general question, it would reopen the debate. He must appreciate that this is purely a technical issue to be dealt with in a technical manner. I assume the amendment is agreed to.

Seanad amendment agreed to.

Seanad amendment No. 2:

Section 11: In page 17, to delete lines 1 to 3 and substitute the following:

“(a) in relation to a person named as a director of the ICAV—

(i) all particulars which are, in relation to a director, required pursuant to *subsection (2) of section 65* to be contained in the register kept under that section, and

(ii) if the person is disqualified under the law of a country or territory other than the State (whether pursuant to an order of a judge or a tribunal or otherwise) from being appointed or acting as a director or secretary of a body corporate or an undertaking, the particulars which are required by *section 66(1)* to be stated in a notification under *section 65(6)*,

and”.

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**Deputy Simon Harris:** I understand amendments Nos. 2 and 10 will be discussed together. Amendment No. 2 provides that a director must disclose in his or her statement, required under section 10 for registration of an ICAV, if he or she is disqualified under the law of another country from acting as a director or secretary of an entity. The amendment effectively provides for the insertion of section 23 of the Companies Act 2014 in the ICAV Bill.

Amendment No. 10 is a technical amendment consequential on amendment No. 2. It modifies the text on company law disqualification of directors' rules to take account of the relevant statutory reference in relation to ICAVs, namely, the fact that directors are being disqualified under the law of another state.

Seanad amendment agreed to.

Seanad amendment No. 3:

Section 18: In page 19, to delete lines 12 and 13 and substitute the following:

“(ii) if the ICAV is not authorised under the AIFM Regulations, the full name and address of the proposed external AIFM within the meaning of the AIFM Regulations, and”.

**Deputy Simon Harris:** The purpose of amendment No. 3 is to ensure the Central Bank is notified of the details of an external fund manager in the case of an alternative investment fund ICAV. In relation to an ICAV that is an alternative investment fund, it will have either internal management within the ICAV or appointed external management. The Central Bank, through the authorisation process of the internal management, will be aware of the manager if he or she is internal to the ICAV since it will be one and the same person. However, in the case of external fund management, the bank will not automatically know who the manager is. The amendment clarifies that all external managers will have to provide their full name and address for the Central Bank of Ireland on application to the Central Bank for authorisation as an ICAV. All managers of non-UCIT funds will be authorised separately under the rules implementing the alternative investment fund managers directive.

**Deputy Anthony Lawlor:** Will there be a charge on the fund by the Central Bank of Ireland for providing this service?

**Deputy Simon Harris:** Will the Deputy please repeat the question?

**Deputy Anthony Lawlor:** In the light of the additional burden this will place on the Central Bank, will the Central Bank impose a charge on funds?

**Deputy Simon Harris:** As is already the case with regard to bodies regulated by the Central Bank, fees are payable to it for supervision.

Seanad amendment agreed to.

**Acting Chairman (Deputy Liam Twomey):** Amendments Nos. 4 and 5 form a composite proposal and may be discussed together.

Seanad amendment No. 4:

Section 23: In page 22, line 8, after “satisfied” to insert “that”.

**Deputy Simon Harris:** Amendments Nos. 4 and 5 are minor drafting corrections. Amend-

ment No. 4 proposes the insertion of the word “that” after the word “satisfied” on line 8 of page 22, while amendment No. 5 proposes to delete the word “that” on line 9 of page 22.

Seanad amendment agreed to.

Seanad amendment No. 5:

Section 23: In page 22, line 9, to delete “that”.

Seanad amendment agreed to.

Seanad amendment No. 6:

Section 27: In page 24, to delete lines 21 to 25 and substitute the following:

“(f) borrowing policies of an ICAV, or

(g) the timing and contents of reports issued by an ICAV,

and such other supervisory and reporting conditions relating to the business of an ICAV as the Bank considers appropriate and prudent to impose on the ICAV, depository or management company.”.

**Deputy Simon Harris:** Amendment No. 6 is a minor drafting correction which deletes the original paragraph (h) and replaces it with the same text but not within a paragraph.

Seanad amendment agreed to.

Seanad amendment No. 7:

Section 32: In page 26, to delete lines 9 to 35 and substitute the following:

**“Execution of documents**

**32.** (1) Contracts on behalf of an ICAV may be made as follows:

(a) a contract which, if made between natural persons, would be by law required to be in writing and to be under seal, may be made on behalf of the ICAV in writing under the common seal of the ICAV in accordance with this section;

(b) a contract which, if made between natural persons, would be by law required to be in writing, signed by the parties, may be made on behalf of the ICAV in writing, signed by any person acting under its authority, express or implied;

(c) a contract which, if made between natural persons, would by law be valid although made by parol only, and not reduced into writing, may be made by parol on behalf of the ICAV by any person acting under its authority, express or implied.

(2) A contract made according to this section shall bind the ICAV and its successors and all other parties to it.

(3) A contract made according to this section may be varied or discharged in the same manner in which it is authorised by this section to be made.

(4) The following provisions of this section shall apply whether it is the case that—

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(a) as permitted by *section 33*, the ICAV does not have a common seal, or

(b) the ICAV does have such a seal.

(5) A document has the same effect as if executed under the common seal of the ICAV if it is expressed (in whatever form of words) to be executed by the ICAV and it is signed on behalf of the ICAV—

(a) by 2 authorised signatories, or

(b) by a director of the ICAV in the presence of a witness who attests the signature.

(6) Each of the following is an authorised signatory for the purposes of *subsection (5)*:

(a) a director of the ICAV;

(b) the secretary (or any joint secretary) of the ICAV; or

(c) any person authorised by the directors of the ICAV in accordance with the ICAV's instrument of incorporation.

(7) Where a document is to be signed by a person on behalf of more than one ICAV, it is not duly signed by that person for the purposes of this section unless he or she signs it separately in each capacity.

(8) References in this section to a document being (or purporting to be) signed by a secretary are to be read, in a case where that office is held by a firm, as references to its being (or purporting to be) signed by an individual authorised by the firm to sign on its behalf.”.

**Deputy Simon Harris:** Amendment No. 7 seeks to make the rules on the execution of documents consistent with the position under the Companies Act 2014 in respect of public limited companies. ICAVs may wish to authorise other individuals such as the investment manager to execute standard trading documents on behalf of the ICAVs. The original text which limited signatories to the directors and company secretary is out of line with how investment funds operate.

Seanad amendment agreed to.

**Acting Chairman (Deputy Liam Twomey):** Amendments Nos. 8 and 9 are related and may be discussed together.

Seanad amendment No. 8:

Section 84: In page 56, between lines 18 and 19, to insert the following:

**“Breaches of certain duties: liability to account and indemnify**

**84.** (1) Subject to section 85, where a director of an ICAV acts in breach of his or her duty under section 79(1)(a), (c), (d), (e), (f) or (g), he or she shall be liable to do either or both (as the corresponding common law rule or equitable principle relating to bodies corporate with respect to the matter would have required) of the following things:

(a) account to the ICAV for any gain which he or she makes directly or indirectly from the breach of duty;

(b) indemnify the ICAV for any loss or damage resulting from that breach.

(2) *Subsection (1)* is without prejudice to—

(a) the ICAV's right at common law to claim damages for breach of duty, or

(b) the ICAV's right to make an application seeking the grant of equitable relief,

but *subsection (1)* and this subsection shall not be read as having the combined effect of enabling the ICAV to be afforded more compensation for any damage or injury, or more protection of any proprietary right, than is just and equitable in all the circumstances.”.

**Deputy Simon Harris:** Amendment No. 8 inserts a new provision in the ICAV Bill that stems from the introduction of section 78, being the provision governing fiduciary duties owned by a director. The section mirrors section 232 of the Companies Act 2014. The amendment obliges the director who acts in breach of his or her fiduciary duties to account to the ICAV for any gain he or she has made arising from the breach of duty or indemnify the ICAV for any loss arising from the breach.

Amendment No. 9 inserts a new provision that follows on from amendment No. 8 and mirrors section 233 of the Companies Act 2014. The amendment provides that an officer of an ICAV may have a defence to a claim of negligence or breach of duty on his or her part where he or she has acted honestly and reasonably.

Seanad amendment agreed to.

Seanad amendment No. 9:

Section 85: In page 56, between lines 18 and 19, to insert the following:

**“Power of court to grant relief to officers of ICAV**

**85.** (1) This section applies to any action for negligence, default, breach of duty or breach of trust against an officer of an ICAV.

(2) In proceedings to which this section applies the court hearing the proceedings has the power of granting relief provided under *subsection (3)* if it appears to the court that the officer is or may be liable in respect of the negligence, default, breach of duty or breach of trust (the “wrong concerned”) but that he or she has acted honestly and reasonably and that, having regard to all the circumstances of the case (including those connected with his or her appointment), he or she ought fairly to be excused for the wrong concerned.

(3) The power referred to in *subsection (2)* is to relieve the officer, either wholly or partly, from his or her liability in respect of the wrong concerned, on such terms as the court may think fit.”.

Seanad amendment agreed to.

Seanad amendment No. 10:

Section 85: In page 57, between lines 32 and 33, to insert the following:

“(i) the references to section 23 included *section 11(3)(a)(ii)* of this Act.”.

Seanad amendment agreed to.

Seanad amendment No. 11:

Section 85: In page 58, to delete lines 10 and 11 and substitute the following:

“(l) in section 863(2), in the case of an offence in relation to an ICAV—

(i) the reference to the Registrar were a reference to the Bank, and

(ii) the reference to prescribed particulars being given at such time and in such form and manner as may be prescribed were to particulars specified by the Bank being given at such time and in such form and manner as may be so specified,

and”.

**Deputy Simon Harris:** This amendment amends section 85(2)(l) of the ICAV Bill which refers to section 863(2) of the Companies Act 2014. Section 863 of the Companies Act 2014 provides that details of a disqualification order or conviction or other such relevant occurrences must be supplied to the Company Registrations Office, CRO. The amendment makes it clear that where such an offence occurs in respect of an ICAV, this information must be sent to the Central Bank, rather than the CRO, and should be sent to the bank in a form and manner that it will specify.

Seanad amendment agreed to.

Seanad amendment No. 12:

Section 87: In page 58, line 34, to delete “Part” and substitute “Act”.

**Deputy Simon Harris:** Amendment No. 12 is a drafting amendment to use the point to “Act” rather than “Part”, which would be incorrect.

Seanad amendment agreed to.

Seanad amendment No. 13:

Section 94: In page 64, between lines 25 and 26, to insert the following:

“(9) The registration of a body corporate as an ICAV by continuation under Part 9 does not affect the priority of charges created by the body corporate before its registration as an ICAV.”.

**Deputy Simon Harris:** Amendment No. 13 provides for the protection of the priority of charges held by a migrating company seeking to register as an ICAV. The purpose of the amendment is to safeguard the priority to which any person may be entitled on foot of legal, equitable or such other principles as govern charges in the jurisdiction in which they were issued.

Seanad amendment agreed to.

