



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

DÁIL ÉIREANN

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

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DÁIL ÉIREANN

Dé Céadaoin, 14 Feabhra 2018

Wednesday, 14 February 2018

Chuaigh an Ceann Comhairle i gceannas ar 10.30 a.m.

Paidir.
Prayer.

Ceisteanna - Questions

Priority Questions

Acting Chairman (Deputy Eugene Murphy): I welcome the staff, the Minister, the Minister of State and Deputies. We will commence this morning with questions to the Minister for Communications, Climate Action and Environment, Deputy Denis Naughten, my colleague from Roscommon.

National Broadband Plan Implementation

19. **Deputy Timmy Dooley** asked the Minister for Communications, Climate Action and Environment the date by which the 542,000 homes and businesses in the national broadband plan's State intervention area will be connected to broadband; the date by which he plans to award the contract to connect these homes; and if he will make a statement on the matter. [7721/18]

Deputy Timmy Dooley: I will begin by wishing the Acting Chairman a happy St. Valentine's Day. I also extend that greeting to the staff of the House and to the Minister, lest he feel that there is no love between us.

I ask the Minister to outline, in light of recent developments, the current status of the procurement process for the national development plan. In particular, I ask him to provide some timelines for when he expects to have signed a contract with the remaining bidder, when work is due to begin and when it will be completed.

Minister for Communications, Climate Action and Environment (Deputy Denis Naughten): I am sure I will be love-bombed by Deputy Dooley this morning. I apologise, first of all,

that I have a severe case of man flu. Were it not for Deputy Harty I would not be here at all today.

Deputy Timmy Dooley: Deputy Naughten would not be in the Cabinet without him either.

Deputy Denis Naughten: He did warn me to be very careful. He said it is highly contagious.

Acting Chairman (Deputy Eugene Murphy): He is a constituency colleague of Deputy Dooley.

Deputy Denis Naughten: In an institution like this it could grind the country to a halt, so keep clear.

I welcome the opportunity to speak again in the House on the national broadband plan. Right now, as I speak, seven out of ten premises in this country have access to a high-speed broadband service. By the end of this year I expect this proportion to rise to nearly eight out of ten, and by the end of 2020, when the roll-out of the national broadband plan State-led intervention is well under way, nine out of ten premises in this country will have access to a high-speed broadband service. The contract for a company to deliver high-speed broadband to approximately 540,000 premises in the intervention area will be awarded once a compliant technical and financial solution that delivers value for money to the Irish taxpayer is received.

Before Eir withdrew from the procurement process, I understand that the national broadband plan, NBP, procurement team was working to a timeline whereby it would have selected a preferred bidder by September. The procurement team is now considering whether the procurement timelines can be brought forward in a single-bidder scenario. Once a contract is signed and the State-led intervention has begun to roll out, it is estimated that the vast majority of premises in the intervention area will have access to a high-speed broadband service within three years. It is a reality of any infrastructure roll-out of this scale and scope that there will be those isolated and harder-to-reach premises and areas which may take longer than this to serve. This is an unavoidable fact. However, it is my firm resolve that the occupants of these premises will not have to wait one day longer than absolutely necessary to receive the service they need.

Acting Chairman (Deputy Eugene Murphy): The Minister will have a further opportunity to speak on this question.

Deputy Timmy Dooley: I thank the Minister. Will he confirm for the House that the one remaining bidder has yet to submit pricing details and a technical solution on the work to be carried out? Prior to the Minister's assumption of office the delay was estimated at six months. The programme for Government confirmed, based on the Minister's discussions at the time, that a contract would be signed in June 2017. Will the Minister now confirm, on behalf of the Government, that this has been delayed until today at least? Can he provide an estimate as to when he expects that agreement to be signed? He talks about proportions of seven or eight out of ten homes. I do not want to go back over this, but the Minister and I both know why and how this has happened, and it is not as a result of the Government's intervention. We need clarity around those 540,000 homes and around the timelines, or the Minister's best estimates thereof. That will allow us all to keep the process on track and on target.

Deputy Denis Naughten: First, I will address Deputy Dooley's question regarding the documentation that has or has not been submitted. The Deputy asked that question of me last

Thursday and I told him that it was not within my competency to answer it. I believe Deputy Dooley has a meeting this week with the procurement team, which will respond to this query for him. I pointed that out last week.

Deputy Timmy Dooley: That was at a committee, was it not?

Deputy Denis Naughten: The intention was to have a preferred bidder by June 2017, and we have missed that particular target, absolutely. There are reasons for that, and I presume that officials will go through some of those with Deputy Dooley when they appear before the committee later this week. However, the timeline at which we are looking at the moment involves having a preferred bidder by September. On foot of the decision by Eir, we are now reviewing those timelines to see if we can firm up, and to see where we can speed up this process. That is what we are doing.

Deputy Timmy Dooley: For clarity, does that timeline aim for a preferred bidder by September? My understanding is that when there is only one bidder, that is the preferred bidder. Is the objective to have a contract signature by September, or is it just the announcement that the main bidder is the preferred bidder?

Deputy Denis Naughten: Let me be crystal clear on this. When there were two bidders in the process, it was our expectation that we would have a preferred bidder by September. There is now one bidder in the process. As the Deputy knows, the procurement team has been sitting beside me for the last fortnight dealing with specific questions which were rightly put by Members of the Oireachtas, both formally and informally, and I wanted to provide as much information as I could. I know there has been some engagement with the consortium within the last several days. I believe the procurement team is meeting with the committee tomorrow, and its members will provide information that is within their competency but is not within my remit.

Acting Chairman (Deputy Eugene Murphy): My apologies for interrupting. The Minister will have one more minute. I will give Deputy Dooley a minute, and then I will give the Minister a minute.

Deputy Timmy Dooley: I thank the Minister for that response. I need to be clear. My understanding was that the Minister had effectively achieved preferred bidder status now, and the intention was to have a contract signed in September. If the contract will not be signed in September, and the objective is merely for preferred bidder status to be conferred on the company, then there will be a further period before a contract is signed. I ask the Minister to provide at least a best estimate of when a contract will be signed, recognising now that September is the date for preferred bidder status. Will the Minister also update the House on the actions he has taken since the vote here last week on the appointment of some external expertise to review the entire procurement process?

Deputy Denis Naughten: I cannot give the Deputy a date on when the contract will be signed because this decision was only taken last Tuesday week and was only notified to me at that stage. We have not had the opportunity to consider the implications relating to the procurement process. I have given the Deputy the timelines we were looking at prior to that. I have also said that, based on the information available to me, it is likely that we will get shovels in the ground quicker. The reason for that is that once we have a preferred bidder, that preferred bidder could then engage with the banks and the contractors which could build the network across the country. The SSE-Enet consortium can now start that process. Representatives from

the European Investment Bank were with me last month. They are very anxious to invest in this process. They have been engaging with SSE-Enet and Eir on that. They can now directly engage with SSE-Enet. It allows them to truncate that entire process and get shovels in the ground. At this stage, however, I honestly cannot give the Deputy a date on that because we have to assess the full implications of it. We cannot be definitive in that regard until we sign that contract. At that stage, as I did with the Eir commitment agreement where we published as much of that documentation as we could and gave clear timelines in that regard every quarter, it would be my intention to do the exact same with this process to ensure that people clearly know when they will get broadband and the targets for that.

National Broadband Plan Implementation

20. **Deputy Brian Stanley** asked the Minister for Communications, Climate Action and Environment the future of the national broadband plan in view of the fact there is only one bidder in the procurement process; and if there is a strategy in place to progress the national broadband plan if the procurement process fails. [7532/18]

Deputy Brian Stanley: The one bidder left in the procurement process has a lot of power in its hands, and 542,000 homes will be at the whim of that company, with no competition and very little leverage in the Department's hands. As we are in this very uncertain position, what options has the Minister considered and if the current process collapses, what is plan B?

(Deputy Denis Naughten): As I have stated many times recently, it is my personal commitment and a key priority for Government to have high-speed broadband delivered to every house, business, farm and school in Ireland, and a future-proofed broadband service. I have long advocated for this service for rural Ireland and I am determined that high-speed broadband will be delivered to every single premises in the country and that it will meet that timescale in the next 25 years of providing a quality service. I know there is nothing between myself and the Deputies in this House on the policy or the objectives, and that we all want to deliver to the communities and businesses in the intervention area.

The procurement process to engage a company to roll out the broadband network remains at an advanced stage. The remaining bidder, SSE-Enet, has already identified its final issues for discussion with the procurement team and these discussions are ongoing. I am confident all parties will work to ensure the solutions will deliver a network fit for today's needs and with a capacity to adapt to new technologies over the next 25 years.

In all procurement processes, particularly where there are services to be rolled out over a prolonged period, all viable options for delivery are considered. The current procurement process is a robust process with strong risk management throughout and a broad range of scenarios and eventualities having been considered. This process is entering its final stages, with SSE-Enet having reaffirmed its commitment to the successful conclusion of the process.

I consider that it would be imprudent to pre-empt the outcome of the ongoing engagement by publicly deliberating on other options for alternative delivery strategies at this time as this could potentially prejudice the outcome of the procurement process.

Deputy Brian Stanley: The problem with the Minister's position is that he is basing it on the hope that the Enet procurement process will not collapse. The Department and the Govern-

ment must have a plan B but the Minister has not outlined such a plan. He said options are being considered, but that is within the current tendering process with just Enet involved. Some of the seeds of this disaster were sown when Eir announced the connections to 300,000 easy to reach households. While that is good and dandy for those households, as I pointed out to the Minister many times, the 540,000 homes and businesses outside of that process will be the difficult ones. That has allowed for a stranglehold of the system and yet another mistake in the entire procurement process.

Has a public ownership option ever been examined seriously by the Department? We have large pieces of State infrastructure. ESB Networks is serving 99.9% of the population. There is fibre cable running along the railway tracks. There is a back-haul system owned by the State of which we have a comprehensive map. There is also the metropolitan areas network system, MANS, so we have the MANS, ESB Networks and the back-haul system.

The Minister told me over two weeks ago that if he were doing the process all over again, he would do it differently. What exactly would he do differently? I am curious to know what he meant by that.

Deputy Denis Naughten: The Deputy has asked a lot of questions.

Deputy Brian Stanley: The final one is the most important.

Deputy Denis Naughten: First, I am restricted in what I can say because we are in a procurement process-----

Deputy Brian Stanley: You are the Minister.

Deputy Denis Naughten: -----and if I were to say something here that would jeopardise that, Deputy Stanley would be the very one who would come in here and criticise me for that, and rightly so. The procurement team will appear before the committee on Thursday and the Deputy will have the opportunity to talk directly to the individuals involved in this process.

On the issue of public ownership, that was considered. In fact, it was debated at length here in the House. I gave the Deputy my views on my reasoning for the approach we took on that.

On the Eir 300,000 connections, I have explained the reason we took that decision but one of my most vocal critics, who has a good understanding of this particular process, is Adrian Weckler. It would be worth the Deputy's while to read the article he published in the *Sunday Independent* last Sunday in which he clearly stated that the Government did not have a choice in that regard. What we did get, however, and which no other country in Europe in a similar situation in terms of other contracts got, was a binding commitment from Eir that has quarterly targets written into that and penalties for failing to achieve those targets. As I pointed out at the committee meeting last week, the European Commission outlined this as being a type of template that should and could be used by other member states in designing commitment agreements as part of procurement processes.

Deputy Brian Stanley: I thank the Minister for that reply. I did not see that *Sunday Independent* article because I do not buy it.

Deputy Denis Naughten: I will furnish the Deputy with a copy of it.

Deputy Brian Stanley: I would appreciate that.

Deputy Timmy Dooley: I thought Deputy Stanley would buy it now that publication of *An Phoblacht* has stopped.

Deputy Brian Stanley: I have no problem reading a copy of it but I refuse to buy the *Sunday Independent*.

On the question of State ownership, the Minister said it was considered. I would be interested to know the reasons that was turned down because an ESB-type semi-State structure could have drawn together the MANS and the extensive back-haul systems that are being rolled out across the State, along with the other infrastructure belonging to the ESB that is in place. The Minister will have noted that the amended motion last week called for a full examination of that option. At a vital stage in the process, I do not see any problem in allowing an expert examine that option. It is vital if we are to have economic development in rural Ireland.

What has the Minister done regarding the amended Dáil motion, which was passed unanimously here in the House? According to the Minister's answers this morning, we still have no date for the contract to be signed. We know the pricing structure has not been supplied because the Minister answered that question, and the technical solutions have not been settled. The three key questions on this major national network have not yet been answered nearly two years into the term of this Government.

Deputy Denis Naughten: First, the Dáil motion was not passed unanimously.

Deputy Brian Stanley: I am sorry, it was passed by a majority. I will clarify that.

Deputy Denis Naughten: I made it crystal clear why it could not be passed unanimously. I pointed out that it would jeopardise the procurement process and, based on my best estimates, that it would delay it by six months. In his *Sunday Independent* article last Sunday, Adrian Weckler said it would delay it by between six and 12 months. I have given a commitment to the people and the Members of this House that I have no intention of delaying the process one day longer than is necessary. In its counter-motion last week, the Government set out the arrangements that are in place to underpin the national broadband plan procurement process. It is now time we took decisive action on this, continued apace and completed the procurement process. Having said that, I am committed to giving regular updates to colleagues in both Houses regarding the progress we are making. Members deserve that I commit to doing so.

Broadcasting Sector

21. **Deputy Timmy Dooley** asked the Minister for Communications, Climate Action and Environment if he is satisfied with the manner in which Ireland's public broadcasting sector is funded; his plans for changes to the licence fee collection system; and if he will make a statement on the matter. [7722/18]

Deputy Timmy Dooley: Will the Minister outline whether he is satisfied with the manner in which Ireland's public service broadcasting sector is funded and whether he has managed to advance in any way the proposed changes to the licence fee collection system?

Deputy Denis Naughten: RTÉ is dual funded through a proportion of television licence fee receipts and the commercial revenue it generates. TG4 is funded by way of a combination of direct Exchequer grant-in-aid, television licence fee receipts and commercial revenue.

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The broadcasting sector continues to face very serious commercial, structural and market challenges, including, in recent years, a substantial fall in advertising revenues of over 40%. For example, RTÉ now earns less in commercial income than it did in 2008.

RTÉ has responded to this contraction in revenue by cutting operational costs and implementing major organisational restructuring. Despite these measures, in 2016, RTÉ had a deficit of €19.7 million. RTÉ remains in a very difficult financial position and further deficits are predicted. TG4 also posted a small deficit for this period, and has done so for several years.

I am very much aware of the challenges that face the existing TV licence system, including the current level of evasion which is estimated to be 14.6%. While the rate has fallen from 15.3% at the end of 2013, it is still very high and equates to a loss of €40 million annually to public service broadcasting.

To address this issue, my Department has been working with An Post and RTÉ on an ongoing basis to ensure that the TV licence collection system is working as effectively as possible. Measures such as marketing campaigns, more evening and weekend inspection and appointment of additional temporary inspectors are just some of the initiatives that have been utilised to enhance sales and improve compliance rates.

As the Deputy will be aware, I obtained Government approval last year to draft a number of legislative amendments to the Broadcasting Act 2009, including amendments for the tendering of the TV licence fee collection. The proposed amendments are under pre-legislative scrutiny by the Joint Committee on Communications, Climate Action and Environment, and I look forward to receiving the committee's report on the matter.

As the Deputy is also aware, I requested the committee to examine the longer-term issue of the future funding of public service media. The committee published its report at the end of November 2017 and I intend to bring the matter to Government shortly.

Deputy Timmy Dooley: I do not think that the Minister has that much time. He has painted a picture of which all of us should be aware in terms of the situation in RTÉ, but there is also an issue, which I have raised several times and on which I have published legislation, namely, the public service broadcasting element of local and regional radio stations. They also deserve some funding from any increased revenues coming from a renewed television licence system. It is vitally important for the national broadcaster, for TG4, and for the independent local radio sector that the Government moves quickly on this to ensure that the level of funding being lost through evasion, which is up to €40 million, is addressed quickly. Germany has an evasion rate of around 2% while the UK has an evasion rate of about 4%, so comparing like with like, we are way off the scale. I would like to see the Minister address this matter as quickly as possible and bring forward proposals. He will not find any resistance from Fianna Fáil or from most people on this side of the House.

Deputy Denis Naughten: I am somewhat confused. The joint committee commenced pre-legislative scrutiny of the broadcasting (amendment) Bill on 11 July. It was attended by my Department officials, representatives from RTÉ, TG4 and the Broadcasting Authority of Ireland. A further hearing was held on 3 October with the platform operators, Virgin Media, Sky, Eir, Vodafone, and TV3 to discuss both the scheme of the Bill and retransmission fees. That report is awaited. To be fair to the committee, it did seek legal advice on retransmission fees as part of its pre-legislative scrutiny, but I am waiting. It is to deal specifically with the €40 million short-

fall. I am willing to move quickly on it. If the committee would return its report to me, then we can start working on it. I thank Deputy Dooley for his support on this and urge colleagues to refer that report back to me as quickly as possible so we can move on it.

Deputy Timmy Dooley: My recollection of that legislation is that it has no implications for the licence fee or restructuring the licence fee collection system. I am sure it does not. Neither does it address the issue of a broadcasting charge at a broader level. It deals with some minor issues and retransmission is thrown in. Retransmission is an important facet of RTÉ's future funding, but the core issue relates to the licence fee collection system or moving towards a broader method of collecting that charge. That is what the report did. The Minister has received that report relating to the work he had asked the committee to undertake. I believe it sets out the future and how we address the question into the future. The short-term measure must be addressed by a more enhanced licence fee collection system. The Bill has no implications in that regard.

Deputy Denis Naughten: The Bill I referred to the committee is the broadcasting (amendment) Bill. One of its provisions is to amend section 145 of the primary Act to deal with evasion. On the legal advice received from the Office of the Attorney General, it is clear that the current legislation does not allow me as Minister to appoint a television licence agent by way of public tender. The amendment to section 145 in the broadcasting (amendment) Bill, as currently before the committee, allows me to rectify that. There are also amendments to sections 33 and 123, specifically dealing with the Broadcasting Authority of Ireland, BAI, levy which would allow for the allocation of funding to the BAI from the television licence receipts to meet its operating expenses. That would allow the BAI to reduce, by a maximum of 50%, the annual cost of the BAI levy to independent broadcasters, all of whom have publicly welcomed this. My intention, and the discussion I have had with the BAI, is that it would remove altogether the registration and licence fee for the community broadcasters. There is also an amendment to section 154 of the broadcasting funding scheme to allow for a bursary scheme to be introduced to encourage quality journalism in local and community radio. That is the legislation which is before the committee. As soon as it comes back, I will expedite it.

Exploration Licences Approvals

22. **Deputy Bríd Smith** asked the Minister for Communications, Climate Action and Environment further to the vote in Dáil Éireann on the Petroleum and other Minerals Development (Climate Emergency Measures) Bill 2017, if no further licences, undertakings or leases for fossil fuel exploration will be awarded until the issues are dealt with at the Oireachtas Joint Committee on Communications, Climate Action and Environment; and if he will make a statement on the matter. [7712/18]

Deputy Bríd Smith: Despite the Minister's man flu, I want him to address this very important question. Last July, quietly and without any notice to our committee or any notice on the Department's website, the Minister signed off on exploration licences for the Druid Drumbeg exploration field which is estimated to have 5 billion barrels of offshore oil.

11 o'clock

Last week we passed Second Stage of a climate emergency Bill. I am now asking the Minister whether he is going to issue further licences, undertakings or leases for fossil fuel explora-

tion before we deal with that Bill. It still has to go through committee and still has to be fully amended. Will the Minister respect the vote of the Dáil, which gave a clear indication to him last week, and desist from issuing any further licences?

Minister of State at the Department of Communications, Climate Action and Environment (Deputy Seán Kyne): The Bill referenced by the Deputy has been referred to select committee for consideration. As such, it remains a legislative proposal. Government policies in respect of climate action, energy and offshore exploration, and the application of such policies, remain unchanged.

The challenge to reduce greenhouse gas emissions is well understood by Government and it is reflected in our national climate action and energy policy. Ireland will, within the EU and UN climate frameworks, pursue and achieve a transition to a low-carbon, climate-resilient and environmentally sustainable economy, underpinned by a secure and competitive energy supply, in the period to 2050. Within that context, it is accepted that Ireland will continue to require and use some, but significantly reduced, fossil fuels to meet the needs of our people, farmers, industry and businesses. In contrast, the Bill proposed by Solidarity will not reduce Ireland's greenhouse gas emissions and will not help Ireland meet its 2020 or 2030 emissions targets. The strategy outlined by Solidarity during last week's Second Stage debate is for Ireland to rely entirely on imports for all our future fossil fuel needs.

As well as failing to actually reduce Ireland's greenhouse gas emissions, the proposed Bill would have an adverse impact on Ireland's Exchequer resources through the loss of exploration acreage rental fee revenues and the potential loss of taxation revenue under the Finance Acts from any future commercial discoveries. In the face of such a loss to the Exchequer, it is my view that it would not be appropriate for a Government to issue a money message for this Bill.

The Solidarity approach fails to recognise, in contrast to the UN Intergovernmental Panel on Climate Change, that natural gas can play a role as a transition fuel in combination with variable renewable sources. The Government and the public are willing to tackle climate change but the Solidarity Bill will not solve climate change. As I said last week, the energy White Paper clearly states that natural gas will play a huge part in our energy security into the future.

Deputy Bríd Smith: I remind the Minister of State that the Solidarity-People Before Profit Bill is, in fact, a climate emergency Bill. We call it a climate emergency because that is exactly what it is, and the vast majority of Deputies in this House agreed with that - if they did not, they might try to explain why not. There is a real worry here that we are not getting what this means. If the Minister of State accepts the science, it states that 80% of known reserves have to stay in the ground if the earth is not to overheat by 2° Celsius, which will begin to threaten many of the species already existing on the planet and human life itself, and will wreak chaos, not just in this country but in many parts of the planet.

Acting Chairman (Deputy Eugene Murphy): Thank you, Deputy.

Deputy Bríd Smith: Gas emissions do not have a nationality but unless we begin to acknowledge the science and say this must remain in the ground, we are coddling ourselves, and being on this committee, having a national mitigation plan and anything else we do will be absolutely meaningless.

Acting Chairman (Deputy Eugene Murphy): The time is up, Deputy.

Deputy Bríd Smith: I would like the Minister of State to comment on that.

Acting Chairman (Deputy Eugene Murphy): The Deputy will have another minute.

Deputy Bríd Smith: Even the licence issued last year that represents 5 billion barrels would result, potentially, in releasing the equivalent of all our greenhouse gas emissions for the next quarter of a century. How in the name of God does that make sense while, at the same time, we are supposed to be tackling climate change?

Deputy Seán Kyne: As the Deputy knows, the results of the oil well drilling in Drumbeg did not yield any hydrocarbons and the well has been closed and capped, so there was no 5 billion barrels of oil.

I absolutely agree with the science and the majority of Members of this House agree with the science. Listening to the contributions last week, there is clearly an appetite for a larger debate at committee on this issue. Deputies Stanley, Dooley and Lawless in particular, while supporting the Bill on Second Stage, also acknowledged there needed to be a wider debate on the whole area. I hope the committee takes up the opportunity for that debate on energy security. We want to see a reduction in usage of fossil fuels and that should be the principle of the House. However, banning offshore will not reduce usage, which has to be achieved by a change in mindset, a change in policy and continued investment by the State in the whole area of retrofitting and so on, as we are doing. The Bill put forward by the Deputy will not change the usage.

Deputy Bríd Smith: There is no doubt that it will not change the usage, and I never said it would, but it might give a kick up the backside to this Government to get on with developing renewables and alternatives because we cannot continue to rely on fossil fuels. Last year I asked whether there is an automatic entitlement for these companies to renew licences and continue exploration, and the Minister got back to me and said that, in the context of his ability to decide based on the record of companies, there is no automatic entitlement for renewal of gas or oil exploration. Yet, we have a company like Europa Oil and Gas boasting this morning that it is very excited about the potential of realising its drilling for another 5 billion barrels of oil, the same amount that would cause us to exceed our emissions for the next quarter of a century. We are dealing with science here. I am asking the Department to please be logical in its approach to this, not aspirational, as the Minister of State would accuse us of being.

Deputy Seán Kyne: We are being logical. The logical issue here is that there will continue to be a need and a demand for hydrocarbons, whether it be oil or, in particular, natural gas, for the next period of time. While stating that we should not explore our offshore, we would still be importing oil and natural gas. Post-Brexit we will not have energy independence from any other country in the European Union. For example, we are developing a Celtic interconnector with France, where we will be importing majority nuclear-generated energy supply. The target and the ambition of both myself and the Minister, Deputy Naughten, is to reduce the usage of fossil fuels. That is the important thing, no matter what party one is in. We want to reduce the usage of fossil fuels in this country, and that is where the ambition needs to be. Clearly, the State itself is not investing anything in offshore exploration. These are private companies and it is a hugely regulated sector in terms of environmental assessments, appropriate assessments and so on. Any decision will be made in the best interests of energy security and the strict adherence to environmental policy.

Deputy Bríd Smith: There is no security in a planet that is overheating.

Renewable Energy Incentives

23. **Deputy Thomas Pringle** asked the Minister for Communications, Climate Action and Environment if he will report on the recently announced grant-aided scheme for rooftop solar panels; when the scheme will be rolled out to domestic users; when the scheme will be subsequently rolled out to businesses and farmers; and if he will make a statement on the matter. [7530/18]

Deputy Thomas Pringle: While I welcome the announcement the Minister has made to roll out the grant-aided scheme to domestic users, I would like to find out when it is likely to happen, the potential costs involved, what will happen to the individuals who may have been in the process of installing solar panels when he made this announcement in the first place and whether any excess energy will be fed into the national grid.

Deputy Denis Naughten: I will go through the reply and I will then come back to the Deputy on some of the issues. On foot of the October 2017 stakeholder workshop, hosted on my instruction by my Department and the Sustainable Energy Authority of Ireland, along with further engagement with the microgeneration industry, I have asked the Sustainable Energy Authority of Ireland to conduct a short study to assess the likely demand for and impact of microgeneration among the public. It is important that before we deploy further public money, we validate the demand and projected cost in an Irish context.

The proposed pilot scheme, which I announced at the recent renewable energy summit, will commence this summer and will target solar PV and self-consumption among domestic customers. The data gathered during this scheme and throughout the behaviour and attitudes study will inform future phases of support for microgeneration in Ireland as we align with the ambition of the recast renewable energy directive, which recognises the rights, entitlements and obligations of renewable self-consumers.

My Department is developing a new renewable electricity support scheme, RESS, which is being designed to assist Ireland in meeting its renewable energy contribution to EU-wide targets out to 2030. Microgeneration, which typically involves an element of self-consumption, was appraised as part of the RESS economic assessment and the analysis identified a number of challenges that may need to be addressed before a support scheme for microgeneration can be developed. The reality is that bringing microgeneration into a system designed for large generators is complicated. It impacts how we pay for the network, manage regulation and technically manage the system. My Department continues to work closely with the microgeneration sector and the SEAI to better understand how to validate and further develop these policies in a fair and cost-effective manner. This pilot scheme will be the first phase in a multi-phase implementation of the new directive and it delivers on the ambitions and commitments made in the energy White Paper and the programme for Government.

Additional information not given on the floor of the House

As set out in the national mitigation plan, a very significant increase in effort is required to realise the potential of the residential sector to contribute to the low-carbon transition. Improving the energy efficiency of a home in order that it needs less energy to maintain levels of comfort is a prerequisite for moving off fossil fuels for heating to less energy-intensive renewable energy options. This is why I have been providing additional funding to include deeper energy efficiency measures, combined with renewable technologies, in the range of supports for resi-

dential energy efficiency operated by SEAI. Solar photovoltaics, PV, is already supported under the better energy communities scheme and the deep retrofit pilot. Crucial to these schemes are the advice and technical support available to groups of householders and businesses to undertake these measures and embrace renewable technologies.

Deputy Thomas Pringle: I thank the Minister for his response. He has cleared up some of the questions in stating it is an introductory scheme and that it is intended to evaluate its success before it would be rolled out further. However, this raises other questions. It is clear the people are far ahead of the Government in respect of renewable energy. Many people are going ahead with solar PV installations despite the fact that the Government has not introduced an incentive scheme for homeowners. Again, will the Minister address the position of homeowners who may have engaged in this process prior to, or since, his announcement, not knowing that the Government was intending to come forward with a scheme? When is it likely the scheme will be rolled out to community groups, community centres and so on? Having these assessments in place could offset quite a lot of other costs. What is also vitally important is a very public, very in-your-face advertising process in order that people know the scheme is actually available to them. I think that would do wonders for the success of the scheme.

Deputy Denis Naughten: The Deputy has raised a number of matters. People who have installed solar PV on domestic buildings and engaged in self-consumption after my announcement of 31 January would fall within the final parameters of the pilot scheme when the details of it are announced. This is termed “grandfathering”. I am sympathetic to their position, but grandfathering would be subject to discussions with the Directorate General for Competition, DG Competition, in the European Commission on any state aid implications that would apply. I intend to have these discussions with the DG Competition and I would be sympathetic to these people’s position if they were to comply with whatever criteria will be set out by the scheme.

A grant for community centres is already available through the better energy communities scheme. Last year €26 million was paid out under the Sustainable Energy Authority of Ireland better energy communities scheme to 44 projects across the country, some of which included solar PV. This leveraged a total investment in energy efficiency of approximately €67 million. We also have a deep retrofit pilot which also allows for the use of solar PV, but this is for the general consumer.

Deputy Thomas Pringle: Finally, will the Minister address the issue of public awareness to ensure that people are aware of the scheme? I think there will be quite a lot of demand and that the Department will probably be pleasantly surprised by it because I believe the people are way ahead of the Government in respect of renewable energy and want to see it happen. I ask the Minister to address this. In addition, if the scheme is rolled out in the future, what about the issue of the feeding of energy generated into the national grid? That is vitally important as well.

Deputy Denis Naughten: I am very conscious of public awareness. We have a new behavioural economics unit established within the SEAI to look at how we communicate. For any colleagues here writing newsletters, there is a box outlining the different grants, which can put into their newsletters. We can make that available to them. We have done so in the past and will do so again. There is a substantial amount of funding here. I want to see the scheme oversubscribed rather than undersubscribed because it is in the interest of all of us that it happens. I would be very open, as would the Sustainable Energy Authority of Ireland, to any suggestions or ideas as to how we should package or promote the scheme. Perhaps it might help clarify matters for the Deputy if, in summary, I say my objective is to ensure that renewables

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self-consumers, those who generate renewable electricity and consume and-or store it in their own premises, will be entitled to receive financial remuneration for any excess electricity they feed into the grid. That is my ultimate goal. It will take a little time to get there, but that is my objective as Minister.

Acting Chairman (Deputy Eugene Murphy): I remind everyone in the House of the way in which this business is laid out. Deputies have 30 seconds to introduce their questions, the Minister has two minutes to reply, Members have a minute for a supplementary question, the Minister has a further reply, and the Member then has another opportunity for a supplementary question. I ask everyone to stick rigidly to this. If we do not, some Deputies will lose out. I see Deputies who come here and sit for ages in the Chamber every day and then, after all their waiting, do not get their questions answered, so I ask Members to be conscious of this. The next question is in the name of Deputy Pat The Cope Gallagher.

Other Questions

Rural Broadband Scheme

24. **Deputy Pat The Cope Gallagher** asked the Minister for Communications, Climate Action and Environment his strategy for dealing with households in County Donegal which form part of the national broadband strategy specifically under the rural broadband scheme; the timeframe by which all households in the county will be connected to high-speed broadband as part of the rural broadband scheme; the number of households within the county that will be directly affected; if a guarantee can be provided that no further delay will occur and the 2023 deadline will be achieved for all rural households; and if he will make a statement on the matter. [7259/18]

Deputy Pat The Cope Gallagher: I ask the Minister the practical implications of the decision by a company to withdraw from the procurement process last month. Will there be a long knock-on effect as a result? I am being parochial in thinking of my county and the implications for Donegal. It is a very rural county; parts of it have the lowest population density in all of Europe. Perhaps the Minister might give us some solace.

Deputy Denis Naughten: I am anxious to get to Question No. 33, as is the Acting Chairman, so we can talk about the constituency of Roscommon-Galway.

The overall objective of the Government's national broadband plan is to provide access to a high-speed, future-proofed broadband service to every premises in Ireland. This will be achieved through a combination of commercial and State investment and remains a key commitment of mine and of the Government.

Nearly 46,000 premises in County Donegal do not currently have access to high-speed broadband connections. Every single one of these rural homes, farms and businesses will be served under the Government's national broadband plan, some 12,000 by commercial investment and the remaining 34,000 by the State-planned intervention scheme.

My Department is in a formal procurement process to engage a company that will roll out a new high-speed broadband network in the State intervention area. As the Deputy will be aware,

one bidder, Eir, publicly withdrew from this procurement process last month. While its withdrawal is regrettable, it is entirely a commercial decision made by that company.

My Department's specialist national broadband procurement team will continue to engage intensively with all the relevant stakeholders in the process, including the SSE-Enet consortium, to ensure the earliest possible achievement of the Government's objective of providing reliable, high-quality, high-speed broadband to every one of the homes, farms and businesses I spoke of, in County Donegal and every other county. My Department will also engage with the bidder to ensure the most efficient deployment as part of any contract.

When the procurement process reaches a satisfactory conclusion for Government, a contract will be awarded and the network roll-out will commence. Through the said combination of commercial investment and State-led intervention the national broadband plan has already provided high-speed broadband connections to thousands of homes around the country, ensuring that today seven out of ten premises can access this vital service. By the end of this year this figure will be eight out of ten and by 2020 nine out of every ten premises will have access to a high-speed broadband connection.

Deputy Pat The Cope Gallagher: I do not have to impress upon the Minister, as a Deputy from rural Ireland, the urgency and necessity of this. It is vitally important to my county from an economic, social and cultural viewpoint and will contribute greatly to the development of the area. Children in doing their homework are trying to access information. People working in high-tech companies can now work from home and companies are anxious that they do so, but they do not have that opportunity. In addition, many people I know are using medical devices that are connected to hospitals via broadband. It is critical for them that they have access, but if they do not have broadband in their area, they have to go to the hospital. It would be so beneficial to have it. This is as significant a project as electrification was in the 1950s. I wish the Minister well and hope he can achieve his goal to have it provided for all homes in the county by 2020, but there are some suggestions that as a result of the recent decision, it could be 2023 before it happens. Perhaps the Minister might clarify the position.

Deputy Denis Naughten: I know the issues involved because I am dealing with them on the ground. One of the Acting Chairman, Deputy Eugene Murphy's constituents, my mother, is at me continually and persistently in that respect. She is less than one mile from the existing fibre network and within a few yards of the local primary school. My own nieces are missing out on it. I am, therefore, very conscious of the impact on a personal as well as a political level. The Deputy is right; it does not just affect young people. There is massive potential for the provision of medical services in isolated rural communities which would avoid putting additional pressure on health services. An issue was raised by a county-man of the Deputy on a series of radio programmes broadcast in the last fortnight. His solution to the broadband challenge was the roll-out of 4G broadband to rural areas. Adrian Weckler in his article in the *Sunday Independent* last Sunday clearly made the point that this would not solve the problem, not only because of the monthly caps that applied but also because of the excessive cost that would be involved. It would discriminate against people living in rural areas. The only long-term, sustainable, future-proof solution is mainly fibre based, which is what I am determined to deliver to ensure we do achieve the future equivalent of the rural electrification scheme through broadband provision.

Deputy Pat The Cope Gallagher: I would like to be seen to be positive. Eir is providing fibre broadband of excellent quality and with excellent speeds for homes in rural areas.

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However, there are areas where there are gaps. I ask the Minister to speak to Eir to see if there is a possibility of bridging these gaps in the meantime. I have some very practical examples, although I cannot give them to the Minister now. I do not have high-speed broadband because I am too near to the cabinet. If I were further away from it and the town, it would be much better. I do not know what the answer is to that problem. The connection passes by the doors of many. Perhaps the Minister might consider how in the interim the gaps might be filled. Perhaps eir might consider filling them.

Deputy Denis Naughten: On 30 August last I specifically raised this issue with the chief executive of eir, Mr. Richard Moat. We agreed that we would ask the broadband officer in each of the local authorities across the country to look at the anomalies where a cluster of houses has been left out. The example I gave earlier is within 1 km of the local school. Such examples were submitted by the broadband officers at the back end of last year and it is my understanding eir is going through the proposals to see if it can fill in the gaps as an interim measure. On foot of the release of the 3.6 GHz spectrum, I would expect to hear major announcements quite soon on the roll-out of wireless services which will help to meet the shortfall in some rural areas in the immediate future.

National Broadband Plan

25. **Deputy Bobby Aylward** asked the Minister for Communications, Climate Action and Environment the measures contained within the national broadband plan to ensure equality in the roll-out of broadband services in rural areas, rural communities and regional towns; and if he will make a statement on the matter. [7396/18]

Deputy Bobby Aylward: I ask the Minister the measures contained within the national broadband plan to ensure equality in the roll-out of broadband services in rural areas, rural communities and regional towns; and if he will make a statement on the matter.

Deputy Denis Naughten: The Government's national broadband plan, NBP, aims to ensure high-speed broadband access of a minimum of 30 Mbps, 24 hours a day, seven days a week, for all premises, communities and towns in Ireland, regardless of location. For those in areas where commercial operators cannot or will not deliver a service, access will be delivered via a State-led intervention. A variety of measures will be undertaken to ensure equality under the NBP State-led intervention in order that no county or community will be left behind.

As the Deputy will know, my Department is continuing the formal procurement process to engage the company that will roll out a new high-speed broadband network in the State intervention area. The practical issue of the roll-out across the country as a whole will be an important factor in the final contract negotiations between my Department's specialist procurement team and the company. The company will be required to deploy the build and roll-out of the NBP State intervention network in the most timely and efficient manner, while addressing the real need for communities across all counties to quickly access high-speed broadband in the short term.

My Department is working with the broadband officers now in place in every local authority. The Department of Rural and Community Development's regional action groups have identified strategic community points across all counties where services can be connected at an early juncture after the award of the NBP contract in order that access will be made immediately

available on roll-out to provide high-speed broadband for businesses and homeowners. As fibre connections to villages and communities continue to improve, so too will public Wi-Fi, which provides people with greater accessibility to better services.

Deputy Bobby Aylward: I have raised this matter consistently with the Minister since he assumed office. As recently as last week, I brought to him a message from rural Ireland that we needed broadband as soon as possible. Given the issues in his constituency, I know that he is acutely aware of the feeling on the ground. People are frustrated, fed up and tired of the delays in the roll-out of the national broadband plan. Rural communities have been kept waiting for seven years for the roll-out by the Government of high-speed broadband. The Minister has to get serious about rural Ireland and rural communities such as those I represent in the constituency of Carlow-Kilkenny. Broadband is not a luxury for schools, families, businesses or farmers but an absolute necessity. I keep saying that if it is not delivered soon, the benefits may be lost forever as investment will flow from rural and regional Ireland. We need to reopen boarded-up shop fronts, create jobs and sustain enterprise in regional towns and villages, but we do not have an equal platform of broadband services on which to compete with the larger cities. Plans and declarations are great, but what we need is action on the ground sooner rather than later.

Deputy Denis Naughten: I thank the Deputy. I agree with him; it is not a luxury. We need to see fibre broadband being rolled out across the country as quickly as possible and it is actually happening. The eir fibre broadband roll-out will bring high-speed broadband at speeds of 1,000 Mbps to 4,898 premises in Kilkenny and 3,390 in Carlow. In less than two years, or less than 100 weeks, they will have access to 1,000 Mbps, meaning that potentially they could watch up to 200 high definition Netflix programmes at the one time without any drop-off in service. As I said before, if it comes on a hare's back to rural Ireland, it cannot come quickly enough. I will do everything within my power to ensure it happens as quickly as possible and will not be delayed one day longer than is absolutely necessary to deliver on the objectives of the national broadband plan.

Deputy Bobby Aylward: I am grateful for what the Minister has said about the ongoing roll-out. However, I have people coming to me who do not have access. These are the ones who are constantly ringing my mobile phone and constituency office. I have more people who come to me who run small and medium-sized enterprises. They will stay in villages and towns if they can get access, but it is not available. They are moving to the cities and away from rural Ireland. We want regional development but are not getting it. For farmers, applications for direct payments and so on are all made online, but they do not have access. One person spoke to me just ten minutes before I came into the Chamber to ask this question. He is living three miles outside Ross and there are ten in what is a big family. They do not have access to broadband. There is a broadband service on their left and their right and across the road. They are in the middle. They have tried eir and Vodafone and been told they cannot get access to it. This has been ongoing for three elections, since 2015 and 2016, and they were on to me again yesterday about it. How long will it take for it to be delivered? This family are frustrated because they live three miles from New Ross and cannot access that service.

Deputy Denis Naughten: I understand their frustration. Communities, villages, schools and rural businesses in my constituency are equally frustrated and I understand and appreciate that. We are trying to provide them with a broadband service in the short term. There will be significant announcements in that regard in the coming months on foot of the release of the 3.6 GHz wireless spectrum. In addition, we have asked Eir to look at the anomalies that have been created. Although it is great that 40,000 premises every quarter and 300 farms per week are

getting high-speed broadband, that is not much good to those outside that process. Through the mobile phone and broadband task force we are trying to facilitate the faster deployment of the existing potential infrastructure to solve short-term problems for such people pending the roll-out of pure fibre to their doors.