Seanad amendment No. 14:

Section 144: In page 92, line 14, to delete “authorisation” and substitute “approval”.

**Deputy Simon Harris:** Amendment No. 14 is a drafting amendment to replace the word “authorisation” with the more correct term “approval”.

Seanad amendment agreed to.

Seanad amendment No. 15:

Section 152: In page 100, line 23, to delete “section 609 is” and substitute “sections 600 and 609 are”.

**Deputy Simon Harris:** Amendment No. 15 is a drafting amendment to correct the specific modifications to cater for the winding up of the ICAV. The amendment does not change the policy set out in the Bill.

Seanad amendment agreed to.

**Acting Chairman (Deputy Liam Twomey):** Amendments Nos. 16 and 17 are related technical amendments and may be discussed together.

Seanad amendment No. 16:

Section 171: In page 110, line 3, to delete “agreement” and substitute “ “agreement” ”.

**Deputy Simon Harris:** Amendment No. 16 is a drafting amendment to correct a syntax error arising from the use of inverted commas. Amendment No. 17 is also a drafting amendment to correct an error in section 171. Inspectors, not directors, furnish reports.

Seanad amendment agreed to.

Seanad amendment No. 17:

Section 171: In page 110, line 6, to delete “a directors’ ” and substitute “an inspector’s”.

Seanad amendment agreed to.

Seanad amendment No. 18:

Section 178: In page 113, to delete lines 29 to 32 and substitute the following:

**“General Offences**

**178.** (1) Section 876(1) and (3), 877 and 878 of the Companies Act 2014, and other provisions of that Act relating to those provisions, have effect as if—

- (a) the references to a company included an ICAV, and
- (b) the references to that Act included this Act.

(2) In its application in relation to the provisions mentioned in *subsection (1)* as

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they have effect in accordance with that subsection, section 865 of the Companies Act 2014 has effect as if the reference to the Director of Corporate Enforcement included the Bank.”.

**Deputy Simon Harris:** Amendment No. 18 modifies the enforcement provision in respect of sections 876, 877 and 878 of the Companies Act 2014 in order that the Central Bank, as well as the Office of the Director of Corporate Enforcement, will be able to take summary proceedings should these offences occur. Section 876 of the Companies Act concerns the offence of providing false information. Section 877 concerns the offence of destroying documents, while section 878 concerns the fraudulent parting with documents. These sections are cross-applied from the Companies Act 2014 to the Irish Collective Asset-management Vehicles Bill by virtue of this section. The amendment reflects the reality that, by virtue of the Central Bank’s role as the registration authority for ICAVs, it may be best placed to prosecute for such offences.

Seanad amendment agreed to.

Seanad amendment No. 19:

Section 180: In page 114, between lines 3 and 4, to insert the following:

**“Registration and inspection of documents**

**180.** (1) Every document relating to an ICAV that is required to be deposited with, or sent or furnished or otherwise provided to, the Bank under this Act or the Companies Act 2014 as it applies in relation to the ICAV—

(a) shall be recorded on a register relating to the ICAV maintained by the Bank, and

(b) shall be open to inspection free of charge on a web-site maintained or used by the Bank.

(2) The register maintained in compliance with *subsection (1)* is in addition to the registers maintained under *section 14* or *96* or by virtue of *section 84* or *85*.

(3) Documents provided—

(a) under *Chapter 2* of *Part 2* (or pursuant to a condition imposed under *section 27*),

(b) under *section 145(2)(d)*,

(c) by virtue of *section 171(2)(d)*,

(d) by virtue of *section 180*, or

(e) by virtue of *section 185*,

shall not be recorded on the register maintained in compliance with *subsection (1)* or be open to inspection under that subsection.”.

**Deputy Simon Harris:** Amendment No. 19 inserts a new section which sets out the mechanism for the registration of documents concerning an ICAV and how such documents may be inspected.

Seanad amendment agreed to.

Seanad amendment No. 20:

Section 184: In page 115, to delete lines 12 to 17 and substitute the following:

**“Amendments of UCITS Regulations**

**184.** The UCITS Regulations are amended—

(a) in Regulation 3(1)—

(i) by inserting the following definitions:

“ ‘Act of 2015’ means the Irish Collective Asset-management Vehicles Act 2015;”, and

“ ‘ICAV’ means an ICAV within the meaning of the Act of 2015;”,

(ii) in the definition of “articles”, by inserting “and, in relation to an ICAV, means its instrument of incorporation within the meaning of the Act of 2015” at the end,

(iii) in the definition of “directors”, by inserting “and includes directors and shadow directors of an ICAV” at the end, and

(iv) by substituting for the definition of “investment company” the following:

“ ‘investment company’ means—

(a) an investment company with fixed capital,

(b) an investment company with variable capital, or

(c) except in Regulations 45, 89(4)(a) and 107, an ICAV;”,

and

(b) in Regulation 4(6) by—

(i) deleting “or” after subparagraph (c), and

(ii) substituting the following for subparagraph (d):

“(d) common contractual funds, or

(e) Irish collective asset-management vehicles.””

**Deputy Simon Harris:** Amendment No. 20 specifically modifies a number of the USITS regulations in order that they are given effect in the context of the ICAV. This is to ensure they can apply to an ICAV.

Seanad amendment agreed to.

*11 o'clock*

Seanad amendment No. 21:

Section 185: In page 115, between lines 17 and 18, to insert the following:

**“Adaptation of certain provisions of UCITS Regulations**

**185.** (1) Regulations 17(11), 42(4)(d), 104(2), 125 to 127, 131, 134(1) to (9) and 135(1) and (2) of the UCITS Regulations apply to an ICAV authorised under section 19 as they apply to the bodies to which those Regulations relate but subject to the modifications in subsection (2).

(2) The modifications are that—

(a) references to repurchase are to purchase,

(b) references to the UCITS Regulations are to this Act,

(c) references to an UCITS are to an ICAV,

(d) references to a unit are to a share,

(e) references to a unit-holder are to a shareholder, and

(f) references to the Companies Acts include this Act.(3) References to cognate terms or expressions in those Regulations shall be read accordingly.”.

(3) References to cognate terms or expressions in those Regulations shall be read accordingly.” **Deputy Simon Harris:** Similarly, this amendment has been designed to adapt specific use of the regulations in their application to ICAVs that are authorised as AIFs pursuant to section 19 of the Bill. This will enable the bank to operate a similar regime for all ICAVs, regardless of whether they are UCITS or AIFS.

Seanad amendment agreed to.

Seanad amendment No. 22:

In section 185: In page 115, to delete lines 18 to 24 and substitute the following:

**Amendment of Central Bank Act 1942**

**“185.** The Central Bank Act 1942 is amended—

(a) in section 33AK(3) by inserting the following after paragraph (a)(vi)(II):

“or

(III) the Irish Collective Asset-management Vehicles Act 2015,”,

and

(b) in Part 1 of Schedule 2 by inserting the following:

“

43	No. of 2015	<i>Irish Collective Asset-management Vehicles Act 2015</i>	<i>The whole Act, apart from Parts 5, 10 and 12</i>
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“

**Deputy Simon Harris:** The amendment provides for changes to the Central Bank Act 1942 to take account of the ICAV. Subsection (1) amends section 33AK of the Central Bank Act 1942 and is necessary to provide a gateway for the Central Bank to furnish information to the Office of the Director of Corporate Enforcement, ODCE concerning its functions under the Bill. Such a gateway is provided for the passing of information by the Central Bank to the ODCE on breaches of the Companies Acts, but it is of paramount importance in the context of the Bill, given the dual enforcement role of both agencies.

The purpose of subsection (2), which replaces the previous section 185, is to designate only those parts of the ICAV Bill that are properly the responsibility of the Central Bank to enable it to enforce these parts of the Bill and include use of its administrative sanction powers and its powers of inspection and enforcement under the Central Bank (Supervision and Enforcement) Act 2013.

Seanad amendment agreed to.

Seanad amendment No. 23:

Section 188: In page 116, to delete lines 14 to 16 and substitute the following:

**“Director of Corporate Enforcement**

**188.** (1) Sections 953, 956 and 957 of the Companies Act 2014 have effect as if references to that Act included this Act.

(2) Without prejudice to the generality of subsection (1), and in addition to the functions under section 949 of the Companies Act 2014, the Director of Corporate Enforcement may perform the functions conferred on the Director of Corporate Enforcement by this Act and do such acts or things as are necessary or expedient in the performance of those functions.”.

**Deputy Simon Harris:** This is a technical amendment that seeks to clarify and confirm the ODCE’s role in the context of the ICAV regime. The amendment concerns particularly the functional powers of the office. It specifically cross-applies sections 953, 956 and 957 of the Companies Act 2014. As a result, section 953 provides that the ODCE is not liable for any act taken or omission pursuant to the Act. Section 956 provides for confidentiality within the ODCE when dealing with ICAVs, while section 957 provides for gateways for the disclosure of information by certain bodies to the ODCE where offences may be carried out by an ICAV manager.

Section 188(2) extends the functions of the office to include its functions under the Bill. The amendment provides that the office will ensure the effective application and enforcement of the obligations, standards and procedures as set out in the Bill, where necessary and appropriate, by way of its compliance, investigatory and prosecution powers.

Seanad amendment agreed to.

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Seanad amendments reported.

**Acting Chairman (Deputy Liam Twomey):** A message will be sent to Seanad Éireann acquainting it accordingly.

*Sitting suspended at 11.05 a.m. and resumed at noon.*

*12 o'clock*

### **Leaders' Questions**

**Deputy Niall Collins:** The entire country was shocked at the escape from Tallaght hospital this week of a high profile dangerous criminal while attending a medical appointment. People were particularly struck by the vicious assault perpetrated on the prison officers detailed to take him to that appointment. Fianna Fáil and everybody in the House want to condemn that attack and wish the prison officers who were subject to this assault a speedy recovery. We also ask that the Irish Prison Service make every resource available to aid their proper recovery and welfare.

What was of most concern to the public was that the person in question was a high profile prisoner who had previously escaped from a UK prison. We now know from reports that the Irish Prison Service had previously requested armed escorts on a number of occasions when this prisoner was leaving prison to attend medical appointments, but that these requests were declined by An Garda Síochána. This raises a number of serious questions, in particular about the level of Garda resources available and afforded to the Irish Prison Service for these escorts. The incident also raises questions about the welfare of prison staff in terms of the equipment available to them such as stab vests, pepper spray and batons. We have heard that the Prison Officers Association has sought the provision of this equipment. There is also the wider question of the welfare of front-line emergency workers, including gardaí, prison officers, nurses and doctors working in emergency departments and the fire service.

Since the incident in question happened, a Garda investigation has been ongoing and the Irish Prison Service is also conducting an investigation. Bearing in mind the past record of the individual concerned of escaping from custody, the public fails to understand the statement made by the Taoiseach yesterday that the failure to provide a Garda escort had nothing to do with cutbacks or a lack of resources for An Garda Síochána. Against the backdrop of that amazing statement by the Taoiseach yesterday and given the two investigations which are a work in progress - we know that the Taoiseach is not authoring these reports or carrying out the investigations - does the Minister agree with the Taoiseach's statement that this incident had nothing to do with a lack of Garda resources? Arising from this event, will the Minister or the Government inform us of the number of previous occasions the Irish Prison Service had its requests for escorts declined by An Garda Síochána, either owing to a lack of resources or for any other reason?