North-South Interconnector

26. **Deputy Brendan Smith** asked the Minister for Communications, Climate Action and Environment when he expects to receive the two reports that he commissioned on the proposed North-South interconnector; and if he will make a statement on the matter. [7405/18]

31. **Deputy Timmy Dooley** asked the Minister for Communications, Climate Action and Environment his Department's review of the costs of undergrounding the North-South interconnector relative to the cost of overgrounding same; and if he will make a statement on the matter. [7467/18]

48. **Deputy Niamh Smyth** asked the Minister for Communications, Climate Action and Environment if his attention has been drawn to the concerns of communities in counties Cavan and Monaghan in regard to the North-South interconnector, in particular as regards health, land and property devaluation, tourism and heritage; his plans to underground the project; and if he will make a statement on the matter. [7465/18]

68. **Deputy Brendan Smith** asked the Minister for Communications, Climate Action and Environment if he will publish the two reports he commissioned in regard to the proposed North-South interconnector; and if he will make a statement on the matter. [7406/18]

89. **Deputy Shane Cassells** asked the Minister for Communications, Climate Action and Environment if no impacted landowners along the route of the North-South interconnector will have their lands accessed by EirGrid without the prior written consent of the landowner; and if he will make a statement on the matter. [7339/18]

224. **Deputy Niamh Smyth** asked the Minister for Communications, Climate Action and Environment the status of the North-South interconnector project. [7269/18]

Deputy Brendan Smith: The Minister commissioned two international studies on foot of Fianna Fáil Private Members' motions in Dáil Éireann and Seanad Éireann which were overwhelmingly endorsed by both Houses. Unfortunately, the two studies do not encompass all issues raised in those motions. At a recent meeting with representatives of Monaghan County Council attended by me and other Oireachtas Members, the Minister stated that he hoped to have the reports in February. When will they be completed, finalised and brought to him? Will he assure Members that there will be no delay in their publication once they have been delivered?

(Deputy Denis Naughten): I propose to take Questions Nos. 26, 31, 48, 68, 89 and 224 together.

The North-South interconnector now has full planning permission in Ireland and Northern Ireland as proposed as an overhead line. On 21 December 2016, An Bord Pleanála granted planning permission for the North-South interconnector in Ireland, which concluded a lengthy planning process, including an oral hearing completed over 11 weeks from March to May of

2016. On 23 January 2018, full planning permission was granted for the section of the line in Northern Ireland.

The interconnector is a key project in delivering the objectives of national energy policy, specifically addressing security of supply, competitiveness and sustainability. It will also ensure a safe and sustainable source of energy for both jurisdictions.

I fully respect that the project gives rise to concerns for a number of people, particularly those living in close proximity to the project. In February and March last year, two motions calling for an updated independent study into the North-South interconnector were passed by Dáil Éireann and Seanad Éireann. To understand better the concerns of those opposed to the proposed overhead line, I met their representatives, the Monaghan Anti-Pylon Committee and the North East Pylon Pressure Campaign, and Oireachtas Members from Cavan, Monaghan and Meath in February 2017. I subsequently met Oireachtas Members in May 2017 and January of this year. In addition, my officials held separate meetings with the Monaghan Anti-Pylon Committee and the North East Pylon Pressure Campaign in March and April of last year.

Those engagements, together with the motions, were important in my decision to commission two independent studies into the project. The studies are designed to address the main points of the motions as well as key concerns expressed by parties opposed to the development of the overhead line. The first is an independent study to examine the technical feasibility and cost of running the interconnector underground. The three independent experts appointed commenced their work last August, held a series of meetings in Ireland in the middle of November and are now finalising their work. The second study is focused, in a European context, on the levels of compensation provided to land and property owners in proximity to high-voltage transmission lines. Its aim is to provide a significant body of independently collated information on comparative practices in several jurisdictions. It is my intention that the two ongoing studies will provide some clarity to the concerned residents of the affected areas. The results of both studies are expected this quarter and I will publish the reports and ensure they are made available to all interested parties.

Following the planning consents and the conclusion of several judicial review proceedings relating to the planning decision in Ireland, the project is an operational matter for EirGrid and ESB Networks and I have no function in it. The delivery of critical infrastructure by public bodies is provided for in legislation enacted by the Oireachtas. However, the long-standing practice of infrastructure providers, including in the roll-out of electricity infrastructure in Ireland, has been to seek to engage with relevant stakeholders and work for the largest possible level of engagement on projects. Although this consultative approach has developed over the decades through consultation and agreement, it is underpinned by the 1985 ESB-IFA code of practice for survey, construction and maintenance of overhead lines in regard to the rights of landowners.

I brought the proposals for the two reports to the Government and will have to bring the reports back to the Government. It is my intention to publish them without delay once that is done.

Deputy Brendan Smith: I thank the Minister for his reply. He referred to the planning processes. Unfortunately, there is currently no Executive in Northern Ireland. A decision on the planning should have been made by the Minister of the Environment in Northern Ireland but, unfortunately, it was left to civil servants to make the decision to grant permission.

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There was complete abuse of the planning system in Ireland in regard to this project. All Members and many councillors from counties Cavan, Monaghan and Meath made presentations at the hearing but An Bord Pleanála did not even refer to our participation in the process, which is a disgrace. An Bord Pleanála allowed EirGrid to bring forward additional material during the course of the hearing, which was utterly wrong.

The Minister very clearly heard at our most recent meeting on the issue that the project will not gain public acceptance if the transmission cables are not underground. He stated that the interconnector is needed for the all-Ireland energy market. If it is needed for our island, EirGrid and the Government should now decide that the transmission cables will be placed underground because the project will not otherwise be able to proceed.

Deputy Niamh Smyth: I wish to read into the record the words of the inspector in the very infamous An Bord Pleanála report on this matter.

[I]t is difficult to accept any argument that the significant visual effect of the proposed development, where it arises, does not affect, to some degree, residential property values and/or ability to sell. With regard to agricultural land, I would consider that the same issues apply ... I would consider therefore, that if approved, the proposed development would result in a significant impact on the amenity and enjoyment of c.600 properties falling within 500m of the development, with consequential long term, adverse effects for the individuals and families affected.

Those are the inspector's words, not mine. The Minister knows that the anger over how people in counties Cavan, Meath and Monaghan have been treated is palpable. It is incumbent on him to ensure the reports are delivered to the Oireachtas as quickly as possible.

Deputy Shane Cassells: I have a very specific question on access and am seeking a specific answer. The Minister mentioned the ruling of An Bord Pleanála of 21 December 2016. As he is aware, that ruling only gave permission for construction, not access. As outlined in recent High Court cases, EirGrid did not seek access and, consequently, does not have it. The Minister also mentioned the oral hearing of 11 weeks, during which it changed over 500 access routes. EirGrid has no right to enter the land. It did not seek it; it has not been given it and does not have landowner consent. It does not have a statutory right; that right rests with the ESB. Crucially, the Minister has said he has no function in the process. Will he promise that he will not introduce emergency powers to give EirGrid the power to access the land which landowners have said it will not be given?

Deputy Denis Naughten: I hope I answer all of the questions, but Deputies can come back to me if I do not.

It is my intention to publish the reports without delay. I have to bring them to the Cabinet. Once that has been done, it is my intention to publish them and I have already instructed my officials in that regard. I am anxious to have them placed in the public domain as quickly as possible to let people go through them and have all of the information available to them.

The oral hearing at An Bord Pleanála started before I was appointed. I know of the frustration which has been expressed by colleagues, not just on the floor of the House but also by others, at the manner in which information has been disclosed. I have made my views known on that issue.

On the Northern Ireland process, Deputy Brendan Smith is correct. There was no political or ministerial input into the process. The decision was taken on 23 January by the planning appeals commission in Belfast. It stated that owing to the urgent and compelling need for the proposed development it was in the public interest to take the decision without further delay given the strategic importance of the project for the region.

I will come back to Deputy Shane Cassells' question on access.

Deputy Brendan Smith: The Minister mentioned the Northern Ireland planning appeals commission's reference to urgent and compelling needs. There is also an urgent and compelling need to respect the rights of citizens in this country. At a recent meeting with the Minister I said 97% of the 400 landowners affected had signed official forms of authority requesting that the North East Pylon Pressure Campaign and the County Monaghan Anti-Pylon Committee alone represent their interests and that no access to land be granted to EirGrid. I again want to repeat that the project will not meet with any community acceptance in counties Cavan, Monaghan and Meath. If the project is needed for the all-Ireland energy market, it will not be developed unless the Government and EirGrid make a decision very shortly to put the transmission cables underground. Quite a number of years ago EirGrid accepted at a meeting of a transport committee, following questioning by me and other members, that it was possible from a technical and engineering point of view to put the transmission cables underground and that the price differential had changed dramatically.

Deputy Niamh Smyth: It is a travesty that Sinn Féin did not flex its muscles on this issue when it had the opportunity to do so. As my colleague said, planning permission has been granted by civil servants in the North. It is a travesty that we will live to see it come to pass. EirGrid has flip-flopped repeatedly on whether it is economically or technically feasible to put cables underground. The inconsistency and overall unwillingness to engage of those involved in the Grid Link project are central to why the people of counties Cavan, Meath and Monaghan feel so let down and that they have been unfairly treated. They are asking why the cables should not be put underground and the cabling proposal will not be considered when it is in the case of Grid West. While the Minister or his Department may consider land valuation, the heritage and history of the area and people's health not to be priorities to be dealt with in reports, I implore him to ensure they will be and that access will not be granted at a later stage in order to allow EirGrid to plough through people's land.

Deputy Shane Cassells: My question is about access. EirGrid arrogantly claimed on LMFM that the clearing of all obstacles had been achieved. That is not correct. It does not have access rights or landowner consent. As I stated, the ESB has the statutory right to enter a property, but this right has been not granted to EirGrid, something which was repeated in the High Court proceedings. The Minister has stated he will not intervene and that he has no function in the process. I ask him to honour that by ensuring EirGrid will not in any way be granted emergency powers to access land. As has been stated, during the proceedings and in An Bord Pleanála's ruling, it did not seek and was not granted consent to enter land. There is permission to construct certain things, but no permission has been granted to enter land to put them there in the first place. Will the Minister make sure that is honoured?

Deputy Denis Naughten: In response to Deputy Brendan Smith on inspectors' reports, we have commissioned a report on levels of compensation. I look forward to seeing the detail of it. As I said, it will be published with the other report.

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All of the Deputies have asked about access. I will be quite clear on the issue. The long-standing practice of infrastructure providers, including in the roll-out of electricity infrastructure in Ireland, has been to seek to engage with relevant stakeholders and work with the highest possible level of agreement on projects. While this approach has been developed over decades through consultation and agreement, the consultative approach is underpinned by the 1985 ESB-IFA code of practice for the survey, construction and maintenance of overhead lines in regard to the rights of landowners.

Deputy Shane Cassells: The Minister did not answer the question. He has dodged a bullet, but he will not dodge it for long. There are people watching who know that he has not answered the question. Will he grant EirGrid-----

Acting Chairman (Deputy Eugene Murphy): I was more than fair to the Deputy and the other Members.

Deputy Shane Cassells: The Minister was not fair to the people of counties Meath, Monaghan and Cavan who are listening to this debate. It will be remembered.

Acting Chairman (Deputy Eugene Murphy): I know and accept that it is a very contentious issue. The Deputy should take it up with the Minister or table a question.

Deputy Shane Cassells: He will not answer the question.

Acting Chairman (Deputy Eugene Murphy): Every other Member has co-operated.

Deputy Shane Cassells: I will take it up with the Minister, Deputy Regina Doherty.

Acting Chairman (Deputy Eugene Murphy): That is fair enough.

Angling Sector Promotion

27. **Deputy Noel Rock** asked the Minister for Communications, Climate Action and Environment his plans to support the expansion of angling across communities, in particular among younger persons; and if he will make a statement on the matter. [7250/18]

Deputy Noel Rock: I wish the Minister and the Minister of State a happy Valentine's Day. I ask the Minister his plans to support the expansion of angling across communities, in particular among younger persons. I would appreciate it if he made a statement on the matter. As he knows, angling is of vital importance to a great many young people and is a great pastime which provides enjoyment for younger people.

Deputy Seán Kyne: I thank the Deputy for tabling this question. The national strategy for angling development, NSAD, devised by Inland Fisheries Ireland, IFI, is the first comprehensive national framework for the development of Ireland's angling resource. It aims to increase the economic contribution of angling from €836 million to €932 million annually, an increase of €96 million. It also aims to increase the number of jobs to over 12,800. Angling and the jobs it supports are of critical importance to the economy.

In December I announced funding of €2.2 million under the NSAD. This funding is facilitating 114 development projects across 23 counties nationwide which are expected to be delivered in 2018. I propose to circulate a full list of the projects awarded funding in the December

round. The three strategic objectives of the NSAD are making angling accessible and attractive through the provision of information, infrastructure and support, tourism development through the promotion of the angling resource and recognition of angling as a key leisure and recreational pursuit.

In 2017 IFI also provided funding support for 79 projects under its angling sponsorship scheme. The initiatives which are supported by the scheme include large international competitions which showcase Ireland's angling; novice angler events and training courses which increase participation; information to promote fisheries awareness, conservation and protection; funding of transport hire for participants to facilitate attendance at novice angler events; and angling teams representing Ireland at international events. Last month, Inland Fisheries Ireland invited applications for this year's sponsorship scheme. The applications are currently being considered. In addition to funding, IFI also provides logistical and personnel supports for community run angling competitions in areas such as bio-security and competition management.

Inland Fisheries Ireland also supports other initiatives aimed specifically at young people. The Something Fishy education programme is aimed at fifth and sixth class primary school students and teachers. Last year, 113 schools participated involving input from some 3,500 children.

The Dublin Angling Initiative is a programme for youth and novice angling run by IFI with the help of volunteers. IFI also supports 17 angling hubs for Youth Development Ireland nationwide.

Deputy Noel Rock: I thank the Minister of State for his response. It is to be welcomed that we have the first comprehensive framework in this regard and that we have the jobs and support to the economy that accompanies such a comprehensive framework and investment.

The Minister of State mentioned that a full list of projects could be circulated. I would appreciate it if that could be sent to my office. On a local note, I note that Inland Fisheries Ireland, IFI, has agreed a number of things with the Tolka Trout Anglers, for instance that it will stock fish in the Tolka after an unfortunate incident which depleted that river. It is also going to support club competitions and other community initiatives along the stretch of the river through Finglas and will support a call for the mapping of pipes. This type of project and initiative is not possible without a plan and without full and comprehensive funding in place. The Minister of State's backing for this sector is most appreciated.

Deputy Seán Kyne: Deputy Rock is correct. There are a number of initiatives and I will send the full list to him. There are initiatives planned for the Royal Canal and Grand Canal in Dublin and the expansion of the summer youth angling programme for the Fingal youth resource centre. There are other projects for the Dublin Trout Anglers' Association in terms of marketing and promotional events.

There were unfortunate pollution events and fish kills in the Tolka River in recent years. It is a particularly vulnerable river and is monitored by the IFI. There was such an event in 2015 and a more minor event in 2017 that has resulted in a number of initiatives that have been agreed, including that the IFI will stock fish in the Tolka. This is likely to happen in March this year, ahead of the fishing season. It will also support a club competition and other community initiatives and has supported the call for the mapping of the pipes that caused the pollution incidents in the Tolka. It is a hugely important river and runs through some of the most disad-

vantaged areas of the country. This is an alternative activity for many young people to take up.

Deputy Noel Rock: I thank the Tolka Trout Anglers and the Tolka River Environmental Alliance for their stellar work on this issue. I also thank the Minister of State and the various organisations, including the IFI, for interacting with those groups on such a thorough basis. I had met previously with the groups to discuss this matter and from talking to them I can see how much this river means to them and the respective clubs in the area. There is a great opportunity, with the support of the Minister, the clubs involved and the relevant agencies, to make a real difference here and perhaps investigate developing a youth angling venue in this part of the world, perhaps not dissimilar to the Darndale lake, while at the same time rebuilding the river, which would at least give the clubs there some degree of certainty into the future. What the Minister of State has outlined is perhaps the first step in that plan and it is very much welcomed and appreciated. We appreciate the Minister of State's dedication.

Deputy Seán Kyne: I thank Deputy Rock for his interest in this particular river and the potential that it holds for young people throughout his wider constituency. I believe there is an opportunity, with the support of the Government and the support of the Deputy and other colleagues, for the IFI, the clubs involved and the local authority and other relevant agencies - perhaps the relevant education and training board - to make a real difference here and perhaps investigate developing a youth angling venue, similar to the Darndale lake or Cork park, while at the same time rebuilding this vital community resource. This would provide some degree of certainty and would be a wonderful recreational resource in the area. I certainly welcome the Deputy's interest in and engagement with the local clubs and I will certainly provide any assistance I can to the IFI.

National Broadband Plan Implementation

28. **Deputy Martin Heydon** asked the Minister for Communications, Climate Action and Environment if he has satisfied himself that the remaining bidder in the NBP process has the capacity and capability to complete the project; and if he will make a statement on the matter. [7408/18]

Deputy Martin Heydon: I want to ask the Minister for Communications, Climate Action and Environment if he is satisfied that the remaining bidder in the national broadband plan has the capability and capacity to deliver on what will be a very extensive project of extending high-speed broadband to some 540,000 houses around the country which do not currently have it.

Deputy Denis Naughten: The SSE-Enet, Granahan McCourt and John Laing plc consortium is an expert group with in-depth international experience across the telecoms, engineering and infrastructure sectors in Ireland and across the globe. It was one of three bidders which successfully passed the pre-qualification stage of the national broadband plan. During the pre-qualification phase the Department evaluated the eligibility, economic and financial standing and technical and professional capability of each bidder to provide the services required. The pre-qualification process was designed to assess the suitability of a bidder to deliver the national broadband plan contract requirements.

SSE is Ireland's second largest energy utility and a leading developer and investor in cleaner energy infrastructure. Its UK parent is the largest energy utility provider in the UK. SSE is

an expert in energy infrastructure and has significant engineering knowledge. In the UK, SSE has approximately 15 years experience in the telecoms and broadband industries where it has developed and operates almost 14,000 km of high capacity fibre optic networks.

Enet has operated the metropolitan access networks, MANs, on behalf of my Department since 2004. The MANs are State owned open-access fibre networks in 94 regional towns and cities. Enet operates as a wholesale provider of duct and sub-duct rental, dark fibre, managed services and co-location on the MANs network. Separately, Enet has spent 13 years building up both a fibre and wireless infrastructure in Ireland, which covers over 5,000 km of open-access fibre, gigabit ethernet and SDH managed services.

Granahan McCourt Capital is a Dublin-based technology, media and telecommunications investment group. John Laing plc is an international business with long-term experience in infrastructure roll-out, including public private partnerships in the UK, Europe, Asia Pacific and North America.

Additional information not given on the floor of the House

As I stated, this consortium qualified in the initial stages of the procurement process and has robustly engaged with the national broadband plan specialist procurement team since then.

Deputy Martin Heydon: I thank the Minister for his response. One does not have to be from Roscommon, the west or some very isolated rural part of Ireland to need the national broadband plan to deliver. I am acutely aware of that from my constituents in Kildare South, whether one is young or old, running a small business or has the ability to work from home a few days a week instead of clogging up the M7 and the M50, with the corresponding improvement to quality of life.

I want to recognise the role that the national broadband plan has played to date. While 19% of premises in south Kildare require State intervention, the €2.75 billion private investment in the last five years has provided momentum for this plan. If the consortium is successful in its roll-out, will it start in more than one place? The next row might be where the consortium would start and where it would finish, as there might be years between those points. There is a need for more than one location where this plan will start from. There should be at least three or four locations around the country, so that every county, including Kildare, would see the national broadband plan being rolled out at a very early stage.

Deputy Denis Naughten: Just as the Eir roll-out is happening in every county across the country at the same time, this project - the State intervention phase of the national broadband plan - will be rolled out across the country simultaneously. The broadband offices in each of the local authorities are working, through Minister Ring's Department, to designate the programme of build-out in each local authority. The intention is that it would happen in the first year right across the country.

12 o'clock

Based on the rate of building under the Eir roll-out, in which high-speed broadband is being delivered to approximately 40,000 premises every quarter, we expect that type of momentum once the consortium is up and running to achieve similar targets across the country and for the

substantial bulk of the network to be built out within three years.

Leaders' Questions

Deputy Micheál Martin: Recent statements, particularly from Mr. Michel Barnier and Commissioner Phil Hogan, have indicated that there will be a border if Britain leaves the customs union and Single Market. On 9 February, Mr. Barnier stated:

It is important to tell the truth. A UK decision to leave the Single Market and to leave the customs union would make border checks unavoidable.

Commissioner Hogan stated: "The best Ireland can do is to expect the worst and prepare accordingly."

The Taoiseach will agree that the United Kingdom Government has been consistent and unambiguous for some time, particularly going back to the Lancaster House and Florence speeches by Prime Minister May, that it will not be staying in the customs union or Single Market. Inevitably, that means a form of agreement that will be damaging to Ireland and Border checks.

In today's *The Irish Times*, it is reported that Prime Minister May asked the Taoiseach to participate in shaping such a final status agreement between Britain and the European Union. That agreement, if Britain is to remain consistent on staying out of the customs union and Single Market, has significant implications for Ireland. It has been reported that the British Prime Minister asked the Taoiseach to participate in shaping a final status agreement without invoking the default arrangement that would keep Northern Ireland closely aligned with EU rules. In December, the clear presentation of the December agreement was that, irrespective of what transpired, full alignment of Northern Ireland with EU rules was guaranteed and there would be no border.

People may argue that the December deal was overhyped and oversold and that certain interests might have been undermined or spooked in their responses, in particular unionism, but it is unquestionable that we are in an uncertain situation. Will the Taoiseach confirm whether it is true that the British Prime Minister has requested Ireland's assistance on a final status deal? Given that Britain has consistently said that it will not be in the customs union or Single Market, does the Taoiseach now accept the view of Mr. Barnier and Commissioner Hogan that this inevitably means Border checks?

The Taoiseach: Brexit is a complicated negotiation, but our objectives are very simple. Our first and overriding objective is to ensure that we continue to have free movement of people and free trade, not just North and South, but also between Britain and Ireland. The best way for that to be achieved would be for the United Kingdom to stay in the Single Market and the customs union. It has indicated that it is not willing to do that, so the best alternative in that context is that we try to negotiate a deep and comprehensive free trade agreement that also covers customs. The Deputy will see from the British papers that, while they do not talk about a customs union, they do talk about a customs union partnership. Perhaps there might not be such a big difference between a customs union and a customs union partnership. That is the option A that was laid out in the December joint report.

Yes, we have been asked by the British authorities to work with them at official levels on

how that might be achieved, but of course all negotiations will have to be done through the Barnier task force. We have made that abundantly clear. That is the objective - to make sure that people can continue to travel freely between Britain and Ireland and North and South, and that our businesses, particularly those that may be most exposed - those in aviation, the agrifood sector and farmers - do not face tariffs, non-tariff barriers and new barriers to trade, not just North and South, but between Britain and Ireland.

However, what we have in the joint report of December is a guarantee - a commitment - that a hard border will be avoided. The backstop in that arrangement, or the last resort as the Prime Minister prefers to call it, is a special arrangement for Northern Ireland whereby Northern Ireland will retain and maintain full regulatory alignment with the European Union. Our objective now is to make sure that is written into the withdrawal agreement. We achieved what we wanted to achieve in phase 1. Now what we need to do in phase 2 is make sure that that is written into the withdrawal agreement, a legally binding agreement between the United Kingdom and the European Union that is now under negotiation.

Never mind December, I will just give the Deputy what was agreed two weeks ago in black and white as part of our European Union guidelines - the Barnier guidelines - for negotiation:

The European Council ... made clear that negotiations in the second phase could only progress as long as all commitments undertaken during the first phase were respected in full and translated faithfully in legal terms as quickly as possible. During the second phase of the negotiations, an overall understanding on the framework for the future relationship of the Union with the United Kingdom should also be reached. For that purpose, the European Council decided that it would adopt additional guidelines on this framework in March 2018 and called for further clarity on the United Kingdom's position on the framework for the future relationship...

During the second phase of the negotiations, in view of the unique circumstances and specific nature of issues related to the island of Ireland, the work on detailed arrangements required to give effect to the principles and commitments set out in the Joint Report should continue in a distinct strand.

This is the document that we have agreed among the EU 27 as to how we are now proceeding in a distinct strand to deal with those Irish-specific issues while also very clearly insisting and demanding that the commitments and guarantees that were given to us in December are now reflected in full in the legal withdrawal agreement. That is where we are at the moment.

Deputy Micheál Martin: Forgive me, Taoiseach, but most people thought from the presentation before Christmas that that was all sealed and delivered. For example, one headline read: "Taoiseach spells it out: no hard border, no matter what".

I wish to focus on a point regarding the final status agreement to which the Taoiseach referred. The Copenhagen Economics report is clear in that a customs union-type deal - Britain would not be in the customs union - would be damaging to Ireland in terms of GDP potentially being as much as 4% less than would otherwise be the case. One perspective that could be put on this is that we are now being sucked into negotiations with Britain that will result in a final status agreement that will by definition be damaging to Ireland - I accept that Brexit in almost all scenarios will be damaging to Ireland and arguably to Britain as well - and inevitably mean Border checks. Is that not the reality? If Britain has consistently said that it will stay out of

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the customs union and the Single Market, anything less than membership of these will involve Border checks of some form. Does the Taoiseach not accept that this is the practical outcome of such a final status agreement? There will be full alignment during transition. We get that, but after transition and a status agreement has been finalised between the EU and the UK, if Britain does not remain in the customs union and Single Market, it will involve Border checks. Is Mr. Barnier not correct in saying that? Does the Taoiseach accept his position on that?

The Taoiseach: In relation to what other people may believe or may surmise, I cannot be accountable for that. What I can be accountable for is what is agreed and what is written down in black and white. People can read the December joint report for themselves, and they can also read the guidelines from only two weeks ago, which I have read out to the Deputy today. That is what I will be accountable for - what we actually agreed to in black and white.

If it is the case that the United Kingdom decides to leave the customs union and Single Market and does not replace them with a new arrangement that is very similar or close to them, be it a deep free trade agreement plus a customs arrangement or a customs union partnership, as the UK calls it, it is inevitable in those circumstances that there will be checks between Ireland and Britain. However, it is in that scenario-----

Deputy Dara Calleary: What happened to “bullet proof”?

The Taoiseach: -----that we trigger the backstop, that we trigger what is there in the joint report from December, which is not just for the transition, but on an ongoing basis, a special unique arrangement-----

Deputy Charlie McConalogue: How does that work?

(Interruptions).

The Taoiseach: -----for Northern Ireland-----

Deputy Danny Healy-Rae: The Taoiseach is changing accounts.

Deputy Dara Calleary: What about the Border?

An Ceann Comhairle: Quiet, please.

The Taoiseach: -----that maintains full alignment. That is now what we are seeking-----

(Interruptions).

The Taoiseach: -----to be written into the legal text of the withdrawal agreement, but I think if there is a misunderstanding or difference of opinion here, it seems to me that the preferred outcome for Fianna Fáil and the preferred outcome for Sinn Féin is that we only have a special arrangement with Northern Ireland that allows-----

Deputy Dara Calleary: Allows for proper use.

The Taoiseach: -----that border to be avoided and that they would be happy to accept-----

An Ceann Comhairle: The Taoiseach’s time is up.

The Taoiseach: -----a border between Britain and Ireland, barriers to trade between Dublin and Holyhead and between Rosslare and Fishguard. That is what we are trying to avoid.

An Ceann Comhairle: The Taoiseach's time is up.

Deputy Micheál Martin: We never said that.

(Interruptions).

The Taoiseach: We do not want borders between east and west any more than we want borders between the North or South.

A Deputy: We got sold a pup.

Deputy Danny Healy-Rae: He sold us a pup.

The Taoiseach: I do not want a border between Dundalk and Newry any more than I want a border between Dublin and Holyhead or between Rosslare and Fishguard. Of course we are trying to get to a point, working with the British and negotiating as part of the European Union, where we avoid new barriers to trade and new barriers to the movement between Britain and Ireland.

An Ceann Comhairle: Thank you, Taoiseach.

The Taoiseach: That backstop is there. We are insisting that the backstop be written into the withdrawal agreement.

An Ceann Comhairle: The Taoiseach's time is up.

Deputy Micheál Martin: I asked the Taoiseach a question.

The Taoiseach: The guidelines we have from two weeks ago allow for that.

Deputy Micheál Martin: We have been very supportive of the Government.

An Ceann Comhairle: I call Deputy Pearse Doherty.

Deputy Micheál Martin: The Taoiseach should acknowledge that. That kind of partisanship ill serves us.

The Taoiseach: The Deputies have been pretty unsupportive, quite frankly.

Deputy Pearse Doherty: Go raibh maith agat, a Cheann Comhairle.

(Interruptions).

An Ceann Comhairle: If we are going to change the format of Leaders' Questions and have an argy-bargy here each morning, let us do that, but we should do it by way of an order of the House; otherwise we should get on with the business in the normal way. I call Deputy Pearse Doherty.

Deputy Pearse Doherty: We understand the Taoiseach plans to publish the national planning framework and the capital plan on Friday. This is a hugely-----

(Interruptions).

An Ceann Comhairle: Can we have order, please?

Deputy Pearse Doherty: -----important document. It sets out the plans and funding for the development of the State over the next 20 years and crucially the document will be placed on a statutory footing. It will supersede county development plans and be materially relevant when it comes to planning applications and appeals to local authorities and to An Bord Pleanála. Sinn Féin supports the idea of a national planning framework. We believe it should be on a statutory basis. We did not support the last draft because it was vague, without clear commitments and it lacked ambition. It did not address the overdevelopment of the greater Dublin region and it did not take a truly all-Ireland approach to social and economic development. It was weak on investment in public transport and measures to tackle climate change. It was silent on spatial distribution of inequality and disadvantage. Unless there are substantial changes, we will not be in a position to support a final draft. We will make our final decision clear when we have time to consider the final document. It now appears the Government intends to deny the House the opportunity to vote on the plan. The legislation underpinning the national planning framework is in the Seanad and has already passed this House. It is very clear on the role of the Oireachtas. Section 20C(8) states that “[t]he Government shall submit the draft of the revised or new National Planning Framework ... for the approval of each House of the Oireachtas before it is published.” However, yesterday in response to a parliamentary question by my colleague Deputy Eoin Ó Broin, the Minister, Deputy Eoghan Murphy, said a formal vote on the final national planning framework was never envisaged under the legislation. Clearly, that is not the case. The legislation requires a vote of both Houses of the Oireachtas.

Why is the Government now seeking to deny the Oireachtas a vote on the national planning framework despite a clear requirement in the legislation for the Dáil and the Seanad to approve such a document? Is it deliberately publishing the national planning framework on Friday before the final passage of the legislation in order to avoid a vote? How will the national planning framework be placed on a statutory footing if the Government discards the legislation specifically written to put it on a statutory footing? Is the decision not to allow a vote on the NPF part of a secret deal or understanding between the Government and Fianna Fáil to avoid any embarrassment on either side and to keep the confidence and supply agreement from collapsing?

The Taoiseach: The way legislation works is that it has to pass through both Houses of the Oireachtas and then be signed by the President before it becomes law. Legislation in the Seanad is not the law. There is no requirement that either the national planning framework or the ten-year infrastructure investment plan be subject to a vote of either House.

Deputy Robert Troy: The Taoiseach continues to show his arrogance.

The Taoiseach: They are Government decisions as they were in the past and will be Government decisions on Friday. Rather than talking about procedure, we should go back to first principles and ask ourselves why we need Ireland 2040-----

Deputy Thomas Byrne: Councils are already involved in excellent projects around the country.

An Ceann Comhairle: Please, Deputy Byrne.

The Taoiseach: -----a ten-year infrastructure investment plan or a national planning framework. It is because we need to change what has been done in the past. We need to not repeat the planning mistakes made by others in the past. We need to make sure the trajectory of development in this country changes. We are projecting that there will be an extra million people living

in Ireland by 2040. We need to plan for where they will live, work and study and how they will get around. That requires a proper planning framework. This planning framework will provide for a change. It will provide for only 25% of further population growth happening in Dublin and 75% happening in the rest of Ireland. It will provide for 200,000 more people to be living in rural Ireland by 2040. Backing that up and making it possible is investment in transport, broadband, enterprise, tourism, agriculture and everything else. It provides for the other major cities like Limerick, Cork, Galway and Waterford-----

Deputy Eoin Ó Broin: Will the Taoiseach answer the question?

The Taoiseach: -----and some other major towns to grow at a faster rate than Dublin, which is something that has not happened for decades or centuries. In order to do that we need to support those cities and large towns to unlock development sites particularly at their centre, places like the north quays in Waterford, Tivoli on the docks in Cork-----

Deputy Pearse Doherty: I asked the Taoiseach four specific questions.

Deputy Alan Kelly: Will the Taoiseach answer the question?

The Taoiseach: -----Limerick 2030 and the inner harbour in Galway.

Deputy Alan Kelly: Will the Taoiseach answer the question?

The Taoiseach: I did answer the question.

Deputy Eoin Ó Broin: The Taoiseach has not answered the question.

The Taoiseach: It also provides for the ongoing growth in Dublin because Dublin will continue to grow, just not as fast-----

Deputy Martin Ferris: The Taoiseach is waffling.

The Taoiseach: -----as it did in the past. It will no longer suck in other counties or-----

Deputy Eoin Ó Broin: The Taoiseach is no longer answering the question.

The Taoiseach: -----spread out into other counties. Dublin needs to grow up rather than out.

Deputy Alan Kelly: The Taoiseach is being caught out.

Deputy Pearse Doherty: The Taoiseach had another 51 seconds to answer any four of the questions I put to him. When did he abandon the process that was agreed that the legislation, which has already been approved by the House and is going through the Seanad, would be the legislation that would put this plan on a statutory footing? If he has decided to abandon that and rush the publication of it this week instead of next week when the legislation will be law, how will he put this plan on a statutory footing? Has he entered into discussions with Fianna Fáil to create the circumstances to avoid his own legislation and his own plan to put this on a statutory footing going to a vote in this House? It shows complete contempt for the House for the Taoiseach to decide over a period of two years to introduce legislation specifically designed to put the national planning framework on a statutory footing and the week before it will be signed into law by the President, for him to rush the national planning framework through and publish it. Will the Taoiseach answer any one of those four questions? The reality is there was

always a vote envisaged for the national planning framework. That is what it says in the legislation. That is what the majority of the House voted for. That is what section 20C(8) is. This is a political stroke that has consequences for the State and how it deals with planning for the next 20 years. It should not be allowed.

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

Deputy Pearse Doherty: If Fianna Fáil wants to sit back and allow this to happen in order to avoid any type of embarrassment so it will be able to go on local radio and say it did not agree with it, so be it. The Government should be straight-up and honest with the House. When did the Taoiseach abandon his plans to put the national planning framework on a statutory footing based on this legislation? Now that he has abandoned those plans, how will the plan end up on a statutory basis?

The Taoiseach: I have straight answers for the Deputy. First, we have no arrangement or understanding with Fianna Fáil on this matter. Second, the legislation the Deputy referred to is not the law. There is no plan to have it signed by the President next week, nor was there ever. We were going to publish this plan before the end of last year. That was the commitment I gave last June. We should have had this published long before now.

Deputy Eoin Ó Broin: The legislation should have been published long before now.

The Taoiseach: We got held up with other issues. The legislation the Deputy refers to does not say the final plan has to be approved by the Houses of the Oireachtas. What it says is that Government shall submit the draft of the revised or new national planning framework together with the environmental report and appropriate assessment report for the approval of each House of the Oireachtas before it is published.

Deputy Pearse Doherty: Yes, before it is published.

(Interruptions).

The Taoiseach: The requirement-----

(Interruptions).

An Ceann Comhairle: Order, please.

The Taoiseach: The requirement is that the draft be put before the House; D-R-A-F-T, not the final draft.

Deputy Pearse Doherty: For approval.

Deputy Alan Kelly: For approval.

(Interruptions).

An Ceann Comhairle: Can we have order for Deputy Howlin, please?

Deputy Pearse Doherty: We have not approved the draft. It has to be put on a statutory footing.

An Ceann Comhairle: Deputy Doherty, please.

Deputy Pearse Doherty: The Taoiseach avoided the question about a statutory footing.

Deputy Brendan Howlin: Let us try again. The national planning framework has been in development for over three years. There was a rigorous governance roadmap in place. There was a pre-draft national consultation in February and March of last year, which was much vaunted by the current Tánaiste. It was followed by further consultation on the draft framework in September and November. The entire plan was based on legislation. The Planning and Development (Amendment) Bill was published in January 2016 by my colleague, the then Minister, Deputy Alan Kelly. The three of us were at Cabinet at the time and it was envisaged it would be formally voted on in the House before publication.

Deputy Alan Kelly: Absolutely.

Deputy Brendan Howlin: It provides a legislative framework for the proposed national planning framework. It passed the Dáil in January and is currently on Committee Stage in the Seanad but something has changed in the past three weeks. The initial focused approach has been abandoned and we now understand that what is about to be launched on Friday is neither the strategic, evidence-based plan for the development of Ireland based on solid data, on which we have been working, nor a Fianna Fáil-type spatial strategy in which every town in the country was notionally a gateway or a hub, which proved to be entirely meaningless. In 2002, there were nine gateways and nine hubs. The aim of that spatial strategy was to prevent the urban sprawl of Dublin but it abjectly failed. Instead, a hybrid of the two is to be launched, where proper planning is to be undermined by the intervention of the Ministers with the sharpest elbows. The Minister of State at the Department of Public Expenditure and Reform, Deputy Kevin Boxer Moran, gets to announce a new capital for the midlands, Sligo and Athlone have been promoted to the champions league of regional capitals, and Letterkenny, Dundalk and Drogheda are to be given some scraps as designated centres of growth. Drogheda was looking for city status as it is the sixth largest urban centre in Ireland. We are to have second-tier towns and, apparently, third-tier towns but those without any voice at Cabinet are to have no-tier towns.

To underscore the sense of drift, the commitment in the plan to have the new planning strategy underpinned by legislative authority also seems to have been dropped. It was to be binding on regional and local government in future planning decisions, and the Government's own Bill requires a draft of the plan to be approved, as the Taoiseach has written. He cannot have it both ways and say it does not require it because it is not yet law but that we will proceed with the law anyway, having ignored it. If the Government allowed Seanad Éireann just a few days more to complete the Bill, the draft plan would require approval of Dáil Éireann and Seanad Éireann before publication.

Will the Taoiseach publish all the underpinning documentation that supports the final draft when it is published on Friday? Will he tell us what evidential factors were taken into account in the redraft of recent weeks? What statutory footing will the plan which the Taoiseach is announcing on Friday have, and why is the Government rushing it out before the law we have been working on for three years is enacted by these Houses?

The Taoiseach: This is a classic case of opposition for opposition's sake.

Deputy Pearse Doherty: That is unbelievable.

Deputy Brendan Howlin: This is shocking.

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The Taoiseach: It is a case of political parties, for political reasons, opposing a plan they have not even seen yet.

Deputy Brendan Howlin: We are entitled to see it.

The Taoiseach: The national planning framework will automatically go on a statutory footing. The draft on the motion happened in November.

Deputy Lisa Chambers: It is a different document now.

The Taoiseach: Irrespective of the legislation, which has not yet passed through these Houses, becoming law or being signed by the President, the national planning framework will automatically go onto a statutory footing as a consequence of the fact that the draft motion was adopted in November.

Deputy Alan Kelly: No, it will not.

The Taoiseach: Even if the legislation to which Deputies refer was passed, there would still not be a requirement for the final document to be passed by the Oireachtas. The requirement is for the draft to be passed by the Oireachtas and that the Government has regard-----

Deputy Mattie McGrath: Scant regard.

The Taoiseach: -----to any resolution the Oireachtas may adopt. The sad thing about this for people in all parts of Ireland is the extent to which politicians in opposition have wrapped themselves in process and procedure.

Deputy Pearse Doherty: It is the law.

Deputy Eoin Ó Broin: It is democracy.

The Taoiseach: The important thing about project Ireland 2040 is the ambition it creates for Ireland, with 200,000 more people living in rural Ireland by 2040 and Cork, Limerick, Galway and Waterford growing at twice the rate of Dublin.

Deputy Eoin Ó Broin: Answer the question.

The Taoiseach: Instead of growing out into other cities, Dublin will grow up and there will be a much better quality of life. Backing this up is the €115 billion capital plan for investment in roads, railways, schools, hospitals and health care, as well as a huge package for climate change. This is a real vision for the country of the future and for a much better place than we have now, and the Opposition is terrified of it.

Deputy Timmy Dooley: Legislation cannot keep up with the Taoiseach's need to take selfies.

An Ceann Comhairle: Heckling has reached an intolerable level and Members are bringing the House into disrepute. If they ask the Taoiseach a question, they should at least let him answer.

Deputy Brendan Howlin: The Ceann Comhairle is right about this House being brought into disrepute, but it is not by disruptions. It is by the undermining of the basic principles of a functioning parliament.

Deputies: Hear, hear.

Deputy Brendan Howlin: I had discussions with the Minister for Transport, Tourism and Sport last week about how resolutions of this House, which were once binding, are meaningless in this Dáil. If the Government is defeated, it is meaningless. The authority of this House is the same as that of a local debating society but it comes to a new low when not only are motions and resolutions meaningless, the laws we enact are entirely ignored. That undermines democracy and undermines people's faith and trust. Why is the Taoiseach ignoring the three-year programme of successive Governments, which was to ensure that the new national spatial strategy, the blueprint for development in our country for the next ten years, was properly debated in this House before being published? Even at this late stage, will he relent?

The Taoiseach: The planning framework will be on a statutory footing and that is one of the ways it will be different from the national spatial strategy. It was brought to this House and there was a vote on the draft in November.

Deputy Brendan Howlin: It has not been discussed in this House.

Deputy Pearse Doherty: Is the Taoiseach referring to the same draft plan?

The Taoiseach: Legislation has not been passed and, therefore, has not been enacted.

Deputy Pearse Doherty: There was no vote on the draft. It was referred to committee.

An Ceann Comhairle: Please allow the Taoiseach to continue without interruption.

Deputy Eoin Ó Broin: The Taoiseach is misleading the House.

The Taoiseach: I wish to be associated with the Ceann Comhairle's comments earlier. It is almost impossible to answer questions in this House.

Deputy Michael Moynihan: On a point of order-----

An Ceann Comhairle: One cannot raise a point of order on Leaders' Questions. I will suspend the House if people do not demonstrate some respect for this forum. Members can challenge the Taoiseach all they want, but not in this way.

The Taoiseach: If there was no vote, it was because it was unopposed. Somebody has to oppose something for a vote to be called in this House.

Deputy Timmy Dooley: They were statements.

Deputy Alan Kelly: The Taoiseach is just being cute, now.

The Taoiseach: Either way, it is not relevant because the legislation to which the Deputies are referring is not the law. It has not been passed by the Dáil and Seanad and has not been enacted by these Houses or signed by the President.

Deputy Michael Moynihan: On a point of order, they were statements, not a motion.

An Ceann Comhairle: One cannot raise a point of order on Leaders' Questions. I ask the Deputy to resume his seat.

Deputy Timmy Dooley: It is a point of clarification.

An Ceann Comhairle: Points of clarification are not allowed either. I call Deputy Shortall.

Deputy Micheál Martin: If the Taoiseach were to clarify matters any further, he would just add to the confusion.

Deputy Róisín Shortall: Despite the fact that 96% of our State-funded primary schools remain under the patronage of religious bodies, we now have the farcical situation where a number of oversubscribed multid denominational schools have been told to limit their intakes severely to a half stream of just 13 pupils from next September. The five Educate Together schools, in Trim, Tramore, Tuam, New Ross and Castlebar were established under the school divestment programme. This programme recommended that existing denominational school buildings be divested and transferred to Educate Together to reflect parental demand. However, just a handful of schools have opened under this process. In total, eight have been established by Educate Together. Of the eight, only two are located in buildings that have been vacated by a Catholic school, while just one Church of Ireland school has transferred patronage. In spite of this, the Department has stepped in to stymie the development of the other five schools by severely limiting their intake. Not only is this causing huge upset among parents in these areas, it also flies in the face of the Department's previous statements on the need for these schools. Clearly, the Department and the Minister are reneging on earlier undertakings. In its analysis of the areas the Department not only found that there was demand for at least a half stream in the majority of the schools, it also recommended that, taking account of the likely long-term requirements, accommodation options to provide for a full stream should be considered. That was the final finding in respect of each of the schools.

In its letter to one of the schools the Department claimed that the intention of the divestment programme was to ensure the establishment of a divested school would not adversely affect existing primary schools in the area. Surely the Taoiseach can see that that is a contradiction in terms. The purpose of the divestment programme is to re-balance the numbers of school places in order to meet and reflect the demand from parents. How can this happen when existing multid denominational schools are being undermined and parents' choice of patronage is being denied? Will the Taoiseach undertake to ensure the Department's erroneous instructions to the five multid denominational schools will be withdrawn immediately and the schools permitted to proceed with a full junior infants class intake in September in order that they can continue to thrive and meet the established demand from local families?

The Taoiseach: I restate that the Government is committed to ensuring greater diversity in the provision of education and different types of school in Ireland. In the programme for Government we committed to reaching a figure of 400 multid denominational and non-denominational schools by 2030. This is a reflection of the fact that belief systems and cultures have changed in Ireland. Roughly one third - more than one third in some parts of the country - of marriages are non-religious. About 20% of people say they do not practise or do not follow any particular religion. A process to transfer patronage was established by the previous Government, of which I was a member, under the former Minister, Ruairí Quinn. That process has not worked well in that only ten schools have been transferred under the system. We need a new system that will allow more schools to be transferred.

The five schools concerned - the Educate Together schools in Tramore, New Ross, Trim, Tuam and Castlebar - had a half stream or less of junior infants in their year of opening. In some cases, that was due to the physical accommodation the new school was occupying and they could not accommodate additional numbers. The arrangement has reflected the Depart-

ment's engagement with the patron of the schools - Educate Together - which was restated in correspondence and communications with the schools concerned. However, a case has been submitted by Educate Together to the Department to further expand the schools. It is being considered by the Department.

Deputy Róisín Shortall: The Taoiseach seems to be repeating the erroneous statement made by the Department which it subsequently corrected. The original arrangement with the five schools was not to limit them to a half stream. In the case of the majority, it was a minimum of a half stream. In each case it was said the long-term requirement for accommodation for a full stream had to be considered. I ask the Taoiseach not to repeat the mistake made earlier this week by the Department which it has since corrected. My question to him is whether he will ensure the instructions are reversed by the Department in order that the five schools can proceed immediately with planning in order to take in a full junior infants class from September. We need clarity on this issue. Parents have been denied the right to a choice of patronage of their local schools. Will the Taoiseach ensure the earlier commitments will be adhered to?

The Taoiseach: The answer I have is from the Department and dated today. Therefore, if it is out of date, I apologise.

Deputy Róisín Shortall: What is the Taoiseach's opinion?

The Taoiseach: As I said, the five schools have through their patron, Educate Together, made the case to the Department to be allowed to take in more than a half stream. I am confident that the Department will give full consideration to that case and application. Certainly, if space is available for those children and the teacher is already in place to teach them, it would make a lot of sense, but there may be issues of which I am unaware. I think it is important to allow the Department to assess the case properly.

Questions on Promised Legislation

Deputy Micheál Martin: The programme for Government is clear that the Government will provide ongoing support for Tusla in delivering targeted intervention services and that it will also support the increased use of therapeutic intervention services for children. The report published yesterday by the Children's Rights Alliance makes for very stark reading in terms of children's lack of access to therapeutic services. In particular, according to the figures, up to 7,000 children under the age of 17 years are awaiting an appointment to see a HSE psychologist. What is more worrying is the failure of children in many parts of the country to access child and adolescent mental health services and multi-disciplinary services, particularly speech therapy, occupational therapy and physiotherapy. I put it to the Taoiseach that the waiting lists and the lack of accessibility are evidence of the lack of delivery of a key part of the programme for Government to meet the needs of children.

The Taoiseach: I note the publication yesterday of the Children's Rights Alliance score card, which shows an improved performance by the Government in its view, moving us from a D, a bare pass, to a C minus which I suppose is a bare honour and nothing to be celebrated. However, it is certainly encouraging that the Children's Rights Alliance believes the overall performance of the Government in the case of children is moving up rather than down the ranks.

In respect of child psychology services, the Government acknowledges that far too many

children have to wait far too long to see a psychologist to get the help they need. For a parent, any wait, even a short one, causes great anxiety, while a long wait causes enormous anguish. It is for that reason that an extra €5 million has been invested in child psychology services and it is making a difference. If we look at the figures from July 2017, we will see that 6,850 children were waiting for psychology services. By the end of 2017, that number had fallen to 6,300. We are, therefore, seeing it move in the right direction. This has largely been done through the recruitment of 414 assistant psychologists because, as is often the case in health care services, the system was wrong. People were being referred straight to specialists-----

An Ceann Comhairle: I am afraid that we do not have time to count all of them.

The Taoiseach: We are making a systemic change.

Deputy Pearse Doherty: There is a commitment in the programme for Government that the Government wants to have thriving communities in urban and rural Ireland. For one rural community that had to make the long journey from the farthest offshore inhabited island in the State, Tory Island, to the gates of Leinster House, that commitment does not ring loudly because of a Government decision to provide a ferry service using a vessel that is 42 years old. That community is now under attack from a Government that is supposed to be caring for and nurturing it. What will the Taoiseach say to the six families who are saying they will leave the island if that is the ferry service that will be provided for them on 1 April? What will he say to the mothers and the fathers who say it will not be safe to take their children out to the island on this service? How will he ensure we will have a fit-for-purpose service serving that community? Will he meet the islanders who have made their way from Tory Island to Leinster House to speak to politicians? Will he make available five or ten minutes of his time today to meet them to listen to their genuine concerns?

The Taoiseach: Unfortunately, I will be unable to meet them today. As the Deputy is aware, I will be in the Chamber for the next number of hours, after which I have appointments that were made six and seven weeks ago which I cannot cancel. I am informed by the Department of Culture, Heritage and the Gaeltacht that it ran an open tender competition for the service in accordance with public procurement rules. Two tenders were received and evaluated and the contract was awarded to Réalt na Maidne Teoranta using its vessel MV *Queen of Aran*. The new contract is to begin in April. The Department has had extensive engagement with the island representatives and is happy to continue that engagement as part of its ongoing commitment to support island communities. The island community is not happy with the proposed vessel and has requested that it be a condition of the new contract that the duration of the journey should be no longer than 30 minutes. While this vessel is older than the one currently used, it is undergoing a full refit-----

Deputy Mattie McGrath: At the DoE.

The Taoiseach: -----in consultation with the Marine Survey Office which has statutory responsibility for the safety of passenger vessels in Ireland. The Department has no reason to believe that the vessel-----

Deputy Mattie McGrath: Boat check.

The Taoiseach: -----will not be awarded a passenger certificate by the MSO when it has had its total refit.

Deputy Brendan Howlin: Yesterday's *daft.ie* report showed rents at an all-time high. Apparently, a Minister believes there are plenty of places to rent at a fraction of the cost. Apparently, the advice the Government is now offering to renters facing record increases is to hunt for bargains in other parts of the city. This is of little benefit to those in the rental market who are losing tenancies as landlords seek to renovate or sell, because they have to look for places to rent at full market prices. Even those in rent pressure zones are being put under huge pressure by landlords to accept increases above the 4% threshold.

The Government has repeatedly promised that the powers of the Residential Tenancies Board would be strengthened. This is an emergency, certainly for those desperately anxious to keep a roof over their heads. There is no sense of urgency from Government. When will the residential tenancies (amendment) Bill be published?

Minister for Housing, Planning and Local Government (Deputy Eoghan Murphy): There are two pieces of legislation to strengthen the Residential Tenancies Board. Both are priority legislation and I hope to bring them to Cabinet in the coming weeks to publish as quickly as possible. The *daft.ie* report tells us what we already know: that rents are rising. However, it is not as complete as the data we get from the Residential Tenancies Board, which is a much larger dataset. Also, the *daft.ie* report gives the asking price and not the actual rents registered.

The third quarter report from the RTB indicates that the rents registered are lower. Between the second quarter and the third quarter the RTB residential rent index shows an increase in the number of tenancies registered. The point being made yesterday is that it is not clear from the data if the increase in the average rent prices being asked is as a result of new tenancies being created or if it is as a result of other factors in the market. We are working on that with the RTB. The priority legislation will give the board the tools to be able to drill down into the data more quickly.

Deputy Brendan Howlin: Does the Minister have any idea when?

Deputy Mick Barry: The Minister of State said yesterday that there are rental properties available in our cities at a fraction of the cost quoted in the headlines. I agree that there are, if people are prepared to share a converted hot press with four other people. The Minister has just told the House that the residential tenancies (amendment) Bill will be published this session. However, will the Bill recognise that the rent pressure zones are not working and propose real rent controls, or will the Government yet again be dancing a jig to the landlords' tune?

Deputy Eoghan Murphy: The RTB price index reports for the first three quarters of 2017 show a dampening effect on rent inflation when compared with rent inflation in Dublin in 2016. When considering rent inflation, it is important not to look at national inflation but at inflation in the RPZs. As was stated in the Dáil yesterday, we do not yet have 12 months' data from the RTB for Dublin, all of which is an RPZ. When we have that information, we will be better able to understand what is happening with RPZs and how effectively they are working. Of course, we have recognised some deficiencies, for example, substantial refurbishment being used as a loophole to get around the rent cap. I am addressing that in the priority legislation I mentioned to Deputy Howlin. There will be legal consequences for landlords who try to get around that law.

Deputy Mattie McGrath: Despite what has gone on here today with the national planning framework and broadband last week, the programme for Government is specific in its support

for rural Ireland. However, I do not know what is going on in the Cabinet room, especially when I read reports today about the latest proposals of the Minister, Deputy Ross. I see opposite me the Ministers, Deputies Naughten, Flanagan, Humphreys and Creed, all of whom represent rural constituencies. The latest bizarre proposal is to lock up the parents of any L plate driver, a son or daughter or anybody else, or if they are driving a tractor. This includes a buachailín trying to learn to feed the cows that the Government will not pay the farmers for. What is going on? What will be next? It is proposed to criminalise ordinary decent families and force them to get into their car every day to accompany their L-plate driver. I am all for restrictions to assist in road safety. I sympathise with the relatives of those who have lost lives as a result of L-plate drivers, but this is bizarre. Someone needs to rein in the Minister, Deputy Ross, lock him into the house in Wicklow where he lives and keep him away from the rural people. He has a vendetta against rural people. I am shocked at the other Ministers.

An Ceann Comhairle: Does the Deputy have a question on promised legislation?

Deputy Mattie McGrath: The question is as follows. Where is the rural proofing? What are we trying to do? Criminalise parents and criminalise all the people of rural Ireland? We do not have Luas, buses, DART or all the other things.

An Ceann Comhairle: All right, Deputy.

Deputy Mattie McGrath: The Government cannot even get the new Luas across O'Connell Bridge. It does not know what it is doing. Ministers are in a cocoon inside in the Cabinet room.

An Ceann Comhairle: I thank the Deputy.

Deputy Mattie McGrath: I do not know what kind of water they are drinking or what medicine they are on, but this is bizarre, daft and unworkable, and an attack on rural Ireland.

An Ceann Comhairle: Taoiseach, Minister-----

Minister for Justice and Equality (Deputy Charles Flanagan): May I reply on behalf of rural Ireland?

An Ceann Comhairle: I call the Minister for Justice and Equality on behalf of rural Ireland.

Deputy Mattie McGrath: Please, come on.

Deputy Charles Flanagan: I say to Deputy Mattie McGrath, all other rural Deputies and everybody that rural Ireland is being very well looked after by the current Government.

Deputy Mattie McGrath: It is not.

Deputy Danny Healy-Rae: It has a funny way of doing it.

An Ceann Comhairle: Ciúnas.

Deputy Carol Nolan: Only platitudes for rural Ireland.

Deputy Charles Flanagan: It has been levelled at the Taoiseach that he is a Dublin Taoiseach-----

Deputy Mattie McGrath: I am asking where the Minister, Deputy Flanagan and his colleagues are.

An Ceann Comhairle: Ciúnas.

Deputy Charles Flanagan: -----unlike some of his predecessors. His first act on appointment as Taoiseach was to appoint a dedicated Minister for Rural and Community Development, with a budget-----

Deputy Mattie McGrath: What about the post offices?

Deputy Charles Flanagan: -----and ambition and energy in the person of the Minister, Deputy Ring.

Deputy Mattie McGrath: The Government could not wait to get rid of post offices.

An Ceann Comhairle: Please-----

Deputy Charles Flanagan: The national development plan, which is being launched on Friday, will contain much for rural Ireland.

Deputy Mattie McGrath: He looked after the Minister, Deputy Flanagan, too when he had the foreign affairs brief.

An Ceann Comhairle: Please, Deputy Mattie McGrath.

Deputy Róisín Shortall: The Taoiseach will recall from his time as Minister for Social Protection that there is a serious need for protection for people in defined benefit pension schemes to prevent their employers winding up the schemes and walking away. This kind of practice is not allowed elsewhere and should not be allowed here either. At the time, the Taoiseach did not avail of the opportunity to introduce that legislation, but he said that it would be coming. Last summer the current Minister promised legislation to close the loophole, but it has not materialised. Where is that proposal and when will we see the legislation?

The Taoiseach: There are some difficulties with that legislation and I am sure the Minister for Employment Affairs and Social Protection will be happy to explain them to the Deputy. As is so often the case with legislation in this House, they relate to potential unintended consequences that could seriously impact on people's pensions and their jobs. The Minister will be able to speak directly to the Deputy about that.

Deputy Eamon Ryan: Given the emphasis, rightly, on avoiding any regulatory alignment changes between the North of Ireland and the South, is the Government aware that the Utility Regulator in Northern Ireland has just issued a consultation paper making a decision that Northern Ireland should cease to participate in the harmonised retail market systems arrangement? We had introduced a harmonised electricity retail market. That will now be broken with two different markets developed. I understand that is because ESB Networks is seeking a freeze on any innovation on use in the retail market while smart meters are introduced here. However, the unintended consequence is that we are moving to a two-market situation with a move to regulatory non-alignment. What does the Government intend to do? Is it aware of the issue? Is it considering taking any measures to try to protect regulatory alignment?

Minister for Communications, Climate Action and Environment (Deputy Denis Naughten): I am not aware of the publication of that report, but we will be taking note of it. As the Deputy knows, it is a policy objective of the Government to have a single electricity market on the island. That has been reiterated by both Governments after the result of 23 June 2016.

Deputy Michael Healy-Rae: Page 54 of the programme for Government states “We will ... significantly reduce the cost of medicines”. How does this marry up with the 25,000 people who have been affected by the removal of the Versatis patch from all drugs payment and medical card schemes? These people are suffering from chronic pain, chronic nerve pain, including people with fibromyalgia and other types of pain they will have to live with for the remainder of their lives. On 12 December the Taoiseach told me this was a decision made by the HSE. In the programme for Government, the Government stated it would reduce the cost of medicines. There has been a campaign in recent weeks in which people have highlighted the pain and suffering they are going through. What will the Government do for these genuine individuals who are in serious pain?

The Taoiseach: The cost of medicines has been reduced. Prescription charges for medical card patients under the age of 70 years were reduced in January and those who do not have medical cards who obtain medicines under the drugs payment scheme had the cost reduced in January by €10 a month. We intend to continue to reduce the cost of medicines for persons with medical cards and those who do not have them as the years pass. On the specific medicine referred to, the medicines management programme, a HSE programme which ensures medicines are used for the correct indications, has a system which it is only supposed to be prescribed for the treatment of shingles, but if it is being prescribed to treat non-shingles cases, people can apply for approval.

Deputy Danny Healy-Rae: Building extra capacity in emergency departments is addressed on page 58 of the programme for Government. At University Hospital Kerry the procedure is such that one has to go through the emergency department to have an X-ray, even if someone has a letter from his or her general practitioner, GP, to go directly to the X-ray unit. A 95 year old woman who presented there last week had to wait eight hours to go through a doctor in the emergency department. It is duplication, for which there is no need. To give another example, Bantry General Hospital has an X-ray unit. If someone has a letter from his or her GP, he or she can go straight in and have an X-ray taken. Will the Taoiseach ask the HSE to deal with this issue because it would practically halve the queue in the emergency department at University Hospital Kerry if it was to operate under guidelines where, if a person had a letter of referral from a GP to the X-ray unit, he or she would not have to go through the emergency department?

The Taoiseach: I am afraid that I do not know exactly what policies and procedures are operated at University Hospital Kerry in Tralee. There are plenty of hospitals in Ireland that accept direct referrals from GPs to the X-ray unit. I am not sure why it is not the case in Tralee.

Deputy Peadar Tóibín: Moore Street is the birthplace of the Republic. The buildings and surrounding streets offer a real, physical connection between our generation and the men and women of 1916. Located just off O’Connell Street, the area offers a real opportunity to build a vibrant, historic trading quarter. However, it is derelict owing to the Government’s decisions and has been sterilised by years of court cases. The former Minister, by her appeal, stripped Moore Street of its national monument status, possibly opening it to massive commercial development by a British builder. A judgment today states that it is a matter of policy and that this Legislature could identify the full Moore Street battlefield site as a national monument. Will the Taoiseach get the Minister to do that? If not, we on this side of the House will do so.

The Taoiseach: I think that case is before the courts.

Deputy Peadar Tóibín: The judgment was issued today.

The Taoiseach: I have not seen or read it.

Deputy Peadar Tóibín: I have been given a copy of the judgment which states it is a matter of pure policy for the Legislature.

An Ceann Comhairle: It will study the matter.

The Taoiseach: We would like to read the judgment for ourselves.

Deputy John Lahart: On page 28 of the programme for Government, the section on transport states, “We will promote higher urban densities in terms of housing design, particularly in public transport corridors, through a new National Planning Framework”. Given that large areas of my constituency of Dublin South-West are increasingly high density, people living in them find themselves sandwiched between the red and green Luas lines without a public transport corridor. Does the Taoiseach agree that it is well past time, given that the green and red Luas lines are now connected in the city centre, that a feasibility study was carried out of connecting the two lines on the south side to serve areas such as Rathfarnham, Firhouse, Old Bawn, Templeogue, Scholarstown, Knocklyon and Ballycullen?

The Taoiseach: That is a matter for the National Transport Authority to consider. There is a National Transport Authority greater Dublin area plan for public transport which it is due to review again before the end of 2021. Proposals for new lines will be appraised in that context.

Deputy Thomas Byrne: I refer to page 60 of the programme for Government which addresses waiting lists for hospital procedures. While I do not expect the Taoiseach to answer about a specific case, I have a constituent who has been given an MRI appointment for May 2019. Is that acceptable in the Government’s opinion? Is there anything it can do for this constituent and many others who have received similar appointments? I have another constituent who has been waiting for over a year for an angiogram and suffered a serious heart attack while on the waiting list. It is surely unacceptable for this to be the case. Surely somebody in government needs to rattle a few cages in the HSE to make appointments happen? The constituent who is waiting for an MRI scan has Parkinson’s disease and, as I understand it, the MRI scan is needed to further assess him. He is an elderly man who needs the appointment. It is unacceptable to leave people like him languishing on waiting lists.

The Taoiseach: I am sorry to hear that the Deputy’s constituents have been waiting for so long for investigations. It is not possible for me to talk about individual cases, but I am sure that if the Deputy raises them with the Minister for Health and the HSE, they will give him a full answer.

Deputy Carol Nolan: Legislation passed in December to deal with the issue of equal pay for entrants to the teaching profession called for a report to be commissioned within three months. I understand the report is to bring forward details of the cost and a plan to work towards pay equalisation. It is unacceptable that post-2011 entrants to the teaching profession will experience a loss over their career of between €53,000 and €105,000. I ask that something be done about this. The teachers do their best in schools, but morale is low. It is having a detrimental effect on the teaching profession. It undervalues the profession and leads to a situation where we cannot retain or recruit teachers. I ask for an update on the report. Will there be an opportunity to debate it? I sincerely hope there will.

The Taoiseach: I do not have an update on the report, but I understand that, as part of the

public service stability agreement, there is an agreement which is due to take place with the unions on the matter.

Deputy Eugene Murphy: On page 96 of the programme for Government, in the section on justice, equality and law reform there is a commitment to increase Garda numbers. I acknowledge that it is happening and that the Garda College in Templemore is open, but I am concerned about the future of the traffic corps, in which in 2011 there were 940 members. In 2016 that number had declined to 669 and in 2017, to 643. In my constituency, Roscommon-Galway, the number was down by 23%. It was down by 32% in Longford-Roscommon and 32% in Sligo-Leitrim. Traffic corps numbers have reduced significantly everywhere. There are speed vans all over the place, but the Minister and the Taoiseach know that a speed van will not detect a suspicious vehicle. How many times in the past did the traffic corps intervene with such vehicles carrying people going to cause damage to homes or rob property? Will the Government increase the numbers in the traffic corps? Will it, please, take this issue on board as a matter of urgency?

Deputy Charles Flanagan: The Deputy will be aware that the distribution of Garda numbers and allocations to specialties are matters for the Garda Commissioner. However, the Deputy will be pleased to hear of an increased number of gardaí in his constituency, Roscommon, in line with the national programme for Garda recruitment which will see a further 800 gardaí recruited this year, many of whom will be stationed in Roscommon, across rural Ireland and the Dublin metropolitan area. My ambition and the Government's target is to have a Garda service with 21,000 members by 2021, which will include 15,000 sworn members of An Garda Síochána, 4,000 civilian members and increased numbers in the Garda Reserve, up to a complement of 2,000. I assure the Deputy particular consideration will be given to the point he has raised. I am sure members of the Roscommon Joint Policing Committee are actively engaged in making strong representations on behalf of local communities to the local chief superintendent.

1 o'clock

Deputy Charlie McConalogue: There is a commitment in the programme for Government to building capacity in our hospital system. Yesterday, there were 37 patients on trolleys in Letterkenny University Hospital, 34 the day before and 5,000 throughout last year. I have raised this issue previously with the Taoiseach, the Minister for Health and the Health Service Executive, HSE. The needs of Letterkenny University Hospital and the patients of Donegal have been continuously ignored and there have been no answers forthcoming. When I raised this issue last week with the Taoiseach he suggested I raise it as a Topical Issue matter or a parliamentary question. When I table parliamentary questions on whether, and when, funding will be provided to Letterkenny University Hospital they are referred by the Minister for Health to the HSE which, in turn, refers them to Letterkenny University Hospital for answer. Will the Taoiseach take control of this issue and ensure the needs of the patients of Donegal are no longer ignored. While beds have been opened in other parts of the country no beds have been opened in Donegal, which also needs them. Will the Taoiseach give a commitment today that he will address this issue and deliver beds for Letterkenny University Hospital?

The Taoiseach: I made some inquiries about this issue. As the Deputy has acknowledged 170 additional beds have been opened across our hospitals so far this with, with plans for more to be opened during the course of this year. The HSE, in appraising where new beds will be opened or not be opened, examines need, cost and the ability to staff them. I will not be taking it into my hands to determine exactly where beds should be located across our health service.

That would not be practical.

Deputy Martin Heydon: Last week was responsible gambling week. The gambling control Bill is important legislation dealing with a comprehensive licensing and regulatory framework for gambling. In an industry that is developing very quickly, with many new technologies ahead of pace, it is important that we have in place a regulatory system that will aid and assist those who suffer from problem gambling and address issues relating to advertising and so on. I would welcome an update on the status of this legislation?

Deputy Louise O'Reilly: I am sure that the Taoiseach is aware that we have the highest gambling losses in the world per head of population and the third highest for online gambling. I believe there is a hidden problem that we need to shine a light on. We have learned from our discussions on the Public Health (Alcohol) Bill that when we shine a light on an issue people feel able to come forward. The gambling control Bill was first mooted in 2013. Five years on, can the Taoiseach indicate when we will have an opportunity to debate it and to highlight many of the issues that we would be aware of from our constituency clinics?

Minister of State at the Department of Justice and Equality (Deputy David Stanton): A lot of work has been done on the Bill in the past 12 months. The legislation is with the Attorney General to provide for a number of specific changes to the current antiquated Gaming and Lotteries Act 1956 and I expect it will be published soon.

On the broader issue of gambling, this is a complex and evolving area of policy. We have carried out a lot of research in this area. On 10 January, I briefed Cabinet on the legislation and the Government approved proposals to make changes to the 2013 scheme of the gambling control Bill. The main changes are to establish an independent regulatory authority for the gambling industry. Under the 2013 approach the Minister was the regulator. This change in line with international best practice. A change is also being made to rationalise the licensing approach to gambling activities and to clarify the provisions concerning the licensing machines. We also recently established a working group, which I chair, comprising all stakeholder Departments and the Office of the Attorney General to develop a modern regulatory framework. The first meeting of this group took place on 1 February and a final report is to be submitted mid-2018.

Deputy John Curran: On page 134 of the programme for Government it is stated that the Government will instigate a full review of public transport policy to ensure services are sustainable into the future. It also references a decent public transport system being essential to the everyday lives of so many citizens. The Taoiseach will be aware of the increased traffic on public transport over the last number of years. The number of passengers being delivered by Dublin Bus has increased significantly year-on-year yet we are experiencing increased congestion and increased journey times. Many people are unable to get onto buses because they are full when they reach their bus stops. I recently received an email from a person who had to take the 7.50 a.m. bus on Ballyowen Road, going in the opposite direction, and get off at Penny Hill in order to get on the bus. This is the difficulty people are facing.

On a number of occasions, I have asked the Minister for Transport, Tourism and Sport - I am glad he is not here because the answers he has given me thus far are poor - what interim steps can be taken in 2018 and 2019 to improve this situation. The Minister's response references the budget, the mid-term capital review and so on. There has not been one specific proposal from the Minister to address the specific problem of increased journey times and increased dif-

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facilities getting on buses. All the Minister does is reference things that will happen in five or ten years, including metro north. I do not expect the Taoiseach to have an answer for me but will he liaise with the Minister to at least afford us some sort of a decent answer to allay the concerns of constituents?

The Taoiseach: There is definitely increased traffic on our roads. This is related to more people now working, which is a positive but it has negative consequences, including significant increases in traffic and journey times. I cannot tell the Deputy what the interim steps are that are particularly relevant to his constituency. The Deputy will be aware that Luas services have been increased and we now have longer trams. There will be more frequent off-peak services on heavy rail in Dublin once the industrial relations issues in Irish Rail have been resolved. In addition, the DART is moving to a ten-minute service. These are steps that could be taken within months subject to agreement with the unions. We need a ten-year term plan to improve public transport not only in Dublin city but all cities across Ireland. We also need to improve motorway access to parts of the country that do not currently have it. We will be publishing details in this regard on Friday. We wish we could have done all this years ago but the Deputy will understand the reasons that was not possible.

Ceisteanna - Questions (Resumed)

National Development Plan

1. **Deputy Micheál Martin** asked the Taoiseach his Department's role in the forthcoming national development plan. [5704/18]

2. **Deputy Brendan Howlin** asked the Taoiseach the role of his Department in the forthcoming national development plan. [6884/18]

3. **Deputy Mary Lou McDonald** asked the Taoiseach his Department's role in developing the new national development plan. [6899/18]

4. **Deputy Richard Boyd Barrett** asked the Taoiseach his Department's role in the forthcoming national development plan. [6962/18]

5. **Deputy Joan Burton** asked the Taoiseach his Department's role in the national development plan. [7297/18]

The Taoiseach: I propose to take Questions Nos. 1 to 5, inclusive, together.

The national development plan will be published on Friday alongside the new national planning framework.

The national development plan will set out the Government's intentions for investment in public infrastructure out to 2027, grounded in the strategic investment priorities identified by each Minister and in line with the strategic outcomes developed in the national planning framework.

At the core of both the national development plan and the national planning framework is the need to secure balanced economic growth and social progress on a regional basis and be-

tween urban and rural Ireland.

The new national development plan builds on the evidence provided by the review of the existing capital plan and detailed assessment of the quality of Ireland's existing public infrastructure and future demand, which was published in September.

Given its size and role, my Department does not have any capital expenditure allocation. However, as with other national strategies, my Department contributes to the overall approach and priorities which will be contained in the forthcoming plan.

Cabinet Committee D has provided a forum in which the preparation of the national planning framework and the national development plan were discussed in addition to a number of dedicated Cabinet meetings.

Deputy Micheál Martin: It has been clear since the middle of the Fine Gael leadership campaign that the long delayed capital plan is central to the Taoiseach's political programme. At that time, he gave the media sight of what he said was his plan, but it bore a remarkable similarity to the plan which had been before a Cabinet committee for some time. Since then there have been two major developments. First, the length of the plan has been extended to an unprecedented ten years and, second, the Taoiseach has taken control in his Department of an unprecedented marketing campaign, which, as stated by him, is due to commence in Sligo on Friday. Since Christmas I have been trying, and failing, to get simple answers from the Taoiseach about the plan. Unless he starts responding directly and without spin it will confirm that there is an element of this being a political advertising stunt and not a real and soundly based plan for the future. Can the Taoiseach give a direct assurance that no Minister has informed a State agency that its urgent priorities are to be put aside in favour of higher profile and longer term projects imposed by Cabinet? Will he assure us Ministers are not intervening to ask that certain projects be put ahead of others without any sound due diligence appraisal of those projects?

Since the plan has been ready for some time and given the number of staff deployed to provide what the Taoiseach has claimed will be unbiased information, will he commit to announcing on Friday the number of projects that are being re-announced? I have asked this on a number of occasions. How many of the projects will have money spent on them if the Government remains in office for the maximum possible term? What I am getting at is the position on a project touted in Cork, involving a second hospital. I know that the local Minister rang the HSE to ask it to get its plan in quickly. I was contacted. In fairness, apparently the submission was made within two months. There was no comprehensive assessment of future health care needs or other needs. Not only that, the location was dictated also, although people might have different views on it. Interestingly, when I spoke to the Minister, Deputy Harris about this, I suggested it might be a ten-year project. He said it will be a 15-year project. I take it that means a 20-year project. Meanwhile, we have a theatre that caters for approximately half the population of patients with neck and throat cancers that is about to be condemned by HIQA.

Part of me is saying to the Taoiseach that, on the roads in Cork, we would love to get to the Dunkettle roundabout. We want the Cork-Limerick route. The Taoiseach stopped that three years ago. He mothballed it. Now there is a big hurrah over re-announcing it but I have no timelines. I have asked TII but it cannot give me any timeline or schedule. Everyone in Cork would love to get to the Dunkettle roundabout and have it updated. There really needs to be a focus on the here and now, that is, on the period between now and 2020, regarding what exactly

will happen with key imperatives across the board in so many areas.

Deputy Brendan Howlin: As we now know, both the national planning framework and national development plan will be published on Friday. I have already asked the Taoiseach a number of questions on the legislative underpinning of the planning framework. I wish to ask him a few more specific questions. As part of the development of the framework, there was an economic and demographic steering group put in place. Has it met to consider the major changes made to the plan in recent weeks? Have new population and investment figures been prepared? Will they be published on Friday? Has the national development plan for capital investment been adjusted in recent weeks to take account of these changes? What evidence base is being used to decide where the capital investments will take place? Will all the data be published on Friday in tandem with the publication of both plans?

Will the Taoiseach, after a little more reflection, talk about the statutory underpinning of the national planning framework? Is it his Government's proposal to continue to enact the Bill that is currently before the Seanad and let it become law, having already made it ineffective in that its requirement for pre-publication of authorisation by these Houses will already have been subverted? Will the Government rely on the 2010 Act to give statutory underpinning, or will there be a different type of underpinning for the new spatial strategy which is to be published on Friday?

Deputy Martin Kenny: I have a number of questions on this. The national planning framework has got a lot of airing in the past week. The issue I want to emphasise, in particular, concerns infrastructure and our rail network. If provided for properly and correctly, rail transport is a solution to many of our transport problems. A proper, adequate rail network is critical if we are to reduce commuter times, reduce carbon emissions and bolster our public transport system. I would like the Taoiseach to confirm that the revised proposal reported yesterday, that is, that more of the metro north will go underground to alleviate traffic congestion, will feature as part of the national planning framework to be announced on Friday? Will the Taoiseach set out the plans being put in place to expand and improve DART services? Will they include they expansion and electrification of the Maynooth and Drogheda lines? Will the Taoiseach also confirm that the DART underground has effectively been scrapped at this stage?

I welcome the visit of the Taoiseach and his colleagues to Sligo in my constituency on Friday. I hope he recognises that the western rail corridor is meant to start in Sligo, as committed to in the programme for Government. That commitment ought to be upheld. Will the Taoiseach inform us that it is not the case that the extension to the national rail corridor will not be included in the national development plan? The western rail corridor is critical, not just for transport but also in the context of Brexit. Bearing in mind the volume of exports from this country to Europe, it should be noted that the western rail corridor extends from Sligo to Galway to Limerick, and then across to Waterford port. The latter could be critical in the context of exporting many of our goods. If Brexit goes ahead in the way the British Government seems to be pushing it, going through its jurisdiction to have our goods exported to Europe would be a major problem. The western rail corridor could be a critical part of our plan to address this. I would like to hear the Taoiseach's reassurances in respect of this.

Deputy Richard Boyd Barrett: What can we expect in terms of the provision of housing under the capital plan? Today, we have had further evidence of the failure of the Government's policy to deal with spiralling house prices. An increase of 12.7% has just been reported. This is on top of the news yesterday of an 81% increase in rent since 2010. It seems as if the Govern-

ment's solution to all this is to say that, at some point, the private sector will ramp up supply to the point that prices will fall. This is such a fantasy but it is never scrutinised.

With the exception of disastrous economic crashes of the kind we had in 2008, prices and rents never fall. They are not going to fall over the medium or longer term, yet the Government's whole housing strategy is based on the fantasy that the market will at some point lead to a reduction in the price of property. I put it to the Government that the only way this could happen is if there were a very dramatic ramping up of State provision of housing. What can we expect in terms of not-for-profit housing whose price and rent we control? What plan can we expect for the State provision of housing to deal with the needs of our country over the period of the plan?

Deputy Joan Burton: The Taoiseach attended the opening of the new Luas line to Broombridge, and he was very happy to take credit for it. It involves a significant public investment. We will possibly see more in the plan on Friday. On average, people's journey time on Dublin Bus is now 30 minutes longer because of the confusion and chaos associated with the testing of the new trams. For people making a 1.5 hour journey into town from the western suburbs, this is an enormous imposition.

The Taoiseach was Minister for Transport, Tourism and Sport when the project was agreed. The Minister for Finance was Minister for Transport, Tourism and Sport when the project was being substantially completed. Deputy Shane Ross is now the Minister for Transport, Tourism and Sport. Where is the whole-of-Government approach? With regard to the chaos on the quays and in the city centre, it is fine for the Taoiseach to say that in a couple of months when we have eight long trams, the problems will somehow melt away. The reason anybody is a Minister or Taoiseach is he or she has executive powers to address problems and this problem is not being addressed. The public transport provision included in the national development plan is beginning to slip away. It looks like the reference to the electrification of the rail line to Maynooth is gone, although there will be electrification of the line to Balbriggan. The Government has made it a ten-year plan. That adds a couple of years to big up the total amount of money the Government is proposing to spend in the message the Taoiseach and his 34 Ministers will launch on Friday. Thirty four Ministers plus the Taoiseach is 35. We will have this parade of 20 Ministers of State and 15 Cabinet Ministers, including the Taoiseach. It is a case of it taking 35 Ministers to fix a light bulb - in this case to launch a development plan which has been going around the houses. I for one am confused about what is the real commitment to public transport initiatives that will start and be built within a five-year timescale. We will then be able to see what the carryover is for the next five years.

Deputy Eamon Ryan: A shiver ran down my spine this morning. I heard the Taoiseach say the Opposition was jealous because he had €115 billion to spend. I closed my eyes and felt I was 39 years old again and that I was listening to Bertie Ahern who said the same thing when he was Taoiseach in 2002. The Taoiseach went on to say the Opposition had approved the draft plan. I fundamentally disagree. I opposed the draft national planning framework. I agree with Mr. Edgar Morgenroth who is an expert in this area. He was correct in what he said the other day on "Morning Ireland", that it was a recipe for ongoing sprawl. The Government's emphasis is on having motorways everywhere and pretending that that improves urban life, but that is a complete fallacy which it seems the Taoiseach has inherited from the former Taoiseach, Bertie Ahern.

I hear there is no reference in the plan to a DART interconnector. Is that true? Can one

possibly make this city work without connecting up the rail lines which we should have done ten years ago, as well as a metro system? In the provisional plan there were no public transport projects in Cork, Galway, Limerick or Waterford. There is no sustainability and the Minister for Transport, Tourism and Sport does not seem to have a care in the world on that issue.

The key question I have is whether the Government has climate proofed the plan. Can it show and prove to us that it will do something different from what is in the national mitigation plan which the Taoiseach himself said in Strasbourg was not good enough. He said we were a climate change laggard. If the Government was drawing up the national development plan in a climate proofed way, it would be helping the country to move towards a different planning system and doing what it was meant to do, namely, bringing life back to the centre and making it efficient and the country work. I do not hear that but the former Taoiseach, Bertie Ahern.

The Taoiseach: The batch of questions we are discussing relate to the role of my Department in the new national development plan. While my Department has a role in it, we did not write the plan or anything like it.

Deputy Micheál Martin: The Taoiseach is just going to market it.

The Taoiseach: Members have asked quite a number of detailed questions about process and procedure which would best be addressed to line Ministers such as the Minister for Finance, Deputy Paschal Donohoe, and the Minister for Housing, Planning and Local Government, Deputy Eoghan Murphy. There were many detailed questions on transport which would best be addressed to the Minister for Transport, Tourism and Sport, Deputy Shane Ross.

Deputy Joan Burton: He does not answer questions.

Deputy Brendan Howlin: Good luck with that.

The Taoiseach: I will answer questions on the extent to which my Department has a role in the forthcoming national development plan, but I will not be able to answer questions on behalf of three other Ministers in detail. It is not correct to say the plan has been long delayed. When I contested the leadership of my party in June, I committed to the publication by the end of 2016 of a ten-year infrastructure investment plan. Therefore, it is about six weeks late.

Deputy Micheál Martin: No; it was promised before that.

Deputy Brendan Howlin: It was promised for 2017.

The Taoiseach: In the greater scheme of things I do not think it is very late. The nature of a ten-year plan is that it includes all sorts of project in the pipeline for construction. Infrastructure takes time to provide. It has to be planned, designed, go through the planning process and be built. It then has to be opened. Perhaps, therefore, the ten-year plan will include anything that will incur costs during the ten-year period. That will include projects under construction. Members will know that after many decades in which no new hospitals were built in Ireland-----

Deputy Micheál Martin: What about Tullamore?

The Taoiseach: -----we now have three under construction. Of course, they will be included because the cost will arise in the period of the plan.

Deputy Micheál Martin: That is pathetic stuff. The Taoiseach should stop being so child-

ish.

The Taoiseach: It will also include others that have yet to go through the planning process and still others that will start in the course of the plan. The nature of a ten-year plan is that it will include projects at all points in the pipeline of construction and development.