**Minister for Communications, Energy and Natural Resources (Deputy Alex White):** Like the Deputy, I regret the incident that occurred the other day, particularly from the perspective of the prison officers involved. Prison officers are professionals who do a great job, often under considerable pressure and not least in the context of an incident such as this, which may

well be an unusual and isolated one. I agree with the Deputy that the welfare of prison officers and personnel across the board, whether in the health service, the Prison Service or An Garda Síochána, is paramount. Like all Members, I join the Deputy in wishing the prison officers involved in the incident a speedy recovery.

The Deputy will appreciate and know that this is and remains an operational matter for An Garda Síochána, in the first instance in this jurisdiction, and for the Police Service of Northern Ireland which I understand has custody of the individual concerned. In these circumstances, it would not be appropriate nor is it possible for me to comment on any aspect of the incident.

**Deputy Niall Collins:** What about the issue of resources?

**Deputy Alex White:** I will come to the question of resources. The Garda and the PSNI must be allowed to get on with the work they do so well and professionally on our behalf. It is not possible or would not be appropriate for us to pick at individual aspects of their work.

I agree with the Deputy that the issue of resources has a wider, political dimension. I agree with the Taoiseach in the sense that there is no evidence or basis for the assumption, at which the Deputy appears to have arrived, that this incident occurred because of a lack of resources. There is no evidence to support such a proposition.

On the broader question of resources, the Deputy will be aware that 100 new recruits entered training at the Garda College in Templemore in September 2014. I remind him that this was the first intake of Garda recruits since the moratorium had been put in place by the Government of which he was a supporter in 2009. There was a further intake of 100 recruits in December and of another 100 last week. They have brought the number of recruits in the Garda College to 300 and are a measure of the Government's commitment to An Garda Síochána. The first intake of recruits will attest as members of An Garda Síochána in May this year and be assigned to Garda stations across the country by the Garda Commissioner.

On equipment, the issue of vehicles is often raised in this context. The House should know that the Government recently secured an additional €10 million for investment in the Garda fleet, €7 million of which was made available in 2014, with the remaining €3 million to be provided in 2015. We are resourcing An Garda Síochána and ensuring that both it and the Irish Prison Service are properly resourced. Where possible, the Minister for Justice and Equality and the Government find increased resources to fill the enormous gap left by the actions of the Deputy's party in government.

**Deputy Niall Collins:** I find the Minister's response amazing. He has said there is no evidence that there was an issue with Garda resources. Why then were previous requests made by the Irish Prison Service for armed escorts for the individual in question declined? Surely, if the agency of State charged with keeping criminals locked up and dealing with issues of this nature requests an armed escort, its request should be taken on board. Clearly, there is an issue with resources.

Despite all of the Minister's political rhetoric, it was the Government that continued the moratorium on recruitment throughout 2011 to 2014, inclusive. At the same time, it continued to recruit to the Defence Forces. The public is aghast that Garda numbers were allowed to dwindle. No recruits were brought in in those years, yet the Government states it was doing something to deal with the issue. The Minister has not answered my question on how many other requests were made to An Garda Síochána to provide armed escorts.

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**Deputy Finian McGrath:** He got away with it.

**Deputy Niall Collins:** The Minister's comments on his concern for the welfare of front-line emergency workers ring hollow. One need only look at how the Government has acted in that regard.

**Deputy Aodhán Ó Ríordáin:** Fianna Fáil cut their pay by 15%.

**Deputy Niall Collins:** My party offered legislation which would protect front-line workers, namely, the Assaults on Emergency Workers Bill of 2012, which was introduced by my colleague, Deputy Dara Calleary.

**Deputy Regina Doherty:** What did the Deputy's party do in Government?

**Deputy Niall Collins:** That Bill sought to place a minimum mandatory extra tariff on anybody who committed an assault on a nurse, garda, prison officer or fire fighter. These are people who work day in, day out, to protect people, communities and property. The Minister has spoken about a concern for the welfare of our front-line workers but his actions have not followed through in that regard.

*(Interruptions).*

**Deputy Niall Collins:** The Government's track record proves it. It is a fact that its actions have not lived up to its concerns about the welfare as expressed here today. I ask the Government to follow through on its concerns by providing what the Prison Officers Association has been asking for, namely, proper stab vests, pepper spray, batons and other equipment which front-line prison staff need to protect themselves while carrying out their day-to-day duties.

**Deputy Alex White:** The Minister for Justice and Equality has dealt very carefully and very well with this issue-----

**Deputy Mattie McGrath:** She has not dealt with it at all.

**Deputy Alex White:** -----particularly with regard to the resourcing of An Garda Síochána and the Prison Service. It is extraordinary for Deputy Niall Collins to talk about the moratorium having been continued by this Government when it was his party in Government which put it in place. I find it difficult sometimes to understand the position of Fianna Fáil Deputies. Do they agree with what this Government has done in the context of the recovering economy and the putting in place of additional resources or is this just an issue with which they wish to play political football? The Deputy spoke about Deputies on this side of the House dealing in rhetoric but he has made a good fist of that himself this morning. He should not call into question the sincerity of my remarks regarding the welfare of individuals when I would not question his sincerity in that regard.

**Deputy Niall Collins:** I was referring to the actions of his Government.

*(Interruptions).*

**Deputy Finian McGrath:** The Minister is distorting the issue again. What about the resources?

**Deputy Alex White:** On the question of resources, the Deputy asked specific questions about particular requests. I do not know the extent or number of requests for armed escorts that

were made. I will check that for the Deputy and revert to him-----

**Deputy Niall Collins:** At the same time, the Minister has said there is no evidence-----

**Deputy Alex White:** -----as best as I can. The Deputy has no evidence and has not placed any on the record of this House, despite his bleatings-----

*(Interruptions).*

**Deputy Sean Fleming:** It is not his job to provide evidence.

**Deputy Niall Collins:** This is not a court of law.

**Deputy Alex White:** -----that any particular incident occurred - either yesterday or on another occasion - because of a lack of resources.

**Deputy Sean Fleming:** Yesterday. The prisoner was arrested yesterday.

**Deputy Alex White:** Deputy Niall Collins has not done that because that evidence is not there.

**Deputy Sean Fleming:** The prisoner escaped the day before yesterday. Does the Minister even know when this happened?

**Deputy Alex White:** The Deputy wants to make a political point out of a very regrettable and very dangerous incident which he should not attempt to do.

The Minister for Justice and Equality is dealing with this question. She has won a considerable amount of new resources for An Garda Síochána to be used across the board-----

**Deputy Mattie McGrath:** Tell that to gardaí.

**Deputy Alex White:** -----including an additional investment of €7 million for the purchase of 370 new vehicles towards the end of last year. The Members opposite do not want to hear this information because it does not suit the narrative they are trying to convey. This Government is dealing with a recovering economy and will put resources in place, as required, across the board for all of our public services. We are doing that successfully and that is the problem for the parties opposite.

**Deputy Aengus Ó Snodaigh:** My party colleagues and I are committed to a fair recovery. We want to get people back to work and bring our young people home but we also want to ensure that work pays. The Cabinet has signed off on a jobs strategy, a central plank of which is the JobBridge scheme. Today I published a proposal to scrap JobBridge. I will outline some elements of my proposal. I ask the Minister to explain the decision to continue and extend the JobBridge scheme because the scheme is displacing jobs.

**Deputy Aodhán Ó Ríordáin:** No it is not-----

**Deputy Aengus Ó Snodaigh:** It is. It is also lowering pay and creating under-employment in this State. I will prove that with data from the Indecon report which the Tánaiste and Minister for Social Protection continuously quotes to me when I raise concerns about JobBridge and other schemes.

The Indecon report found that 30% of employers said that they would create a job if JobBridge did not exist; that is under-employment. We have also seen headlines about the abuse of the scheme and about the fact that the Department of Social Protection has allowed internships to be promoted which otherwise would have been entry-level jobs. If one visits the JobBridge website today, one will see that six out of the first ten positions advertised are for retail or office staff. It does not take six to nine months to learn how to stack shelves; nor does it take nine months to learn how to pick potatoes in Donegal. I ask the Minister to ensure that the Tánaiste and Minister for Social Protection scraps the JobBridge scheme and reverts to creating apprenticeships and appropriate internships. I also ask him to ensure that her Department, in conjunction with the Department of Education and Skills, ensures that in-work training and in-education training become the norm rather than JobBridge.

**Deputy Alex White:** It is a good day when Sinn Féin is coming forward with a new policy. We have not seen very much of that-----

**Deputy Brian Stanley:** That is because the Minister is wearing blinkers. He should take his blinkers off.

**Deputy Alex White:** I welcome that and look forward to reading the policy. We will see how well it stacks up alongside some of the party's other policies on the economy. It appears now that the Sinn Féin approach to JobBridge generally is that it ought to be scrapped but I understand that the policy proposals published today make suggestions as to how it can be improved or replaced by something very similar. I look forward to considering the Deputy's policy proposals. I also recall that the Sinn Féin leader, Deputy Adams, tabled a parliamentary question asking for the JobBridge scheme to be extended to people who are not on the live register. He did so, I would suggest, on the grounds that he knows, as do many others, that it has been a success. Youth unemployment has fallen by a third since 2012. Under the Pathways to Work strategy, a focused effort has been made to reduce youth unemployment. We are also implementing the Youth Guarantee, having launched First Steps and JobsPlus Youth a fortnight ago. That work is paying off and the facts are there to prove it; they are staring the Deputy in the face. There has been a significant reduction in youth unemployment, from 31% in 2012 at the height of the crisis to 21.6% at the end of 2014. There have been 37,341 JobBridge placements to date and 6,172 people are currently on internships.

There are two points about JobBridge that must be stressed. The scheme is voluntary, both for the host organisation or employer and the individual intern. Second, an individual must have been out of work for three of the previous six months in order to qualify.

Issues have been raised by the Deputy regarding the monitoring of JobBridge and his concerns in this regard are legitimate. None of us wants to see an abuse of the JobBridge programme, least of all the Tánaiste and Minister for Social Protection. If a complaint is made by an intern, employee or someone else, it is investigated and taken very seriously. There have been almost 10,000 monitoring visits since JobBridge started. Of these, 97.5% of internships visited were found to be satisfactory. That means that over one in four placements was monitored. It was not just a dip-in monitoring exercise, but was very extensive. However, out of over 11,000 host organisations, only 44 have been banned indefinitely, while ten have been banned for a lesser period. That represents 0.5% against a backdrop of thousands of monitoring visits. Any individual who wishes to report a suspected abuse of the JobBridge scheme should contact the JobBridge team directly. Deputies can see, from the figures I have given, that complaints are investigated and where a breach is found, severe action is taken.

The scheme has been successful and it is right to quote the Indecon report in that regard, although Deputy Ó Snodaigh quoted selectively from it. The aforementioned independent report found that 60% of those who took part were in employment within five months. Many also go into further education, training, reskilling or schemes like community employment. The evaluation also found that 96% of host organisations would recommend JobBridge to another employer and 89% of interns stated that JobBridge had given them new skills. It is not a replacement for employment but it is something that can be of huge value in increasing people's self-confidence, giving them an opportunity to gain quality work experience and establish a network of contacts. It is not a job but it takes people a long way along the road to achieving confidence in the market and the workplace.

**Deputy Aengus Ó Snodaigh:** Internships are not jobs yet the Minister tried to put it across as such. Employers have a pool of free labour that has been created by the Government, the Labour Party in particular. That is what the interns are doing. In the past, it was paid employment and includes those within Departments and local authorities. Previously, this was carried out by civil servants and local authority workers and now it is being carried out by people on internships. Real jobs are there, such as for retail assistants, that were entry-level jobs in the past. People got experience while being paid.

Germany has over 300 apprenticeship schemes, while Ireland has 24. The Government has started to address the issue, which I welcome, but the document states that the work must happen quicker to ensure the inappropriate nature of JobBridge is dealt with. The only way this can be done is by scrapping it.

Will the Minister ensure proper jobs, not JobBridge, are promoted? For instance, JobsPlus is subsidised employment with the subsidy given to the employer. I am fully behind it because it creates real full-time jobs yet the Department and the Government are continually trumpeting free labour. Some 37,000 positions in the past four years have been created. Let us think of that as a subsidy for employers with no benefit in the main. The Minister suggests I was selectively quoting from the Indecon report. If the Minister wants me to read the entire Indecon report-----

**An Leas-Cheann Comhairle:** We do not have time. A question, please.

**Deputy Aengus Ó Snodaigh:** I will not do it. It is a substantial document. In the Indecon report, the majority of people who found work afterwards were on a lower wage than their co-workers in employment.

**Deputy Alex White:** The Deputy has raised a number of issues. Glimpses of reasonableness come out here and there in what he said about what the Government is doing. He is acknowledging fairly that the Government is bringing forward policies in the area of apprenticeships. These are substantive and ultimately will be successful policies on apprenticeships. There was an increase of over 40% in apprenticeships last year and new apprenticeships across the board. I was happy to be associated with the announcement by eircom of 300 new apprentices in that organisation. There will be others in the coming weeks and I hope the Deputy will welcome them.

Deputy Ó Snodaigh talks about real jobs and I remind the House that 330,000 people lost their jobs under the previous Administration. It was the greatest economic catastrophe the Government has ever seen. There was a collapse in employment, in the banking system, in economic activity and in living standards. That is what the Government faced and has been ad-

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dressing very successfully. Deputy Ó Snodaigh asked about real jobs. Some 80,000 real new jobs have been created since 2011. Deputy Ó Snodaigh is correct to concentrate on unemployment. What have we done? We reduced it from 15% in 2012 to 10.5% in February of this year. By any reasonable person's standard and by any objective standard, it is a remarkable achievement and no Deputy, irrespective of what side he is on can possibly deny it.

**Deputy Bernard J. Durkan:** Hear, hear.

**Deputy Alex White:** Members can be critical-----

**Deputy Finian McGrath:** How many jobs were created on the north side?

**Deputy Aodhán Ó Ríordáin:** Loads.

**Deputy Alex White:** -----can call for more action, can suggest more needs to be done with JobBridge and can press for more apprentices but they cannot deny the facts that are staring them in the face, which is that the Government has turned around the economy and more jobs are being created every day of the week. No Deputy on the Opposition side can deny it because they can see it in their constituencies. Of course there are real jobs.

To the extent that the Deputy wants us to examine aspects of the JobBridge programme, if he has reasonable criticisms, like his party leader, Deputy Gerry Adams, he could table a parliamentary question on the matter. We will give careful consideration to his report and anything he wants to say.

**Deputy Tom Fleming:** On Tuesday, we had a huge gathering outside the gates of Leinster House regarding the childhood sector and the lack of investment in a sector that is undervalued. This is epitomised by the low levels of investment and the high cost for parents. Some 25,000 staff are employed, and in many cases they are on low wages and have temporary contracts. Many engaged in child care services are earning little more than the minimum wage. As a result, the services are losing qualified and experienced, professional people. They can no longer afford to remain in the profession. It is time the Government steps in, recognises and accepts that it has a responsibility to provide sufficient funding to ensure high quality and delivery of service is maintained. There is an urgent need to raise the current level of spending on the early childhood care and education scheme from the current level of 0.2% of GDP to the European average of 0.7% of GDP.

The people on the protest on Tuesday were not seeking that parents pay more, nor were they seeking to increase the strain on service providers. Parents are paying as much as they can and service providers are already struggling to meet their staff costs, overheads and running costs. Recognition must be given to the preschool stage as a critical and integral part of the delivery of early childhood services as part of educational services.

Will the Minister and the Government address the following priorities? There should be a national pay scale for childhood professionals tied to increased Government investment within three to five years. The free preschool contract should be extended to statutory holiday entitlements and training days. This will cease making seasonal workers out of qualified and experienced practitioners. There should be increased availability and uptake of FETAC level 6 degrees and continual professional development courses and investment in the early baby stages for those aged up to three years.

**Deputy Alex White:** I thank Deputy Tom Fleming for raising this important issue. The Government will invest €260 million in child care this year, supporting child care provision for more than 100,000 children in the State. Despite budgetary pressures, the Government was determined to protect the early childhood care and education programme so that children continue to have access to this vital opportunity and to protect the employment of thousands of child care workers, to which the Deputy refers. The early childhood care and education scheme provides one year of preschool care and education to more than 67,000 children, saving parents approximately €2,500 a year in child care costs. This week, my colleague, the Minister for Children and Youth Affairs, Deputy Reilly, is commencing a high level interdepartmental group to conduct a focus study on the area and to set out the direction of what the Deputy is looking for a whole-of-Government approach to future investment in child care. This applies to the early years and school age children. The group will set out the policy goals for future investment, which is at the heart of the matter; examine current provision to see if it is a good fit for the goals; learn from best practice, including the experience of other countries; identify costed options for future investment; and, make recommendations to the Minister. The group is due to report to the Government in six months' time.

The Minister and the Government are alive to the issue raised by the Deputy. The terms and conditions of employment, as well as the career stability prospects for individuals working in the sector, are extremely important. Irrespective of what public service they are providing, it is important that staff have stability of employment, a stake in their jobs and can see a future for themselves in their work. We value their involvement and contributions, as well as the involvement of the trade unions. It is welcome that Deputies are responding to the issue after it was raised this week. It is an important debate and the issues Deputy Tom Fleming raised will be considered by the Minister when he receives the report.

**Deputy Tom Fleming:** I welcome the Minister's statement on the working group. It is imperative that the report be fast forwarded because we need to put in place a strategy for the next three to five years. I, therefore, ask that the matter be expedited and treated with urgency.

In the past 30 years Ireland changed from a society in which mothers, by and large, stayed at home to one in which there is greater diversity and engagement in work because of the need to expand the workforce. Facilities have been put in place, but we have fallen down in providing adequate resources and funding to ensure the provision of high quality services in this sector. The societal changes that have taken place should be recognised by the Government, even at this late stage, and reflected in its policies and budgets. I, therefore, ask that the matter be addressed in the next budget. The State should also fund administration costs which are outside the area of direct contact with children. Assessments and meetings are necessary, but there is no funding for that additional work. I urge the Government to increase the level of early childhood capitation funding and link it with the nationally agreed pay scales, introduce mechanisms to ensure children with additional needs will be supported in engaging as equals in their early childhood education setting, and include free hours to engage in continuing professional development as part of all Government funded schemes to enable those working in the sector to fully implement the national curriculum and quality frameworks.

**Deputy Alex White:** I will communicate the Deputy's insights to the Minister, Deputy James Reilly. Many of the points he raised are valid. It is not a question of the Government waking up to the importance of child care. We are very conscious of the importance of proper systems of child care and investing in the sector. Like every other sector, its ability to expand was arrested by the fact that resources were greatly limited owing to the economic situation.

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The country is now in a much better place and it is possible to look to the future with more confidence, particularly in the child care sector. It is extremely important for families, but it is also an economic imperative that we support it. As the Deputy noted, the nature of work and working patterns have changed. In fairness to the child care system, it has reflected this. The Government has undertaken or supported a number of initiatives in this regard, including child care employment and training supports, the community child care subvention programme, community employment child care programme and the after school child care scheme. Numerous schemes and programmes are in place, but we want to see further investment in the sector. The Minister will study the report of the group. Representatives of various Departments, all of the agencies involved, the trade unions and interested parties can contribute to the group's work and the Minister will then be in a position to make proposals for developing the sector further. This is critical for individuals and families, as well as the economy.

### **Order of Business**

#### **Minister for Communications, Energy and Natural Resources (Deputy Alex White):**

As both Bills listed for today have already been brought to a conclusion, it is proposed, notwithstanding anything in Standing Orders, that: (1) the sitting shall be suspended immediately after the Order of Business until 2 p.m. at which time Topical Issues shall be taken; and (2) the next fortnightly Friday sitting for the purposes of Standing Orders 21(1)(a) and 28(3) shall be on 6 March 2015 and that any item already drawn for fortnightly Friday business on 20 February and 6 March shall be taken on 6 March and 27 March, respectively.

**An Leas-Cheann Comhairle:** I have two proposals to put to the House. Is the proposal for dealing with the suspension of sitting agreed to? Agreed. Is the proposal for dealing with the sitting and business of the Dáil on 6 March agreed to? Agreed.

**Deputy Thomas P. Broughan:** I ask the Minister for clarification of that proposal.

**An Leas-Cheann Comhairle:** I am sorry, but this is a matter for party leaders. We will proceed to the Order of Business proper.

**Deputy Thomas P. Broughan:** Will the Minister confirm that the business scheduled for 6 March will now be taken on 27 March?

**An Leas-Cheann Comhairle:** That is correct.

**Deputy Alex White:** It will be taken on 20 March.

**Deputy Niall Collins:** There is very little business on the Order Paper for today. The Minister has noted that some of the business scheduled for today was completed yesterday, but it is prudent to have other work for Parliament to do on a sitting day. The House was originally scheduled to sit tomorrow, but the sitting was cancelled owing to the late publication of the Child and Family Relationships Bill 2015. I am sure there are other Departments that have legislation which is ready to be debated, which would be a proper use of parliamentary time.

In the spirit of our earlier discussion, when can we expect legislation to be published to establish the independent Garda authority? In regard to emergency workers, legislation is being prepared to reform the compensation scheme for members of An Garda Síochána, but it is not on the Government's priority list. When is it envisaged that this legislation will be introduced?

**Deputy Alex White:** I may have inadvertently misled Deputy Thomas P. Broughan. The date he is seeking is 27 March, not 20 March.