I reassure Deputy Micheál Martin that I have not taken charge of any marketing or PR exercise, with which I know that he is obsessed. Any marketing of the plan will be directed by the director of the communications unit, not by me.

Deputy Micheál Martin: The Taoiseach appointed him.

The Taoiseach: There will be a very good-----

Deputy Micheál Martin: Come off it.

Deputy Brendan Howlin: He does not talk to the Taoiseach at all.

Deputy Eamon Ryan: The Taoiseach is just a commentator.

Deputy Joan Burton: Does the Taoiseach ever meet the director of the communications unit?

The Taoiseach: There will be a very good health package involving a multibillion euro investment that is much needed in ICT, which is the game changer for the health service in new hospitals. The hospitals in Tullamore and Tallaght were probably the last to be built in this country, probably more than ten years ago, possibly even in the last century; therefore, it is great that we are now building hospitals again. There are three under construction and another is due to go to tender this year. A couple of more are likely to be included in the plan.

Deputy Micheál Martin: They have all been announced already.

The Taoiseach: There will also be investment in primary care centres and to implement the maternity strategy and the trauma strategy. It is a very good package. While we have high levels of spending on health services in Ireland, historically we have underspent in capital investment. A lot of our buildings, equipment and information technology is out of date. We can really change the health service by investing in them.

Deputy Micheál Martin is correct that I did defer the N20 project. I also deferred projects in my constituency, including metro north and metro west. I will never forget the decisions that had to be made in those early years after my party came to office in 2011.

Deputy Micheál Martin: The Taoiseach did not have to make that decision.

Deputy Eamon Ryan: The metro project was included in an earlier plan.

The Taoiseach: I refer to the decisions we had to make to pare back budgets and we know why those decisions were made.

Deputy Micheál Martin: No; provision had been made.

The Taoiseach: It was because a different party and Government had driven the country over the cliff and bankrupted the State. As a result, major reductions had to be made in capital spending.

Deputy Micheál Martin: No.

The Taoiseach: We now have an opportunity to put that right and re-initiate some of the projects.

I was interested to hear Deputy Eamon Ryan tell us what should have been done ten years ago. I wonder who was in government ten years ago.

Deputy Eamon Ryan: We had the metro project which we guaranteed, but the Government killed it. It was the perfect countercyclical project.

Deputy Eoghan Murphy: Your economic planning killed it.

The Taoiseach: All of those things could have been done. Deputy Eamon Ryan also indicated that I had said people were jealous. I did not say anyone was jealous. He also misquoted Mr. Edgar Morgenroth. It may be that he is once again hearing things and forgetting the fact that he was a member of the Government ten years ago.

Deputy Brendan Howlin asked about legislation. The legislation to which he referred has to be brought back to the Dáil, even after it has been debated in the Seanad; therefore, it may be some time before it is enacted by both Houses and becomes law.

Deputy Brendan Howlin: Does the Government plan to amend it?

The Taoiseach: The Minister for Housing, Planning and Local Government tells me that the new national planning framework, NPF, can be placed on a statutory footing and that a motion on it was sent to the Oireachtas joint committee where it was not opposed and no vote was called on it. The committee made a submission which is being considered by the Minister. Much of it has been taken on board and integrated into the plan.

Deputy Brendan Howlin: Has it been brought back to the House?

The Taoiseach: On rail services, I am not in a position to make announcements today. Decisions will be made on Friday and then announced. Speaking as a former transport Minister and somebody who is interested in the issue, especially railways, heavy railways, in particular, are very expensive to build and once they are built, if they do not carry significant passenger numbers, they are very expensive to operate. When one is prioritising spending on rail services, the first thing one needs to prioritise is safety. A lot of the investment needs to go into existing rail lines to improve safety. The second thing one needs to do is deal with congestion. Some train lines are very heavily used, while others are not. We need to reduce congestion and increase frequency and line speeds on the heavily congested lines. If one is to build new additional train lines, they need to be subjected to a proper appraisal. I refer to such things as a net present value and a benefit to cost ratio. The commitment on the western rail corridor in the programme for Government is not to build or complete it but to carry out such an appraisal of such a benefit to cost ratio. The last time it was done it came out negatively at a cost of 100 against six - 100 being the cost and six the benefit. Most rail projects come out around 100 to 80. It did not come out of that well and had a negative net present value over 30 years. Indeed, that turned out to be optimistic. Passenger numbers are now half what they were projected to be at this point. They were supposed to be 200,000 after five years. Moreover, the cost of building came in higher.

However, that is not to say that we cannot examine it again or examine doing further sec-

tions of it, but we would of course have to do full and proper appraisal and cost-benefit analysis. It would not be justifiable to proceed with a project in full knowledge of how the assessment came out. I imagine Deputies will agree that is the right approach to proper planning and use of taxpayers' money.

Reference was made to social housing. Housing is of course going to be comprehended by the ten-year investment package. Among the things committed to are things that already exist to a certain extent. These include a major ramp-up in the amount of social housing and the amount of public housing owned by local authorities or on behalf of local authorities. The Minister for Housing, Planning and Local Government, Deputy Eoghan Murphy, through his leadership and that of his Department, increased the social housing stock by 7,000 last year through several methods. There were three times as many direct builds last year than in the year before it. Other measures include acquiring properties from developers and other private owners, bringing voids back into operation and long-term leasing. Obviously, that will have to continue and escalate. The Minister has also made a proposal relating to cost rental whereby the State or State actors can build apartments and houses and offer them for rent.

An Ceann Comhairle: We will have to leave it there, Taoiseach, because there are other questions.

Programme for Government Review

6. **Deputy Gerry Adams** asked the Taoiseach if he will report on the programme for Government progress report published in December 2017. [5928/18]

7. **Deputy Richard Boyd Barrett** asked the Taoiseach if he will report on the progress of the programme for Government. [5978/18]

The Taoiseach: I propose to take Questions Nos. 6 and 7 together.

The Government published its latest progress report on A Programme for a Partnership Government on 19 December. The report sets out the most recent progress made across all of government in implementing the commitments in the programme and includes measures that were announced in budget 2018 as well. Some of the main areas of progress since the last report include the opening of Luas cross city, which was completed on time and within budget. General practitioner visit cards are being extended to carers. Legislation is pending on this and additional funding for respite care is being provided as well. There is a reduction in prescription charges for patients with medical cards and for those who do not have them. A total of 29 of 34 projects approved under the local infrastructure housing activation fund will activate supply of approximately 17,500 housing units. The draft national planning framework has been published for the final round of public consultations. The national mitigation plan has been published and the national dialogue on climate action advisory group has been established. Ireland's work to secure a successful outcome in phase 1 of Brexit negotiations is another mark of progress, as is an agreed programme of referendums to be held during 2018 and 2019.

My Department has responsibility for certain commitments in the programme, including the areas of Dáil reform, relations with Britain and Northern Ireland, managing the new partnership approach between Government and Parliament and the establishment of a Citizens' Assembly as well. Officials in my Department are working to progress these issues over the lifetime of

the Government. Recent work advanced includes supporting the Citizens' Assembly, which has submitted its reports and recommendations on the eighth amendment and the challenges and opportunities of an ageing population. Since 2017, a number of Dáil reforms have been introduced that provide more proportionate speaking time for all Deputies, additional time for Government business and legislation and the staffing for the new parliamentary budget office.

My Department is ensuring a whole-of-government response to Brexit, including contingency planning and Brexit negotiations, supporting the resumption of power-sharing in Northern Ireland and support for a whole-of-government response on policy objectives. This is reflected in the dedicated action plans on jobs, housing and homelessness, rural development and creative Ireland.

The Government has had a number of significant priorities for the immediate period ahead. My Department will assist in advancing these together with other relevant Departments. These include the publication of the national planning framework, developing the Government's response to the Sláintecare report, reform of the justice and health sectors, doubling Ireland's global footprint, Seanad reform, climate change, pensions reform and housing. The annual report on the programme for Government will be published in May. It will set out the progress made on these and other areas in more detail.

Deputy Martin Kenny: A key issue in the programme for Government and the Department of the Taoiseach is Brexit. The progress report in December contained several achievements claimed by the Government in respect of Brexit negotiations. I believe many of these were premature achievements. This morning, the British Foreign Secretary, Boris Johnson, said that Brexit is a reason for hope and not fear. I believe it is only the hope of a small minority, even in Britain, at this stage. It is certainly swinging in that direction. I have spoken to many in the business and farming communities, people in the agrifood business as well as many people from Britain who have moved over here and who are now living in this country. They are absolutely terrified of the consequences of Brexit for themselves and their families.

On Monday, Copenhagen Economics produced a report forecasting a disastrous impact on our economy from Brexit. The report states that Brexit has the potential to turn back the Irish economy to the economic crash of 2007 and 2008. This follows the British Government report on Brexit indicating the withdrawal will be bad for the economy in the North. Regardless of the outcome reached in the negotiations - we wish those involved all the best - I expect a positive outcome. However, in December those of us in Sinn Féin said that we did not accept what the Taoiseach welcomed as a cast-iron guarantee from the British Government. We took the view that it was not enough. We warned that duplicity would kick in and that is exactly what we are now witnessing. The British Government is attempting to renege on these so-called guarantees. We believe that the Taoiseach needs to stand over the December commitments at this point. The best way to do that is for the Government to join everyone in the House and others in the European Union to seek to have special designated status for the North within the European Union as a means of moving forward. I believe this is a crisis situation that will come at us. My suggestion is clearly the way forward to try to resolve this issue.

An Ceann Comhairle: We are tight on time.

Deputy Richard Boyd Barrett: The programme for Government said that the Government approach to governing would be crucially tested on the issue of housing and how it dealt with the housing crisis. I understand the Minister for Housing, Planning and Local Government,

Deputy Eoghan Murphy, was in Dún Laoghaire-Rathdown County Council on Monday and was a little put out because I was outside protesting.

Minister for Housing, Planning and Local Government Deputy Eoghan Murphy: I apologised on behalf of Deputy Boyd Barrett.

Deputy Richard Boyd Barrett: So I believe, but I did not apologise on behalf of the Minister. I was there with people who come to my clinic and who represent the human evidence of the failure of the Government's policies. I will offer some examples of some of the people who were there. Two young women who are pregnant were there. They are homeless. They are being told by the council that they have to go to Brú Aimsir Hostel, where there are many active drug users. They have letters from social workers saying the suggestion is completely unsuitable for pregnant women. The latest response we have received is that when they are seven months pregnant, perhaps the council will be able to get them out. Most pregnancies fail in the first few months. These young pregnant vulnerable women are being put into a dangerous situation for people in their condition. This is the sort of carry-on that is going on.

I received an answer to a parliamentary question on housing assistant payment tenancies last year. The Minister for Housing, Planning and Local Government claimed in the answer that the figure was 17,000. I asked how many HAP tenancies failed last year. The figure was 2,250. Some 15% of the Government's HAPs last year failed, and they were the low-hanging fruit in the support scheme. A total of two thirds of the Government plan for 2021 is dependent on these tenancies, which are already failing in spectacular numbers. Does the Government not believe it is time to revisit the entire plan?

An Ceann Comhairle: We need to be brief. Deputy Micheál Martin is next.

Deputy Micheál Martin: For the record, probably the largest and most effective health capital programme began in 1997 or 1998 and went through to 2010. It meant a new hospital in Tullamore but also the transformation of St. Vincent's University Hospital, St. James's Hospital and the Mater Misericordiae University Hospital. Essentially, they were new developments of significant scale.

It is silly and childish for the Taoiseach to say that the Government will build three new hospitals in the next ten years and so the Government is great. It is far more comprehensive than that. Far more is needed in areas like disability services, chronic illness treatment and so on. This may not mean new buildings but certainly a better and more effective targeting, not to mention the significant infrastructural improvements that materialised from the late 1990s onwards. While there is more to be done, the completion of the motorway network was effective in terms of connectivity and quality of life for many people living in different cities.

On the programme for Government, the commitments on mental health are still not being realised. Deputy Browne has been informed that only half of the 350 posts approved for mental health services in 2015 have been filled and only one third of the 317 posts approved in 2016 have been filled. The Government is falling far short of the objectives set in A Vision for Change. The House was assured more posts would be filled but that has not occurred. All Deputies are aware of the difficulties in accessing child and mental health service units and consultant posts. We need a more coherent and better response from the Government to meet the needs of mental health patients.

I do not know if the Taoiseach is aware of the remark made by the British Foreign Secre-

tary, Mr. Boris Johnson, this morning that regulatory divergence is an objective of the British Government. Mr. Johnson's speech is one in a series of speeches by British Ministers that are meant to be part of government policy. In the context of the British Prime Minister enlisting him to help to negotiate the overall final status agreement, does the Taoiseach agree that this is very bad news and a doubling down by the British Government in terms of where it wants to go with this?

Deputy Joan Burton: The Taoiseach stated that one of the achievements of last year's programme for Government was the opening of the Luas cross-city light rail line. I return to this issue because the Taoiseach did not address it in his reply. The addition of approximately 30 minutes' travel time for commuters travelling from the west of Dublin into and out of the city centre on buses, the workhorses of the public transport system, is a significant disimprovement in the lives of people who, as we know, are buying houses far out of the city. Without a viable public transport system, we will not be able to solve the housing crisis.

The Taoiseach was the Minister for Transport, Tourism and Sport and knew, therefore, that this crisis would occur and chaos would ensue. The Minister for Finance, Deputy Donohoe, as a former Minister for Transport, Tourism and Sport, also knew it would occur, as did the current Minister, Deputy Ross. In terms of joined-up Government and any confidence that people might have in the organisational ability of the Government to do anything, why should we have much faith in what the Government will announce on Friday when we will have a grandiose plan stretching out to ten years or more and bigged up in terms of volume of money, presumably to feature on posters come an election? While that is fine, if the position of the country is to improve, we must have a viable public transport system. I cannot understand the reason the Taoiseach and his Ministers are not addressing the traffic chaos being caused for commuters, particularly in the central Dublin area, as a consequence of a very good, strong investment in Luas, for which I campaigned for years. The Government has not addressed the problems for which the Taoiseach, his Minister for Finance and the current Minister for Transport, Tourism and Sport were responsible. Where is the whole-of-Government approach to the issue?

The Taoiseach: On Brexit, while I do not like to state the obvious, sometimes it may be necessary to do so. Brexit is not our policy. We opposed it at the time and we are still opposed to it. It is a decision of the British people and their Government and it is not under the control of this Government, any future Government or the House to tell the British Government and people what to do. However, we need to manage the consequences of their decision and always put the interests of our people first. We will navigate our way through Brexit.

I stand over the commitments and guarantees made in the joint report in December. I use the term "commitments and guarantees" because that is the language used in the joint report. What we are now doing in phase two is seeking to ensure these guarantees, particularly the backstop, are written into the legal agreement - the withdrawal agreement - which will be legally binding. I read out earlier the guidelines agreed by the European Council or EU 27 only two or three weeks ago. Deputies will see that the European Union is totally behind Ireland in the demand that the guarantees and commitments written in black and white in the joint report in December be in the withdrawal agreement, the legally binding agreement that will allow the United Kingdom to leave the European Union and have a transition period. While one cannot rule out the possibility that the UK will decide to leave the EU without such an agreement, I do not believe it would be in its interests to do so and I sincerely hope it will not do so. I ask for the support of the House in our efforts to ensure the commitments and guarantees contained in black and white in the joint report - the agreement reached in December - are now written into the text of

the withdrawal agreement. I ask people to use their networks and sister parties across Europe to emphasise that, rather than making alternative proposals at this stage, which are not helpful.

Deputy Micheál Martin: On a point of order, no one made any alternative proposals.

The Taoiseach: Sinn Féin just did if Deputy Martin wants to check the blacks.

An Ceann Comhairle: I ask the Taoiseach to conclude, please.

The Taoiseach: In terms of the Copenhagen Economics report, it does not quite say what Deputy Martin Kenny indicated it says. It tells us that Brexit will be bad for Ireland and the economy. I do not believe we needed another report to tell us that but this report helps to quantify the issue. It does not say there will be a new recession or economic crisis or that anyone's pay will be cut. What it says is that Brexit will have a dampening effect on growth into the future. Instead of the economy growing by approximately 22% over the next decade, it will grow by approximately 19% in the best case scenario or 15% in the worst case scenario. When one views the issue from that perspective, as laid out in the report, it presents quite a different picture. It identifies the particular sectors that would be worst affected by Brexit. It will not surprise people to learn that agriculture and agrifood is one such sector, as is aviation, but they may be less aware that they also include the electrical-machinery sector.

The report also assumes that the Government will not introduce mitigating measures or do anything to mitigate the consequences of Brexit. We asked the authors to make that assumption and the report was done based on a scenario of no policy changes. However, the Government is making efforts to mitigate the effects of Brexit and I will give three small examples. We have established a €300 million loan scheme to assist small businesses to secure access to credit in order that they can adapt to Brexit and seek new markets. A second example is investment in infrastructure in our airports and ports to prepare for Brexit. Finally, and perhaps most significant, we are doubling Ireland's global footprint by ensuring we have more embassies and consulates around the world and Bord Bia, Tourism Ireland, IDA Ireland and Enterprise Ireland have more suits on the ground and bigger budgets in order that we can diversify and decouple our economy even more from the British market. To take one of the most sensitive sectors, namely, agriculture, the proportion of agriculture exports to the United Kingdom has already fallen from 40% to 35%. This is an example of the good work being done by Bord Bia, the Department of Agriculture, Food and the Marine and others in diversifying our exports.

An Ceann Comhairle: There are four minutes remaining. Do Members wish to continue to address this group of questions or move to the final group?

The Taoiseach: I am in the hands of Deputies.

Deputy Richard Boyd Barrett: The Taoiseach should continue his response.

Deputy Joan Burton: I agree.

The Taoiseach: The questions come so quickly, I do not have time to write all of them down but I take a note of as many as I can. To respond to some of the questions on housing, the Minister seated beside me, the Minister for Housing, Planning and Local Government, Deputy Eoghan Murphy, has indicated that if there are particularly sensitive individual cases specifically involving pregnant women, there is flexibility in that regard. If Deputies wish to give him information on such cases, he will do whatever he can to assist, as I understand he has done in

the past.

I have not yet heard the speech made by the British Foreign Secretary, Mr. Boris Johnson, nor have I seen the script. However, I will certainly look at it when I receive it. We have had a pattern now for many months of different messages coming from different Ministers in the British Government. When the Prime Minister speaks, I listen because she speaks definitively for the British. I met her only this week and I am sure we will meet again.

Deputy Micheál Martin: Did she tell the Taoiseach about Boris's forthcoming speech?

The Taoiseach: No, nor did she tell me about any of the other speeches.

Deputy Micheál Martin: She should have done so.

The Taoiseach: As I said, it is undoubtedly the case that the United Kingdom leaving the European Union involves divergence. It would not be leaving the European Union otherwise. We want to focus on ensuring we have as much convergence as possible, or maintaining alignment on economic issues and issues relating to trade.

Deputy Micheál Martin: I thought we were getting full alignment.

The Taoiseach: The full alignment refers to Northern Ireland and it does not refer to the entire United Kingdom. I suspect that when Mr. Johnson was making his speech, he had the United Kingdom and perhaps only England in mind rather than Northern Ireland. Maintaining full alignment in the backstop in paragraphs 49 and 50 only refers to-----

Deputy Micheál Martin: The backstop goes both ways.

The Taoiseach: It only refers to Northern Ireland from our perspective. Even when it refers to both ways, it is between Northern Ireland and Britain; it is alignment between Northern Ireland and the European Union, of which Ireland is part, and alignment between Northern Ireland and Britain. It is a reference to Northern Ireland and not the entire United Kingdom.

On the Luas cross city project, it is absolutely the case that there are problems causing increased congestion on some days in Dublin, worsening bus times. It will require some changes, such as the re-routing of buses, which is now under consideration. There will possibly be re-routing of taxis as well. There will be signal changes and the Luas service will be made more frequent, with longer carriages. Much of that is under way. It is a long time since I was Minister with responsibility for transport but I know the project very well and I am really glad it has proceeded and is up and running. It happened on time and within budget. Certainly, the scale of the traffic problems that have arisen were not projected at the time, but it was projected that there would need to be changes to bus routes. Some of that has been done and more will need to be done.

Written Answers are published on the Oireachtas website.

Sitting suspended at 1.50 p.m. and resumed at 2.50 p.m.

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 29A and the name of the Member in each case: (1) Deputy Maureen O’Sullivan - to discuss restructuring the Citizens Information service and the Money Advice and Budgeting Service; (2) Deputy Fergus O’Dowd - to discuss the availability of tonsillectomy services in Our Lady of Lourdes Hospital in Drogheda; (3) Deputy James Lawless - to discuss a new school building at St Joseph’s national school in Kilcock, County Kildare; (4) Deputy Jim O’Callaghan - to discuss rising rent prices in Dublin; (5) Deputy Michael Harty - to discuss the marine rescue services at Kilkee; (6) Deputy Dessie Ellis - the impact of the Haddington Road agreement on the provision of community group services; (7) Deputy Mary Butler - to ask the Minister of State with responsibility for mental health services and older people his plans, if any, to replicate the model of care homes that is unique to the south east, where residential accommodation is provided for older adults who require minimal assistance, and whether he will make a statement on the matter; (8) Deputy James Browne - the need to discuss the shortage of respite care places in County Wexford; (9) Deputy Pearse Doherty - the need for the Minister for Health to grant the formal approvals needed to secure a permanent second consultant breast surgeon post at Letterkenny University Hospital; (10) Deputy Donnchadh Ó Laoghaire - delays in driving tests at Sarsfield Road in Cork; (11) Deputy Louise O’Reilly - to discuss the need for increased capacity at the Holy Family national school in Swords; (12) Deputy Margaret Murphy O’Mahony - the fact that staff at Ballineen Post Office in west Cork received notice two weeks’ ago advising them that the post office was being considered for closure; and the plans the Government has in place to save post offices in circumstances where a €30 million loan was made available to An Post last October; (13) Deputy Clare Daly - to discuss the shortage of primary school places in the Swords area; (14) Deputies Michael Healy-Rae and Michael Collins - to discuss the financial support needed to deliver the Sherkin Island BA Programme in the Visual Arts; (15) Deputy Robert Troy - to address the ongoing revelations regarding Oxfam’s staff engaging in inappropriate and exploitative behaviour abroad and to outline the safeguards and processes in place to ensure no such behaviour is engaged in by Irish aid organisations; (16) Deputy John Brassil - to discuss the implementation of a deer management plan for Killarney National Park in County Kerry; (17) Deputies Niamh Smyth and Brendan Smith - to discuss the protection of jobs at Kerry Foods, Carrickmacross, County Monaghan; (18) Deputy Jackie Cahill - to ask the Minister for Employment Affairs and Social Protection to justify the recent reductions to the Tús programme; (19) Deputy Mick Wallace - to discuss the restrictions on pupil intake to be imposed on New Ross Educate Together national school, County Wexford, from September 2018; (20) Deputy Thomas Pringle - the need to clarify the extent of funding recently allocated to Killybegs Harbour Centre; (21) Deputy Peadar Tóibín - to call on the Government to include a rail line to Navan in the new infrastructural plans; (22) Deputy Jonathan O’Brien - to discuss the proposed infrastructure upgrade at Tinker’s Cross Roads, Mayfield, Cork; (23) Deputy Joan Collins - to discuss the decision of An Bord Pleanála to reverse the original planning decision it made 26 days previously on a Shannon LNG planning application; (24) Deputy Richard Boyd Barrett - the recently published Children’s Rights Alliance report card 2018; (25) Deputy Paul Murphy - the plans of Irish Water to introduce excessive use charging; and (26) Deputy Peter Burke - the need to provide a consultant orthodontist to reduce children’s orthodontic waiting lists in counties Longford and Westmeath.

The matters raised by Deputies Maureen O’Sullivan, Peter Burke, Michael Healy-Rae and

14 February 2018

Michael Collins and John Brassil have been selected for discussion.

Topical Issue Debate

Citizens Information Services

Deputy Maureen O’Sullivan: Táim buíoch don deis atá agam inniu labhairt ar an ábhar seo because there is a lot of disquiet and concern among those working in the area. It is significant that 2018 marks the 50th anniversary of the appointment of Tomás Roseingrave as national director of Muintir na Tíre because he identified the services we are discussing as fundamental to the dynamics of community action and development. Today we are speaking about the Citizens Information Board; the Money Advice and Budgeting Service, MABS, and the Citizens Information service. Numerous parliamentary questions have been tabled in the House and there was also a debate on a Fianna Fáil Private Members’ motion on the issue to which I contributed. There was also a Sinn Féin Private Members’ Bill. I acknowledge the expertise and professionalism of those involved in MABS and the Citizens Information service which have long been recognised, both nationally and internationally.

Some information on the restructuring issue is already available. On 30 January, in reply to a parliamentary question tabled by Deputy Thomas P. Broughan, the Minister for Employment Affairs and Social Protection stated, “In November 2014 the Board of the Citizens Information Board decided to restructure the governance arrangements of local CIS and MABS services.” That implies that the decision was taken during Ms Sylva Lankford’s tenure as chairperson of the Citizens Information Board. In June 2015, however, the chairperson-elect of the board, Ms Ita Mangan, told an Oireachtas committee:

No decisions have been made on reconfiguration or exactly how things will be done. Certain proposals have been made but no decisions have been made.

It appears that Ms Mangan did not share her predecessor’s view that the board had taken that decision. She was supported in that regard by the then Secretary General, Ms Niamh O’Donoghue, in formal evidence that she gave to the Committee of Public Accounts on 28 May 2015.

In its annual report for 2016 the Citizens Information Board stated the decision to proceed with “a more streamlined ... model” had been taken in October of that year. A press statement by the board in May 2017 retracted that statement, stating “[t]he decision to reorganise and modernise the service took place in November 2014”. Subsequently, the then Minister, Deputy Leo Varadkar, now Taoiseach, in replying to a parliamentary question tabled by Deputy Noel Grealish in 2017, broke new ground by stating the Citizens Information Board had decided on 15 February 2017 to restructure the governance arrangements of both services. A month earlier he had moved an amendment to the Private Members’ Bill asking the House to note that the decision taken by the statutory board of the Citizens Information Board had been taken on 15 February 2017.

Here we have a decision which is, in effect, a repudiation by an agency within the public sector of the will of Dáil Éireann, as expressed in the formal division on 30 March 2017, and the

repudiation of the position of the Oireachtas Joint Committee on Social Protection which had issued its unambiguous report on 1 June 2017. It is being seen as a decision to annihilate the tradition of community action and the principles of community development that have always informed the Citizens Information service and MABS. We do not know who made the decision, when it was made or if it was made at all. What we do know, however, is that the process needs to be reset. We need to go back to the beginning and consultation in order to do it correctly and well in order that we acknowledge that the Citizens Information service has been a safe, independent space that is citizen-directed and impartial.

I will finish by quoting from a recent article by Breda O'Brien in *The Irish Times*. She commented:

For CIB, the old adage, "If it ain't broke, don't fix it", seems to translate as: "If it ain't broke, fix it good and proper, and continue to do so in the face of opposition from the Dáil, the joint committee on social protection, and local protest to boot".

Minister for Employment Affairs and Social Protection (Deputy Regina Doherty): I thank the Deputy for raising this issue and appreciate how forensic she has been in outlining the background to it.

The Citizens Information Board is a statutory body established by the Oireachtas. In addition to its statutory responsibilities relating to information and advocacy service provision, it has statutory responsibility for the countrywide networks of Citizens Information services and the Money Advice and Budgeting Service, MABS. The Citizens Information Board has been allocated €57.410 million by the Department to fund its activities and those of its service delivery partners in 2018.

In November 2014 the board of the Citizens Information Board decided to restructure local Citizens Information service and MABS networks.

3 o'clock

In October 2016, the board decided the new structure should be regionally based. In February 2017, the board adopted a recommendation that the current structure of 93 individual local companies would be changed to a 16 regional company model, comprising eight citizens information service, CIS, and eight Money Advice and Budgeting Service, MABS, companies. The changes are being made at local company board level only.

The valuable work carried out by employees and volunteers working in CIS and employees of MABS will continue as heretofore to the same excellent standards. The staff and boards across the CIS and MABS networks have been assured by the Citizens Information Board, CIB, that there will be no change to the terms and conditions of staff, no diminution of services for those who use them and no closure of service delivery points. I am aware there has been some opposition to the board's decision by a small number of objectors, as this has been raised both in the Chamber and at meetings held by the Oireachtas Joint Committee on Employment Affairs and Social Protection in the wake of the CIB's decision. I am also aware of the cost-benefit analysis of the new regional company model, which was provided by the CIB to the Oireachtas joint committee on 21 September 2017, and which indicates strong support for the decision of the board to proceed to implement the new governance arrangements.

The governance structure of the CIB and MABS network is a matter for the board of the

CIB. It is not a matter for the Minister or the House. As a statutory body, the board of the CIB has the sole right to make decisions on its day-to-day operations as it sees fit. The board is clear this change is necessary to ensure the CIB and the delivery of services it funds adequately meet the requirements of the code of practice for the governance of State bodies and the compliance requirements of the Office of the Comptroller and Auditor General, given the significant level of taxpayers' money involved.

It must be remembered that CIB and MABS services are 100% State funded. The aim of the change being implemented by the board of the CIB is to improve the effectiveness of the control environment, financial management and governance of the CIS and MABS networks because they are entirely funded by the Exchequer. The change is also about consolidating managerial and administrative efforts, focusing on front-line service delivery to citizens, improving the consistency and quality of service delivery and, where possible, extending services to and for those who need them.

The CIB executive is currently implementing the decision taken by its board, as it is required to do. An implementation group, with cross-sectoral representation was set up to assist with the transition to the new governance model. The CIB has, and will continue to, provide the necessary information and support to each of the local companies and their chairpersons and boards throughout the transitional period. Information sessions have already been held for chairpersons for the 38 companies transitioning to the regional companies in phase 1. Further sessions will be held for companies transitioning in the remaining phases. It is expected the full transition to the 16 new companies will take up to two years to complete. All companies will be properly supported by the CIB every step of the way.

Deputy Maureen O'Sullivan: I thank the Minister for her reply. I have no doubt her reply will be looked at by those who have concerns and those who are critical of what is happening in this regard. From what I have heard from certain people, I do not believe it is just a small number of objectors. If this was in the best interests of everybody concerned, namely, those working for and those availing of the service, I do not believe we would have seen the consternation and dismay we have seen in the various debates on this matter. It is about evidence. It is not about people wanting to maintain the *status quo*.

The Minister referred to a cost-benefit analysis. Was there a risk analysis in that? What was the extent of consultations in that process? We all agree on the important service MABS has provided. Its mortgage advisers have almost seen 5,000 cases since 2015. The members of the current voluntary boards and CIS have a wide range of experience, much local knowledge and a genuine interest in the work, as well as wanting to make a difference. CIS has almost 1,000 volunteers working directly with the public. The whole debate has been causing them much stress and anxiety.

The 2010 Pathfinder report stated the board of the CIB places independence as a central principle for all projects coming under its remit. Core to CIS is that whole independence and impartiality. That is where some of the concerns are coming from about what is being proposed. Is that local voluntary effort being valued and respected?

Deputy Regina Doherty: The CIB is a statutory body which must carry out its role as set down by resolution of this House, including its responsibility for CIS and MABS. From my experience as the Minister involved in this particular service delivery, the members of the board of the CIB comprise some of the most experienced and competent individuals I have encoun-

tered. It is those people who have made the decision to restructure the governance arrangements. It was not done lightly and it was done after five years of consultation. I appreciate different people will say different things. However, the notes of meetings show this was first mooted nearly five years ago and the conversation carried on until the board made its decision in February 2017.

As are its right and responsibility, the board considers as one of its core objectives the delivery of valuable services to users by optimising the potential to improve the quality and consistency of those services. There are plenty of reasons, as has been laid down by the CIB during the numerous debates in the Chamber and in the Oireachtas joint committee, why it has made these changes. Although people are expressing concerns as to the changes being made, nobody can point to what they think will happen that will cause a diminution of services or make them less effective, consistent or supportive. In fact, the services will either be equal or better because of the new governance arrangements. The delivery of services on the ground will show no difference except by being enhanced where there is not a delivery of services. There will be no dilution of services or of effective management locally. There will be a new national governance maintained by 16 regional bodies, as opposed to 93 local bodies beforehand.

The board takes its obligations seriously to operate to the highest governance levels. That was probably its root reason for these governance changes. It could not potentially stand over a claim that all operations were working at an equal level or on an equal footing. The board is entirely independent of me, the House and any individual Deputy. It values exceptionally its staff and volunteers. I was in Dublin Castle several months ago, attending a day out for volunteers, where I met the most gracious and energetic people who have been providing services on behalf of CIS and MABS, regionally and locally, for donkey's years. The CIB very much values and appreciates their work.

Orthodontic Services

An Leas-Cheann Comhairle: We have no choice but to suspend.

Deputy Regina Doherty: I can stay. If I am not able to provide an answer, I will revert to Deputy Burke. Will that be sufficient?

Deputy Peter Burke: Yes.

An Leas-Cheann Comhairle: The purpose of this debate is to make the Deputy's case to the Minister for Health. It is not the Deputy's fault. As we have been waiting for approximately four minutes, I recommend that we suspend for ten minutes. No one will lose out.

Deputy Regina Doherty: I am quite happy to take this Topical Issue debate instead of suspending, which would just waste everyone's time.

An Leas-Cheann Comhairle: Is that agreed? Agreed.

Deputy Peter Burke: I thank the Ceann Comhairle's office for selecting for debate the critical issue of the shortage of orthodontic consultants in the midlands. We are at crisis point as regards interventions for young children. I met a number of parents at one of my recent weekly clinics in my constituency office who had been affected by this situation. One was a lady whose son had been on the waiting list for in excess of 18 months. Cousins of his in another part of the

country and who are much younger than him have already received treatment. Despite having waited longer than 18 months, there is still no timeframe for his treatment.

In another case, a young boy spent nine years on the waiting list. After seven years, he was referred to Carlow for private treatment under the national waiting list initiative that was rolled out at the time. His problem had advanced significantly during those seven years, which meant that he was referred back to the Midlands Regional Hospital at Mullingar, where he has spent a further two years on the waiting list. That is nine years in total. He will turn 22 in July.

These are young and vulnerable children and this issue is critical in terms of their self-confidence, body image and pressure from peers. Prevention is better than cure. After a prolonged period, problems like these grow much worse and require surgical intervention, which is more expensive for the State and comes at a significant cost to the well-being of the young people in question.

Currently, there are 2.5 whole-time equivalent consultants in the midlands covering Tullamore, Portlaoise, Athlone, Longford and Mullingar. An advertisement was placed to recruit another orthodontist. Why did that not succeed? It is unacceptable that young and vulnerable people have spent as much as nine years on a waiting list for the treatment they need. The Department and we as a State and a people cannot stand over cases being allowed to worsen to the point of requiring surgical intervention. I would like answers for those involved.

Our resources are improving, but we need to show that on the ground. For how long has the position been vacant? What are the details of the recruitment campaigns that were run? Where were they advertised and why did they not work? What remuneration was offered and was it competitive with other jurisdictions? If services are stressed right now with 2.5 whole-time equivalents, what were the new contract's terms of employment? How many children in the midlands are on the waiting list for orthodontic services? We need to know that. As far as I can ascertain from working on the ground with my constituents, the number is significant. What efforts have been made since the HSE's last recruitment campaign?

The examples I have provided are snapshots of two vulnerable children, neither of whom has yet received a date for surgery. They are still waiting in the unknown. One will turn 22 years of age in July and requires surgical treatment now. Under the waiting list initiative, he has been passed from the private sector back into the public sector and has still not received answers.

Deputy Regina Doherty: I thank the Deputy for raising this issue. From personal experience with my own little lady at home, I can speak about the length of and variations in the waiting lists.

In line with the commitment in A Programme for a Partnership Government to provide more timely access to orthodontic care, the HSE has undertaken a procurement of orthodontic services with a number of private service providers. Since commencing in 2016, this has enabled treatment for an additional 1,180 of the longest waiting patients. Approximately 400 of them were from the midlands.

Another measure being introduced to achieve this aim involves upskilling staff - dental hygienists or dental nurses - to become orthodontic therapists. Orthodontic therapists carry out a certain range of orthodontic treatments under the prescription and direct supervision of a specialist or consultant orthodontist. This facilitates a greater throughput of patients. Four

orthodontic therapists are now in place. For each therapist, approximately 150 extra patients are removed from waiting lists annually.

Under Directive 201/24/EU, now commonly referred to as the cross-border directive, which I believe the Deputy alluded to, it is open to persons entitled to public patient health care in Ireland to choose to avail of that health care in another EU or EEA country or Switzerland. Assistance is provided by the cross-border health care directive department of the HSE. Access to treatment under the directive is based on the referral of the treating clinician.

The issue raised by the Deputy is an operational matter for the HSE. The orthodontic service for Longford and Westmeath is part of the midlands orthodontic service. The HSE advises that there is a centralised waiting list in the four counties of Laois, Offaly, Longford and Westmeath. This is to ensure equity of access within those counties and prioritisation of greatest clinical need. Currently, 1,896 service users are on that waiting list.

I am informed by the HSE that there have been three recruitment campaigns to fill the vacant post of consultant orthodontist in the area but that, unfortunately, they have not been successful. There are 2.6 whole-time equivalent specialist orthodontists, supported by dental nurses and clerical staff, covering clinics in Tullamore, Portlaoise, Athlone and Longford. The HSE is actively seeking ways to increase the number of children being seen and to reduce the waiting times for orthodontics. The post will be re-advertised and the HSE will continue to seek local cover.

The HSE will continue to seek to fill the vacant post to provide orthodontic services in a more timely manner than is being done at the moment. Other means will also be used to tackle the waiting lists. The Department of Health is at an advanced stage of developing a new national oral health policy. Future provision of oral health services, including orthodontics, will be informed by the new policy, which is being led by the Chief Dental Officer. The aim is to develop a model of care that will enable preventative approaches to be prioritised, improve access, which is what we are here to talk about today, and support interventions appropriate to the current needs.

Deputy Peter Burke: I thank the Minister for her response. She spoke about equality of access but it is very hard for me to go back and explain that to the parents of a nine year old who has been waiting over 18 months or to the 21 year old who has been waiting nine years. It does not ring true. The cross-border initiative is used by a lot of people in the State. Unfortunately, it does not suit everyone because payment has to be made upfront. There are people whose economic circumstances mean they cannot afford to do it so it is beyond their control. We have to be very clear on this. If the State is offering orthodontic treatment to people who are in vulnerable positions and we are spending a huge amount of money, at record levels, in the health service, we need to say we can treat them within a reasonable timeframe. We have taken 180 of the longest-waiting patients off the list but if a 22 year old has been waiting nine years, I shudder to think how long some of the 180 people have been waiting. Where is the equality of access which should be its cornerstone? I cannot emphasise it enough. We get frustrated as public representatives when we see vulnerable people and children like this in our clinics who need this treatment. It frustrates politicians when a small bit of early intervention can save them invasive surgery years down the line. The HSE is getting money and the Government should recognise that having three recruitment campaigns represents a failure in the HSE. It has had three recruitment campaigns but has not secured a consultant when there are lots of them in the private sector. We cannot access them under the NPF because the conditions do not allow for

it. We really need to get on top of it before it gets out of control.

Deputy Regina Doherty: I appreciate everything the Deputy has said. The only thing I will say again in the HSE's defence is that it is actively trying. It is not as if we do not acknowledge there are waiting times we are not happy with. That is why there are specific objectives in A Programme for a Partnership Government to address those. The national dental care policy is being devised. We have been waiting for a while but it is definitely coming this year. If the recruitment programme was successful we might be having a different conversation with regard to the waiting times in the four counties I have described today. Every objective is being looked at to make sure we improve it in a timely manner. It is not only politicians who are frustrated. The mummies of the young girls and young fellows who have an overbite that needs to be corrected are also frustrated. I am not even talking about the level of surgery the Deputy talked about the 22 year old young man needing. They are formative years. They are the years in which they get goofy and get slagged in school. Our main objective, apart from giving the best health care we can, is to do it in a timely manner. Those objectives are being looked at to try to achieve the programme for Government initiatives this year.

Third Level Funding

Deputy Michael Collins: The Sherkin Island Development Society, under its chairman, Michael Collins, who is no relation, has run what should simply be called a course of excellence, the Bachelor of Arts in visual art on the island off Baltimore since 2012. It has worked closely in that time with the Department of Culture, Heritage and the Gaeltacht, Dublin Institute of Technology, the local authority, which is Cork County Council, and the Sherkin Island community. They have worked together in funding and in the huge task of organising the course. Development officer, Aisling Moran, and the Sherkin Island group tell us that verbal commitments were given to the group from all concerned that funding would remain in place but in the past 12 months the local authority has reneged on its commitment, first stating it would not give the €20,000 that was previously committed and then saying it would only give €10,000 from the economic development fund and no more. All sorts of conflicting reports have been given as to why the local authority wants out. I am genuine in my belief that the local authority does not fully realise what it is doing. What is economic development money for? Any other local authority would be jumping out of its skin to fund something like this and to get such a prestigious course to an island in its jurisdiction. There are eight islands in my constituency and my respect for the island people is so high that I started my election campaign on an island some time back. Whiddy Island, Bere Island, Dursley Island, Cape Clear Island and the rest, like Sherkin, are doing their utmost to keep the life in their islands. This DIT course was a major boost to the island and the surrounding communities of Baltimore, Union Hall, Glandore, Leap and Skibbereen. Many families travelled with the students to west Cork each weekend while the course was ongoing. Councillors from west Cork are fully supportive of the local authority restoring the €20,000. Why are their voices being ignored? Are they not, like myself, elected by the people and answerable to the people? In one weekend in May, 1,000 people visited the island for the degree exhibition. At a time when traditional island incomes from farming and fishing are under threat, this course is a major boost to the island. It also created three skilled jobs for the community, with three roles divided between four people. Will the Minister of State give the island people of Sherkin hope that the €10,000 will be found to save the course?