**Deputy Thomas P. Broughan:** The business originally scheduled for 6 March has been moved to 27 March.

**Deputy Alex White:** That is correct. I apologise for misleading the Deputy.

With regard to the changes made yesterday, I am advised that they were made at the request of the Opposition. However, a considerable volume of legislation will be introduced in the weeks and months ahead. There is a measure of agreement that we should press on with the Children and Family Relationships Bill 2015, although we should not rush it because it is complex legislation. It will be brought before the Houses in early course.

The Garda authority legislation will be introduced this session. The compensation scheme provisions to which the Deputy referred will be introduced later this year.

**Deputy Jonathan O'Brien:** I wish to ask about the outstanding reports of the Constitutional Convention. We were supposed to debate the reports within four months of their completion by the Constitutional Convention. While I understand that all Departments have signed off on the reports, a number of them are outstanding as regards discussion. Will the Government set aside time over the next period of weeks to discuss the reports notwithstanding that we are heading into a very hectic schedule of legislation? Some of the outstanding reports are also important and we need to set aside some time to discuss them as soon as possible.

**Deputy Alex White:** The Government intends to respond to the remaining reports of the Constitutional Convention in the current session.

**Deputy Joan Collins:** Yesterday, the Joint Committee on Education and Social Protection had a discussion on the one parent family payment and the impact on 2 July when 39,000 lone parents will find themselves moved from that payment to jobseeker's transition. On the basis of the discussion yesterday, will the Government organise as a matter of urgency a meeting with those affected and the One Family organisation to discuss the issues?

**An Leas-Cheann Comhairle:** The Deputy should really table a parliamentary question.

**Deputy Joan Collins:** These lone parents will find themselves €50 a week down on 2 July while carers will find themselves down €80 a week. There must be a way to suspend this. We do not have Scandinavian child care facilities in place notwithstanding the promise in legislation in 2012. Will the Government review urgently the situation these lone parents face in July?

**Deputy Finian McGrath:** Hear, hear.

**Deputy Alex White:** Deputies on all sides of the House will have every opportunity to raise issues in that context. The legislation was published yesterday and it is intended that Second Stage will be taken in the coming weeks. There will be every opportunity to air those issues.

**Deputy Thomas Pringle:** On the health information Bill, I note that a meeting is taking place today in Galway of the Saolta hospitals group to discuss the future of cancer services at Letterkenny General Hospital. Will Deputy White ensure that the Minister for Health provides information to the House on the future of those services to ensure that they are maintained?

**An Leas-Cheann Comhairle:** Is the Deputy looking for a debate?

**Deputy Thomas Pringle:** I have been trying to get a debate for the last few days, but it is not happening.

**Deputy Alex White:** In the normal fashion, the question of whether the Dáil would have a debate on a matter is one for the Whips and can be addressed with them. The health information Bill is intended to be taken later this year.

**Deputy Mattie McGrath:** When will we finally see the EirGrid Bill? My other question is on the public transport Bill and issues regarding route 7, which is a vital link to the south east, especially into Tipperary and from Carrick-on-Suir right across to Ballyporeen on the Cork boundary. Bus Éireann is not listening to the people who are going to be denied valuable and vital services. These are people who cannot afford cars and need this service for work, hospital appointments and all kinds of reasons. Bus Éireann is withdrawing this route and no service is replacing it. I ask the Minister to speak to Bus Éireann as it is a long-standing, well used and vital service.

**Deputy Alex White:** No date is set as yet for the publication of the EirGrid Bill. The intention is to publish the public transport Bill this year.

**Deputy Finian McGrath:** Is the Minister aware this morning of the huge crisis that exists in our accident and emergency departments? We have senior citizens and many sick people on chairs and trolleys in hospitals this morning. I raise this issue in the context of the health reform Bill. There is an urgent crisis and no one is talking about it. We have a Minister for Health who appears to be asleep at the wheel yet these people are suffering. It is an outrageous situation to have very senior citizens and ill people sitting on trolleys and chairs in hospitals and something needs to be done.

**Deputy Alex White:** The health reform Bill is still within the policy process and it is not possible to state when precisely it will be brought forward. It is certainly not the case that the Minister for Health or any Minister is asleep at the wheel. Very considerable action has been taken by the Minister and the HSE on that matter. For example, there has been a very considerable improvement in regard to trolleys. I thought I would be able to get the figures for the Deputy, but while they are in my papers somewhere, I cannot fish them out quickly enough. There is definitely significant improvement arising from the actions of the HSE. The Minister has a very strong grip on this issue.

**Deputy Thomas P. Broughan:** Is it the Minister's intention to introduce legislation or regulations to reform the operation of the Commission for Energy Regulation given its admitted failure to regulate the electricity market and its total failure to regulate home heating, both gas and electricity?

Recently, we saw the revelations of the International Consortium of Investigative Journalists on HSBC. There is grave disquiet in the House among all Deputies at the way in which the House has been informed about this matter since 2009 when it first became known to Revenue. In view in particular of the dearth of legislation, will the Government consider allowing the Minister for Finance to come to the House for a full-scale debate on HSBC, the ramifications of the 350 Irish account holders, the serious damage done to the State's revenues and what is being done currently? Will HSBC be prosecuted by the State? Are any professionals who aided and abetted massive tax evasion in this country being prosecuted?

**An Leas-Cheann Comhairle:** We cannot have a detailed debate now.

**Deputy Thomas P. Broughan:** Can we have a full-scale debate on this? The odd question has been asked, but a full debate is needed.

**Deputy Alex White:** The Deputy, who is in the House much longer than I am, knows that the question of facilitating debates is a matter for the Whips which can be dealt with in that context. The Minister for Finance is frequently available to the House and the relevant committee and I am sure that an opportunity will be taken on an early occasion by Deputy Broughan or others to raise that issue with the Minister. I think there was a debate here earlier this morning with the Minister for Justice and Equality on precisely the issue Deputy Broughan raises. Certainly, if it is a matter that is amenable to debate, that can be arranged.

I have no particular proposal or intention to bring forward legislation on the regulator. I do not accept that the regulator is not doing the job it is there to do.

**Deputy Thomas P. Broughan:** The reports are very critical. It is obviously not doing its job.

**Deputy Alex White:** The broader question of energy prices generally in a liberalised environment is obviously a live issue, including a live political issue, and I have no problem debating that with the Deputy at some point in the future. I have no proposal to bring forward legislation.

**Deputy James Bannon:** Given the level of all types of crime and, indeed, corruption hitting the headlines on a daily basis, when can we expect to see the proceeds of crime (amendment) Bill before the House?

**Deputy Alex White:** Consultations are still ongoing with the Criminal Assets Bureau in that regard and no date is yet set to bring forward that legislation. I take the points raised by the Deputy on board.

**Deputy Seán Ó Fearghaíl:** I raise three Bills, two of which are related to the Minister's own brief. A communications regulation Bill is promised to facilitate the introduction of a postal codes service and the Minister might tell us what its status is. The Minister's predecessor promised - perhaps I should say threatened - a broadcasting (amendment) Bill to provide for the introduction of a broadcasting charge, which is something that has horrified people across the country. What is happening on that legislation and what is the timescale for its introduction?

On the issue of the promised gambling control Bill, we hear a great deal, quite rightly, about the problems of alcohol abuse in this country, but bubbling away beneath the surface is a very serious problem with gambling. Certainly, there is a need for legislation in that particular area. When will it be brought before the House?

**Deputy Alex White:** I expect to bring forward the legislation on Eircode in the coming weeks. No date is set for any particular Bill on broadcasting to be brought before the House in the immediate period. I remind the Deputy that my predecessor and the programme for Government did not propose to introduce a new burden on any individual but in fact to replace the television licence fee with a new broadcasting service charge. There was no proposal for a new financial burden on anyone. The proposal is one of the issues I am dealing with in a broader memo to the Government in the coming weeks setting out my thinking on the funding of public

service broadcasting and related matters. If legislation arises from it, as it probably will, it will not be published until the latter half of the year. No date has been set for the publication of the gambling control Bill.

**Deputy Bernard J. Durkan:** The reformed and consolidated domestic violence Bill is promised legislation. It proposes to consolidate the Domestic Violence Act 1996. When is it likely to come before the House? Will it do so during this session? What advances have been made in the promised children's hospital development Bill? When is it likely to come before the House? Have the heads of the Bill been approved and will we see it before the end of this session?

**Deputy Alex White:** We have set no date for either Bill. The Deputy is right to raise them as they are important areas that are being addressed. Considerable work is going into both pieces of legislation. An enormous amount of work is happening regarding the children's hospital both on the ground with the project and regarding the legislation.

**Deputy Peter Mathews:** The Minister will have an interest in this topic, which comes under Bills before the Dáil and Seanad, the Public Health (Standardised Packaging of Tobacco) Bill 2014. It is with awesome cheek and arrogance that Japan Tobacco Group threatens to sue the Minister for Health and the HSE for bringing forward the Bill. The Government should consider counter-suing them as a class action on behalf of the State for the death, damage and destruction they have caused families and the people of Ireland. That should put an end to the matter.

**Deputy Thomas P. Broughan:** Hear, hear.

**An Leas-Cheann Comhairle:** That could be raised as a Topical Issue.

**Deputy Alex White:** The Bill to which the Deputy referred came before the committee on Tuesday. I hear what the Deputy is saying.

**Deputy Mattie McGrath:** He is right.

**Deputy Alex White:** Legislation is a matter for the Oireachtas.

**Deputy Mattie McGrath:** We know.

**Deputy Éamon Ó Cuív:** Although the Criminal Justice (Spent Convictions) Bill 2012 has been before the Dáil for an age, it has disappeared from the list. When will this very important Bill be reintroduced? It is unfair that spent convictions last a lifetime. Tá Bille na dteangacha oifigiúla ar an liosta A. There is a proposal on the A list to bring in an official languages amendment Bill. I want a very simple answer and I will hold the Minister to it. Will it be introduced this session as an A list Bill, yes or no? We need to find out whether or not these A lists mean anything.

It is of great concern in Galway that, because of possible damage to an acre or two of habitat, there is a proposal to demolish more than 100 houses. Does the Government intend to work with the European Union to bring proportionality between people's homes and communities and the habitats directive, or is a small amount of habitat more important than more than 100 homes in Galway? It is important that we get clarification on whether the Minister is looking to bring some balance in view of the judgment of the European Court of Justice.

**Deputy Alex White:** The Criminal Justice (Spent Convictions) Bill 2012 is on the D list and has passed all Stages in the Seanad and Committee Stage in the Dáil. Before the Bill could be taken, there was a UK Court of Appeal judgment which necessitated a review of the disclosure provisions contemplated. This review has been completed and consequential amendments to the National Vetting Bureau (Children and Vulnerable Persons) Bill 2012 and the Criminal Justice (Spent Convictions) Bill 2012 are being drafted. There is a reasonable expectation that it will be brought forward during this session.