Deputy Michael Healy-Rae: I too want to put my shoulder to the wheel on this very

important issue. I thank the Ceann Comhairle for selecting it for discussion today. The continuation of this very successful programme with Dublin Institute of Technology is of massive importance. We all have to work together in whatever way we can to avoid the teaching staff being made redundant in the next three weeks. There are difficulties getting Cork County Council to comply with the commitments given to support the programme. The background to the matter is that the programme has been running on Sherkin Island for some years now. It is enthusiastically supported by DIT, the Department of Culture, Heritage and the Gaeltacht, local and national politicians and the local community of west Cork. In 2016, Cork County Council committed to providing the €20,000 of funding that would enable the Department of Culture, Heritage and the Gaeltacht to pay a grant of €40,000. The combination of both these funding sources of €60,000 was deemed adequate to maintain the programme while there was a commitment from the council to further enhance the programme in line with the Government policy on rural development. The Minister of State knows that in the programme for Government, the Government made many commitments with regard to rural Ireland. This is a typical case in point which could not be more sincere. The Minister of State might ask how he is responsible for what Cork County Council reneges on.

I thank Deputy Collins for his important work on this issue to date. We want to maintain our islands. We want to keep people living on, going to and visiting the islands and having an economic vibrancy about them. Taking away this combined €60,000 would be disastrous. I am asking the Government to use its influence with Cork County Council - it is only €10,000 - to make sure the money is provided because there will be a massive pay-off in the local community.

Minister of State at the Department of the Taoiseach (Deputy Paul Kehoe): I thank the Deputies for raising this matter. I am standing in for the Minister of State, Deputy John Horgan, who has asked me to reply to the Deputies.

The position is that the Department of Education and Skills allocates recurrent funding to the Higher Education Authority, HEA, for direct disbursement to the HEA designated higher education institutions. The HEA allocates this funding as a block grant to the institutions, including Dublin Institute of Technology, DIT. As autonomous bodies, the internal disbursement of this funding, along with any funding it receives from private sources, is a matter for the individual institution. The Bachelor of Arts in visual art has been delivered by DIT in partnership with the Sherkin Island Development Society for the past 14 years. The programme is a full-time honours degree programme delivered on Sherkin Island. It was developed and designed by DIT in collaboration with the Sherkin Island Development Society. The programme represents an innovative approach to programme delivery and partnership in education. The programme engages explicitly with the Sherkin Island community and fosters a critical understanding of the community's cultural and economic relationships. By means of this partnership, DIT provides the necessary academic input, with lectures taking place in Sherkin by video link. The Sherkin Island Development Society provides the administrative assistance and facilities to ensure the smooth running of the programme and to support students on site in Sherkin. The Minister for Education and Skills understands that this model has been effective in delivering a model of outreach education that is valued by both students, the academic teaching staff and the community. The Department does not have a role in the funding of the Sherkin Island Development Society. However, the Minister understands that a meeting was held on 12 February between DIT and the funding partners for the Sherkin Island Development Society programme, namely, the Department of Culture, Heritage and Gaeltacht and Cork County Council. The

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Department has been informed that one of the items discussed at this meeting was the future support available to continue the visual art BA programme that is delivered by DIT. Officials from the Department of Education and Skills understand that both DIT and the Sherkin Island development society are awaiting formal communication from the funding partners about the outcome of this meeting. DIT has reiterated its continued commitment to the visual arts programme and its desire to continue the outreach programme in partnership with the Sherkin Island Development Society. However, this is contingent on the Sherkin Island development society being able to continue its support for the programme. To provide the necessary reassurance for students while discussions about the future of the programme have been ongoing, DIT has provided a commitment to the cohort of students currently on the programme that they will be able to complete the programme on graduation. The commitment is provided under DIT's policy for protection of enrolled learners.

DIT is willing to continue to deliver the programme in partnership with the Sherkin Island Development Society but, ultimately, funding for the Sherkin Island Development Society is not a matter for the Department of Education and Skills. The Minister, Deputy Halligan, thanks the Deputy for affording me the opportunity to respond to the House on his behalf.

Deputy Michael Collins: The Minister of State said this was not the responsibility of the Department of Education and Skills. I wish the Minister with responsibility for this issue was here to answer questions because we need answers to them. This programme needs an annual input of €60,000 each year to deliver the BA. For €60,000 in investment, funders receive a programme valued at approximately €415,000. As a direct result of this programme, an economic spin-off to the value of €150,000 is generated. The €60,000 investment funds one full-time and three part-time jobs located on Sherkin. The in-kind voluntary contribution by the Sherkin Island community has been valued at €40,000, with the Dublin Institute of Technology contributing an estimated €311,000 to the programme delivery. The financial management group has estimated that the BA course in visual arts, as part of the island of the arts, generates in the region of €150,000 for Sherkin Island per annum. DIT proposes to undertake social and economic benchmarking of the impact of the provision of the course on Sherkin Island.

The figures speak for themselves. I ask the Minister to meet the Minister of State at the Department of Culture, Heritage and the Gaeltacht, Deputy McHugh, and to get everybody to sit around the table, including the local authority, the Minister, DIT and local public representatives who want this to continue. It is an invaluable course to the island and five people who did the course last year have continued to reside on the island. That is island life and it is what we have been fighting for over many years. The money is small in the scheme of things.

Deputy Michael Healy-Rae: I ask for common sense in this debate. For the small amount of €10,000 and the massive payback we get in the locality, is it worth it or not? I do not care whether the €10,000 by which we are short is to be funded by Cork County Council, the Department of Education and Skills or elsewhere. It is a very small amount of money and it is common sense to provide it as the economic benefit is massive for the island and the surrounding areas. It will send out the wrong message if this course falls because of a shortage of €10,000. I ask the Minister with responsibility for the islands, the Minister for Education and Skills and other stakeholders to have a meeting as a matter of urgency to safeguard this extremely important course. When five people are living on an island who did not live there previously and they like the area, that is what we want.

Deputy Paul Kehoe: I thank the Deputies for raising the issue and I fully understand their

frustrations over a very small amount of money. The Department understands that DIT is willing to continue to deliver the programme in partnership with the Sherkin Island Development Society, but ultimately funding for the Sherkin Island Development Society is not a matter for the Department of Education and Skills. I hope both Deputies understand that. I call on Cork County Council to play a role in settling this issue. There is funding from the Department of Education and Skills through the Higher Education Authority which subsequently goes to the Dublin Institute of Technology, and DIT is willing to play its part, but there is an onus on Cork County Council and I call on it to look at the issue. It is very important for island life, especially on Sherkin Island, and when I heard the debate on “Morning Ireland” last week, I could not understand how it could not have been sorted out before it went onto national radio, or came before this Chamber for that matter. The Deputies are right that a common-sense approach is needed. It breathes life into the island and I ask Cork County Council to reconsider its decision.

National Parks

Deputy John Brassil: The proliferation of red deer in Killarney National Park is now at crisis level. The number stands in excess of 1,000 but, as they are protected, only Killarney National Park can deal with them. This leads to the question whether, if something happens such as a road traffic accident involving a red deer, Killarney National Park is to be held responsible. This crisis has numerous effects. First are road safety issues, and there are ecology issues for the national park. There are animal welfare issues for the deer and there are health issues, because the area is a Lyme disease hotspot. There are other types of deer, such as sika deer, and there is a risk of the hybridisation of the herd, which nobody wants. A deer management plan is needed for this. It has been called for on several occasions and it has not been delivered. There have been a couple of reports but reports are just reports. If there is no plan or an implementation plan behind it, it will be impossible to get to grips with this very serious issue.

Killarney National Park is severely under-resourced and it is struggling with a huge rhododendron crisis. I wonder if the park has the ability to deal with this issue, even if it had a plan in place and was directed to deal with it. Will the Minister consider transferring responsibility for this issue to the Office of Public Works until it is under control? This seems to be the only logical solution. The Minister could also look at recruiting responsible, trained and licensed hunters in the vicinity to deal with the crisis until it is under control.

On the verge of the national park, in places like Tomies and Beaufort, farmers and landowners are at breaking point over this issue. One farmer has up to 20 red deer grazing his land daily. Can the Minister imagine the effect that is having on fodder control for his own animals? The deer leave droppings and these become part of the silage, rendering it useless.

In summary, if we do not have a plan, we have no ability to deal with the issue so can the Minister ensure that a plan is put in place? Could she look at transferring responsibility for Killarney National Park to the Office of Public Works and look at the possibility of recruiting trained hunters to deal with the immediate crisis? Could she use her good offices to ensure that instead of having reports and possible actions, we have real action before the crisis escalates beyond an already critical point?

Minister for Culture, Heritage and the Gaeltacht (Deputy Josepha Madigan): I thank Deputy Brassil for raising this important topic. Each year, as part of the ongoing management of deer populations within Killarney National Park, deer numbers may need reduction for the

reasons outlined by the Deputy. There is a significant challenge in attempting to balance the demands of agriculture, forestry and conservation with the need to ensure that deer populations occupying the same land resources are managed at sustainable levels and in a responsible and ethical manner.

Ultimately, however, where deer species are increasing in range and numbers and depending on the annual count and instances of damage caused by deer to habitats, especially woodland, culls need to be carried out to ensure that deer populations do not reach levels that would have negative ecological consequences. Deer have the potential to impact significantly on woodlands, including the iconic yew, oak and also wet woodlands, within the park by, for example, bark stripping of mature trees and preventing regeneration. Accordingly, and as part of its regular ongoing management operations, the Department carries out localised annual deer counts on State lands when appropriate. The Department commissioned a comprehensive survey and report in the winter of 2016 on the distribution, population density and population structure of red deer and sika deer in Killarney National Park. The study found that the total estimated red deer density over the entire study area of 13.64 sq. km was some 708 deer. I am not sure if Deputy Brassil was including sika deer within his own statistics. The number of sika deer is approximately 200 so the number is almost 2,000, as the Deputy mentioned earlier.

On foot of this comprehensive survey and report in the winter of 2016 and following a further census of areas of the park conducted in spring 2017, my Department commenced a cull of deer last month. It is hoped to conclude the cull by the end of March. This work will be undertaken by qualified and competent National Parks and Wildlife Service, NPWS, personnel of my Department. The proposed cull is at a similar level to that which was undertaken in previous years. I can give the Deputy the statistics afterwards but approximately 45 deer were culled last year while 55 were culled the year before. To date, 13 deer have been culled this year. The following points should be noted with regard to the cull. The proposed course of action has been decided upon following consultation with NPWS professional staff, including scientific input as required. Shooting of deer in the park will be carried out only by NPWS professional staff members who are fully trained, competent, expert and licensed in the use of firearms. Deer will be culled within the boundaries of Killarney National Park. The selection of deer to be shot will be in accordance with normal deer management protocols. The deer will be shot humanely by qualified expert marksmen. The remains will be processed and disposed of in full compliance with the applicable Department of Agriculture, Food and the Marine guidelines and with the involvement, as appropriate, of Department of Agriculture, Food and the Marine officials. As part of the ongoing proactive management of the habitats and species in Killarney National Park, it is proposed to conduct a Killarney National Park deer census in 2018. This work will be undertaken by external specialists. It is hoped to initiate this process shortly.

As the Deputy mentioned, wild deer are protected under the Wildlife Acts and roam freely throughout the countryside. They are the only remaining native large mammal in Ireland. They are also a huge attraction for tourists, particularly during the mating season in autumn which is known as the rut. However, I accept what the Deputy is saying regarding road traffic issues. With regard to the licensing, which the Deputy raised during his opening remarks, a licence can be applied for under the Wildlife Acts outside the normal open season but there must be evidence of damage to private property.

Deputy John Brassil: A person can apply for a licence but, unfortunately, the experience to date has been that if somebody applies for a licence and is experiencing a large number of red deer, for example, 15 or 20 deer, on their lands continually, they will get the licence to cull

possibly two or three deer, which does not deal with the problem. Perhaps the Minister could look into that. This is not a very nice issue to have to raise because the culling of any beautiful wild animal is not something I would call for here without very good reason. In her reply, the Minister said that the work has started. I have no knowledge of this but, obviously, I will take the Minister's sources at their word. I would also caution that this is the time of year when deer are in foal - I am not sure whether that is the correct term to use for a deer carrying its young. It would not be the most appropriate time for such activity. To my knowledge, September is the time when this work should be carried out. I revert to my original question and point. In my opinion, if we do not have an actual plan that states the number of deer that the park can successfully manage and deal with, we will not know what our target is and the number to which we should be getting. Perhaps we should look at reducing the numbers over a five-year period to an acceptable level that reduces the risk of traffic accidents, ecological and animal welfare issues and any potential hybridisation. It is not a topic that will probably read very well or make for good listening for anybody watching but at the same time, it is very important. If it is not dealt with, it will just escalate into an even greater crisis. I welcome the fact that the Minister's sources tell her that the work has started but I would question it because, to my knowledge, there is no evidence of it on the ground.

Deputy Josepha Madigan: As the Deputy noted, this is an emotive topic and there is a balance to be struck, as I said earlier, between agriculture, forestry and conservation when we talk about deer, which are of significance in terms of conservation. However, I accept what the Deputy is saying regarding possible road traffic issues. My understanding is that it is more an issue during the rut period, which is during the autumn. It should be noted as well that we do not cull pregnant deer. Given that the deer are wild, they are often difficult to find but, obviously, if a sick deer is found in an opportunistic way, they would have to be culled. I understand that only a handful of sika deer have been culled over the past number of years whereas 18 red deer have already been culled. It is important that we try to manage this. The council has responsibility as well with regard to putting up proper signage to ensure that motorists are more vigilant when they drive through the areas. I mentioned that to obtain a licence, there needs to be evidence of damage. People who want a licence to cull deer must apply for it because it is important that we preserve the deer in Killarney National Park for the reasons I outlined earlier.

Central Bank (Amendment) Bill 2018: Second Stage [Private Members]

Deputy Pearse Doherty: I move: "That the Bill be now read a Second Time."

It is important to put this Bill into context. It is incredible that, as we speak, thousands of families across the State are paying over the odds on their mortgages, not just because of high variable interest rates, but because of the tracker mortgage scandal. We know this because the banks brazenly and openly told us at the Joint Committee on Finance, Public Expenditure and Reform, and Taoiseach. They accept they did wrong but they will fix it in their own time. They know they are a protected species. Banks and bankers destroyed the finances of the State through arrogance and what I believe is criminality, yet they still act as if they are unaccountable to anybody.

Why do they do so? It is because the State has let them away with it for decades. We kneel down to bankers and worship them. One of the first things I noticed in the Members' Bar was a picture of one of the most notorious bankers along with a group of Deputies in a celebrated

little cubbyhole surrounded by all the different trophies Members would have won at the Galway races and elsewhere. That is a symbol of how the State has dealt with bankers in the past.

However, things must change. The days of bankers breaking the rules, lying and getting away scot-free must end. Today must mark the start of that process in some small way. I am glad to bring this Bill before the Dáil today on behalf of Sinn Féin. It is a short but important Bill.

Section 1 makes providing false or misleading information to the Central Bank a “prescribed contravention” under the Central Bank Act. It specifies the people to whom this applies and, for the first time, allows the Central Bank to sanction an individual even if the financial service provider as a whole has not committed a contravention. In summary, it is about the individual accountability of bankers and those in financial institutions.

Section 2 makes it a criminal offence to lie to the Central Bank. Moreover it makes it punishable by a custodial sentence. Bankers or anybody else, such as those in the insurance industry, found guilty of this offence could face up to five years’ imprisonment.

Section 3 is required to implement section 2 fully. It amends Schedule 1 of the Criminal Justice Act 2011 so that the new offence introduced in section 2 of the Bill is a relevant offence in the Criminal Justice Act. Section 4 specifies the Short Title of the Bill and provides for its commencement on the day after being signed into law by the President - a day I look forward to.

In 2015, nearly three years ago, the then Central Bank Governor, Professor Patrick Honohan, wrote to the then Minister for Finance, Deputy Noonan, arguing that this law needed to be brought in. However, two and a half years later nothing has appeared on the legislative programme from the Government. Were it not for the Freedom of Information Act, who knows if this recommendation from the main person, the Governor of the Central Bank, would have ever seen the light of day? Why is that? It is not as if bankers have not been in the limelight for all the wrong reason in the meantime.

When I initially submitted a freedom of information request to get the correspondence between the then Governor, Professor Honohan, and the then Minister for Finance, Deputy Noonan, the letter was provided but the Governor’s comments regarding financial institutions lying to the Central Bank were redacted. It was only later when *The Times*, Ireland edition journalist, Peter O’Dwyer, received the information unredacted through a subsequent freedom of information request that the public became fully aware that the Governor of the Central Bank had written to the Minister telling him that the Central Bank knew that bankers and those in financial institutions were lying to it and that it had no powers to hold them to account and that it wanted something done about it.

The letter from the former Governor, Professor Honohan, states, “There have been instances where the Central Bank has been given false... information by regulated entities or by individuals in regulated entities.” He went on to state that this was done to cover up inadequacies or failings within the institutions. All this is shocking. Why did the Minister not immediately order his staff to close this loophole or, as the then Governor called it, this lacuna in the law?

Although the Government will, I hope, support the Bill, it is my firm belief that it does not want too much light shone on this area. Individual accountability is not something this State has ever done well except in the case of the poor or vulnerable. In those cases the State, as we all know, will come down on them like a ton of bricks. However, for the bankers and politi-

cians, the protected circle at the top, there is no individual accountability.

Earlier this week a banker from Irish Nationwide Building Society was fined €20,000 for his part in bringing down a building society for which the taxpayers are still paying the price. As one journalist put it, ten years, millions of euro, thousands of hours of investigations later - what a joke. Ten years later after the individual retired, he has been disqualified for three years. That is a sick joke. What about the next generation of bankers? They have overseen the theft of €1 billion of the money of hard-working families as a result of the tracker scandal. Does anybody believe that anyone will ever be fired? Will any of them see a day behind bars? Sadly, the answer is “No”.

Two and a half years after the Governor of the Central Bank suggested this modest law, why has no finger been lifted from within Government Buildings or the Departments of Finance and Justice and Equality? It has been left to Sinn Féin to bring forward this change and we do not shirk from doing so.

Níl an dara suí sa bhuaile ag Sinn Féin ach an t-athrú seo a chur i bhfeidhm, ach ní dhéanfaidh muid faillí inár gcuid dualgais. Ba mhaith liom mo bhuíochas a ghabháil le hOifig an Chomhairleora Dlí Parlaiminte as ucht a gcuid tacaíochta agus an Bhille seo á dhréachtú againn.

It raises the question as to what could be achieved if the services the Minister has available to him were made available to me or my party. If we had access to the Civil Service, the Attorney General, the Central Bank and all the other arms of the State, there would be a suite of legislation that would come down on bankers to ensure they would not be able to act as they have done in the past and in my view are still doing at this point in time. If the people in power had the passion to take a zero-tolerance approach to white-collar crime, we would be in a different situation. My party will continue to drive this agenda, tackle and root out corruption and ensure the individuals responsible for so much hurt face due process and, if convicted, are sentenced to terms of imprisonment.

The days of trusting banks and bankers must end. I recently helped a constituent with a passport application. That person had to register in the register of foreign births and had to get the application signed. When it comes to this most important piece of identification - a passport indicating Irish citizenship - who does the State allow to sign it? It is the banker. The banker who robbed the country is still seen as the person we put up on the pedestal. We accept the word of a banker when it comes to a person's identity and all the rest of it. That indicates where Government is at in all this.

As lawmakers, we need to put in place a system where they are held accountable for breaking the rules and stealing money as would happen with any other criminal. This goes way beyond banking. Following the Mahon tribunal and the Moriarty tribunal, is there a single person behind bars? The only people who went to prison as a result of those tribunals were people who were found guilty of contempt of court. Despite the corruption those tribunals highlighted, nobody served terms of imprisonment as a result of that. There is no culture of individual accountability in this State.

The last line of the Governor's lengthy letter to the Minister, Deputy Noonan, stated that the structure “effectively allows individuals to act without responsibility for their actions of lying or misleading”.

4 o'clock

One might wonder of how many other situations in this State that sentence could be true, but the job before us is to act. The names of the bankers who did so much damage are well-known. It is a sign of how notorious these bankers are that they are household names. Their job was supposed to be to hold on to the money that people entrusted them with. Instead, many squandered that money through pure greed. Thousands of people signed up to a basic contract with their banks, including the right to a tracker mortgage. It was a plain, simple, black-and-white contract. Now we have learned that 30,000 of those contracts meant nothing because it did not suit the bank any longer. State-owned banks like Permanent TSB dragged their victims all the way to the steps of the Supreme Court before dropping their appeals. The arrogance did not end on that day, it did not end when the Central Bank started an examination and it still has not ended today after so many brave victims stood up to them publicly and called them out for the thieves they are. They still overcharge today, argue the toss over rates and fight tooth and nail against victims whose homes were stolen from them. They do this because they know there are no individual consequences for them. The bank might be fined but Johnny or Gilly Banker know they will not go to jail. They know that they are above the law.

Today, we send out a signal that we stand with the people, the victims of the tracker scandal or any other scandal which banks have created and walked away from, and say that today is the day that it will change. Sinn Féin is determined that the law will be changed, not just today in this small way in this legislation but in a wider way so that a crook in a suit is treated no differently from a crook in a tracksuit. Why is it up to us? There have been seven years with Fine Gael and various others and nothing has been done to hold individuals accountable for wrecking the country, with no new laws to tackle white-collar crime. Why not? Ideologically this is not a battle that Fine Gael or Fianna Fáil have the nerve for. Sinn Féin abolished the six-year rule and allowed thousands of victims of the tracker mortgage scandal to seek justice through the Financial Services Ombudsman. Sinn Féin had to take forward the legislation to allow for class action suits to allow those victims to come together and take on the bank. That Bill is progressing on Committee Stage despite Government opposition. We have to do this without the resources that Ministers have to bring forward legislation for what then Governor Patrick Honohan called for nearly three years ago, namely, to make it a crime to lie to or deliberately mislead the Central Bank.

I urge all parties to support this Bill, not only today but over the coming months, so that, for once and for all, everybody is equal before the law with no exceptions or get-out-of-jail cards for bankers or others in high offices.

Deputy Peadar Tóibín: Many decent people work in the banks and do a good job every day, providing decent service for the public that needs those services. As Deputy Doherty has said, it is blindingly clear to anybody that the banks have done radical damage in this country. We only have to look back to 2008 and to the fact that the banks precipitated one of the biggest financial crises that the western world has ever seen. Our generation is paying dearly for that, and future generations in this country will also pay dearly for it. One would imagine, after such a crisis, that banking institutions would seek to keep their noses clean and their heads down and ensure that they did not get into more trouble. Within the same decade as the previous banking crisis, we have a situation where the banks are front and centre within a crisis-ridden Government. As the Government goes from crisis to crisis, the banks are front and centre. Up to 33,000 families have had their money stolen from them by the banks. Up to 100 of those have had their homes taken from them and countless others have had serious hardship in their own relationships. Much of this is impossible to quantify. The truth of the matter is that these

people are the little people in society. These are the people who generally have to take it on the chin and accept the damage that they are given.

What makes my head spin in all of this is the absolute lack of accountability in society. There is no accountability and if there is no accountability, one can be guaranteed that reckless behaviour will continue without stopping. Having no accountability is a recipe for the whole facade to come crashing down again in the future. That is the problem in this country. There is no accountability in the Irish political system. A crisis happens. It consumes us all. It costs us dearly. Then the media cycle moves on and the political establishment forgets about it. This is not an accident. The truth of the matter is that it suits the establishment of Fianna Fáil and Fine Gael to allow this cycle to move on because the people at the top of these banks are from the same closely knit social circles that the establishment of Fianna Fáil and Fine Gael come from. They are the big people in this country. Deputy Doherty's Bill seeks to tackle these individuals, to hold them to account and to ensure that this does not happen again.

Deputy Carol Nolan: For too long now, velvet touch regulation has been the practice upon which Central Bank oversight and accountability has been determined, at the cost of both fiscal probity and ethics. This past decade has seen the stripping of the State's resources to pay for the sharp practice and duplicity of financial institutions. Regrettably, we now know that public anger, outrage and suffering are not enough to bring either institutions or individuals to account and this can only be achieved by criminalising reckless misconduct. It is critical that the Central Bank has at its disposal legal instruments which compel ethical compliance by both firms and individuals.

"White-collar crime" is a convenient term for people of respectability and high social status to hide behind while acting dishonourably in the course of their occupation. White-collar criminals played fast and loose and it cost the citizens of this country €64 billion. White-collar criminals acted deceptively by extorting money from customers on tracker mortgages and, as we speak, white-collar criminals are intimidating distressed mortgage holders into voluntarily surrendering their homes. I have seen too many of those distressed customers in my own offices in Tullamore and Edenderry in Offaly. Those customers are absolutely broken, disheartened and distressed by harassment from banks. We were all elected to serve citizens, not banks or corporations. It is about time that we started to do that. Despite this cycle of crisis and scandal, banks are subject to little more than a rap on the knuckles, a pledge to clean up their act, and payment of a fine which in most instances represents little more than a couple of weeks' profit for the institution.

Warren Buffett once famously said, "You only find out who is swimming naked when the tide goes out." When the tide went out in 2008 and 2009, we discovered a lot of skinny dippers but we had no law against naked bankers. It is incomprehensible that the action of any professional, which has potential to cast every citizen of the State into penury, is above legal accountability. It is also incomprehensible that the individuals of any profession whose actions are financially underwritten by the people are immune from criminal charges when they recklessly gamble with the savings and future earnings of citizens. For these reasons, it is imperative that all officials, CEOs, board members and insurers of financial institutions are legally beyond immunity from prosecution either through acts of commission or acts of omission. They should be held to the highest possible standard of fiscal probity and legally bound by an oath of trust which affirms truthfulness, honour and ethical restraint, and which serves the interests of the State with equal regard to the interests of the institution. Let us never again expose the citizens of this country to the reckless brinkmanship of unaccountable individuals and corporations.

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Deputy Imelda Munster: Just over one in four customers who face these higher mortgage charges have received compensation. As a result of the decision of these banks, we know that more than 100 families have lost their homes and in excess of 30,000 will be directly impacted by this scandal. The Taoiseach said before that this behaviour was scandalous and he said there should be a timeframe for redress and compensation, but nothing has happened. Is it not the same old story, that nobody is never held to account for white-collar crime in this State? A person can be arrested for being homeless in this State, but if a person makes somebody homeless, he or she can be given a big cheque and a tax break. These people are also exempt from any sort of accountability or responsibility despite that they have stolen more than €1 billion from thousands of families. The banks were bailed out by the taxpayer to the tune of €64 billion, which is five times the HSE's funding. We all know about people who have been pushed to the edge, and over it, while the faceless bank officials walked away scot-free. The Government will never hold them to account. It is too weak to do so.

An Leas-Cheann Comhairle: I have no control over that. The Deputy must conclude.

Deputy Imelda Munster: This Bill is long overdue. I look forward to the day when it becomes law.

Minister of State at the Department of Finance (Deputy Michael D'Arcy): It is easy to make statements but not back them up.

Deputy Carol Nolan: We are talking about people's lives not statistics.

An Leas-Cheann Comhairle: The Minister, without interruption, please.

Deputy Michael D'Arcy: Deputy Nolan said nothing has been done on white collar crime. I refute that. The Government has published a package of measures aimed at tackling white collar crime, co-ordinated by the Departments of Finance; Justice and Equality; and Business, Enterprise and Innovation. Many of these actions have either been completed or are under way, including the Criminal Justice (Corruption Offences) Bill. As everybody in this House knows, the Government is not in charge of the legislative process. If Fianna Fáil, Sinn Féin and the Independents are willing to work with the Government that legislation can be prioritised. It is a matter for everybody to agree.

I thank Deputy Doherty for bringing forward the Central Bank (Amendment) Bill 2018. The Government supports the overall principle of the Bill and as such it is not opposing it. However, as currently drafted, it raises a number of serious concerns. The Government is undertaking detailed analysis of how best to enhance the regulatory and enforcement powers of the Central Bank. Last year, the Minister, Deputy Donohoe, and I asked Department officials to work with the Central Bank to identify additional powers to increase the accountability of senior individuals within the banking system. This work is ongoing and it will take full account of the Central Bank's response to the Law Reform Commission's consultation on regulatory enforcement and corporate offences and the section 6A report requested by the Minister from the Central Bank on the current cultures and behaviours, and the associated risks, in the retail banks today, and the actions that may be taken to ensure that banks prioritise customer interests in the future. I expect the proposals flowing from these detailed reports to be broader than those proposed in this Private Members' Bill. This more holistic approach will be effective in holding senior managers accountable for their actions, and inactions, than will the targeted proposals in this Bill. The Law Reform Commission and Central Bank reports are expected to be completed

in the second quarter of this year and I expect the Department of Finance will then be in a position to bring forward legislative proposals in the second half of this year.

Since the publication of this Bill, my Department has engaged with a range of stakeholders, including the Central Bank, the Department of Justice and Equality and the Attorney General's office to review its proposed amendments and to focus on a number of key areas. One of the main concerns raised is in regard to the new criminal liability which the Bill seeks to impose. This presents a legal difficulty as there is a lack of clarity around the scope of the new offences which does not appear to be in keeping with the principle of legal certainty in criminal matters. In regard to the civil sanctions regime, the proposal to extend the application of the administrative sanctions procedure to all persons who are under some duty to furnish information to the Central Bank, to co-operate in providing that information or to procure the provision of that information may bring into scope any employee of a regulated financial service provider, including those not involved in management or decision making, and this has wide-reaching implications. The administrative sanctions procedure is constitutionally justified and proportionate because it applies only to a limited number of persons who are employed in regulated financial service providers. It does not apply to the public at large and it is required to protect wider public concerns of financial stability. Any expansion of the scope of persons to which the procedure applies needs to be considered carefully to ensure that it remains within the scope of what is constitutionally permissible. These are just a couple of reasons why the legal drafting of the Bill requires amendment. The Bill also requires further consideration in regard to the proposed extension of sanctions that are already covered by existing statute. It is important that the House is reassured that the Central Bank already has significant powers to sanction regulated financial service providers and their senior managers for the provision of false or misleading information. Therefore, I suggest that the pre-legislative scrutiny of this Bill should examine what are the specific gaps in the Central Bank's powers to sanction senior managers. In addition, pre-legislative scrutiny should also consider whether it is constitutional, legal, or good policy making to extend the administrative sanctions regime beyond those involved in the management of regulated financial service providers.

Given the significant amendments proposed in regard to those that could be subject to the administrative sanctions procedure contained in Part IIIC of the Central Bank Act, it is important to set out its key features and its importance as a regulatory tool to the Central Bank. The administrative sanctions procedure has proven to be a robust regulatory tool, as evidenced by the conclusion of 112 cases with over €60 million in fines imposed under its provisions. The procedure allows the Central Bank to investigate if it suspects that a regulated firm has committed a breach of the financial services legislation, or if it suspects that a person concerned in the management of a regulated firm has participated in the commission of the breach. If the Central Bank has reasonable grounds to suspect that a breach has occurred, it may refer the matter to a specialised body, the inquiry, or it can settle the case and sanctions may be imposed through either process.

This Bill raises other specific technical issues, including the scope and meaning of the new sections 33ANG and 33BG. At first sight it appears that the proposed amendment to the Criminal Justice Act 2011 could potentially have a significant impact on the rights of an individual in the case of a relatively minor offence. Furthermore, I am concerned that the proposed amendment of Part IIIC of the Central Bank Act 1942 to extend the administrative sanctions procedure at this time may lead to further legal challenges in relation to administrative sanctions procedures currently under way. I urge real caution in this regard, as I am sure that Deputy

Doherty does not want to propose legislative changes that could lead to legal uncertainty in the Central Bank's powers to undertake enforcement actions. This is particularly important given the Central Bank has publicly stated that it intends to take enforcement actions in response to the tracker mortgage examination against all of the main lenders and related key individuals.

I stated at the outset that I have sought the Central Bank's initial views on the Bill, as it is appropriate and necessary to take its views into account given it would be utilising the proposed extension of powers. The Central Bank welcomes the spirit of reforms proposed in the Bill but it has expressed concerns about the way in which the reforms as currently drafted would fit into the existing enforcement framework and recommends a more holistic approach to legislative reform in the context I outlined earlier. The Government's commitment to bring forward a considered and holistic legislative response is evidenced by its instigation and support of the reports from the Central Bank and Law Reform Commission to which I referred earlier. Previous Governments and all Members of this House have been proactive in radically reforming the Central Bank's statutory basis, as evidenced by the Central Bank Reform Act 2010, which enhanced the Central Bank's accountability and oversight mechanisms. This Act provided for the Central Bank's fitness and probity regime, which was rolled out in 2011. The regime provided for new powers to be exercised by the Central Bank to ensure the fitness and probity of nominees to key positions within financial service providers and of key officeholders within those providers.

The Central Bank's powers under the administrative sanctions procedure to impose sanctions in response to breaches by regulated financial service providers and persons concerned in the management of such regulated firms were significantly enhanced by the Central Bank (Supervision and Enforcement) Act 2013. Under that Act, the Central Bank acquired extensive powers to make regulations, including areas identified as weak points in the post crisis analysis such as risk management, consumer protection, audit processes and lending. Nobody wants to let bankers who engage in underhand practices or lie to the Central Bank off the hook. However, it is crucial that any changes to the legislation governing the Central Bank's powers are well reasoned and robust to withstand potential legal challenge. To that end, I propose that we continue with the current approach which involves a wide range of stakeholders to ensure we achieve the best solution. I assure the House that Deputy Pearse Doherty's Bill will be fully taken into account in the Government's forthcoming proposals which I outlined.

Tracker mortgages have been mentioned here frequently. The actions of the Minister for Public Expenditure and Reform, Deputy Paschal Donohoe, were strong. I refer to when he brought in the main lenders on this matter. It is owing to his actions that the institutions are bringing this matter to a conclusion in the manner they are, for which the Minister should be complimented. Nobody wants to be soft on white collar or blue collar crime or any type of crime. That is not what anybody in this House wants.

Deputy Michael McGrath: I am sharing time with Deputies John Brassil and Jack Chambers.

I welcome the opportunity to contribute on Second Stage of the Bill which we will be supporting. I raise with the Minister of State a current issue that is relevant to Central Bank regulation, namely, the proposed sale by Permanent TSB of a portfolio of loans. Yesterday the institution made a statement that it was going to proceed with the sale of the Project Glas portfolio, giving no details of its composition, the number of loans, the book value or whether the loans were mortgage loans, loans to SMEs or other types of loan. It has been reported on

independent.ie this afternoon that Permanent TSB plans to sell non-performing loans worth €4.5 billion and that close to €3 billion worth of these loans are family home mortgages. Close to €1 billion relates to buy-to-let properties. As the Minister of State well knows, if such a sale proceeds, the loans will inevitably be bought by vulture funds. Owing to the decision made by the previous Government, vulture funds are not fully regulated in Ireland. We have credit servicing legislation, under which the intermediary has to be regulated, but the fund does not need to be. The sale must not proceed. It is completely unacceptable that family home mortgages would be sold from under people's feet in this manner to a vulture fund. This issue needs to be addressed as a matter of urgency. I have called on Permanent TSB to clarify its intentions and call on the Minister for Finance to do likewise.

We are all aware that the ECB is placing pressure on Irish banks, particularly Permanent TSB, to reduce the value of their non-performing loan books. However, doing so in the manner I have described is not acceptable. There is no reason Permanent TSB cannot work its way through its loan book, engage with customers, restructure loans and write off debts, as necessary. However, it is taking the easy option and outsourcing its dirty work. That is exactly what will occur if the sale proceeds.

The Minister of State will be aware that the Oireachtas finance committee invited representatives of all of the vulture funds before it. Tanager, Capita Asset Services, Blackstone, CarVal Investors, Cerberus, Lone Star Funds, Mars Capital and Oaktree Capital declined its invitation. Starwood Capital and Apollo gave no response. That is what one is dealing with. These bodies are unregulated and unaccountable. It is not acceptable that loans belonging to Irish businesses and family home mortgages may be sold in this manner. I want the Minister of State to take this message back to the Minister, Deputy Paschal Donohoe, to whom I wrote yesterday on the broader issue of loan portfolio sales. I look forward to an early response.

We welcome the Bill. We support its thrust in that it provides for the Central Bank to conduct inquiries into the suspected provision of false and misleading information and to impose sanctions where such information is provided. Much has been said so far about the tracker mortgage scandal. With other members of the finance committee, including Deputy Pearse Doherty, I have devoted considerable time to this issue, particularly in recent months. It is worth reflecting, however, on the backdrop to it which very much feeds into the spirit of the Bill. It was on 28 November 2009 that Charlie Weston of the *Irish Independent* wrote an article in which he stated the then "Financial Services Ombudsman Joe Meade has demanded all mortgage lenders be probed to ensure they are honouring agreements allowing people to retain their tracker mortgages". In the following years, 2010 and 2011, some mortgages were dealt with on an individual lender basis. In the case of Bank of Ireland, for example, 2,100 were dealt with, but there was no industry-wide probe until 2015. In October 2015 it was announced by the Central Bank that there would be an industry-wide tracker mortgage examination. It sent out the full details in December 2015. Over two years later, there are still thousands of mortgage holders on the wrong rate. Even today they are being denied their contractual entitlement to be on a tracker mortgage rate. Information from the banks suggests that by June this year all of the customers will be on the correct rate. I am not convinced of this, based on the banks' performance so far. In September 2017 we were told that there were approximately 13,000 mortgage accounts affected. The number has increased dramatically, to under 27,000 in this Central Bank examination. A further 7,000 or so predate that examination.

The evidence is very clear. Throughout the process, the banks have been dragging their feet on this issue. It has been an horrendous battle for individual customers who are not equipped

to take on the might of the financial institutions, which is why they rely on the State authorities to perform their functions. Ordinary people lead busy lives. They are busy going to work, rearing their families and going about their day-to-day duties. It is incredible that the denial of trackage mortgages to those who were entitled to them was raised with the regulator in a formal way by the Financial Services and Pensions Ombudsman in 2009 but that clearly there was no adequate response. There was not an adequate response for years.

What the Minister of State said in complimenting the Minister, Deputy Paschal Donohoe, was incomplete. To be fair, the Oireachtas finance committee has led the way on this issue. The principal credit has to go to the mortgage holders who are directly affected and were brave enough to come, bare their souls and tell their personal, human stories in a public forum and to the media. They are the ones who deserve the most credit for what has been done, but the journey is not over. The battle is not over; it continues, but we will stay with the customers every step of the way until they get justice and all of their entitlements.

There is absolutely a need for greater accountability. It is demoralising to trace the history of recent years and examine how the most recent tracker mortgage scandal has evolved. I have long arrived at the conclusion that until those who were directly involved and consciously made decisions to deny people their contractual rights are held to account, this scandal will arise again. It is just a cycle. It might go quiet for a while, but there will be another financial scandal.

We had a payment protection insurance scandal. Some €67 million was paid out by lenders to people who had wrongly been sold payment protection insurance policies. Probably multiples of that figure were not refunded because of the Statute of Limitations, to which Deputy Pearse Doherty referred. Anyone who bought before the middle of 2007, for example, falls into this category. It leads to the tracker mortgage issue.

We need accountability not only at the level of the institution but also at the level of the individual and it needs to be evidence based. The enforcement investigations need to be thorough. Investigators need to go through the minutes of meetings, email correspondence and records of telephone calls to establish whether conscious, deliberate decisions were made to deny people their contractual rights. That is the key issue. Fining banks is not enough. We all know what happens when banks are fined; they pass on the cost to their customers. In particular, they pass it on to variable-rate mortgage and SME customers. Those in both categories are already paying well over the odds for credit by comparison with customers in other eurozone countries. That is the point. Therefore, fines are not the answer. There has to be individual accountability.

We read last month about the proposals made by the Central Bank in response to the Law Reform Commission's consultation paper. It begs the question whether the proposals from the Central Bank come as a surprise to the Government. The Government has always said that if the Central Bank wants more powers, it would give it more powers. The Central Bank has now called for more powers. It made a formal submission to the Law Reform Commission seeking more powers and published its submission to the consultation phase. The call came on foot of what the Central Bank termed the egregious recklessness by heads of banks, insurers and other financial firms and for that to become a criminal offence in the event of a company's failure. Was that news to the Government?

I will hand over to my colleagues now. The response of the Minister of State, Deputy D'Arcy, refers to quarter 3, quarter 4 and the fact that legislative proposals will come. It does not fill me with any confidence that there will be actual, tangible action to deal with these issues.

This is a priority. The public, rightly, does not believe that white-collar crime is dealt with in the same way as other forms of crime. That needs to change. The Minister of State will find support from my party in respect of changes that are brought forward and we will support this Bill right the way through to enactment.

Deputy Jackie Cahill: As Deputy McGrath said, we support the Bill. He has been at the forefront of defending the rights of mortgage holders in this country. He introduced a Mortgage Resolution Bill, which is before the Dáil, that will go a long way towards trying to right some of the wrongs that have been done.