The official languages Bill has been through pre-legislative scrutiny. Work is being carried out across Government to establish a definitive list of the bodies that are to be covered. Once this work has been done, the Bill will be brought forward. It is contingent on how quickly the work can be completed and we hope it will be done during this session.

**Deputy Éamon Ó Cuív:** What about the habitats directive?

**Deputy Alex White:** Although I hear what the Deputy is saying, I am not sure it relates to any legislation, promised or otherwise.

**Deputy Éamon Ó Cuív:** It does.

**Deputy Tom Fleming:** I ask that the Minister for Justice and Equality, Deputy Fitzgerald, give a commendation for bravery to the two prison officers injured in the Tallaght incident, Dan Buckley and Graham Flynn. It is the least that can be done to thank them for their work in the course of their duty.

**Deputy Mattie McGrath:** Hear, hear.

**Deputy Tom Fleming:** The protocols regarding risk were referred to earlier. The prisoner was a flight risk and we need to examine the protocols and policies. I wish the two victims a very speedy recovery and return to good health and to their work.

**An Leas-Cheann Comhairle:** We can all agree on that.

**Deputy Alex White:** I agree entirely, and the Minister has already indicated the same here this morning. I agreed with Deputy Niall Collins and we should join Deputy Tom Fleming in conveying our very best wishes for a speedy recovery to the two individuals involved.

**Deputy Michelle Mulherin:** I urge that the gambling control Bill be published as soon as possible. An assurance was given to the Irish Amusement Trades Association that it would be brought forward early this year. We rely on legislation that is 50 to 80 years old and the business has moved on. There are anomalies on the definition and operation of such businesses and it has an effect on regulations for the proper running of such facilities and on legitimate taxpayers who run these businesses. There are gaps that undermine their business. The matter urgently needs attention.

**Deputy Alex White:** I take the Deputy's comments on board as well as the additional insights she has brought to the problem. The Deputy is right. The legislation is very important. Although I do not have a date, it is not for want of work. It is moving ahead in the Department and it is complex.

**Deputy Martin Heydon:** Could I have an update on the education (admission to schools) Bill? School admission is a very significant issue in south Kildare, particularly in the New-

bridge and Kilcullen area. Children and parents are very stressed when ease of access to schools is not allowed. Variations in practice are causing considerable distress and I ask that the Bill come forward as soon as possible.

**Deputy Alex White:** The Deputy is right. It is priority legislation and it is intended to publish it this session.

**Deputy Michael McNamara:** I welcome the Minister's commitment on the Criminal Justice (Spent Convictions) Bill 2012. It is considerably more than I managed to obtain earlier this month from the Department of Justice and Equality. To help persons with intellectual disabilities is a key plank of the Government's policy and the Assisted Decision-making (Capacity) Bill 2013 passed Second Stage and then disappeared into the waiting list for Committee Stage. Will Committee Stage be taken in the near future? If not, maybe we should admit to people that we are not going to do anything in this session. The programme for Government outlined commitments to enact legislative changes required for the Government to ratify the UN Convention on the Rights of Persons with Disabilities. Can the Minister indicate when any single enactment in that regard might be moved forward to enable us to ratify this important convention?

*1 o'clock*

**Deputy Alex White:** The legislation that comprehends both of the Deputy's points has been through Second Stage and awaits Committee Stage. There is considerable work continuing on it. I cannot give a date for its progress to Committee Stage but it is legislation of a very high priority and the Deputy is right with regard to the broader convention point that he makes.

**Deputy Eric Byrne:** The Minister is aware that the Latvian Government is very critical of the Irish State because it seems to think we facilitate sham marriages with Latvian girls here in the Republic. I understand that the Civil Registration (Amendment) Act 2014 has been published, however, I am told that in order to prevent these sham marriages which are of concern to the Latvians and to us we need to activate sections of that Act. When, as a nation, will we put an end to these disgraceful sham marriages occurring in quite substantial numbers in the Republic?

**Deputy Alex White:** The Act was enacted by the Oireachtas on 4 December last. The Deputy is referring to the need for commencement orders in respect of various aspects of that legislation. I will have to check that with the Tánaiste and the Department of Social Protection and I will respond to the Deputy when I do so.

### **Assaults on Elderly Persons Bill 2015: First Stage**

**Deputy Niall Collins:** I move:

That leave be granted to introduce a Bill entitled an Act to revise the law relating to the main non-fatal offences against the person and to provide for connected matters.

The Bill seeks to penalise further those who engage in vicious crimes against elderly persons in our community. Day after day our newspapers unfortunately contain at least one if not multiple stories of elderly persons being robbed and attacked in their own homes. It is a frightful situation and is of grave concern to everybody.

The purpose of the Bill is to send out a message that if a person is caught carrying out a

violent act against a person who is aged 65 years or over that person will be severely punished. Elderly people often live in vulnerable and isolated circumstances and due to their age or infirmity do not have the strength or mobility to protect themselves. We know that they live alone. Many are in elderly communities in isolated rural areas and isolated urban settings. We need to protect our elderly people to allow them the opportunity to live their lives and enjoy their elder years.

The Bill will apply to assaults causing serious harm to elderly persons, a threat to kill or cause serious harm to an elderly person, and an injury to an elderly person caused by the piercing of the skin of that elderly person with a syringe. Where a person who is other than a child is convicted of an offence to which that action applies the court shall in passing a sentence specify a minimum period of imprisonment of not less than three years. It is also important to note that the latest crime statistics from the Central Statistics Office show an increase of 5.5% in the number of aggravated burglary offences from the second quarter of last year compared with 2013. There were over 25,000 burglaries during the same period of which 3,000 had assaults causing harm recorded also. Almost 10,000 of them were categorised as burglaries with assault. Crimes against older people are not specifically recorded but there is anecdotal evidence and we as public representatives hear of it and we see it reported in the newspapers. In an effort to ensure that elderly citizens and members of the public in our community are protected, this legislation will seek to put in place a deterrent to people who intend to or will carry out such assaults against elderly persons.

**An Leas-Cheann Comhairle:** Is the Bill opposed?

**Minister for Communications, Energy and Natural Resources (Deputy Alex White):** No.

Question put and agreed to.

**An Leas-Cheann Comhairle:** Since this is a Private Members' Bill, Second Stage must, under Standing Orders, be taken in Private Members' time.

**Deputy Niall Collins:** I move: "That the Bill be taken in Private Members' time."

Question put and agreed to.

### **Topical Issue Matters**

**An Leas-Cheann Comhairle:** I wish to advise the House of the following matters in respect of which notice has been given under Standing Order 27A and the name of the Member in each case: (1) Deputy Paul J. Connaughton - the decision to publish full details of those receiving single farm payments; (2) Deputies Terence Flanagan and Eamonn Maloney - current prices in the rental sector; (3) Deputy Thomas Pringle - the crisis in Letterkenny General Hospital; (4) Deputy Pat Breen - the need to support family carers and the progress on the national carers' strategy published in 2012; (5) Deputy Barry Cowen - the lack of facilities for primary class pupils due to start secondary school in the Edenderry area, County Offaly; (6) Deputy Martin Heydon - the implications of the loss of Newbridge Credit Union, locally and nationally; (7) Deputy Seán Ó Feargháil - the preparedness of the Air Corps to deal with incursions

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into airspace here by unauthorised craft; (8) Deputy Michael Moynihan - discussions held with EU officials to alleviate the large super levy bill on dairy farmers; (9) Deputy Brian Stanley - funding of domestic abuse services in Laois; (10) Deputy Michael Fitzmaurice - certification of en1090 and lack of courses for fabricators; (11) Deputy Clare Daly - the need to secure support material in respect of a case established to review the death of Mr. Shane Tuohy; (12) Deputy Mick Wallace - the need to secure support material in respect of a case established to review the death of Mr. Shane Tuohy; (13) Deputy Robert Troy - the need for provision of resource teaching hours to pupils with Down's syndrome; (14) Deputy Charlie McConalogue - the crisis in Letterkenny General Hospital; (15) Deputy Richard Boyd Barrett - the lack of availability of inpatient beds for children with mental health difficulties; and (16) Deputy Dara Calleary - the need for funding for SMEs involved in metal fabrication and welding to assist them to comply with new EU regulations.

The matters raised by Deputies Troy, Connaughton, Terence Flanagan and Maloney and Stanley have been selected for discussion.

*Sitting suspended at 1.06 p.m. and resumed at 2 p.m.*

*2 o'clock*

## **Topical Issue Debate**

### **Special Educational Needs Service Provision**

**Deputy Robert Troy:** I thank the office of the Ceann Comhairle for selecting this extremely important topic. Moreover, it is highly topical, given the announcement by the Minister last week of the postponement of the implementation of the new model for allocation of resources hours and learning support. This announcement has created much worry and anxiety for a number of people. I acknowledge that it is important to get this right and note that my colleague, Deputy Colm Keaveney, previously sought to highlight a number of concerns shared by Members on this side of the House about the new model, as proposed. I reiterate that it is important to get this right, as the current scheme has many inconsistencies with regard to learning support, which is simply allocated to the school which has discretion to decide which children receive the specified hours. Moreover, in respect of resource allocation, some children wait anything up to two years for a diagnosis. Consequently, it is important that the model be tweaked and that we get it right.

It is important to reflect the true realities of what is going on. The Minister of State, Deputy Damien English, should note that the Education for Persons with Special Educational Needs, EPSN, Act 2004 stipulates that a child with special educational needs shall be educated in an inclusive environment with children who do not have such needs. The Minister of State's senior colleague recently addressed the annual conference of the Irish Primary Principals Network, IPPN, and used the quotation:

I could be anything at all with half the chance. But today, I am going to change the world.

Does she realise this is also the ambition of Down Syndrome Ireland? At the conference she also spoke about research which showed that early intervention was often the key to improving educational outcomes and stated she was aware that children's education was about much more than reading and writing. Down Syndrome Ireland is extremely concerned about the proposed delay and I understand the Minister may have been meeting representatives of the organisation today. However, I met representatives and parents in my constituency during the week who spoke emotionally and frankly about their experiences of their children's diagnoses. On the diagnosis, one parent has written:

It's mild. I should be rejoicing and celebrating; my glass is half-full, my daughter has a chance, she has "good cognitive scores". They tell me this means she has a good IQ ... [She] is an exceptional child, she went through junior infants, senior infants and first class with no learning support and no resource teaching. Her teachers over the years consistently say that Anna brings a very positive dimension to the class. But now she has developed emotional and behavioural issues; it was only when she did poorly in a sten test at the end of first class that she qualified for limited learning support this year. She needs extra help.

While she needs such help, unfortunately, she is not getting it.

I met another woman - I will call her Mary to avoid revealing her identity - who told me her son's diagnosis had changed from mild to moderate and that he had been moved from his local national school which could not meet his needs to a special school outside his community. A woman I will call Emily has a daughter who is three and a half years old and has just been given a mild diagnosis, even though she suffers from significant speech delay. She is non-verbal and her mother is extremely concerned and worried. Her perception is that she is being punished because she gave so much support to her child that she was given a mild diagnosis.