Deputy McGrath referred to the sale by Permanent TSB of €4.5 billion worth of loans, €3 billion of which involve mortgages for family homes. We have had enough of that. It cannot be allowed to happen again. When Deputy Noonan was Minister for Finance, he said that vulture funds picking over the carcass of a recession was the natural order of things. We are fed up with the vulture funds picking on and intimidating ordinary individuals and mortgage holders. That must stop. People must be helped to stay in their family homes either by writing off a portion of their mortgage or extending the term of their loan, as has been proposed in the Mortgage Resolution Bill. That must be done and the banks should be given no choice in the matter. People who are making a reasonable attempt to pay their mortgage must be protected and evictions and repossessions must stop.

Comments were made by the Central Bank last week to the effect that people purposely went into arrears because they saw an opportunity to stop paying their mortgage. Such comments from an official in the Central Bank were foolhardy at best and it was very sinister. It was done to try to change public opinion. The banks want to offload those loans because they do not want to be associated with further wholesale repossessions. They do not want their already tarnished image further diminished. By abandoning their customers to the vulture funds and comments such as we have heard from the Central Bank, the hope is that public opinion can be turned against mortgage holders. The banks believe they will be free in one leap from their bad loan book. When one views the entirety of the current position of mortgage arrears, it puts the comments of the Central Bank into context. The impact of what was said was to try to turn public opinion against mortgage holders who are in arrears. It would have the effect of a neighbour feeling resentment towards another neighbour if there were a perception that someone was being let off the hook with his or her mortgage arrears. The banks are not happy that they are being held to account for their role in the mortgage arrears crisis. They are not happy that public opinion is against them because their actions have been less than energetic in resolving this problem.

The scandal of tracker mortgages is further evidence of the callous attitude of the banks to their customers. As has been said, thousands of people are still not on the correct rate. Many people managed to pay their mortgages even though they were not on the correct rate, but their families suffered hardship and financial pressure. One could never put an economic value on that. I believe the banks are very happy to see the Central Bank lecture the mortgage holder and take the light away from where the real problem lies, that is, with the banks. Therefore, I believe the Central Bank should clarify its position and apportion blame where it firmly belongs, namely, with the banks.

Fianna Fáil's Mortgage Resolution Bill requires a money message from the Government to proceed. It is a fair Bill that can be a final solution to the mortgage arrears crisis. It will ensure that a fair and reasonable deal will be put in place for all parties. The banks will get their money

and, most important, families will stay in their homes. The State will not have the future cost of providing housing for those thrown out of their homes. Therefore, there is an urgency in getting the Government to give a money message so that families in search of a resolution can finally have peace of mind and security of tenure in their family home. Imposing fines on the banks is not enough. We want a resolution and the family home must be protected.

Deputy Jack Chambers: I welcome Deputy Doherty's Bill. I also recognise the great work my colleague, Deputy McGrath, has done as finance spokesperson but also on the Joint Committee on Finance, Public Expenditure and Reform, and Taoiseach with my colleagues in the Dáil.

At the heart of the issue is the thread of lies over the past ten years. We have had a decade of lies from banks from when they initially had what they referred to as a liquidity crisis, which turned out to be a solvency crisis. The banks lied at every turn to Government, officials, and the Central Bank, and that has been repeated over and over again. Both the Honohan and Nyberg reports referred to accountability and a degree of responsibility. While we have restructured the Central Bank in terms of the split between the Financial Regulator and the Central Bank and empowered staff in a greater way, we still have the same cultural issues in banks. While there might not be the same solvency issues as was the case previously, the State took control of the banks at a huge loss to the citizens of this country. The flip side of that has been State-owned banks robbing people of their homes, as Deputy Doherty said. Thousands of people have been harassed and have suffered serious mental health difficulties as a result of the conduct of officials and senior members of banks. One could ask what the outcome has been for them. It has probably been bonuses and share options in the banks. Where is the accountability from the State looking back at the thread of lies we have seen in the past decade?

It is shameful that the Oireachtas has allowed this to occur. We seem to have a contradictory State policy. While we have words of sympathy from the Government and Ministers, at the same time there is a clear policy, whether in regard to NAMA or the pillar banks, to extract each value added element out of the banks. At one level we are talking about potential value for privatisation and sales while the flip side of that is the Government expressing sympathy for the people who have lost their homes, illegally, and who have been taken off tracker mortgages, illegally. There was a clear decision among senior members of the banks to do that *en masse*. As Deputy McGrath said, we must put an accountability framework in place.

One could ask what has changed from what was highlighted in the various reports, for example, the soft touch approach that was mentioned in the Nyberg report. The banks have not had solvency issues because of the European regulatory framework, but there has been a soft touch from the Central Bank in addressing the banks. That goes for the Governor and all the senior members of the Central Bank. They have allowed the banks to operate as they wish and they have taken a soft touch, slow, snail-like pace in terms of flipping the balance in favour of vulnerable people with mortgages who in many cases have had their homes taken from them. That is a terrible state of affairs when one looks at the thread of lies we have seen in recent years.

The Nyberg report referred to the development of herding and groupthink which led to widespread risk. It said there was a willingness indirectly to let other banks dictate their actions. When one looks at what happened here, it is evident that we have had a cultural phenomenon of most banks driving customers from their tracker mortgages and illegally taking them off mortgages with little or no accountability. That is why this Bill is welcome. It is important

that bankers know the consequences at every level if they commit a criminal offence or lie to the Central Bank. If the bankers do not provide accurate information and continue a culture of lying to the benefit of their balance sheets over the customers, who subscribed to them in good faith and with goodwill many years ago, then there should be an accountability framework and criminal consequences.

As I said, we have contradictory State policy at every level. At one level, the Government is trying to sell the banks to pay off the banking debts. At another level, we are throwing people out of their homes and making them homeless. What type of country or government would stand over those practices?

I welcome the fact the Government is facilitating the Bill and allowing it to go to Committee. I am keen to see this legislation brought through the Oireachtas quickly so that we can finally end the cultural component in our banks in the past decade that amounts to a thread of lies. The Bill will at least initiate some reforms in order that we can see bankers tell the truth for once. We can then rebalance things in favour of ordinary householders and people with vulnerable mortgages.

Deputy Joan Burton: How long do I have?

An Ceann Comhairle: You have eight minutes, Deputy.

Deputy Joan Burton: The Central Bank now has in legal terms a comprehensive regulatory and supervision framework. Yet, we hear all the time from our constituents and people in broader society about how difficult their lives are as a consequence of issues related to tracker mortgages, commercial loans and buy-to-let loans. The banks were offering all of these with abandon when the financial boom was under way. Of course, being bankers, when the rainy day arrived, they immediately pulled away the umbrella and left people facing years of serious uncertainty. In many cases people were uncertain about whether they would be able to continue to hold on to their family home or buy-to-let, which they were encouraged to buy by the bank at the height of the boom. People were uncertain about where this would leave them.

The Central Bank now has a comprehensive regulatory and supervision framework. The Central Bank supervises all the regulated entities, banks and other financial institutions and they must comply in detail with Irish and EU rules. The Central Bank is charged with ongoing supervision of those banks. More information is now being given to the Central Bank on a regular basis in respect of the banks and their lending profiles, borrowing, balance sheets and so on.

We have a framework of rules, many of which derive from European Central Bank regulations. The Central Bank has a process for the orderly resolution of credit institutions where problems arise. The bank also has an enforcement function.

There has been a significant increase in the number of staff now employed in the Central Bank. The figure is approximately 1,600 at the moment in the new “golden bank”, as it is called, on the quays. That expression is used because the outside of the building has a gold-coloured mesh. I know many children call the building the gold building because if a person is walking down the quays, from a distance that is what it looks like. Anyway, the consumer experience of services from individual financial institutions and the way the Central Bank responds to problems is far from adequate. For that reason, the Labour Party is happy to support the Central Bank (Amendment) Bill 2018, as initiated.

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The jury is out on whether the Bill will substantially change the current scenario. This is because bankers tend to be robust when it comes to their rights and even more robust about the responsibilities of others when problems arise for products that they have sold to people, including loan and investment products.

The Central Bank is meant to have responsibility to ensure that consumers are protected when it comes to financial products. I am referring to consumers in the broadest sense of the term, not only individual consumers but businesses as well. Anything that provides for greater levels of responsibility in that respect, which the Bill is seeking to do, or that involves potential penalties where regulations are breached or where institutions fail to honour the legal rights of consumers is to be welcomed.

News unfolded yesterday that Permanent TSB is likely to sell a large portfolio of loans, potentially to private equity vulture funds. We do not know yet where the bank will target the sale. Anyway, that bank is identifying non-performing loans and planning to bundle them and sell them.

I imagine the experience with loans has been difficult for many businesses. We are in an economy where property values have recovered for reasons we are all aware of. Many businesses and individuals are back on their feet. It should be possible, therefore, to find resolution to many of the loans in question. I am aware that there have been some attempts by Permanent TSB to identify some of those cases. Nonetheless, it is an extraordinary risk for consumers and small businesses in particular if another significant bundle of loans appears to be about to be auctioned off.

Previously, the Joint Committee on Finance, Public Expenditure and Reform, and Taoiseach issued an invitation to representatives of various financial institutions to discuss issues before the committee. Representatives of the banks, by and large, were prepared to appear, respond and discuss issues with the committee. However, those from the vulture funds all declined. There is a serious issue here. There is in effect no mechanism of accountability that I am aware of for these institutions. The powers of the Central Bank in respect of such institutions have not been absolutely clarified. Again, I am unsure whether this legislation will be able to address that issue.

The Minister has been critical of the Central Bank for not allowing new institutions to Ireland fast enough where they may be coming in the context of Brexit. In that context, I believe the Central Bank is being careful to ensure people have the right credentials to set up a financial institution here and comply with European regulations. However, it is not clear what can be done by the Central Bank where banks treat customers in an appalling way. There is a need to have a clear structure for how these issues are dealt with. There should be penalties where the banks fail to deal properly and fairly with customers, whether individual domestic customers or commercial customers. That is important.

The Labour Party will support the legislation. We welcome the fact the Government is going to accept the legislation. Certainly, if the Minister has identified ways in which the legislation can be improved, then I would like him to return to the Dáil and give us the details.

Deputy Paul Murphy: This issue says something about the culture of light touch regulation pursued by this Government and previous Governments. The deficiency in the law identified and rectified by Deputy Doherty's Bill effectively allowed senior management in finance

companies to lie, evade the truth, peddle mistruths and incomplete information to the Central Bank of Ireland and avoid personal criminal responsibility. If one were to be generous, one could perhaps forgive this Government and previous Governments if they had not been aware of this issue and this was an unforeseen loophole. However, the matter was flagged by the Governor of the Central Bank in 2015 and the Government did nothing about it. This approach has allowed scandals with tracker mortgages and insurance to drag on. At every turn, we have been given figures on the number of people involved which were grossly underestimated. We were consistently told the matter would be resolved quickly and all those affected would be given redress within months. In autumn 2016, for example, we were told, like soldiers on their way to the First World War, that everything would be done by Christmas. It is clear the banks hid the full truth, deliberately evaded proper scrutiny and dragged their feet at all stages.

These matters have consequences. How many people have been forced to pay thousands or tens of thousands of euro in additional mortgage repayments or insurance as a result of these scandals? How many lost their homes? What has been the impact on families across the country? How many more financial scandals have not been unearthed because of the culture of secrecy and evasion?

Tom Wolfe, in his novel *The Bonfire of the Vanities*, described financiers on Wall Street in the 1980s as regarding themselves as masters of the universe. It seems those at the top of the finance industry in this country took a similar view of themselves and adopted the same contemptuous approach to customers, those who found themselves in financial difficulty and members of the public at large with a sense of complete impunity. Over the years, we saw glimpses of this rotten culture in the DIRT scandal, the Ansbacher accounts, the scandal of Anglo Irish Bank's hidden loans, the Anglo tapes, Irish Nationwide Building Society, Quinn Insurance, Senta Insurance, the culture of misselling financial products and the tracker mortgages scandal. For as long as banks continue to be run as they are now, this list will continue to grow. The Bill is to be welcomed, therefore, as it will make it more difficult for banks to behave in this way and impose individual responsibility on senior managers who lie to the Central Bank of Ireland.

Speaking some months ago at the Joint Committee on Finance, Public Expenditure and Reform, and Taoiseach the Governor of the Central Bank, Professor Philip Lane, made an unintentionally striking comment on the culture of the banks, which has been the subject of much discussion. Professor Lane spoke about the problem with the culture of the banks and went a little further in explaining it by describing it as a culture of seeking profitability to the detriment of the banks' customers. I concur with Professor Lane on that point but that is capitalism. Banks are run on the basis of capitalism and to maximise profits. Even when they were nationalised, they continued to be run on a for-profit basis, despite Deputies on this side and others arguing they should be run differently. The solution is to have a completely different model of banking, a democratically controlled public banking utility to run banks and use them in the service of society and the economy at large, as opposed to doing what we currently do, namely, run society and the economy in the interests of the banks and those at their head.

Deputy Richard Boyd Barrett: I commend Sinn Féin on introducing the Bill. I fully agree with the proposed measure to establish that it would be a criminal offence for banks to lie or give misleading information to the Central Bank of Ireland and to impose sanctions of up to €250,000 in fines and-or five-year prison sentences. This is welcome legislation because people are fed up to the back teeth of there being one law for the bankers and the rich and another for the rest of us. The utter failure and unwillingness of the political establishment to rein in the greed of the banks, their mistreatment of customers and their reckless behaviour, which crashed

the entire economy as they financed a wild speculative bubble that presaged the economic crisis and resulted in the imposition of a decade of austerity and misery.

We must go much further than the measures proposed in the Bill. As Deputy Paul Murphy stated, not only is the State unwilling to control the greed of the banks but there is no way of doing so, as was evident in the years leading up to the economic collapse and has been evident in the years since. Even when the then Government was forced to nationalise the banks, it refused to exercise any control over their behaviour, including how they treated people in mortgage distress. The tracker scandal is the most recent example of this behaviour. Everything this Government and its predecessors did was focused on nursing the banks back to their position prior to the crisis. The disgraceful decision to privatise them again and allow them to flog off mortgages to vulture funds freed them to do it all over again. Today, *The Irish Times* reports that further mortgages with a value of €11 billion are to be flogged off to vulture funds by Allied Irish Banks, Permanent TSB and Lloyds Bank. The decision of the National Asset Management Agency to flog to the vulture funds loans valued at €40 billion led directly to the current housing emergency. There has been no willingness on the part of the Government to exercise control over the banks. Instead, it has chosen to nurse them back to health to do what they did all over again.

In the few moments remaining to me, I will highlight one issue about which I asked Deputy Doherty. While the Bill refers to section 33AT of the Central Bank and Financial Services Authority of Ireland Act, it does not amend or delete the section. The section establishes in legislation that there is one law for the bankers and another for the rest of us. It states as follows:

If the Regulatory Authority imposes a monetary penalty in accordance with section 33AQ or 33AR and the prescribed contravention in respect of which the sanction is imposed is an offence under a law of the State, the financial service provider or other person concerned is not liable to be prosecuted or punished for the offence under that law.

This express provision means that if a small fine is imposed on bankers for misbehaviour, they cannot be prosecuted. The bankers have avoided going to jail because we have, written in the relevant Act, a different law for bankers who engage in criminal activity from the law that applies to other citizens.

Deputy Mick Wallace: I, too, welcome the Bill introduced by Deputy Pearse Doherty and Sinn Féin, which proposes to provide powers to the Central Bank of Ireland to conduct inquiries into the suspected provision to it of false or misleading information and to provide that sanctions may be imposed by the Central Bank on bodies that provide false information. While I agree with the spirit of the Bill and understand what Deputy Doherty is trying to do, I have concerns that the additional powers provided would not be put to use as the Central Bank would not be under any obligation to use them.

The Bill is directly linked to the tracker mortgage scandal. It has taken the Central Bank a long time to get a handle on this issue and there are other areas in which it has also let down consumers. For example, its response to Ulster Bank and the Global Restructuring Group, GRG, has been highly disappointing. As Deputies are aware, Bank of Scotland in the United Kingdom and Ulster Bank in Ireland purposely drove small and medium business owners out of business in order that the banks could take over the companies. The Financial Conduct Authority, FCA, in the UK conducted a review of Bank of Scotland and the GRG but has, to date, refused to release the unredacted version of its report. Thankfully, an unredacted version

was leaked on Monday last and it makes for frightening reading. The FCA has been correctly pilloried for not publishing the unredacted version. However, if we compare its response with that of the Central Bank of Ireland, we find that the matter has not even been investigated in this country. I wrote to the Central Bank of Ireland about its response to the GRG last summer and it informed me that it was engaging with Ulster Bank on the matter and would continue to monitor the matter and oversee complaints received by Ulster Bank for any issues arising, particularly in the context of compliance with the code.

5 o'clock

The Central Bank also told me it engaged with the Financial Conduct Authority, FCA, in its report on the Global Restructuring Group, GRG. Has the Central Bank seen a copy of the final version of the FCA report? I assume it has been shared with it, and this makes it all the more worrying that it has failed to act. Instead, it allowed Ulster Bank in Ireland to deal with the matter itself. It stood idly by as Ulster Bank commissioned a report by Mason, Hayes and Curran into its role in GRG, and the report cleared it of any wrongdoing; it was a whitewash. The law firm in question had a clear conflict of interest as it previously represented Cerberus, the infamous vulture fund, with its purchase of a loan portfolio called Project Aran, which contained assets from the Irish element of Ulster Bank and GRG loans. I have a copy of it but it has never been published officially, just selectively leaked to the media. The full FCA report, leaked on Monday, has shown the Mason, Hayes and Curran review as a farce.

The legislation is available to the Central Bank but it has failed to use it. Small and medium businesses are supposed to be protected under the code of conduct for business lending to small and medium enterprises for 2009 and the Central Bank (Supervision and Enforcement) Act 2013. Instead, the Central Bank tells us it is engaging and monitoring the issue. The Central Bank is supposed to be an oversight body and it states on its website that the protection of SME customers is a priority. This legislation will provide powers to the Central Bank but will it use them? Perhaps it is time for a complete change in the direction of the Central Bank's operations. It must be a proper oversight body that acts quickly and sanctions banks for wrongdoing, not one which allows banks to investigate matters themselves. Until this happens, we will continue to see a Central Bank that is a soft touch and almost afraid to upset the commercial banks in Ireland.

Deputy Thomas P. Broughan: Reckless and criminal misbehaviour in the financial sector destroyed the Irish people's pension fund, exploded our national debt by a factor of eight and inflicted untold suffering on the most vulnerable of our fellow citizens. Like the Greeks and Portuguese, we have had a lost decade of cuts and suffering. It is particularly galling to citizens that only a tiny number of bankers have been held to account. We have had very few high profile cases, such as the actions taken against Anglo Irish Bank executives Willie McAteer, John Bowe and Sean FitzPatrick, as well as Denis Casey, former chief executive officer of Irish Life and Permanent. As in the UK, the scale of the financial disaster was not remotely matched by prosecutions of those with responsibility. By contrast, over the same last decade, in Iceland the total number of senior Icelandic bankers sentenced for fiduciary and market manipulation crimes now stands at 29. Only last summer, the UK brought the first criminal case against a global bank chief executive when charges were brought against John Varley and three other Barclays executives.

The experience of Jonathan Sugarman, the risk manager at Unicredit Bank Ireland in 2007, and other banking whistleblowers clearly indicates we need fundamental reform of the Central

Bank Act 1942 and all subsequent banking regulation. I know the Ceann Comhairle is familiar with the matters raised by Mr. Sugarman and the extraordinary way in which neither the Central Bank, the Garda nor any other authorities investigated his complaint.

I warmly welcome the Central Bank (Amendment) Bill 2018 and commend Deputy Pearse Doherty and Sinn Féin for bringing it forward. The Bill significantly expands the powers of the Central Bank to conduct inquiries into the suspected provision of false and misleading information either deliberately or by omission to the Central Bank by bankers and officials in the financial sector. It also provides for administrative sanctions and creates an offence of providing false or misleading information to the national banking authority. Section 2 of the Bill inserts a new Part III D into the Central Bank Act 1942, which rightly provides for a summary conviction sanction of a class A fine and imprisonment for up to 12 months, and for a conviction on indictment for a fine of up to €250,000 and imprisonment up to five years. These are very welcome provisions in response to the tracker mortgage fraud and the litany of banking and financial scandals over many decades.

Since 2008 in particular, citizens have been astonished at the apparent immunity for criminal misbehaviour in the banking and financial sector. For example, people were first startled by the settlement agreement between the then financial regulator and Quinn Insurance in October 2008, when the regulator found serious breaches and contraventions by Quinn Insurance under the Insurance Acts, including failure to notify the financial regulator prior to providing loans to related companies. Of course, there were fines but constituents were surprised that no court prosecutions followed with such a serious financial case. They drew our attention again to Part III C of the 1942 Central Bank Act. Section 33AT(1) of Part III C of course lays down that when the regulatory authority imposes a monetary penalty, “the financial service provider or other person concerned is not liable to be prosecuted or punished for the offence under that law.” As a result, citizens have complained that Ireland continues to have a separate legal system for bankers administered in secret.

I asked the former Minister, Deputy Noonan, if he would amend or remove section 33AT(1) of Part III C of the 1942 Act but he replied that it could not be removed because it upholds the principle of *ne bis in idem*, or double jeopardy, and that therefore no criminal prosecution may be brought against a financial service provider or person concerned in the management of a financial service provider if the prescribed contravention in question has already been the subject of an inquiry under the administrative sanctions procedure. The Ceann Comhairle might remember that when I was a spokesperson on marine issues, we were trying to bring forward administrative sanctions for workers in the fisheries industry but the Ceann Comhairle’s former colleague, Noel Dempsey, ruthlessly opposed it. Nevertheless, we have that system for the bankers.

Last summer, as the tracker mortgage scandal became more and more outrageous, I asked our Oireachtas Library and Research Service to prepare a paper entitled, Legal Issues Relevant to a Proposal to Repeal Section 33AT of the Central Bank Act 1942. The paper, of course, identified the role of double jeopardy but this excellent study also refers to a recent decision of the High Court in *Purcell v. Central Bank of Ireland*, which suggests that a repeal of section 33AT would not cause Central Bank inquiries and criminal charges in respect of the same acts to breach the rule of double jeopardy or *ne bis in idem*. I commend Deputy Doherty again on this fine legislation.

Deputy Michael Collins: I am happy to speak to this Bill and I thank my colleagues in

Sinn Féin for bringing it forward. This Bill is necessary as it provides to the Central Bank of Ireland powers to conduct inquiries into suspected provision of false or misleading information and it creates an offence when such information is provided. White collar crime is something that must be addressed as a matter of urgency. It is high time we see the bankers who played a part in the economic crash prosecuted and it is necessary that we see more accountability in the area. Most recently, we have seen the tracker mortgage scandal but there are many cases of misinformation and injustice served on the normal and hard-working Irish people by banks.

As some of my colleagues noted earlier, it is important we do not just fine banks, as these fines are paid through the normal variable mortgage customers and small business owners through their loans. I meet such people in my clinics each week and they are most affected by this lack of accountability in banks. Young couples are constantly falling through the cracks when they are trying to get on the property ladder. They go to a local bank to try to take out a mortgage but are refused if their income is too low. If they go to a local authority to try to get a house, they are refused if their income is too high. What are these people supposed to do? It is totally unfair. Families have been affected by the tracker mortgage scandal, as it has caused stress and upset, and in some awful cases, even lives are lost due to the stress. It is high time we see more accountability from our banks. We must have a trail of who authorised what and why instead of continuing the game of passing the buck to somebody else. The consequences of these problems are far too high.

I give credit to our local credit unions and such financial institutions need more support from the Government. They are the only avenues of support for normal people living their daily lives. They are community-oriented and know how to deal with people. They have a clear understanding of customer needs. They need further support from the Government to allow them compete with larger banks and financial institutions. I am happy to see this Bill being brought forward and I support it.

Deputy Michael Healy-Rae: I compliment Deputy Pearse Doherty and his colleagues in the Sinn Féin Party for bringing this very important legislation before us. Any Deputy or party that tries to bring accountability to our banks deserves to be supported by every person here, regardless of the side of the House on which that person sits. Ultimately, we represent real people, such as young couples, business people and farmers who have been subjected to very harsh treatment over the years by the people in our banking sector. We have seen some of the carry-on of the mainstream banks and I nearly go as far as saying that the only financial institutions left standing with honest-to-God credibility are post offices and credit unions. They are the only ones we can say have treated the people fairly and honestly.

Given what has gone on in the banking sector, the introduction of accountability through legislation that will ensure wrongdoing is penalised deserves support and I consider anyone who would not support it as completely out of order. At the end of the day, our job is to work on behalf of those we meet at clinics. They come to us individually and in groups and tell us the horror stories of what they have put up with over the years. Our banks have kicked and screamed against what we want to do which is achieve fairness for their customers at the end of the day. In many instances they have treated their customers with contempt.

Deputy Mattie McGrath: I too am happy to speak to the Bill. I salute Deputy Pearse Doherty for the excellent work he has done on the issue and the manner in which he has tried to hold financial institutions to account.

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The Bill seeks to extend the application of Part 111C of the Central Bank Act 1942 to provide the Central Bank with the power to conduct inquiries into the suspected provision of false or misleading information. It also seeks to provide for administrative sanctions that may be imposed by the Central Bank for the provision of false or misleading information, also known as downright lies. Anyone who has followed the work of the finance committee in recent times will be under no illusion about the level of resistance by the banks and others to the provision of full and accurate information. We see the contempt in which they hold this House when they come before its committees with partial explanations and half-truths at best. It is therefore vital that we finally empower the Central Bank so that it stops being a useless, toothless and fruitless institution because it is in danger of becoming even more so. I am glad to note, however, that it seems in recent times to have finally found a bit of backbone and teeth when dealing with these financial institutions.

The recent performance of the chief executive officer of Permanent TSB, Mr. Masding, when he was before Deputy McGuinness's committee was absolutely appalling and clearly demonstrates the need for this type of legislation. Unless compelled otherwise, the banks and financial institutions will continue to do as they see fit. Families up and down the country have been terrorised. Some years before he became a Minister of State, I met a neighbour of the Minister of State's down in his county. That man was beaten within inches of his life one night by thugs who were sent out by Friends First. I call them "Friends Last" because they are no one's friend. They are a third force, and it is still going on.

Today we see that Permanent TSB will sell thousands of mortgages, as will AIB. Something needs to happen and this Bill is an effort in that regard. Unless the Government does not oppose it, however, the Bill will have to go into the lottery. What will happen then? There is absolutely no legislation. Our latest banking legislation dates to 1942. I have said it here before but it is no wonder the cabals and the gangsters have disdain for the House. They do not care about it because the real power in this country is in the boardrooms of these institutions. The bank robbers are not on the streets any more but in the boardrooms planning and plotting. These people are robbing from within, with impunity, and they are robbing all of us. They have their hands in our pockets. Then there is the way they treat the people.

A farmer friend of mine's case was listed in the High Court today. Another fella is coming up next week. The banks are nothing but legalised terrorists. We had Mr. O'Brien calling families who were worried about their sick children emotional terrorists. This is emotional terrorism, direct terrorism and institutional terrorism that is supported by the State and there is little solace or support below in the Four Courts. It is very little aside from the clocks ticking and the tab mounting to pay the barristers every day. We must do something because it has been going on for ten years and people are at their wits' end. We have had suicides, marriage break-ups, sickness and illness. When will the Government do something?

As the then Taoiseach called it at the time, the Government got a wallop from the electorate the last time. It will get a bigger wallop if it allows these marauding gangsters to go around terrorising our ordinary people. These people are trying to keep the roof over their heads. They are not asking the State for houses and causing all the trauma and everything else. The Government does not want to act, however. We can see the contempt. The Minister of State is here on his own. Not one Fine Gael backbencher or member of the Independent Alliance is present.

I plead with the Minister of State not to oppose the Bill. I plead with him to accept it and to bring forward more rigorous legislation to put some bit of manners and decorum on these

people. People have been treated with total disrespect and it has been institutional from the top down. There are some good, ordinary front-of-house people in the banks who get the stick but there is a deep culture of robbery, theft and deceit inside the banks. The banks have no interest in ordinary people's lives or the trauma they suffer but what they can make for their shareholders and for themselves. They will then move onto some other business after it. It is time that the gloves were taken off and the Central Bank did something. It should also be made accountable to the House.

Deputy Catherine Murphy: I too thank Deputy Pearse Doherty and Sinn Féin for proposing the Bill. I hope it receives support on all sides. It was five years ago last week that we stood here and had the infamous "Prom Night". We watched helplessly as billions of euro worth of promissory notes were turned into sovereign debt which was in turn placed on the shoulders of Irish citizens for decades to come. The game changer that we were promised evaporated. The burden is a direct result of the banking sector in the country being allowed and facilitated by the political establishment to act more or less with impunity. As citizens, we picked up the tab for the banking failures. The handling of the tracker mortgage scandal suggests that little has changed regarding how banks behave. Many lessons should have been learned from the catastrophic banking collapse but front and foremost among them is that these banks cannot be allowed to act with impunity and that the political establishment cannot turn the other cheek to the practices of the banking sector.

What the sector does has a direct impact not just on the economy but on society too. The horror stories of families who have lost their homes as a direct result of what is essentially fraudulent behaviour on the part of the banks in the tracker mortgages issue show first hand how society has been impacted. We have homeless families, families that have been forced to rely on State subsidies such as HAP and, tragically, families who have faced the trauma of suicide. This is all as a direct result of the behaviour of the banks. It seems ludicrous that, in 2018, the Opposition has to move a Bill to, in effect, make it illegal for the banks to lie to the Central Bank. That is the situation, however. Needless to say, the Social Democrats wholeheartedly support the Bill.

While there must be sanctions on the sector as a whole, it is also clear from the many banking scandals that there must be strict and enforceable sanctions and consequences for senior decision makers. The only way to have a culture of good behaviour is to challenge bad behaviour and reward good behaviour. In this country we have all too often failed to punish properly bad behaviour and the culture of impunity and a sense on the part of certain classes of people feel that they are above the law has pretty much become the norm. That attitude must be challenged.

I do not accept the narrative that the wholesale, widespread tracker mortgage scandal happened randomly. I do not accept the decisions of the institutions are a mere coincidence. I believe this was a strategic and orchestrated action by senior decision makers in the banking sector and those decision makers should be held accountable for their actions. I also believe that there was a terrible lack of oversight on the part of a range of different actors. At the same time, if it can be proved that a decision was deliberately detrimental to citizens and customers, it must be punished.

Where was the regulator in all of this? Even where cases were brought, the regulator found in favour of the banks. It has now been found that he was wrong. What about the accountants? Were the contingent liabilities recorded? If they were, why are there no consequences for these same firms that keep cropping up? The tracker mortgages were the least profitable mortgages

and the banks were making decisions in the interests of their balance sheets and not their customers' interests.

The banks have repeatedly demonstrated that they will not act ethically when left to their own devices. For that reason, the Bill is most welcome. I look forward to its smooth and speedy passage through the legislative process.

Deputy Seamus Healy: I compliment Deputy Pearse Doherty and Sinn Féin on bringing forward the Central Bank (Amendment) Bill 2018. I support its passage through the House. I support any measure which would help put manners on the banks. Light-touch regulation means no regulation, as we have seen through the years. Senior bankers have no moral compass and simply cannot be trusted. The banks have a 30-year history of scandal with deposit interest retention tax, DIRT, Ansbacher accounts, bogus non-resident accounts, and so on. They caused the destruction of this country during the boom and bust period, received a bailout of €64 billion from the citizens which resulted in significant austerity imposed on the same citizens. In more recent times, we have had the significant scandal of the tracker mortgage fraud.

The banks have shown they simply have no regard for ordinary, decent and respectable families who found themselves in difficulty during the recession and currently. They have hounded these families, creating fear, ill health and mental illness for them, as well as leading to suicide in some cases. They have done this by insisting on voluntary surrender, voluntary sale, repossession and eviction. The banks should be stopped from repossessing family homes. The Government could make a start on this as it does not need new legislation to do so. It can simply instruct the two main banks which we own, Allied Irish Banks and Permanent TSB, to stop repossessing family homes.

The banks were already bailed out to the tune of €64 billion. They are being bailed out for a second time by mortgage holders who are paying 2% over the European interest rate norm. This has been discussed in the House before and should be dealt with urgently. The tracker mortgage scandal and fraud is significant and has done damage to families and to the country. Up to 15 banks are involved with €1 billion in costs and 40,000 mortgage holders affected. We know there has been collusion between the banks on this. The Governor of the Central Bank told an Oireachtas committee last year, "There is no doubt there is a systemic and widespread aspect to this". The tracker mortgage scandal and fraud requires a criminal investigation. The Government should send the fraud squad into the banks, even at this late stage. What we really need to do is to nationalise the banks for the people.

An Ceann Comhairle: Deputies Buckley, O'Reilly, Ó Laoghaire and Cullinane are sharing time.

Deputy Pat Buckley: I also congratulate my comrade, Deputy Pearse Doherty, on bringing forward this Bill. The actual idea that we need legislation to bring in sanctions for people engaged in misleading or telling lies to the Central Bank is quite amazing. It is not because anybody would be surprised that people at the top of the financial sector are capable of telling barefaced lies but we have been so foolish to never act on this before. This is especially surprising given the corporate culture of dishonesty which was laid bare in the aftermath of our recent economic collapse.

This Bill is about tackling white-collar crime with the seriousness it deserves. White-collar crime is capable of bringing just as much misery and pain to countless people as any other form

of crime. As we saw with the sub-prime mortgage scandal, people were intent on lying through their teeth to maximise personal gain beyond what anybody could possibly need. This resulted in thousands of people losing their homes, their jobs and pensions in the blink of an eye.

This kind of behaviour is as criminal as one might find oneself in prison for. However, these characters walk free, unpunished and are often back in positions of power in which they can continue to act dishonestly and unscrupulously in their unchecked, unlimited pursuit of personal wealth at all costs. How can we ever challenge this if to lie to the Central Bank is not a criminal offence without serious repercussions? This may be an issue of global concern, but it is one on which we must act locally. In Ireland, up to 33,000 people have been robbed by these criminals. Their criminal actions have resulted in years of extreme hardship and deprivation for many of our people. Children have gone hungry, cold and sick due to the actions of these people. Families have been broken up, people put out on the street and honestly earned pensions destroyed. How many people have died in this country because of these actions? How many breakdowns have been caused? How many lives have been destroyed? A price must be paid for this destruction and there must be measures to stop them from doing it again. This Bill is a small step in that direction. Again, I commend Deputy Doherty on introducing it.

Deputy Louise O'Reilly: I join Deputies in commending my colleague, Deputy Doherty, on bringing forward this important Bill. Crime of any sort is a scourge but white-collar crime in particular is incredibly damaging and galling for a large number of reasons. The apathy shown by successive Governments and politicians towards tackling white-collar crime is somewhat breathtaking. A cursory look at the past ten years in the State reveals the remnants of the fallout from the criminal and negligent activities by bankers, watched on, and sometimes even encouraged, by culpable politicians.

What was the response? The bankers acted like they had the Ministers in their pockets. Many continued their web of lies to the Central Bank and to the public. Instead of lies and criminality being punished, the Government at the time decided to socialise the private banking debt racked up by property speculators. They also pushed the lie that we all partied. This was one of the most awful lies uttered at the time. I well remember hearing the phrase quoted back to me by hard-working, low-paid civil and public servants who were disgusted by the remark. It was somehow an effort to declare collective responsibility and link us all to the crime. If everyone was at it, then everyone was equally responsible. Then, of course, nothing can be done.

Rather than holding to account those who lied and operated recklessly, the then Government punished the people. The same has happened with the tracker mortgage crisis. While the Government watched on, up to 33,000 families have had money stolen from them by banks and up to 100 have lost their homes. Countless numbers have suffered hardships and lives have been wrecked because of it. However, no banker will ever be held responsible under the current system.

People are not vindictive. They want truth, justice and some fairness. That is what this Bill is about. It is about tackling white-collar crime and, specifically, putting in place jail sentences for bankers and others who lied to the Central Bank. Individuals should be held responsible for their actions. There is a reckless culture in our banking sector which can and must be reined in.

Deputy Donnchadh Ó Laoghaire: Déanaim comhghairdeas leis an Teachta Doherty faoin mBille luachmhar agus tábhachtach seo. Tá ceart agus cóir ag baint leis.

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This State has never taken white-collar crime seriously enough. This Bill is a step in the right direction and a significant addition to the law. There is much more we need to do, however. What we need in particular is a shift in culture and attitude. People who are responsible for white-collar crimes need to be held criminally responsible. The Bill's two major provisions will ensure the Central Bank can take action against an individual if the whole institution has not been found guilty of deception. Too often individuals, not only in the Central Bank but in other institutions, have hidden behind the institution. We need to tackle that. We must also ensure those who lie to the Central Bank are guilty of potentially a criminal offence with a penalty of up to five years in jail or a fine of up to €250,000.

One reason we do not take white-collar crime seriously enough is there is a view it is a victimless crime. If anyone on the street was asked today, however, no one would say that it was victimless. The implications, be they in terms of banking or insurance, for the whole population have been significant. People have lost their homes, we have had to give the banks money over recent years and 33,000 people have had money stolen through the tracker mortgage scandal. We are all paying for the misconduct and failure of the bankers. We must ensure that those who are responsible for wrongdoing on such a scale are held criminally accountable and face the prospect of jail time and significant penalties. This Bill is a step towards that.

We also need to give the victims of banks and similar institutions the tools to take action in a civil manner. I commend the Multi-Party Actions Bill 2017 in that regard. I hope that the Government will also take action. We must ensure that there are real and accessible options for people to take civil actions against banks and financial institutions that have done wrong.

Deputy David Cullinane: On this special day, I join all of the Deputies who have already expressed their appreciation and love of Deputy Pearse Doherty for introducing this Bill. I wish to be associated with those remarks.

In 2015, the former chairman of the Irish Financial Services Regulatory Authority, IFSRA, Mr. Brian Patterson, gave evidence to the banking inquiry. His answers on accountability and oversight were something to behold. Mr. Patterson stated that the Central Bank operated under the principle of what he called "moral suasion" as the preferred way to keep checks on the banks. When he was asked to explain what was meant by "moral suasion", he said that it referred "to the eyebrows of the Governor", in that, "if you were having a conversation with the Governor and he raised his eyebrows" at you, it was the Governor's way of showing that he was displeased with the answer. Imagine if a raised eyebrow was enough for you, a Leas-Cheann Comhairle, to keep Deputies in check. Is it any wonder that the banks spent decades laughing at the regulators when the worst that would happen to them was the Governor of the Central Bank raising an eyebrow?

People are irked that banks and people in senior positions therein can blatantly lie. We had light touch regulation. We often hear the expression "regulators were asleep at the wheel," but they were not asleep. They knew exactly what was happening. They supported the free market as they saw it. Politicians were told at the height of the Celtic tiger that the banks should be left alone, there should be no State intervention, the market should be allowed to sort itself out and everything would be okay. This approach was supported at Government and regulatory levels. It was not that people were asleep at the wheel. They knew exactly what was happening and they let it happen.

This is a simple Bill that should not have needed an Opposition party to introduce it. Un-

fortunately, however, that was required because this Government has consistently proven that it has no answers to the issue of a lack of accountability and transparency. It does not care about the elites and those in the State who believe that they can do what they want and act, not in the interests of citizens, but in their own interests and the interests of profit. It takes parties like Sinn Féin to introduce Bills like this one. We appreciate the support that we have received from Deputies and the Government, although the Government is only supporting this because it does not have the brass neck not to support it. Nonetheless, we will take that support. We hope that the Bill does not just pass Second Stage, but goes right through and becomes law.

Minister of State at the Department of Defence (Deputy Paul Kehoe): I thank all of the Deputies opposite for their contributions on this Bill. I thank Deputy Pearse Doherty for tabling it for discussion. My colleague, the Minister of State, Deputy D’Arcy, was present for that discussion.

The Government supports the overall principle of the Bill but has reservations about its current drafting. I will summarise the issues with which the Government has immediate concerns, starting with the proposed criminal liability that the Bill seeks to impose and the legal difficulty that this presents in terms of the lack of clarity around the scope of the new offences. This does not appear to be in keeping with the principle of legal certainty in criminal matters and is a serious matter of concern to the Government.

Furthermore, the Bill’s proposal to extend the application of the administrative sanctions procedure to all persons who are under some duty to furnish information to the Central Bank, co-operate in providing that information or procure the provision of that information may bring into scope any employee of a regulated financial service provider, including those not involved in management or decision making, and would have wide-reaching implications.

Other areas of concern lie in the technical amendments proposed by the Bill, but these can be considered during further Stages.

As the Minister of State laid out at the beginning of this debate, a range of legislation has been introduced over the past number of years to enhance the Central Bank’s accountability and oversight mechanisms. The first of these changes was the Central Bank Reform Act 2010, which Deputies may recall. Following on from that, the Central Bank’s powers under the administrative sanctions procedure to administer sanctions in response to regulatory breaches by regulated financial service providers and persons concerned in the management of such regulated firms were significantly enhanced by the Central Bank (Supervision and Enforcement) Act 2013. Under that Act, the Central Bank acquired extensive powers to make regulations, including relating to areas identified as weak points in the post-crisis analysis, such as risk management, consumer protection, audit processes and lending.

As the Minister for Finance has stated numerous times, the Government is willing to consider any request from the Central Bank for additional powers, particularly in the context of the Central Bank’s tracker mortgage examination. To underpin this commitment, the Minister of State, Deputy D’Arcy, spoke of the engagement that is currently taking place between Department of Finance officials and the Central Bank to identify additional powers to increase the accountability of senior individuals within the banking system. This work takes account of the Central Bank’s response to the Law Reform Commission’s consultation on regulatory enforcement and corporate offences and will be in parallel with the Central Bank’s drafting of the section 6A report requested by the Minister for Finance “on the current cultures and behaviours,

and the associated risks, in the retail banks today, and the actions that may be taken to ensure that banks prioritise customer interests in the future". It is expected that the section 6A report will be furnished to the Minister in June 2018. The Government intends to use the outcomes of these work streams to introduce the statutory changes that are recommended.