I will conclude by asking two questions. In the period during which the scheme is being reviewed will the Minister abolish, straightaway, the misconceived label of mild learning disability for Down's syndrome children? This is a well recognised medical condition with multiple disabilities and which is recognised as an intellectual disability. Second, the system is flawed, as children with Down's syndrome are not treated equally. A child with Asperger's syndrome and a high IQ is eligible for resource hours, which is right and proper. Surely, however, it should be the same for a child with Down's syndrome who is deemed ineligible if his or her IQ is in the mild learning disability range. There must be equality and fairness.

**Minister of State at the Department of Education and Skills (Deputy Damien English):** First, I relay the apologies of the Minister for Education and Skills, Deputy Jan O'Sullivan. While she had hoped to be present, the Deputy will appreciate that, on foot of the change of times, the debate clashed with something else and she is unable to be present. Consequently, I will make this statement on her behalf. I reiterate that she is sorry not to be present because this is an important issue, about which I have spoken to her and the Department.

I thank the Deputy for raising the matter. I advise him that under the existing allocation system, all pupils with Down's syndrome, including such pupils in the mild range, are entitled to receive additional teaching support. Such support is provided either from a school's allocation of learning support or resource teaching hours under the general allocation model, GAM, or from an allocation of additional resource teacher hours allocated to schools by the National Council for Special Education, NCSE. It should be noted that, whether resource teaching hours are allocated to schools under the general allocation model or through an allocation made by

the NCSE based on an individual assessment of low-incidence special needs, it is a matter for schools to utilise and manage these resources to best provide for the teaching needs of qualifying children. Each school will use its professional judgment to decide how the provision of additional resource teaching time and hours is made to qualifying pupils in the school to ensure all of their individual needs are met. Schools have discretion in how they allocate their general allocation hours to pupils. Whereas schools will have regard to the number of pupils who require additional teaching support in a school, they are not constrained in the number of hours they may allocate to pupils who may have Down's syndrome and may be in the mild range. This is an important clarification because there is some confusion in this regard. I have also met a lot of parents affected by this matter and the Deputy is correct that they need a changed system to be able to ensure they receive exactly the services they need. Schools are encouraged to allocate hours to pupils while taking into account the extent of their individual learning needs. They may also increase the amount of additional teaching time they provide for pupils by using a combination of individualised teaching time with pair and group work.

The NCSE was asked to provide policy advice on the issue of whether Down's syndrome should be reclassified as a low-incidence disability in all instances, regardless of assessed cognitive ability. In its policy advice it stated it could not establish an evidence base to support a recommendation that a child with Down's syndrome be allocated supports over and above those provided for other children with mild learning disabilities or children with other syndromes that also have associated co-occurring conditions. However, it also recommended that under a new resource allocation model proposed by the council, children should be allocated additional resources in line with their level of need, rather than by disability category. This is probably the issue the Deputy is raising in regard to the NCSE's recommendations.

The Deputy will be aware that last week the Minister announced her intention to retain the current model for allocating resource and learning support teachers to schools for the coming school year to ensure sufficient time would be allowed for further consultation to take place with education stakeholders and address a number of outstanding issues before the new model was implemented in schools. As the Deputy stated, the proposal was not perfect either and still required some clarification and tweaking. Concerns were raised on both sides, by people who had concerns about it but also by those who sought to have it brought forward as quickly as possible. It is a balancing act to get it right and I note that the Deputy has made the point that it is important to get it right. I share that view, as does the Minister. While we must get it right and certainly must not put it off indefinitely, to use it for this year and the coming term, it would have been necessary for it to be implemented last week.

The Minister has informed me that some parents and organisations representing children with Down's syndrome continue to have concerns that the existing system does not give them certainty on the number of resource teaching hours that may be allocated to their children under the general allocation model, as these hours are distributed locally by schools. She will take into account these concerns and listen to the views of parents and representative organisations. To clarify, this morning she met representatives of Down Syndrome Ireland, as well as some parents. It was an opportunity for her to discuss their concerns about this issue and she intends to meet more parents in the coming weeks to try to tease it out and talk further about it. I will ensure the Minister considers all the issues the Deputy raised, as well as the suggestions he made to deal with them. It is an important issue, one which we all want to see corrected. There is no point in rushing the model when all the evidence we need to get it right is not together yet. The message needs to go out that the system has not been put off indefinitely but that it is

a matter of tweaking and getting it right. It was not possible to get it in place for the coming September.

**Deputy Robert Troy:** The message is the Department is reconfiguring the system which is correct. It is critically important, however, that those who need additional supports get them now. Twelve months without necessary supports is a significant time for such children when two to four years of age. The difficulty with the allocation of learning support hours and resource hours is that it is at the schools' discretion. One parent stated to me in a letter:

These supports are provided as part of the school's general allocation. [My son] is basically under a compliment to that system and we pray that some bureaucrat does not change the school's budget which could take away these resources with the stroke of a pen.

These are the anxieties over this system. The simple truth is that Down's syndrome is a condition diagnosed at birth that affects speech, co-ordination, hearing and cognitive skills. Children diagnosed with a mild degree of Down's syndrome are being told they are not bad enough to qualify for educational supports. Essentially, they are being discriminated against. There are parents who have invested much time, effort and resources to support their children before these tests. However, as their children are diagnosed as mild, they are discriminated against. That needs to be reviewed in light of the evidence that is coming forward from parents.

One parent wrote to me:

Education, as we all know, is the building blocks that give all children, with or without a disability, the skills they need later in life, yet the current system is allowing a small section of children to be denied the extra resources they need to gain and develop these self-same skills. Give our children a fighting chance and leave them and us, their parents, with our dignity. Do not turn us into beggars, pleading with civil servants for what our children need. Let us enjoy our children, just as we do their siblings, without the constant worrying about their education. We know they have a disability, we live with it every day, you do not need to constantly remind us of their condition by making us grovel and stress.

I know the Minister of State is genuinely concerned about this matter. He must listen to the concerns of Down Syndrome Ireland. Deputy Finian McGrath introduced a Private Members Bill recognising Down's syndrome as a low incidence disorder to ensure adequate provision of resource teaching hours. It was not opposed by the Government and was supported by all Members. We need to progress this legislation because every week of a delay is very difficult for the children in question.

**Deputy Damien English:** I will bring all these issues to the Minister's attention. Every Member wants to see this whole area changed. The National Council for Special Education, NCSE, has put forward recommendations for a new allocation model that will ensure resources will be allocated based on children's needs and their level of need, not their category of disability. That is what the Minister for Education and Skills, Deputy Jan O'Sullivan, wants to do. She met with Down Syndrome Ireland this morning and will take on board its suggestions. She will also meet with some parents. The Deputy has correspondence from some parents explaining how they feel what they are up against. We have been given a good look-in through the articles by Brendan O'Connor over the past several weeks in the *Sunday Independent*, painting the picture of how difficult it is for parents to get the resources they need.

We all know this model has to change but we have to get it right, as the Deputy said him-

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self. The Minister feels very strongly that rushing it through in the last month would not work because all the evidence needed to ensure it is right is not there and it is an issue that crosses several Departments.

As to what can be done in the meantime for a short-term solution, as the Deputy raised this afternoon, I will bring it up with the Minister. Deputy Finian McGrath's Bill was not opposed by the Government. The NCSE which gives policy advice on this matter, however, did not agree with the legislation. It stated it could not establish an evidence base to support a recommendation that a child with Down's syndrome should be allocated supports over and above other children with mild learning disabilities. It is proposing a new model which will give the same solution. We have to join the dots and see what we can do.

I will bring this matter back to the Minister and make sure she contacts the Deputy on this. I know he is being genuine in raising the issue and we are genuinely trying to sort it out.

### **Single Payment Scheme Administration**

**Deputy Paul J. Connaughton:** I thank the Ceann Comhairle's office for giving me the opportunity to raise this issue. I understand the Minister for Agriculture, Food and the Marine is not available today to take the matter in the Chamber due to a busy schedule.

I am concerned about the publishing of the full details of those receiving single farm payments. I accept it has come about from a decision by the European Commission. My concern is not over transparency or accountability in the payments system as this is European taxpayers' money being spent. We know from the single farm payment we get job security, food security and food quality.

My concern, however, is from the perspective of rural crime. We will be publishing on a set day the names and addresses of individual farmers receiving X amount of money. That is making it a little too easy for a criminal who might want to pick off someone who lives in an isolated rural area. Ministers and the Department always like to announce when the single farm payments will be paid, as it is a good news story and an event for which the farming community waits. Why do the name and the address of the recipient have to be published? Why not the name and just the county or the herd number and the amount? It must be possible to make it more difficult for criminals.

I have no doubt the ministerial reply will explain how this whole process was arrived at. However, we can be very overzealous in how we implement European Commission rules. Did the Department have an opportunity to say it has an issue with this? This process was to be introduced several years ago but three German farmers stopped it at the time. The European Court of Justice deliberated on it for some time and here we go again. Outside of farming, we have very strict and correct data protection laws. One cannot even make a telephone inquiry about a family member's health appointment or insurance details because of data protection regulations. In this case, however, we are publishing detailed information about the farmers and the amounts they have received. I cannot understand how that does not run against data protection law. The European Court of Justice certainly thought it did several years ago. We need to be very careful how we set this out.

Were the farming organisations consulted on this? I do not know why we have gone the

whole hog in publishing all these names and addresses. The Department is only too well aware of the amounts farmers receive from the scheme, as it is very quick to claw it back when it believes it has overspent. There is a very clear and transparent system there already. Will the Minister go back to the European Commissioner, Phil Hogan, to ensure this information is not as detailed when published to ensure the protection and safety of farmers?

**Minister of State at the Department of Justice and Equality (Deputy Aodhán Ó Ríordáin):** I thank Deputy Connaughton for raising this very important issue. The Minister for Agriculture, Food and the Marine is unfortunately not available to take the Topical Issue but I am responding in his place.

Prior to November 2010 member states were obliged under EU legislation to publish information - names, addresses and amounts received - on recipients of amounts paid out of the European Agricultural Guarantee Fund, EAGF, or European Agricultural Fund for Rural Development, EAFRD, CAP funds. This information was made available on the Department of Agriculture, Food and the Marine website and, in line with EU requirements, included a search engine to permit users to search the database using different criteria.

On 9 November 2010, following its judgment in a case taken by German CAP beneficiaries, the European Court of Justice found that aspects of EU legislation requiring the publication of information on beneficiaries of CAP funds, who are natural persons, were invalid. On the day that the judgment was delivered the Department of Agriculture, Food and the Marine took down the CAP beneficiaries' database from its website. Following that judgment and pending the adoption of new rules taking account of the objections expressed by the court, the EU Commission adopted amending legislation in order to lay down explicitly that the obligation to publish the information on the beneficiaries does not apply to natural persons. However, they instructed member states to continue to publish information on legal persons and the Department has done so on an annual basis.