A broader concern with the proposed amendments to Part IIIC of the Central Bank Act 1942 is that ill-considered extensions to the administrative sanctions procedure may lead to further legal challenges in respect of those procedures that are currently under way. Therefore, the Oireachtas must ensure detailed consideration of all of the provisions contained within the Bill to ensure they do not undermine the Central Bank's ongoing enforcement actions, particularly those relating to the tracker mortgage examination.

I am sure the Oireachtas will take account of Standing Orders that require the European Central Bank, ECB, to be consulted on legislative proposals that may impact on its competencies. Given that the ECB's single supervisory mechanism is responsible for enforcement actions for specific breaches of regulatory rules, I assume that consultation will occur with the ECB. I expect that the Government's forthcoming proposals will be broader and more effective in holding senior managers accountable for their actions and, importantly, inactions than the proposals set out in Deputy Pearse Doherty's Bill. As the Minister of State said, Deputy Pearse Doherty's Bill will be taken into account in that process but, as I outlined, there are a number of areas of concern in the proposed amendments that will require further examination and consideration. The Government, in agreeing with the spirit of the Bill, will not oppose it on the basis that it will continue towards ensuring that any changes to the legislation governing the Central Bank's powers are well reasoned and robust enough to withstand challenge. I thank the Deputies opposite for bringing this forward. It was a robust and interesting debate and we do not oppose the spirit of the Bill. We believe there are further changes that can be made to it.

Deputy Denise Mitchell: I welcome the Bill and I am delighted to see it before the House. Everybody recognises the importance of having in place tough legislation to deal with white-collar criminals. We see it too often. There is a huge gulf between the attitude of the State to criminals, such as thieves, and its attitude to those involved in white-collar crime. This attitude stems from a belief that white-collar crime has a less serious impact on victims. Tell that to the 33,000 families who have had their money stolen from them by the banks in the tracker mortgage scandal. These people suffered. It was not just a small increase in repayments on their homes. Many of these people saw their repayments reach such a level that they had to put their entire lives on hold. Many could not afford to put food on their tables. They were stretched to their limits. Imagine the huge stress this brought on them. Up to 100 of these families lost their homes as a result of what the banks did yet not a single person will be held criminally accountable for this disgraceful behaviour. It is about time bankers who blatantly lie to the Central Bank are held to account. It is totally outrageous. It makes my blood boil that many of these people are on enormous salaries and are working for institutions that are being bankrolled by the taxpayer, yet they have the sheer cheek to lie to the Central Bank. It is time to get tough with them once and for all and hopefully they will think twice about ever doing this again.

Deputy Dessie Ellis: In what other area of life could an institution deliberately mislead its customers or clients? In what area could it calculatingly and deliberately mislead those whom it promised to offer the best possible and friendliest service, a service it promised would be a reliable one in which the product offered would be the best one suited to their requirements? As in the scandals in insurance and tracker mortgages, the statements and promises seem to have been built on sand. In addition, the banks that are directly to blame for the tracker mortgage

scandals are metaphorically sending in the heavies when dealing with innocent clients they effectively scammed. Instead of showing shame and contrition they are strong-arming families. They are doing everything possible to prevent tracker mortgage holders getting proper redress and compensation. Through their lies and scams the banks have destroyed lives, families and communities. If the lies and scams of a person from Ballymun, Glasnevin, Finglas, Santry or Whitehall caused families to lose their homes, they would be down on them like a tonne of bricks. If someone from one of those areas blatantly stole money in the same arrogant and contemptuous way the banks did from their customers, they would soon find themselves before the courts being held accountable for their actions. It is no wonder the bankers display such arrogance and contempt for their clients and the Central Bank. They are not answerable for their actions. There is no sanction against the lies and the scams. This legislation will wipe the smiles from their faces. It will make them accountable for their actions, like any other citizen. It will right an anomaly that has allowed banks to feel invincible before the law. It will make bankers equal before the law just like any other citizen who engages in criminal actions. The message must be clear that white-collar crime does not pay and will be vigorously pursued like any other crime. No one is above the law.

Deputy Pearse Doherty: Gabhaim mo bhuíochas d’achan duine a thug páirt sa díospóireacht inniu agus a léirigh tacaíocht don Bhille. Ní labhair aon duine inniu nach raibh sásta tacaíocht a thabhairt don Bhille agus tá mé iontach buíoch as an méid daoine a labhair agus a phléigh go mion an t-ábhar atá idir lámha againn inniu.

I welcome the contributions from all sides of the House. There is support from all sides of the House for the legislation. The Minister of State and the Government have qualified their support. They say they support the Bill in principle but they really do not want to see this legislation go any further because they talk about a more holistic approach. I have said there is a need for a suite of laws to be brought in. I accept this is part of the solution; it is not the total solution but it does not mean it is not worthwhile. I am determined to pursue this legislation through Committee and Report Stages and through the Seanad, as I did when we lifted the six-year rule in the legislation I drafted, in order that it will make a real difference to people’s lives. We must move ahead with this Bill. Delay is not acceptable while thousands are being ripped off every day and bankers act with impunity. I do not have confidence that the Government will take the issue seriously. It talks about its seriousness and that it is considering two reports, one from the Central Bank and one from the Law Reform Commission. It is not serious about this issue and it cannot convince the House that it is.

The then Governor wrote on 18 August 2015 and told the Minister straight-up what was required. I will say exactly what he required. There was a lot of nitpicking at the legislation. I thank the parliamentary legal division for the support we got in drafting the legislation. The then Governor said in the last paragraph:

We propose that a general offending provision be implemented whereby across all regulated financial service sectors, not just insurance, senior personnel, directors and key office-holders, including the external auditor might be guilty of an offence where false and misleading information is provided to the Central Bank by a regulated entity which they represent where they knew or ought to have known that the information was false or misleading. In addition, this provision should be designated as a prescribed contravention pursuant to Part IIIC of the Central Bank Act 1942, as amended, so that there is a range of administrative sanctions available. In order to ensure the latter there needs to be made available administrative sanctions capable of being imposed on individuals for their actions. At

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the moment, a limitation exists whereby the contravention has to have been committed by the regulated entity. This structure effectively allows individuals to act without responsibility for their actions of lying or misleading.

That was a plea from the then Governor of the Central Bank in 2015 and we are asked to believe the Government is taking the issue seriously. We heard from the Minister when we previously raised this question that it considered it a number of times but it did diddly-squat about it. It is still not an offence to lie through one's teeth to the Central Bank, which is usually done, as the then Governor said, to cover up something else within the institution unless there was a specific request made for the information from the Central Bank. That is where the Minister and the Government are completely wrong.

They say they think it is important that the House is reassured that the Central Bank has significant powers to sanction regulated financial service providers and their senior managers for the provision of false and misleading information. That is not true. In the Governor's letter of two and a half years ago, he says this offence can only take place where the information is given in response specifically to a legally binding request. He goes on to say most of the interaction between the Central Bank and regulated entities and their staff was of a different nature and that for all other incidents of interaction, both formal and informal, there are at present no consequences for the individuals or entities where they provide false or misleading information. He says this lacuna should be corrected; why, therefore, does the Minister of State give false information on the floor of the Dáil? He is trying to pretend this is not a serious issue but they are lying to us. They have lied over and over again and the Governor says this in his letter, but the Minister of State says that, while he supports this legislation in principle, he does not want it to go any further.

The Government thinks our legislation goes too far and may impinge on the rights of the bankers who are lying through their teeth. The Government may avoid a vote but this will go to committee and it needs to go further as we need to get real. We need real action on behalf of all the victims. I ask the Minister of State to reconsider his position and not to put out wrong information to suggest the situation is not as serious as it is. There is a major lacuna in the law, but we found out about it not because the Government was upfront and told us, or because the Central Bank told us but because, after two different freedom of information requests, we found the secret correspondence between the former Minister and the former Governor. That correspondence pointed out that bankers were lying to them, but they could do nothing about it.

Question put and agreed to.

Central Bank (Amendment) Bill 2018: Referral to Select Committee [Private Members]

Deputy Pearse Doherty: I move:

That the Bill be referred to the Select Committee on Finance, Public Expenditure and Reform, and Taoiseach pursuant to Standing Orders 84A(3)(a) and 141.

Question put and agreed to.

Employment (Miscellaneous Provisions) Bill 2017: Order for Second Stage

Bill entitled an Act to provide for a requirement that employers provide employees with certain terms of employment within a certain period after commencing employment; to impose sanctions for certain offences; to further provide for a minimum payment due to employees in certain circumstances; to prohibit contracts specifying zero as the contract hours in certain circumstances and to provide for the introduction of banded contract hours; to further provide for prohibition of penalisation and for those purposes to amend the Terms of Employment (Information) Act 1994 and the Organisation of Working Time Act 1997; to amend the Workplace Relations Act 2015; and to provide for related matters.

Minister for Employment Affairs and Social Protection (Deputy Regina Doherty): I move: "That Second Stage be taken now."

Question put and agreed to.

Employment (Miscellaneous Provisions) Bill 2017: Second Stage

Minister for Employment Affairs and Social Protection (Deputy Regina Doherty): I move: "That the Bill be now read a Second Time."

I am pleased to have the opportunity to introduce this Bill to the House. It is being brought forward in response to the commitment in A Programme for a Partnership Government to address the problems caused by the increased casualisation of work and to strengthen the regulation of precarious work. The key objective of the Bill is to improve the security and predictability of working hours for employees on insecure contracts and those working variable hours. I know many Members of this House share my interest in workers' rights and will have strong views on the Bill. I look forward to hearing those views and debating the issues of concern to colleagues.

It is fair to say good progress has been made in recent years in our economic recovery in terms of creating new job opportunities, the majority of which are full-time positions. However, we must remember those who, not by choice, are in less secure arrangements and may not know from week to week what hours they will be working. This makes it very difficult for people to plan their lives outside of work. The Bill we are debating will significantly improve the employment protections for these people.

Ireland has a robust suite of employment rights which provide broad protections to all employees. We have modern dispute resolution structures in the Workplace Relations Commission and the Labour Court, which is easy to access for the employee and employers. We have the second highest national minimum wage in the European Union, and the Bill is intended to build on that strong foundation.

I took over responsibility for the Bill in September last when certain employment affairs functions transferred from the former Department of Jobs, Enterprise and Innovation to what is now the Department of Employment Affairs and Social Protection. It would be remiss of me not to acknowledge the work of those who came before me in this Bill's journey. In that respect, I acknowledge the work of the Ministers, Deputies Pat Breen and Mary Mitchell O'Connor, and also Senator Gerald Nash who, as Minister of State with responsibility for business and em-

ployment in the previous Government commissioned the University of Limerick to conduct a study of the prevalence of zero-hour contracts and low-hour contracts in the economy.

The Bill is some three years in the making. I think it is important for Deputies to understand the work that has gone into the Bill including, in particular, the extensive consultations that have helped to shape and focus it. This work includes the University of Limerick study and the public consultation that followed it. It also includes detailed discussions with the ICTU and IBEC over a period of many months. I thank the stakeholders who contributed to the development of this Bill at different stages of the process. These consultations have helped us to ensure the proposals contained in the Bill are balanced and fair to both employees and employers.

We must remember that this Bill will apply to all employers across all sectors of the economy. It is important, therefore, that we strike a fair balance between the respective rights and obligations of employees and employers. Our approach in the Bill is to try to ensure that where we are introducing new rights for employees or strengthening existing provisions in the law, the measures are proportionate and balanced by reasonable defences for employers, recognising the challenges faced by employers in running their business or providing their service. The vast majority of employers are good employers who treat their employees well and who meet their responsibilities under employment law. These employers have nothing to fear in the Bill. On the contrary, the Bill is aimed at tackling exploitative employment arrangements and those unscrupulous employers who do not respect even the most basic rights of employees.

The Bill addresses the following five key issues which have been identified as being areas where current employment law should be strengthened to the benefit of employees without imposing unnecessarily onerous burdens on employers. One is ensuring that employees are better informed about the nature of their employment arrangements, in particular their core terms, at an early stage of their employment. A new offence is being created where employers fail to comply with the new information requirements. A second issue is strengthening the provisions around minimum payments to low-paid, vulnerable employees who may be called in to work for a period but not provided with that work. A third issue is prohibiting zero-hour contracts except in limited, specific circumstances. A fourth issue is ensuring that employees on low-hour contracts who consistently work more hours each week than provided for in their contracts are entitled to be placed in a band of hours that better reflects the reality of the hours they have worked on a consistent basis over an extended period. A fifth issue is strengthening the anti-penalisation provisions for employees who invoke or try to invoke a right under these proposals. The Bill seeks to achieve its aims through appropriate amendments to the Terms of Employment (Information) Act 1994 and the Organisation of Working Time Act 1997.

I want to make a couple of important points about the Bill in response to some of the comments and media coverage that have emerged since the Bill was published. The first point is to clarify that the definition of employee will not change as a result of the Bill. The Terms of Employment (Information) Act 1994 and the Organisation of Working Time Act 1997, the two Acts the Bill proposes to amend, share the same definition of employees, that is, all workers on contracts of service. Therefore, the Bill is intended to exclude genuinely self-employed people. Currently, if an individual believes he or she is being denied employment rights appropriate to an employee, he or she may pursue a case to the Workplace Relations Commission, WRC. This will continue to be the case if the Bill is enacted.

The second point concerns the use of if-and-when contracts. The suggestion is that the Bill does nothing for people from being exploited by employers abusing if-and-when contracts.

That is not the case. On the contrary, each of the key measures I have outlined above, both individually and in the round, will also help protect people from being exploited by if-and-when arrangements.

I now propose to outline the main provisions of the Bill. The Bill consists of four Parts and 17 sections. For the convenience of Deputies, an explanatory memorandum has been published and it provides a summary of the provisions. Part 1 contains the Short Title, commencement provisions, interpretation and repeals. Part 2 amends the Terms of Employment (Information) Act 1994 and introduces a requirement that an employer must provide employees with a written statement containing five core terms of employment within five days of the commencement of employment. This Part of the Bill also provides for offences and anti-penalisation measures.

Section 5 removes the exclusion of employees who normally work less than eight hours per week so that such employees will be entitled to receive the written statements of their terms of employment that will be required under the amended 1994 Act. This is to protect employees on contracts of employment with low hours.

6 o'clock

Section 6 amends section 3 of the 1994 Act to require that an employer must provide employees with a written statement containing the following five core terms of employment within five days of the commencement of employment. They are the full names of the employer and the employee, the address of the employer, the duration of the contract where it is temporary or fixed-term, the rate or method of calculation of the employee's pay and the number of hours the employer reasonably expects the employee to work in a normal working day and a normal working week. This provision is a key element of the Bill and has been designed to ensure employees will be much better informed of their core terms of employment at a much earlier stage. Currently, employers are required to provide terms of employment within two months of commencement of employment. Furthermore, the amended section includes a new requirement that the written statement must include the number of hours which the employer reasonably expects the employee to work in a normal working day and in a normal working week. This is a significant change which has been designed to ensure employees will have much greater clarity and predictability about their daily and weekly hours of work. The remainder of the required terms of employment will continue to be provided within the current two-month period.

Section 7 deals with posted workers. It amends section 4 of the 1994 Act to require that an employer must provide employees who are required to work outside the State for a period of not less than one month with the written statement containing the aforementioned five core terms of employment required prior to their departure.

Section 8 sets out matters relating to existing contracts of employment. The section amends section 6 of the 1994 Act to provide that where an existing employee requests an employer to provide the written statement containing the five core terms of employment, the employer must do so within two months.

Section 9 introduces an offence for an employer who fails to provide the written statement of core terms of employment required within one month of commencement of employment. This section also makes it an offence for an employer who deliberately provides false or misleading information to an employee as part of the statement of core terms of employment. This section also provides for appropriate defences for employers. Creating an offence provision is

to act as a deterrent against employers who fail to respect the most basic rights of employees. Where the WRC inspectorate pursues a prosecution under this section, it is proposed that the director general of the WRC will not be permitted to progress a complaint with the same facts by referring it to an adjudication officer. This is to avoid the same matter being pursued through two separate arms of the WRC at the same time and is consistent with the approach taken under section 34 of the National Minimum Wage Act 2000. The ultimate sanction for employers who fail to provide a written statement of core terms of employment or who deliberately misrepresent what is on this “Day 5” statement is a class A fine, which is currently €5,000, or imprisonment not exceeding 12 months or both. However, the Bill also provides in section 17 that a WRC inspector may issue a fixed-payment notice in lieu of prosecution for less egregious offences under this section of the Bill.

Section 10 introduces an anti-penalisation provision into the 1994 Act. Penalisation is broadly defined in the section and includes threats of penalisation. It is important that employees believe they can exercise their rights under the Act without any repercussions. This is a new measure. Currently, there is no penalisation provision under the Act. If an employee believes he or she has been penalised for asking for a written statement of terms of employment or invoking any right under the Act, they may pursue a case to the adjudication division of the WRC.

Section 11 provides that an employee cannot seek redress unless the employee has been in continuous service of the employer for more than one month and provided that the employer has not been prosecuted for an offence under the 1994 Act with regard to the same matter. This is to avoid frivolous and vexatious complaints.

Part 3 amends the Organisation of Working Time Act 1997. Section 12 amends the 1997 Act to provide for the insertion of a number of relevant definitions, namely, “adjudication officer”, “collective bargaining” and “employment regulation order”.

Section 13 amends section 5 of the 1997 Act so as to relieve an employer from complying with the new “banded hours” provisions in exceptional circumstances, for example, emergency or unusual and unforeseeable situations beyond the employer’s control.

Section 14 replaces the existing section 18 in the Organisation of Working Time Act with a new section 18, which prohibits zero-hour practices in most circumstances. It provides that zero-hour practices are allowed in the following limited circumstances: in cases of genuine casual work, emergencies or short-term relief work to cover routine absences. In situations where employees are called into work but sent home without work, there will be a new minimum payment of three times the national minimum wage, hourly rate, or three times the minimum hourly rate in an employment regulation order. Employment regulation orders currently apply in the security and contract cleaning sectors. Employees who are “on call” will continue to be excluded from this minimum payment. The focus here is on low-paid employees. I want to ensure that where low-paid employees are called in to work but sent home again without work, they get a reasonable compensation payment. For example, if an employer calls an employee into work but then decides they are not needed, that employee would be entitled to three times the minimum wage, which is €28.65, every time that occurs. This is to discourage the unscrupulous practice of calling employees into work and then sending them home without work or more meaningful compensation.

Section 15 inserts a new section 18A into the Organisation of Working Time Act 1997. The new section deals with banded hours. It introduces a new right for employees who habitually

work more hours each week than is provided for in their contract of employment to request to be placed in a band of weekly working hours that better reflects the reality of the hours they have worked over an extended period. It also acts as a protection for employees from employers who flex up and down hours in an unfair way as a means of exercising control over employees. A reference period of 18 months is provided for the purpose of the section. While there was a range of views among stakeholders as to how long this reference period should be, a period of 18 months is sufficiently long to allow for the normal peaks and troughs of businesses, including those subject to seasonal fluctuations.

The section provides reasonable defences for employers to refuse an employee's request where the facts do not support the employee's claim; significant adverse changes have impacted on the business, for example, the loss of a contract or a very large client; emergency circumstances, for example, where the business has had to close due to flooding or other event; and where the hours worked by the employee were due to a genuinely temporary situation, for example, cover for another employee on maternity leave.

Where the claim is disputed or refused, the employee can refer it to the WRC for adjudication. Where the adjudication officer finds in the employee's favour, the redress will be that they are placed in the appropriate band of hours. There is no provision for any other compensation because I believe this will avoid any vexatious or frivolous claims with regard to this new provision. An appeal against an adjudication officer's decision will be to the Labour Court, as applies in other employment rights cases. Enforcement of a WRC or Labour Court decision will be by way of a District Court order.

The section will not apply to an employer who has entered into a banded-hour arrangement through an agreement by collective bargaining with its employees. I recognise that in some sectors, the retail sector in particular, banded-hour arrangements have been agreed between the employer and employees and have been working well. I am sure Deputies will agree that we should not interfere with these arrangements.

Section 16 replaces the existing section 26 of the Organisation of Working Time Act 1997 to strengthen the protection against penalisation of employees who wish to invoke their rights under the Act. It updates the current penalisation provision to extend the range of circumstances where an employee can claim adverse treatment. If an adjudication officer finds that an employee has been penalised under the Act, they may award up to two years of gross salary.

Part 4 amends the Workplace Relations Act 2015. Section 17 allows an inspector of the WRC to issue a fixed-payment notice where the inspector has reasonable grounds for believing a person has committed an offence, that is by not providing the written statement of core terms of employment within the prescribed time or by deliberately providing false or misleading information as part of the statement. The WRC already issues such fixed-payment notices in respect of certain other employment law offences. These notices are an effective way of securing compliance with the relevant provisions and are an efficient alternative to prosecution.

I take the opportunity to advise the House that I propose to bring forward on Committee Stage an amendment to the Minimum Wage Act 2000. I have recently received recommendations from the Low Pay Commission with regard to the sub-minima rates of the national minimum wage and I am pleased to say that the Government yesterday agreed my proposal to accept these recommendations. The recommendations are to abolish the existing training rates which are rarely used and to simplify the existing age and experience-based sub-minima rates.

That will make it administratively easier for employers to use the sub-minima rates. It will also limit the application of sub-minima rates for employees, which is a positive outcome for all parties. I trust that this amendment, as recommended by the Low Pay Commission, will be supported by all sides of the House, as it seeks to improve the position of low-paid workers, as well as reducing the administrative burden for employers.

I am also taking the opportunity in the Bill to introduce an amendment to section 8 of the Unfair Dismissals Act 1977 to allow for stronger enforcement of the legislation by the Workplace Relations Commission. At present, adjudication officers of the WRC do not have powers to compel witnesses to attend a hearing to give evidence in cases taken under the Unfair Dismissals Act 1977. The WRC has similar powers of witness compellability under other employment rights legislation and it is my intention to remedy this situation by putting unfair dismissals legislation on the same footing as other employment rights legislation.

The Bill is the culmination of three years of work. I think all reasonable commentators and stakeholders will recognise that it as a genuine attempt to improve the law in this area. I hope they also appreciate the difficulties inherent in trying to strike what is at times a delicate balance between the respective rights and obligations of employees and employers. Most importantly, I believe the balance struck in the Bill is fair for all concerned. I look forward to hearing the Deputies' views and working with them to progress this important legislation through the Houses as quickly as possible. I am proud to commend the Bill to the House.

Deputy Willie O'Dea: I welcome the introduction of the Bill. One of the fundamental cornerstones of the profit theory is the higher the risk, the greater the reward. In other words, a person who risks his or her money in a highly volatile investment usually expects a greater reward as a result of taking a greater risk. This principle seems to have been turned on its head in employment practice throughout the western world. Today it is generally those who are paid least who face the greatest employment risk, while those who are paid most face the least risk.

Unemployment in Ireland has fallen in the past ten years. However, in many cases the new employment which replaced the employment that was lost is precarious. That means that it is insecure, uncertain and often low paid, in which the risk is shifted from employers to workers. This takes the form of bogus self-employment, to which I will return later if I get a chance, zero-hour contracts, if-and-when contracts in the so-called gig economy, as well as changes in the working hours of those in more common forms of employment. While the quantity of employment has undoubtedly risen in recent years, the quality of employment has fallen drastically in tandem in the same period.

The precise number of employees on precarious contracts in Ireland is unknown, but I suspect it is a moveable feast. However, some information can be gleaned from statistics compiled by the CSO. Ireland has the second highest level of underemployment in the European Union after Spain. Some 7.5% of employees in Ireland report seeking additional hours; the EU average is only about half of that rate. In the past ten years the number classified as underemployed in Ireland has increased by over 50%. This compares with growth of just over 30% across the European Union during the same period.

This is not a problem at the fringes of the job market. Individuals on precarious contracts work in all sectors and all occupations. Casual labour has traditionally been a feature of the construction and hospitality sectors, but it is now rapidly growing in other sectors, including the healthcare and early child-care sectors. The advent of social media has placed pressure on

the traditional media, which is reflected in the fact that an increasing number of contracts of individuals employed in the media can be described as precarious. A recent study estimated that up to 40% of third level lectures are now being given by lecturers on atypical contracts. The same increasingly applies in the IT sector. Therefore, the practice is widespread. Needless to say, this has negative consequences. It certainly has negative consequences for employees. I argue it also has negative long-term consequences for employers. For employees, the position is obvious. They cannot afford to get sick, or to have a car crash or a family emergency. If they have any of these things, they will not be working or earning. They are often in a permanent state of limbo, at the whim of their employers. Their lives could be said to be permanently on hold. They cannot plan their lives and certainly not their finances. In many cases, they cannot access credit because they cannot prove how many hours a week they are working because there is nothing to indicate it, a point to which I will return, but that is not all. Generally, they are lower paid and have lower job satisfaction. They enjoy less on-the-job training and are considerably less likely to be promoted. All of the research shows that they form the category at the highest risk of poverty in the population.

I have also seen a huge amount of anecdotal evidence of the consequences for their mental and physical well-being. Many studies have shown that the negative effects of job insecurity on physical and mental health can be as great as or greater than the effects of unemployment, thereby giving the lie to the old canard that it is better to have any job than no job. All of this is underpinned by a system of distorted incentives, created no doubt in good faith. It is something at which we will need to look as we go through the year in dealing with social welfare issue.

This segmentation of work has given rise to growing income inequality across the world, as the gains from economic growth are increasingly being divided between those in full-time secure jobs and those who are not. High levels of income inequality will in the long term threaten growth and social stability. The sense of injustice that has arisen from increasing income inequality and the sense of insecurity which has arisen from the increase in precarious work practices have fuelled populist movements across the world.

In reading the documentation surrounding the committee's report on its discussions on the previous Bill I noticed that IBEC had sought to construct a completely alternative narrative. I understand it is seeking to argue that nowadays people want to work like this because they can look after their families or they need more leisure time. It has suggested they are very lucky that employers have now reached the stage where they are able to facilitate them and that we are all one big happy family, but that is not the reality. It is the reverse of the truth. The reality is that for the overwhelming majority of those on precarious contracts, their conditions are not chosen but imposed.

I said there were significant costs for employers and there are. The cost of administering all of this tends to make a business less competitive. There is obviously lower employee commitment and staff co-operation. Teamwork is also lower. Much of the research has shown that while there may be some short-term savings for employers, they are more than offset by long-term losses in productivity.

During the debate on the committee's report the then Minister of State, Deputy Carey, claimed that the Government Bill was infinitely better than the one debated by the special committee, even as amended by it. I have read the Bill before the House as carefully as I can and the validity of that statement is not immediately obvious to me.

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I want to raise a number of issues with the Minister, the first of which is the 18-month reference period. In her opening contribution she stated that one of the things that underpinned the legislation and had helped to shape it was the study carried out by the University of Limerick. To the best of my recollection, the study recommended a reference period of nine months. I think the committee then agreed on a compromise period of 12 months. Today a period of 18 months has been presented to us. I do not see any logic to it. The normal budgetary cycle in which people prepare their accounts, tax returns, etc. and plan their budgets is 12 months. The Minister mentioned the need to account for seasonal adjustments. One 12-month period contains all the seasons. One does not have to go past a 12-month period to measure seasonal adjustment. On the other hand, I suggest to the Minister that 13 months might be an appropriate period. Somebody has to be working for at least 12 months to be covered under the terms of the Unfair Dismissals Act. To ensure those people are protected, a period of 13 months would be much more logical.

I have a real problem with the bands as proposed by the Government. Only four bands are proposed and they are very wide. I welcome the introduction of the one-hour to ten-hour band. That being said, we must bear in mind that precarious contracts give unscrupulous employers immense power to control and manipulate their workforce. The larger the bands, the greater the capacity for manipulation. For example, take a situation where somebody is in the 11- to 24-hour band. If that person is proving troublesome or is acting in such a way that the employer would prefer if he or she is not around, if that person is at the top end of the scale, the employer can move him or her gradually towards the bottom end of the scale which would result in a tremendous penalisation. More than half a person's income can disappear.

The Minister will say there are anti-penalisation measures in the Bill to deal with that. We will argue this on Committee Stage and put forward the appropriate amendments. I do not think the anti-penalisation measures do what they say on the tin. They are quite weak. They would need to be strengthened and the bands would need to be narrowed. Another reason to argue for a narrower set of bands is that if a person, who works 20 hours per week in the 11- to 24-hour band, is seeking credit and goes to the credit union for a loan, all he or she will be able to produce is evidence that he or she is working in a band of between 11 and 24 hours per week. In other words, all the person giving the loan will be sure of is that the person seeking it is working for at least 11 hours per week. Increasing the number of bands would not completely eliminate that problem but it would certainly mitigate it. Take the example I have given. If the band was up to 16 hours, then 17 to 24, that person would be able to show that he or she was working for at least 17 hours per week. That has to be seriously considered.

I received some documentation today from the Mandate trade union which contains some of the terms under which people are already working by way of collective agreements. Despite what we have heard from IBEC and others, those arrangements are working very well. It is very instructive to read them and to look at the bands. The bands are generally for approximately five hours, not 11 or 12 hours. We will have to look at that very closely.

There are a number of other matters which are more Committee Stage matters but I would like to refer to them now. I have a difficulty with the exclusion of casual work. The term "casual work" is not defined in the Bill and if somebody doing "casual work" is not covered by the terms of the Bill then the protection and rights afforded by the Bill do not extend to him or her. If something as wide as casual work is excluded without any definition, it will enable certain employers to say that they are classifying some work as casual work and, therefore, the people doing it are outside the terms of the Bill. In fact, they could even go to the extent, as sometimes

happens with bogus self-employment, of getting people to sign a declaration that work is casual work. I do not think the anti-penalisation measures sufficiently deal with that issue.

I welcome the extension of the information provisions, but I am not convinced that a criminal offence is required. Generally speaking, employment law has functioned reasonably well without the necessity of importing criminal law into it. The solution would be to make the civil enforcement process more transparent and much more efficient, which would involve employing extra personnel at the Workplace Relations Commission and various other bodies dealing with this area. A law which states somebody can go to jail for 12 months if he or she does not provide information in time seems a little disproportionate. I have no overwhelming objection to it, but I think that the matter could be more easily resolved through changing some of those structures and procedures to which employees have to have resort.

The Bill claims to practically eliminate zero-hour contracts and if-and-when contracts. The only way to really eliminate zero-hour contracts and if-and-when contracts is to guarantee a minimum amount of hours of work. It need not be very many - a couple, three or four. That is not provided for in the Bill and we have to look at that.

There is a glaring gap in the Bill in that it does not seek to do anything about the phenomenon of bogus self-employment. I recently had a meeting in Limerick with tradesmen who work in the building sector. They are building houses for the State. Their employer called them in about two weeks and said that they were self-employed from Monday on, that they were independent contractors, responsible for their own tax and PRSI, and that they did not have any rights relating to unfair dismissal, notice or minimum terms, things which had been built up painstakingly over many years. It is amazing that this can happen in this day and age. To take a simple example, there is a distinction in a tax law between how an employee and a self-employed person are treated. As Deputy Willie Penrose will probably be aware, there is a whole raft of case law, fine distinctions and detailed judgments on what an employee is and what self-employment is, yet we are in a situation in this country where an employer can get out of bed on Monday morning and decide, at the stroke of a pen, that a person is self-employed. That is not acceptable. I note the recent joint report by the Department of Finance and the Department of Employment Affairs and Social Protection. I dismiss it as spin. We all know the figures and have plenty of anecdotal evidence of the growth of this phenomenon. It is a scam which is costing the State a lot of money. The Departments' joint report estimated that it was costing €60 million a year. It is a multiple of that figure, about which there is no doubt.

I have a question for the Minister. If somebody is entering into a precarious contract with part-time hours or whatever else, the sort of person the Bill has been designed to deal with, and the employer says there is a job but the person must sign a piece of paper stating he or she will be self-employed, does that render the legislation null and void where it relates to that person?

Deputy Regina Doherty: It is against the law.

Deputy Willie O'Dea: Employers are getting away with virtually eliminating all the other rights which, as I have said, have been built up painstakingly over decades. A simple expedient like that could mean that the Bill is worthless. I know that Deputy Mick Barry has a Bill to deal with this phenomenon. I have not had the opportunity to read it yet, but we will have to think seriously about amending this Bill along those lines because, with all due respect to Deputy Mick Barry - I am sure his is an excellent Bill - but in my experience, Private Members' Bills, however heavily supported or well-intentioned they are, have a habit of disappearing into the

Bermuda triangle. I am not naive. I know that legislation could not be devised tomorrow that would have the powers of a time machine to take people into the past where employment was more secure and people could work all their lives and finish up with a defined benefit pension. Everything has a context and the context now is different, but this new context has opened up an opportunity to exploit employees in a very unfair and unjust way. We have an obligation to legislate as well as we possibly can to prevent that from happening. The evidence of exploitation is all around us. I have seen it myself. I am sure every Member of this House has had people visit his or her clinic giving examples of it. The people who are being exploited are our neighbours, friends and our constituents and, in some case, members of our families. We have an obligation to them and a moral obligation to the workforce as a whole to ensure that changes in the economic climate cannot be allowed to create a situation whereby they can be used as cheap disposable labour.

Fianna Fáil will support the Bill on Second Stage, but we will be requiring it to be substantially amended on Committee Stage.

Deputy John Brady: I am sharing time with Deputy David Cullinane.

An Leas-Cheann Comhairle: Is that agreed? Agreed.

Deputy John Brady: On more than one occasion, the Minister, Deputy Regina Doherty, has told us that zero-hour contracts are not prevalent in Ireland. What then does the Minister call a situation where part-time workers have no security of hours from one week to the next and where they are expected to work at the drop of a hat if-and-when their employer provides them with hours? This is the same premise as a zero-hour contract. There are people working part-time with regular hours, and that is fine, but there are also people working part time on an if-and-when basis. They may as well be on a zero-hour contract because they have no security of hours and, therefore, no security of income. They have no idea, week to week, if they will be in a position to pay their rent or any of their many bills. Precarious work, low hours and if-and-when contracts make life impossible for many workers in the State. They prevent people from being able to plan beyond one week or seeking financial assistance through a loan, let alone dream of applying for a mortgage. They prevent people being able to retain the working family payment, formerly the family income supplement, FIS.

The Minister has said the aim of the Bill is to strengthen rights for workers on insecure contracts and those working variable hours but it will not do that and for three reasons. The Bill does not ban zero-hour contracts in their entirety and, therefore, it does not ban them at all; it gives employers 18 months, plus two months, to make a decision as to whether to place an employee on weekly bands, which means an employee is left waiting almost two years for a basic contract to reflect actual hours worked over a consistent time period; and the bands are far too wide and unworkable. They are untested. Rather than looking to bands that work, such as those in place in Penneys and Tesco, the Minister has created her own and they are ludicrous, to say the least. On the first weekly band, which is one hour to ten hours, one hour is not a band. The very minimum should be three hours. Under the Bill people in a weekly band of 11 to 24 hours may only be given 11 hours of work in any given week. There is a huge difference between 11 hours per week and 24 hours per week. It represents a massive difference in income for a household. The same can be said for someone in the 25 to 34 hours bracket. Mandate has recommended a gap of five hours, at most, between hours per band. The weekly bands put forward in the Bill introduced by my colleague, Deputy David Cullinane, start at 11.5 hours as opposed to the one hour proposed in this Bill.

Mandate, which represents many of the workers the Minister says she wants to protect, has said the Bill will not protect workers from exploitative contracts and abuse of power. This is not simply a case of employers reducing hours for some workers week to week, some employers are blatantly abusing their power in that regard. We have heard the real life experiences and the consequences of this for workers. I am sure the Minister, too, has heard many real life stories from workers in precarious employment across the State. One Dunnes Stores worker who bravely told of her own experience recalled seeing staff who were sick refusing to go home because they feared would be penalised the following week with reduced hours. She went on to say the insecurity of hours leads to burnout and stress as well as mental torture for people who know they are the main breadwinner in their family, many of whom are being given only 24 hours work in a particular week. Another worker on an if-and-when contract told how when a full-time employee left the store she worked in, the employer hired another part-time worker, also with no guaranteed hours, instead of giving her extra hours. These workers have been abandoned by the Government.

During a committee meeting last year on the heads of the Bill, I raised concerns as to the possible unconstitutionality of a particular section of the Bill. This section sought to make it an offence for an employer to ignore the Labour Court's ruling when, of course, the Labour Court does not have the power in making a ruling on a point of law. I welcome that the Minister has listened to the concerns I raised, despite dismissing them at the time. The Bill now ensures that any complaints made by employees will be examined by an adjudication officer in the Workplace Relations Commission. The Minister now needs to listen to Sinn Féin and others in regard to the three issues I specifically mentioned. It is beyond comprehension that the Government would commit in the programme for Government to tackling the problems caused by the increased casualisation of work that prevents workers from being able to save or have any job security and then, in response, introduce a Bill that fails to prohibit zero-hour contracts and introduces an 18-month look back period and weekly bands which are far too wide. Based on these three issues, the Bill fails to comprehend the very issues that the Minister has already recognised and acknowledged.

Sinn Féin will not oppose the Bill on this Stage as we accept the over-arching principle of it. It is unfortunate that the Government is refusing to allow Sinn Féin's Banded Hours Contract Bill to progress through the legislative process in order that it can progress this Bill. Sinn Féin will submit numerous amendments to the Bill on Committee Stage, and we will consider amendments from other Deputies, to ensure it will do what it needs to do. There are workers relying on us to do the right thing and ensure legislation is put in place to deal with all the complex issues in this area.

I look forward to engaging further on the Bill on Committee Stage. I have listened to many organisations which have different opinions from the Minister who mentioned that the drafting of the Bill had been a three-year process. The Minister has named numerous organisations that she has consulted, but she has not genuinely listened to them. If she had, she would have taken on board all of their views and concerns and ensured they were addressed in the Bill.

Deputy David Cullinane: It is welcome that we are at least having a discussion on the Bill that will go some way towards addressing the issues arising from low-hour contracts and low-paid jobs. As An Teachta John Brady said, I sat where he is sitting almost a year ago and proposed a Bill that would have gone much further and dealt in a more substantial way with low-hour contracts. That legislation sought to implement the recommendations made in the University of Limerick report, made on the back of a study which had been commissioned by

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the former Minister of State with responsibility for job creation. I was taken aback by what I would describe as the viciousness of the responses of the two Ministers who responded on the day. They gave me an insight not only into the thinking of Fine Gael and the Government but also of senior officials in the Department who would have had to sign off on the speeches made. It was quite incredible to hear some of the responses and some of the officials' reasoning as to why the Bill could not proceed.

As it turned out, we had a very good hearing at the Joint Committee on Jobs, Enterprise and Innovation. I attended two sessions, at which we listened to a range of groups. Notwithstanding the very negative comments made by the employers' organisations, to which I will get in a few minutes, the vast majority of delegates supported the broad thrust of what we were trying to achieve and made recommendations which resulted in a substantial report. A number of amendments were proposed. Had they been taken on board, our Bill would have been much stronger and more robust. It would have done exactly what was necessary for low-paid workers. Despite the viciousness of, and opposition from, the Government at the time, lo and behold it brought forward its own Bill. Of course, it does not go far enough. The bands and exemptions are too broad. The look-back period of 18 months which was and is being considered was seen as too long, but at least the Government recognised that something needed to be done. This is a considerable step forward from where it was when we first introduced our Bill.

In the past few days we have seen the highest rent levels ever recorded in the State. We are discussing the issue of banded hours which employers' groups have labelled as dangerous and unnecessary. This is the type of *Alice in Wonderland* world in which we live today, in which decent work and secure hours are seen as evil, while housing and rent crises are championed as the efficient joys of a functioning free market.

I have listened to criticism expressed by the employers' groups of even the Minister's weak Bill which I do not believe will make much of a difference. It gives us an insight into how the employers' groups think and regard employees, most especially those in low-paid jobs. It is a matter of forgetting about their rights and entitlements. The thinking is that it does not matter and that is not really a worry if workers are being treated unfairly or shabbily as long as the employers can make a profit and maximise their returns. This thinking does not reflect my experience of the vast majority of employers who are decent and want to do the right thing and look after their employees. The best employers and most efficient companies are the ones that look after their workers, treat them with respect and afford them their proper entitlements, rather than treating them in the way that companies such as Dunnes Stores and some of the big multiples in the retail sector have treated their employees in recent times. The position of the employers' groups which certainly engaged with the sectoral committee and with which I engaged is out of kilter with that of the vast majority of employers. Certainly, they are not representative of the vast majority who believe in dignity at work and fairer hours. They believe that if a person works for 30 hours per week for a year, two, five or ten years and is still stuck on a five, ten or 15-hour contract, it is not fair and should be changed.

My colleague talked about the level of engagement of the Minister's Department and office. I acknowledge that this issue was dealt with by previous Ministers. The Minister has engaged with the ICTU and I assume she has also engaged with employers' groups for which I commend her. I met Ms Patricia King and her officials from ICTU last week. An Teachta John Brady and I will meet ICTU representatives again tomorrow. I had a telephone conversation with Mr. John Douglas, the general president of Mandate, the union that represents the workers in question. What the representatives want is a Bill that will work and do exactly what it says on the tin. It

does not matter whether the amendments are supported by Sinn Féin or Fianna Fáil; once the Bill does what it needs to do, we will support it. Even if it does not go as far as we want it to go, we, in Sinn Féin, will support it if it is better and makes it easier for those on low-hour and if-and-when contracts. We will examine amendments being suggested by the ICTU. We also have our own views on issues, on which we will engage with the Government.