Following the extensive analysis and the consultation with the stakeholders, the EU Commission determined that it was critical that any new proposal must observe a balance between the pursued objective of the public control of the use of the money from the EAGF and the EAFRD on the one hand, and the beneficiaries' right to respect for their private life in general and to protection of their personal data on the other.

In September 2012 the Commission made a proposal on the publication of data on amounts received by all beneficiaries - natural and legal persons - that was intended to take account of the European Court of Justice judgment. The Commission's basic rationale was that it considered it vital to inform citizens how Union funds are being spent and that the new rules are based on a justification centred on the need for public control over the use of funds. The proposals were the subject of intensive discussion at Council meetings and subsequently in the formal discussions with the EU Commission and the European Parliament which led to the adoption of the new CAP and the legislation which underpins it.

In accordance with EU legislation the Department of Agriculture, Food and the Marine is obliged to ensure annual ex-post publication of all of the beneficiaries of CAP funding including both legal and non-legal persons. In accordance with regulations the Department must publish the name of the beneficiary, unless the amount of payment under CAP funds is less than €1,250 in which case the individual will be identified by a code; the municipality where the beneficiary is resident; the amount of payment corresponding to each measure received by a

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beneficiary; and the nature and description of each measure. In accordance with the regulation the Department will publish such information by the 31 May 2015 deadline. Work is currently ongoing within the Department on this issue.

**Deputy Paul J. Connaughton:** I thank the Minister of State for the response. The last line is the bit I am most concerned about, which I think should be reconsidered, is where it states they are going ahead with this by 31 May and that is it.

No one is hiding anything here. The Department is well aware of what each farmer receives. The EU auditors are over here every year making sure every cent of taxpayers' money is spent properly and, if it was not being spent properly, we would know about it and the whole of Europe would know about it. I am not sure why we are so hell bent on this extra step forward all of the time.

I will always bring it back to the local. I apologise for being parochial but I cannot understand, particularly for those in very rural constituencies who may live a number of miles away from their neighbours, why we have to publish the name, address and amount of money they are about to receive and then we announce when they receive it. If a gang of criminals wants to target a house or farm, we effectively tell them when the money is going to arrive. I really cannot understand this and the matter should be re-examined.

Again, I want to state publicly that this is not about accountability or wanting to prevent transparency. We have that already. The Department should just publish the county and name, for example - County Galway, Paul Connaughton and the number. That does not mean much to anybody but people will know what I received. Why we have to give the address and other details is really beyond me. In some parts of our society, such as health or education, we are very strict on data protection law, and correctly so. All of a sudden, for farming, data protection does not seem to be talked about due to this over-zealousness of the European Union. These proposals were knocked back a few years ago and here they come again. I request that the Minister, Deputy Coveney, go back to the Commission and say we have some concerns. He should ask that we address them and arrive at a fair and feasible solution where we give the Commission the transparency it wants while protecting the identity and addresses of farmers.

**Deputy Aodhán Ó Ríordáin:** The Deputy makes a fair comment about what are effectively security concerns. It is reasonable that he would make his concerns known in the House. I will convey them to the Minister for Agriculture, Food and the Marine and we will see if we can make some progress.

### **Private Rented Accommodation Costs and Controls**

**Acting Chairman (Deputy Jack Wall):** The third matter on the current crisis in the rental sector in the name of Deputies Terence Flanagan and Eamonn Maloney, has been postponed until next Tuesday due to technical problems.

**Deputy Eamonn Maloney:** Thank you.

## **Domestic Violence**

**Deputy Brian Stanley:** I welcome the opportunity to raise this matter with the Minister of State, Deputy Ó Ríordáin, around funding for domestic violence services. I know most of the services across the country are under pressure. Demand is increasing, whether that is because people are more willing to come forward or because the incidence of domestic violence is increasing. I hope it is not the latter, but I believe there is some evidence to show that it is.

I want to raise the issue of Laois Domestic Abuse Service, based in Portlaoise, and to outline briefly the situation in which it is operating at the moment. It has one full-time and one part-time staff member, with community employment placements from time to time - there are two at present - which are welcome. In 2014 it had €64,000 in funding for the full-time position and for operational costs such as rent, travel and all other expenses. A part-time position was added on to that, which is funded by the Commission for the Support of Victims of Crime. The service then raised €12,000 in voluntary funds. It is operating on a fairly tight budget, but, as of yet - I checked within the last ten minutes - it has not received a funding allocation for 2015. It has less than €1,000 left in the kitty.

The service welcomes the funding and State support it is getting. The staff are providing a marvellous service, but funding is precarious. They need that part-time position, which has been funded by the Commission for the Support of Victims of Crime. They really need a full-time position and additional funding. They dealt thoroughly with 911 separate cases over the seven-year period up to the end of last year. In 2014 alone, there was 166 new cases, new women coming in the door, and 116 repeats, for want of a better term - women who had been there before.

The service is comprehensive and professional. It is provided out of a small house on the Abbeyleix road in Portlaoise, in Kellyville Court, just opposite the Garda barracks. The feedback I get is good. The service does not have funding for child counselling services and there is a related issue about children who are victims of or witness domestic violence. I had a reply from Tusla dated 4 February which covered this issue but did not actually deal with the fact that they do not receive funding for this. Tusla said that funding was provided to other agencies in the area but they are talking about children who are victims of or who witness domestic violence.

Funding for this service is very precarious at present, its workload is increasing massively and the funding for extra services such as child counselling is critical. There is a need for some certainty. Tusla has confirmed that a new system for managing funding applications, which it calls a commissioning process, is being put in place. It has indicated that it is not in a position to manage the current system. According to my information, Tusla will basically set up a federation through which funding will be provided rather than directly through it.

I thank the Minister of State for taking this matter which I raise because, as a Deputy for County Laois, I am very concerned that this service is kept going. It is under severe pressure and needs modest resources. I would welcome any positive information which the Minister of State might have.

**Deputy Aodhán Ó Ríordáin:** I thank Deputy Stanley for raising this issue and I welcome the opportunity to clarify the Government's approach to the funding of domestic violence services around the country and in the Deputy's constituency of County Laois.

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For the first time, with the establishment of Tusla, the Child and Family Agency, domestic, sexual and gender-based violence service provision is under one body with clear national direction. Services can now be delivered within a wide child and family support framework and this represents a significant change to the previous service delivery model.

In 2014, €17 million in funding was provided by the Child and Family Agency by way of grant aid to 62 specialist domestic violence and sexual violence services. These include 16 rape crisis centres-sexual violence services; 44 domestic violence services, including 20 refuges; and two national networks.

In addition, funding of €2.54 million has transferred to the Department of Children and Youth Affairs' Vote from the Department of Environment, Community and Local Government which, in turn, has been transferred to Tusla.

This funding was previously distributed under section 10 of the Housing Act 1988 and is for domestic violence refuge services. The purpose of this funding transfer is to ensure that the State's relationship with the domestic violence services is managed in a manner which is more coherent and adapted to the needs of service users, that is, victims of domestic violence.

In 2014, Tusla funded specialist domestic violence services in County Laois provided by Laois Domestic Abuse Services in Portlaoise. The service received €64,900 in funding from Tusla last year. As the Deputy outlined, the service involves the provision of domestic violence supports, including information, advocacy and counselling services to women experiencing, or who have experienced, domestic violence. The work of Laois Domestic Abuse Services and other community-based domestic violence services is recognised and absolutely valued.

Tusla has recently completed an initial review of domestic violence and sexual violence services in order to identify strategic priorities and set out a Tusla roadmap for sexual violence and domestic violence services. There is for the first time a consolidated national budget for these services and an opportunity for more co-ordinated and equitable provision of sexual and domestic violence services across the country.

Tusla will communicate with funded services shortly to advise on the Tusla budget and funding for 2015. Individual domestic violence service provider organisations, including Laois Domestic Abuse Service, will be contacted about their specific funding and service arrangements.

Future planning for domestic violence and sexual violence services will seek to address gaps, avoid duplication and support effective delivery of front-line services nationally.

Developments for domestic violence services in County Laois will be considered as part of Tusla's future commissioning processes. The agency has advised that population size will be one of the factors that will inform this process. Services responding to domestic, sexual and gender-based violence are being given a high priority by Government and Tusla will work closely with service providers, giving particular priority to supporting front-line services.

**Deputy Brian Stanley:** I thank the Minister of State for his comprehensive reply and welcome the fact that for the first time, there will be one consolidated national budget because in the past, there have been difficulties in terms of how the schemes and funding are administered. The committee which oversees Laois Domestic Abuse Services raised more than €12,000 voluntarily last year.

I refer to the equalisation of funding. The Minister of State said the agency has advised that population size will be one of the factors informing the process. I welcome that and was going to raise it with the Minister of State. County Laois does not have a huge population - it is approximately 84,000 - but the service covers a large catchment area and sometimes people come from north Tipperary or west Offaly where there may be gaps in services. We should take the size of the region into account when allocating funding.

In 2011, the last year for which I have figures, County Carlow, which is a similar size to County Laois, received €134,000 while County Laois received €56,000, although the Minister of State is correct that it received €64,900 last year. By the way, I am not arguing for County Carlow's funding to be reduced. County Tipperary received €176,000 while County Longford received €124,000 in 2011. The Minister of State will be able to see the problem there and I welcome the fact population size will be taken into consideration. That is a very positive move, as is the fact there will be a consolidated fund.

The Minister of State said Tusla will communicate with funding services shortly to advise. Will he raise this in the Department and convey to the civil servants, Tusla and the funding agency that Laois Domestic Violence Service is really under pressure and is operating on a wing and a prayer? Can the funding be expedited because it is now almost the end of February and Laois Domestic Violence Service had a very busy year last year and its resources are on the floor? Will the Minister of State work that out with the senior officials?

I referred to the other counties not to have their funding lowered but to illustrate the 2011 model. I welcome the move towards equalisation based on population.

Will the Minister of State raise the issue of a second full-time position in Laois Domestic Violence Service? There is only one full-time position. The co-ordinator, Ms Marna Carroll, does amazing work but there is only so much she can do. Will the Minister of State ensure this valuable service has the resources to continue to provide vital services to women in County Laois who need it? Setting up the family law centres was one of the positive things we did. They are under pressure but that is a matter for another day. The other positive thing we did was to set up these centres and we must ensure they continue. Let us hope instances of domestic violence are not on the increase and that it is a case of better reporting or that women and men are more likely to come forward. Let us ensure we provide an open door for them when they come looking for it in their hour of need.

**Deputy Aodhán Ó Ríordáin:** The Deputy made some very constructive comments and I appreciate his positivity towards what we are trying to do. His comments on the population question are appreciated. I take on board the Deputy's comments on the individual service and the need for clarity, certainty and to plan for the future. I do not think any service, in particular one that deals with such a sensitive issue as domestic, sexual and gender-based violence, should be insecure as to its future. I will take on board the Deputy's questions and get working on them to ensure the service is more confident, as it is providing an excellent service. Again, I thank the Deputy for raising this issue.

The Dáil adjourned at 2.40 p.m. until 2 p.m. on Tuesday, 24 February 2015.