The problem with low-hour contracts - I do not really have to remind the Minister because I am sure the unions with which she engaged will have told her - is the level of control given to an employer. If an employee steps out of line and does not do what he or she is told, the 30 or 40 hours he or she has been getting, possibly for years, may be taken from him or her. This might be because he or she has asserted his or her rights or because he or she might not have done exactly what the local manager, in a shop or otherwise, wanted him or her to do. The contracts give far too much power to employers, resulting in an imbalance in the workplace.

I held a briefing in the audiovisual room on this issue. A Dunnes Stores worker told us that he had complained about a fire exit being blocked by stacked pallets and his manager cut his hours from 40 hours per week to ten for six months. It was punishment because he had not done what he was told to do, even though he felt what he had been told to do was not the right thing to do. He said his wages were down by three quarters, or more than €300 per week. One needs a set number of hours to obtain family income supplement. The family income supplement payment of the individual in question was also cut, which had a massive impact on his ability to provide for his family. There are hundreds of cases like this that we could rehearse for the Minister. Real people in real-life circumstances experience these circumstances on a daily basis.

The one point I made when I addressed the Joint Committee on Jobs, Enterprise and Innovation was that, notwithstanding whatever faults the Government saw in our Bill, if we could collectively agree in this House that where an employee was working a set number of hours per week for a set period - we will debate the appropriate look-back period on Committee Stage - it should be reflected in the contract. In the 21st century, that is an entitlement every single worker should have. For the Minister's officials, the Minister or me - our jobs are precarious in many ways - there is always some certainty. For many of the workers in question, there is not the certainty they deserve and need. What we need to do is support workers as best we can and put in place legislation that will achieve what needs to be achieved. We need to ensure unscrupulous employers who comprise the minority do not win and are not able to exploit workers. Since they sometimes get away with exploiting workers, they might see the practice as giving themselves a competitive advantage over smaller shops or multiples that do the right thing. Therefore, we must create a level playing field and do in this House what we need to do, that is, set a legislative floor to put in place the minimum entitlements and supports workers need. If we do our job, we will minimise the ability of unscrupulous employers to exploit low-paid workers in their workplaces. If that is the outcome of this process and the Minister is in the business of working with us and accepting amendments, we can get to a point where we will have a Bill that will be fit for purpose and do exactly what it should do. My party is committed to doing that, notwithstanding the fierce criticism we received from previous Ministers in the Department. We are big enough to put that to one side as we are here to do the right thing by those whom we represent. We will work constructively with the Minister. An Teachta John Brady will work with other Members of the House at the Select Committee on Employment Affairs and Social Protection where the Bill will progress. If we can get to a place where we will have a Bill that will improve the lot of those on low-hour and if-and-when contracts, that will be a good day. What we cannot say is that we banned zero-hour contracts because that is not

what the Bill will do. It addresses an issue in relation to if-and-when contracts; it will not ban zero-hour contracts. We must collectively be honest with the people in what it is we are and are not doing. We will work constructively with everybody in the House to get to a place where we will have a Bill that will improve the lot of those stuck on low-hour contracts who make up the majority of low paid workers in the State.

Deputy Willie Penrose: On behalf of the Labour Party, I welcome the opportunity to contribute on Second Stage of the Employment (Miscellaneous Provisions) Bill 2017. Like the Minister, I acknowledge the commitment, drive and focus of my colleague, Senator Gerald Nash, who, when he was Minister of State at the Department of Jobs, Enterprise and Innovation, ensured a study of the prevalence of zero-hour contracts among Irish employers and their impact on employees was conducted in a most comprehensive and laudatory fashion by the University of Limerick which produced an excellent report. I, therefore, welcome the introduction of the Bill, in so far as it goes, and most of its contents, but there are some missed opportunities to strengthen the law further in this area.

Like the ICTU and others have said and as outlined by many speakers, we, in the Labour Party, also subscribe to the view that the Bill is less than perfect. In our view, it requires refinement and amendments, some of which my colleague, Senator Gerald Nash, outlined yesterday in the doorstep interview he gave. Nevertheless, it would be churlish not to say there is a significant intention behind the Bill, which is welcome. The Bill is aimed at improving conditions for workers in precarious employment, but, as it stands, it is significantly and deeply flawed.

Some aspects of the Bill are important for workers who in their working lives are faced with insecure and precarious work. Even a cursory view of the Bill clearly highlights that the prohibition on zero-hour contracts excludes casual workers. Surely all workers, casual and otherwise, should be included and treated the same. The Irish Congress of Trade Unions has noted, in particular, that the provision to pay a worker required to report for work for a minimum of three hours, whether he or she is required to work, is in line with the recommendation made in the University of Limerick report. Congress has indicated that the minimum payment for working such hours should be at the applicable hourly rate, rather than the prevailing national minimum wage or ERO rate as set out in the Bill. Likewise, the provisions relating to banded hours must clearly be revisited and reviewed. Furthermore, the Bill needs to be strengthened to ensure workers will not be penalised for invoking their rights under legislation. The hole in the bucket from my perspective of the Bill is the abject failure to deal with the concept of if-and-when contracts. It does nothing in that regard. Notwithstanding what the Minister said, as a barrister, I read the Bill inside out and cannot find anything to do with if-and-when contracts.

I am aware of the commitment in the programme for Government to tackle the problems arising from the increase in the casualisation of work. There was clear evidence of employers increasingly having resort to atypical work - short-term and short working hour contracts - especially in the hospitality, retail and health care sectors. It started in the period before the recession and continued during it. It prompted the then Minister of State, now Senator Gerald Nash, to commission the University of Limerick report. My colleague, Deputy Brendan Ryan, who has an interest and expertise in this area, was instrumental in having the report debated at our parliamentary party meetings.

I am also aware that many of the employer organisations indicated that such contracts also potentially suited some employers and employees. From an employer's perspective, I note that they advocated that such contracts were clearly useful in providing flexibility by ensuring

employees would be available when needed to meet the needs of a particular business which clearly could reduce the payroll costs of an employer. For some employees who required flexibility for the purposes of education or meeting other commitments they said zero-hour contracts might have been beneficial. Leaving aside these weak arguments, there is no doubt that zero or low-hour contracts had a significant negative impact for many individuals, including low and unpredictable working hours, clearly unsustainable levels of income, difficulties in managing their work-life balance and problems with child-care arrangements and lack of notice of shifts.

What was noticeable from the findings of the University of Limerick review was that zero-hour contracts were not resorted to extensively in Ireland. A lot of speakers get mixed up between zero-hour contracts and if-and-when contracts. There is a difference. One difference is that zero-hour contracts attract some of the benefits of the corpus of employment legislation, whereas if-and-when contracts attract nothing. There is a significant difference when one goes into the Labour Court, as I did previously. That is an important point to make. There is evidence of employers resorting to if-and-when contracts, which, like zero-hour contracts, involve non-guaranteed hours of work. The fundamental difference between zero-hour and if-and-when contracts is that individuals on zero-hour contracts with an employer are contractually required to make themselves available for work, whereas those individuals on if-and-when contracts are not contractually required to make themselves available. If-and-when hours take different forms in employment contracts. In some all hours offered to an individual are on an if-and-when basis. In others there is a hybrid arrangement, whereby an employee has some guaranteed hours and additional hours are offered on an if-and-when basis. That is why I said this was a very critical issue.

The University of Limerick found that the key factors which were driving the use of if-and-when contracts included: increasing levels of work during non-standard hours; a requirement for flexibility in demand-led services; the absence of an accessible and affordable child care system; current employment legislation and the particular resourcing models for education and health services. Trade unions and others have pointed to the significant negative implications for individuals working if-and-when hours. They include: unpredictable working hours in terms of the number and scheduling of hours; unstable income and difficulties in accessing financial credit, as outlined by Deputy Willie O'Dea; a lack of employee input into the scheduling of working hours; employment contracts which do not reflect the reality of the number of hours worked; insufficient notice when called to work; being sent home during a shift; and a belief among individuals that they will be penalised by their employer for not accepting work. The Minister is trying to deal with that issue. Other implications include difficulties in accessing a range of social welfare benefits which is another headache and, in some cases, poorer terms and conditions.

Elsewhere in Europe working hours are regulated by legislation and collective agreements. We have some collective agreements and want to ensure they will continue to work with trade union input. There are no zero-hour contracts in a number of countries. Where zero-hour-type practices are regulated, some countries have placed limitations on their use such as time limits. We must acknowledge that many of the recent and current employment and labour regulations have been introduced in response to EU directives. The reason we must be very careful is, from a legal perspective, a critical element for an individual is the analysis of the type of contract on which he or she is engaged and what the classification will be. That is crucial because contracts of the if-and-when variety are not likely to attract the protections offered in the corpus of employment legislation which are exceedingly important in vindicating and advancing workers'

rights. Thus, in summary, establishing the employment status of an individual is key. In Ireland the courts have adopted from UK law and advanced the centrality of the concept of mutuality of obligation. That was evident in the case of *Barry and Others v. The Minister for Agriculture and Food* in 2008. The case clearly established that mutuality of obligation was the first essential test of the existence of a contract of employment, as referred to by Deputy Willie O'Dea. That is absolutely crucial.

7 o'clock

The Bill, as it stands, is flawed. I say that because it fails to offer any protection or relief to a growing cohort in the workforce which is effectively debarred not just from the remit of the Bill but also from the entirety of employment protection law. I refer to those workers who are being required in growing numbers to sign dodgy if-and-when contracts. As Deputy David Cullinane said, the vast bulk of employers are honourable decent people who want to do the best by their employees. Of course, employment is a two-way relationship and there is mutual recognition of one another's rights, obligations and responsibilities. Such relationships establish a good workforce and everyone wins. They produce a win-win. The problem is the dodgy employer is always on the look-out or on the make and this is the type of thing we want to stamp out. My late uncle used to say a builder never got rich on the materials that went into the building but rather on the back of the people working on the building. He had strong socialist beliefs and he made that point from the time I was on his knee talking to him.

As matters stand, the concepts of casual employment and continuous employment are mutually exclusive. The difference is an important one. A casual employee will never accumulate the necessary minimum period of continuous employment that ensures statutory protection under our employment law framework, including the provisions in this Bill. That is the point - they will not gain anything.

I have studied this carefully from the perspective of trying to determine the legal rights. This gap creates a loophole that can be can be exploited by employers. If employers can impose terms and conditions that, in effect, casualise the workforce, then workers fall outside the protection of employment law. They are put at risk of job insecurity, limited integration in the business, low motivation, low job satisfaction and entrapment in a succession of short-term low-quality jobs with little or no social protection. We must end this exploitative practice but this Bill fails to do so.

The Bill is being debated in the context of the decline of standard employment relationships and increasing atypical work. Some changes are inevitable. We accept some changes. Some may be positive or welcome. However, we have to be careful of where non-standard terms and conditions can be imposed on vulnerable and low paid workers and those with little protection. That is where we have to focus. Conditions of flexibility can become conditions of insecurity and can become permanent. That is the significant issue.

Women are over-represented in non-standard employment sectors that are poorly-paid, insecure or outside or at the edge of our employment protection laws. Employment policy has to strike the right balance between the need for flexibility and adaptability by enterprise and the rights of workers to job security - in other words, the right to a basic level of predictability in the terms and conditions of work.

Section 18 of the Organisation of Working Time Act 1997, referred to by the Minister, deals

with workers who have a contract requiring them to make themselves available for work. The section sets out a floor of minimum pay entitlements for someone whose actual hours in a given week do not match up to his or her hours on call.

Compensation and various other measures are provided for, including the 25% of 15 hours provision and the usual arrangements. However, the Act does not deal with a contract with few or no guaranteed hours of work or with no requirement, on paper at least, for employees to make themselves available on-call outside of any guaranteed contractual hours. Many workers are now encountering terms and conditions under which the company is under no obligation to provide work to the worker at any time and the worker is under no obligation to accept any work offered by the company at any time. The Minister may suggest that is rare, but I have in my hand a copy of a contract. The contract is from a significant multinational catering firm. The firm used to do contracts with State bodies and organisations and may well still do so. The firm imposes on workers certain conditions. Under the conditions for hours of work, the hours of work of the worker will be determined by mutual agreement. The company will give the worker seven days' notice of hours of work which are available to him. The worker has the right to refuse or accept these hours. The refusal of hours on the worker's behalf will have no negative consequences on hours offered to him in future. The firm gives no guarantee that hours will be offered to him on a weekly basis. The reality is that the company expects its workers to be available whenever it calls on them. The contract is written in terms that exclude any obligation on either party. When there is no mutuality of obligation, as proved in the case of the Minister for Agriculture and Food *v.* Barry, the floor is gone, the show is over and they are gone out the door - the worker has no employment protections.

It is clear that if-and-when contracts are not caught by the 1997 legislation nor will they be caught by the Minister's Bill. The Minister disagreed with that point, but doctors differ and the patient suffers. There is only one set of patients, that is, the workers caught with precarious and unstable hours. In fact, these workers may be outside the entire system of employment protection law. That is my view. The reason is that under the arrangements there is no obligation on the employer to provide work and no obligation on the worker to do any work offered. The law requires mutuality of obligation for a contract to be in place. If there are no enduring mutual obligations, there is no enduring contract. This issue has not been to the higher courts yet, but the law may well be decided if people working under such arrangements are told that they are in effect casual day workers.

We do not insist that genuine casual work must be deemed to be permanent and pensionable. No one is insisting on this. We all know about students and how people have availed of such work over the years - we have all done it. In fact, the trade unions have recognised and accepted the concept of genuine casual work in collective agreements negotiated with the hospitality sector. We do not live in cocoons or ivory towers. However, if someone is, on paper, simply working from shift to shift, but the circumstances give rise to a reasonable expectation that the employee will be re-engaged to do that work and if it turns out that the employee is, in fact, subsequently employed to do that work, we need to look at the set of facts, rather than what has been written on the paper.

I urge the Minister to look at the Australian rules on this issue. Under Australian law, service as a casual employee must be included in any calculation of continuous employment if the employee was employed as a casual employee on a regular and systematic basis and during the period of service the employee had a reasonable expectation of ongoing employment by the employer on a regular and systematic basis. Under the rules in Australia, account must be

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taken of whether the employee was offered work regularly, whether the employee generally accepted work when it was offered and whether, although the amount of work offered might vary, there was a pattern or system to the work that the employee was offered each week. Unless the Minister accepts amendments to the Bill to introduce provisions such as the Australian rules, we will be stuck with what are perverse arrangements that will subsequently lead to the downgrading of the status of employment.

I hope we can all agree that imposing such terms and conditions on the vulnerable, the low-paid and those with little social protection is unacceptable. If we are agreed on that, we should now take agreed and effective action to stop it. Like my colleagues, I am happy to play a role in that regard. The Labour Party intends to bring forward proposals to amend the Bill to include casual employment carried out on a regular and systematic basis and where the worker has a reasonable expectation of an ongoing, regular and consistent pattern of employment by the same employer.

The Labour Party notes the proposal to provide for the rights of employees to be placed in a band that reflects actual working hours. The Bill provides for four bands ranging from periods between one and 35 hours, one and ten hours, 11 and 24 hours and 25 and 34 hours and beyond. Most employee representatives, including the Irish Congress of Trade Unions and the Labour Party, are of the view that the bands proposed in the Bill is simply too broad. They need to be narrowed substantially. There should be six or seven bands in which workers could be placed under the legislation.

The reference period for the look-back or review of 18 months is far too long and should be reduced. I agree with Deputy Willie O’Dea that it should be reduced. We should allow a 12-month period for the unfair dismissal applications. Then we can get in after 13 months. I imagine we could all agree on that. We should try to get the period back to 13 months. That is one suggestion of which we are strongly supportive. Under the Bill, an employee could be placed on a lower number of hours after 18 months. While a further review is under way, the 13-month look-back period would help to deal with the scenario. In that way, the Minister would not be allowing that to slip through.

The Irish Human Rights and Equality Commission has noted concerns in respect of the banded hours proposal and the banding provisions. The commission has suggested a contract arrangement that seeks to accurately reflect the hours worked may provide workers with some robust protection from significant reductions in income.

We can all work together in several areas to try to find solutions. No one is suggesting he or she alone has divine right to insight or that he or she has the only proposals to deal with the situation. This is a major opportunity for us to deal with issues. I agree that it is time to call a halt to bogus self-employment and people being classified in that way. I was disappointed with the study referenced by the Minister also. I indicated my surprise to her in respect of it. This is something on which the Labour Party has been focused for several years. As Deputy Mick Barry stated, people are turning up for work on a Monday morning only to be told they are self-employed, which means that they no longer have rights and must pay their own tax, insurance and so on. This is a disguised form of employment because they are still effectively employees. We must tackle this issue, if not in the Bill, in other legislation, because otherwise it will be left to fester for a long time. The Labour Party has drafted a Bill to address this issue.

I acknowledge that the Minister has made a start with the Bill. In fairness to her, she has

been willing to take on some of the old chestnuts some of her colleagues were not eager to address. I am sure the cohort of the working population affected by if-and-when contracts and similar contracts will be grateful that a good start has been made. We can improve the Bill by working together in a collegiate manner to strengthen certain of its elements, while respecting the rights, responsibilities and obligations of employees and employers. There are risk-takers and people who assist in that regard, but progress will not be made without good employees who are treated properly in the workplace. It will benefit all concerned to advance legislation that reflects our desires and objectives in that regard.

Deputy Bríd Smith: In theory, I should wholeheartedly welcome and support the Bill because it claims to improve the lot of vulnerable, low paid workers who are grossly exploited by unscrupulous employers. Tens of thousands of workers are not informed of their terms and conditions, their hours are not notified to them in advance and they work under low-hour and zero-hour contracts. I do not know how they manage to survive.

It is interesting that, having spent years denying there was a problem, the Government has decided that it wants to address the increase in casualisation and the exploitation of workers. To that extent, the Bill is welcome. However, casualisation and exploitation are taking place by various means across many employments. There is a fundamental imbalance in power between employers and workers. This is a statement of the obvious which the Minister clearly does not accept because she seeks to treat both sides as if they were equals, despite the grossly unequal relationship between employers and workers. For example, it is impossible for workers who are not organised in trade unions to stick their heads above the parapet and demand the protection provided for them in some areas of legislation. It is difficult for them to secure even minor improvements in their lives in the sea of exploitation that occurs in the workplace.

Many of the employers with whom the Minister has spoken will be very pleased with the Bill. They will settle for these measures because the Bill will not significantly change their ways and means of doing business.

At least two sections of the Bill are a response to other Bills. The section on banded hours is a response to Deputy David Cullinane's Bill on the same issue, which was much better, more robust and would have provided much more security than the legislation before us. The section on bogus self-employment contracts is a response to a Bill introduced by Deputy Mick Barry on behalf of Solidarity-People Before Profit. The Minister's response has been to introduce less robust and less satisfactory measures, which is not good practice. The Government, if it were serious about reducing the exploitation of vulnerable workers, should revisit and take the best elements from the Bills introduced by Deputies David Cullinane and Mick Barry.

The Minister has stated she listened to employers and employees when developing this legislation. Since the so-called recovery commenced, profits have returned to pre-recession levels, loads of money is again being made and rents, living standards and the cost of living now exceed pre-crash levels. On the other hand, wages for most workers are not keeping pace with profits and the cost of living. This trend has been compounded by an explosion in the level of precarious work which is having a profound impact on the lives of tens of thousands of workers. Employers have clearly stuck with the mantra that one should never waste a good crisis. Large numbers of young workers have been left disillusioned as a result and many are leaving the country. Those who remain will be the first generation since the foundation of the State who cannot expect to do better than their parents. It is a real tragedy that we are overseeing such a society.

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A recent report produced by the Irish Congress of Trade Unions, ICTU, found that more than 158,000 workers had their working hours varied from week to week, often without notice. The number of part-time and so-called self-employed workers increased by 34% or more than one third in the eight years between 2008 and 2016. Serious questions must be asked about bogus self-employment. Behind all of these statistics are real and difficult lives of young workers who are unable to secure a loan to pay a mortgage, who do not know from week to week if they will be able to pay their rent or bills and who cannot make plans for holidays. Their quality of life is suffering and if they try to vindicate the rights they are supposed to enjoy under the law, they find it extremely difficult to do so without the protection of a trade union.

While the Minister claims that many of the good measures included in the Bill flow from the study carried out by the University of Limerick, the study has a hell of a lot more to offer than what the Bill contains. The Minister suggested, for example, that in cases where the cancellation of work hours was not notified to an employee, the employee should receive three hours' wages paid at the rate of the national minimum wage or the relevant employment registration order. What is the position for the many workers who normally earn much more than the national minimum wage or the rate of an employment registration order, often in the care and hospitality sectors?

The Bill prohibits zero-hour contracts but in most, as opposed to all, circumstances. Many of the recommendations made in the University of Limerick report were significantly better than the measures included in the Bill. In my opinion, they have not been included because the employer organisations opposed them. I doubt that they met much resistance from the trade unions the Minister consulted. If no attempt is made to fully eliminate zero-hour contracts, abuses will continue.

It was interesting to listen to the discussion at the hearings on the Sinn Féin Bill on zero-hour contracts. We heard certain employers kick up a stink and deny the existence of such contracts. They argued that if the Oireachtas was to try to legislate against zero-hour contracts, it would ruin the hospitality, private health care and retail industries. The sky will not fall in if we control these sectors. However, we will not be able to do so with this limited legislation.

The Minister has stated and probably believes the vast majority of employers are decent. Today I received an email from a worker in Tesco where there was a strike exactly one year ago. Tesco is the largest private sector employer in the State, employing almost 15,000 workers. At this time last year, workers in the company went on strike to protect the terms and conditions of more than 1,000 staff on pre-1996 contracts. According to the woman who wrote the email, staff had an horrendous year after they went back to work on 24 February. She referred to bullying, harassment, discrimination and downright rude and unprofessional behaviour by management towards workers, which she said was too much to bear at times. In 2016 the trade union lodged a claim for a 2% pay increase which was granted by the Labour Court, but the company refused to pay it to workers on the pre-1996 contracts. In 2017 the trade union lodged a claim for a 3% increase which was granted to all workers, apart from those on pre-1996 contracts. The woman who wrote to me claims this group of Tesco workers are owed 6% in pay and that when they approached the employer about it through their union, they were told categorically that they were not getting it. There has been consistent bullying, the consequence of which has been that the number of workers on pre-1996 contracts in the company has fallen from 1,050 to 180. The employer engaged in systematic bullying, abuse and tyrannical behaviour to get its way. How does the Minister propose to control such behaviour if not through the introduction of robust and decent legislation? It is the sort of behaviour in which employers will increas-

ingly engage. We see it in the construction industry which has a plethora of contractors and agencies which are bringing construction workers on to sites and which are contracted by the State. Big companies such as BAM are using mushrooming agencies such as Manpower, CLS and 3D Personnel which hire and fire at will. They do not even take PRSI deductions from the pay of employees which makes it more difficult to provide protection and is a loss to the State. This is happening wholesale. There are, therefore, many abuses with which the Bill will not deal. I know that the Minister is not sorting out all of the exploitation of the working class in one fell swoop, but the Bill is not robust enough.

How does the Minister intend to implement all of the measures included in the Bill if it is passed? There are not enough labour inspectors in the country to deal with the numbers of complaints and problems in the building industry alone, never mind other industries in which there is this level of exploitation. How does the Minister propose to engage more inspectors through the Workplace Relations Commission and will its personnel go into workplaces to say they are breaking the law and issue the fines and sentences applicable in the Bill introduced by her? We need to know in order to support the Bill, but, without doubt, we will seek to amend it in a very major way. I urge the Department to consider the Bill Solidarity-People Before Profit brought forward on bogus self-employment and Sinn Féin's Bill on banded hour contracts. They are much more robust and would be much more useful to the tens of thousands of exploited workers who are trying to exist in these terrible conditions.

Deputy Mick Barry: The most interesting and astute comment in this debate so far came from Deputy Willie O'Dea.

Deputy Paul Murphy: Wait for it.

Deputy Mick Barry: He said the rise in the level of precarious work would threaten growth and social stability. It is interesting in the sense that he is a capitalist politician who is predicting that capitalist policies will undermine capitalism and it is astute in the sense that he is correct. Low-hour contracts are a big issue for many workers in the State. Unfortunately, the Bill does not address the matter in a thorough and sufficiently serious fashion. This may be St. Valentine's Day, but the workers of Ireland in precarious employment will not feel too much love from the Government benches.

To a large extent, we will take our cue from the Mandate trade union that organises in the retail sector, in which not only do we have a heavy concentration of low-hour contracts but which has also been the site of worker struggles on the issue. In particular, I think of the strike action at Dunnes Stores in April 2015 which was precisely about the issue of low-hour contracts. It has been flagged as a major worker rights matter for some time. The International Labour Organization told us as long ago as 2014 that Ireland was only exceeded by Portugal in the massive growth of what it termed as people in time-related underemployment between 2005 and 2013. In the case of this state, the level of this form of underemployment grew from 2.1% of the workforce in 2005 to 10.5% in 2013, an incredible fivefold increase. The Irish Congress of Trade Union's report published last December, *Insecure and Uncertain: Precarious work in the Republic of Ireland and Northern Ireland*, records a decrease in the numbers from 170,000 from their peak in 2013 to 129,000 in 2016, but that is still over three times pre-crisis levels.

The question is whether we put our faith in the recovery continuing and hope for a slow decline or do we force the pace in improving the position of part-time workers through a combination of trade union organisation on the shop floor and legislative change. Workers have waited

too long for this issue to be addressed. Had the Minister attended any of the press conferences given by Mandate in Buswells Hotel in recent years on the topic, she would have heard first-hand about the life-disrupting consequences of being on insecure, low paid, low-hour contracts. I have some examples. Even if a person was to consistently work twice the hours contained in a contract guaranteeing a minimum of ten hours, a bank would work out loan approval levels based on the hours contained in the contract. There are also consequences for child care arrangements and other out-of-work commitments if hours of work are prone to fluctuate wildly. The manipulation of working hours in the weeks and months running into holiday periods by employers in order to reduce holiday pay liability places power in the hands of employers and managers to effectively punish workers who engage in union activity or try to stand up for their rights in any way. This has been cited by Mandate in the case of Dunnes Stores. How does the Bill deal with this issue? The bands are simply too big. To take an extreme case study, somebody contracted to work for nine hours but who consistently works for 23 hours in the proposed 18-month period will only be entitled to have the contract adjusted upwards to ten hours. Likewise, the very requirement to work a full 18 months before being entitled to apply is far too long. Such is the nature of the work, many would be in and out of a place of employment in that timeframe. We can, for example, take the student working in a part-time job throughout an academic year. The 18-month period is an invitation to employers to take on people on fixed-term contracts for just under 18 months if they want to preserve maximum flexibility.

The Bill is not equal to the task. Our intention is to let it progress to Committee Stage, on which we will introduce a raft of necessary amendments to turn it into something that will be of real and tangible benefit to workers. We will seek far narrower bands such as five-hour bands along the lines demanded by Mandate. We will seek to drastically reduce the waiting time of 18 months before a worker can seek an appropriate amendment to a contract. We will close down the built-in loopholes that are practically an open invitation for employers to exploit and seek an explicit ban on the use of exclusivity clauses. We will fight for any look-back period to be made retrospective and, last but not least, seek to close off any attempt by employers to deliberately reduce working hours in the run-in to holiday periods to reduce holiday pay obligations.

Deputy Paul Murphy: The expansion of precarious working conditions is a cancer which is eating away at employment conditions for all in this and many other countries throughout the world. It acts to undermine the rights and conditions - the stability of life - achieved by a previous generation of workers and increases the rate of exploitation by the 1%, which is causing the massive expansion in corporate profits seen here and throughout the world. The Government and some elements of the establishment would like to deny that reality. Last week there were attempts in the media to deny the expansion in the level of precarious work that had taken place in the economy in the past ten years, but the facts are indisputable. Between 2008 and 2016, there was a 25% increase in the number of workers in temporary employment, a 43% increase in the number of workers in involuntary temporary employment, a 35% increase in the level of involuntary part-time employment and a 35% increase in the level of part-time self-employment with no employees, or what, in many cases, is called bogus self-employment.

The unfortunate reality is that for many young people who are trying to find a job, the idea of a secure, full-time job which pays a living wage or higher allowing people to have a reasonable standard of living, with stability in their life, is becoming a pipedream. Instead, what is facing people is the prospect of entering a jobs market which requires massive flexibility, with bad working conditions and low pay. In some industries the idea *in extremis* involves internships or the widespread working for free. It has taken hold and is presented as a way to get

one's foot in the door.

The ICTU report found that across the country, there are currently 163,000 workers facing conditions of zero-hour contracts or so-called if-and-when contracts; this is what is dressed up as the gig economy. They cannot tell from week to week what hours they will work, if they definitely will have work and what contracts and conditions they will face. The industries most commonly associated with this are sales, tourism and the services industries. It is also evident in areas that previously were better regulated and paid areas of the economy such as public administration, health and education. These are areas in which the Government is a key driver of the casualisation of labour.

A total of 61% of all workers in full-time or part-time temporary contracts are between 15 and 34 years of age. The same way landlords tell us young people do not really want to own a home and would rather share a two-bedroom apartment with eight other professionals, IBEC and big business would like to say that these millennials, of which I am one, do not want permanent jobs but flexibility. Richie Boucher, who previously received an income of close to €1 million a year from Bank of Ireland, was the latest person to tell us that millennials “don't have the same desire for long-term security”. It is easy for him to say. Of course people want long-term security, decent working conditions and stability in their lives. The reality is that 70,000 workers on temporary contracts are temporary against their will. Of course they want better working conditions and wages.

The effects have been outlined and are widespread. It means that people cannot have work-life balance and cannot plan from week to week. It means they cannot get mortgages. The effect on mental health is absolutely devastating. TASC published a report in 2017 where one of the respondents in the study had stated:

I had terrible mental health issues, like awful, really, really bad! And it was all work related. Like, very, very bad anxiety; I talk in my sleep when I'm anxious. It's the mental health that does it worst, and you're just going to crack a lot of the time, and depression really hits. And you wouldn't expect work to have that effect on you, but it really did. I think mental health is the biggest thing, and the stress of not knowing.

This is the result not of work itself, which is fulfilling and gives people meaning in their lives, but the levels of flexibility and exploitation to which young workers are subjected in precarious employment.

The answer is to do what happened in America with the 15 Now movement and what happened in Britain with the organisation of McDonald's workers. We need in Ireland to rebuild a movement of young workers - the so-called precariat - to turn the tide and challenge the exploitation. This means organising the unorganised in trade unions and the left in the Dáil pushing to outlaw precarity.

Deputy Joan Collins: I will share time with Deputy Clare Daly. We will take ten minutes each.

The last time I spoke on this issue I referred to an interview on the radio with Arne L. Kalberg who is professor of sociology at the University of North Carolina. He recently wrote *Precarious Lives: Job Insecurity and Well-Being in Rich Democracies*. He reported on precarious work and if-and-when contracts in five countries, namely, the United States, the United Kingdom, Denmark, Spain and Japan. He made the important point that this is all part of the

neoliberal agenda and diktat that has gone across the world in the past 20 years. We had social partnership in Ireland from 1987 until the Towards 2016 partnership deal. This was supported by our unions, the bosses, the previous Government and the Labour Party. In the late 1990s, these new contracts started coming into the workplace and this was allowed to happen. The only people who really stood up against them were the Dunnes Stores workers when, in April 2015, 6,000 people went out in strike, demanding decent pay and working hours.

We have heard lots of testimony from workers about their experience in their workplace environments. I read a testimony from two workers in Dunnes Stores where one had a low number of hours and wanted more while the other had a high number of hours but wanted fewer. Both went to their manager and asked to swap but he said they could not. When asked why, he replied, "Because I said so." We heard of the testimony of the young man whose hours were cut from 40 to ten. If a person's hours are cut from 25 to 15, that is a loss of €100 per week. How can anyone plan to pay rent, electricity and gas bills, to travel to work, to put food on the table and to live a life with that sort of precarious employment? It has to go because this is the brutal reality facing thousands of workers on precarious contracts every day of the week. It also illustrates an attitude by certain employers towards those who work for them, service their customers and earn them their profits, which is that they are not valued or respected. They are denied dignity and are working in an environment in which the allocation of hours is used to maintain a compliant workforce. This is the so-called gig economy but there is nothing hip about it. It is not a lifestyle choice but a brutal campaign to enforce a race to the bottom, devalue labour, casualise work, drive down wages, prevent unionisation and destroy the gains won by workers over decades of struggle.

It is estimated that 130,000 workers are affected by low hours and insecurity of their hours and wages. The question of legislation in this area is extremely important but, disgracefully, Deputy Cullinane's perfectly good Bill, drawn up in consultation with the Mandate union, has been sent to purgatory. Instead we are discussing a much weaker Bill, which contains loopholes that will allow employers to get around the provisions, which they will. The Minister stated earlier that good employers have nothing to fear from the Bill. I put it on the record of the Dáil that bad employers will not be afraid of the Bill. Zero-hour contracts and if-and-when contracts must be comprehensively outlawed. The Bill needs to be amended to include a guaranteed minimum number of hours per week.

A general exception from minimum hours for so-called casual work will be exploited by employers to move staff to casual status. This is a glaring loophole in the proposed legislation. The look-back period of 18 months is much too long. The Minister referred to the University of Limerick report but, at the launch of Mandate's secure work campaign, it was emphatically stated that the look-back period should be no more than six months. The look-back is a reference to the hours actually worked in a certain period to establish the basis for minimum hours. There are two problems. First, under the Government's Bill, workers would be obliged to wait 18 months to get guaranteed hours. Second, this is an extended period for employers to get their ducks in a row and reduce the hours. Any look-back period in a Bill should apply from when the Bill is initiated. It should not apply 18 months after the Bill is enacted.

It is also the view of the union that the proposed bans in the Bill are too wide. Section 15 of the Bill sets out the bands proposed in a table. Band A is one hour to ten hours but we know the minimum is three hours. Band B is 11 hours to 24 hours, band C is 25 hours to 34 hours and band D is 35 hours and over. The unions favour a bandwidth of no more than five hours, that is, a band of 15 to 20 hours and so on. There needs to be an anti-victimisation clause to ensure that

workers hours are not reduced for union activity or the making of a complaint. Employers are already legally required to keep working time records so there would be no additional regulatory burden on employers if they have to base this on the hours. The information is already there.

The issue of bogus self-employment has been mentioned and I am reading the report on it. There is a very good book called *Ramshorn Republic* by Martin McMahon, whom I believe the Minister has met. He explains his experience in the late 1990s of being a courier and describes going to the unions to try to establish that these self-employment contracts were wrong. A deal was made between the unions and these companies in 2000. He made the point to me that the cost to employers of paying back-money to workers would now be phenomenal if we were to ban bogus self-employment. He was saying there has to be a realistic approach to this issue. These forms of employment should be banned and outlawed and there should be a cut-off point of perhaps two years from when the legislation is introduced. This is an important area that must be addressed. We cannot continue to have workers being told they are self-employed and that they have to pay their own PRSI etc.

I urge all Deputies to support the amendments to be tabled on behalf of the unions when the Bill goes to Committee Stage. We need effective legislation in this area now.

Deputy Clare Daly: I will be relatively brief because I am losing the will to live listening to some of the contributions we have had to endure here tonight. I do not say that lightly. However, nobody should be patting themselves on the back because of this legislation. This is one of the worst examples of the misnamed “new politics”. What we have is snatching defeat from the jaws of victory. In 2016 we had a perfectly good Bill passed through the House moved by Deputy Cullinane in response to the heroic Dunnes Stores strike which took place as far back as April 2015. Then, every political party in this House promised those workers their full support. Now, we have a watered-down and flawed version of a Bill which already had progressed. There is nothing to be proud of in this. It is absolutely appalling.

Some of the contributions tonight were galling. It must be sickening for the Minister for Employment Affairs and Social Protection to have to listen to the former Minister of State, Deputy Penrose, a former Government colleague, who sat in power for five years when they had the chance to deal with this issue, rave about a weaker Bill tonight saying, “We have a great Bill to do that.” When the Labour Party was in power, it did nothing but commission a study - a good study at that. Where are the changes the Labour Party brought in? This kind of nonsense has to stop.

I am reminded of the comments, even worse in some ways, at the time of the Dunne Stores strike by Deputy Micheál Martin. He told us then: “I endeavour to get the full Oireachtas behind the [Dunnes Stores] workers, in the name of common decency, and in the name of basic rights that these workers are entitled to.” When Sinn Féin moved the legislation to do just that, however, it was a Fianna Fáil amendment which cynically delayed this Bill’s progress for 12 months. After that delay, it was eventually moved to the next Stage where it was subject to pre-legislative scrutiny by an Oireachtas committee. A report on this was published last June. Over 13 hours the committee heard from 45 witnesses who put forward 23 recommendations with cross-party support. That Bill is now shelved and we get a much weaker version.

I find that shocking. It is so far out of kilter with the needs of the people who are suffering as a result of low-hours and if-and-when contracts, the very reason the Dunnes workers took on the fight on behalf of all casual workers. We need to put this debate in its context. Casual

working contracts have grown at an alarming rate since 2008. This has had a devastating impact on the financial welfare of many people, particularly young people, women workers and foreign nationals. The years of austerity were years of opportunity for some and years of severe hardship for others, many of whom have not yet recovered from it. The austerity years gave an opportunity to engage in a race to the bottom, undermining workers' pay and conditions, standing on the head of rights and benefits hard fought for over decades. This has resulted in the number of those in insecure employment rise from 17% of the workforce to 22%. As other Deputies said, over half of those employed in casual work are not there by choice but are actually underemployed. This is a term our society did not use ten years ago. Now we have the second highest rate of underemployment among our EU counterparts.

While this has an effect on the workers involved, we need to look at the flipside, namely, the significant State subsidy going to supplement the wage bill of some of the most highly profitable retail companies in this country. That is what is being facilitated. The hours are there to give people secure jobs. Instead, they give them rubbish at the lower end and get the State to pick up the tab through family income supplement, FIS, or other benefits. Up to 10% of Tesco staff receive FIS payments. Statistics from the Department of Employment Affairs and Social Protection show 58,000 workers were subsidised by the State last year because their wages were insufficient to meet their financial needs. Up to 127,000 children live in homes reliant on FIS payments. That is an absolute disgrace.

Over 32% of women in employment are on part-time or casual contracts. This is one of the key reasons we perform negatively in terms of the gender pay gap. It is precisely because women are disproportionately numbered on a casual contract basis. Other Deputies have explained well what that means. It means the women in question do not have a decent life, have no security, they cannot plan and are constantly in terror of even being able to meet the basics. It has an even bigger debilitating effect where the person is the main breadwinner in a family.

The lack of clarity could be addressed with legislation which places an outright ban on zero-hour contracts and ensures the introduction of banded hour contracts to reflect the regular working hours which people do. This is not impossible. Companies such as SuperValu and Marks & Spencer have negotiated with staff and their trade unions to put in place a system of banded hour contracts. The idea this is going to break retail operators and cannot be done is absolute nonsense. It can be done and has already been done by some employers in the State. The sad fact is that the ones who are not doing it are probably the ones pocketing the extra profits as a result.

It is a shame on all of us that two and half years after the Dunnes strike, we still have no legislation enacted. That is utterly shameful. What we have today is a Bill which is hardly fit for purpose. It is an IBEC-approved Bill which does not go far enough to protect workers and will have to be subjected to a significant number of amendments. Obviously, it will pass Second Stage with no opposition. However, it will have to be butchered to be radically improved on Committee Stage. This Bill falls short of the recommendations contained in the University of Limerick study. What is the point in the Government paying for a study, lauding that study, producing its findings and then enacting legislation which will not take account of it? That is a shameful waste of money. The Bill will have to be substantially amended to meet the levels contained in the University of Limerick report.

The bands in the Bill are too wide, are open to manipulation and give far too much control to those spiteful managers who use rosters to sanction and be punitive towards staff. Unfor-

Unfortunately, this has been a widely reported experience of Dunnes workers, particularly in the aftermath of the 2015 strike. Up to 85% of Dunnes workers surveyed by their union said the allocation of hours was used as a control mechanism by management. We must be honest. While these workers have waited on us to deliver legislation, many of them have been subjected to harassment, have had their hours cut, difficult hours allocated which their employer knew they could not work, shift patterns altered and roles changed. Unfortunately, some were forced to leave and others were unfairly dismissed as punishment for taking action in the strike. We know of one person in the store in the Northside Shopping Centre who was sacked the day after the strike. The insecure nature of their rights as workers does give a disproportionate level of control to a management which might be vindictive, and which in the case of Dunnes Stores, was steering a path of conflict to suit its own agenda and punish union members, an action we would all oppose.

The bands should be, as originally proposed in the Sinn Féin Bill, of five hours duration. The Government's ones are far too wide. The idea of 11 to 24 hours gives a manager capacity to reduce a worker's hours by 54%. Somebody on €10 an hour could have his or her weekly wage slashed from €240 to €110, a substantial difference. Obviously, the 18 month look-back period is far too long for workers in precarious industries who are looking for job security. To suggest they have to wait 18 months is completely unacceptable. It gives managers the ability to manipulate hours at the tail-end of the contract to reflect fewer hours and keep them below a certain threshold. The recommendation by UL was for a six-month lookback period, which would work in conjunction with an amendment that would allow employees who have been longer than 12 months in employment to apply for contracts that reflect their working hours. After 12 months, all workers should be able to apply for a contract every six months.

It is ridiculous that we are going over this again. The House had this discussion months ago. We also had it two years ago, but here we are again. It is not good enough. The House must examine its rate of dealing with legislation properly, promptly and in appropriate detail. The Bill is weak. That was flagged to us. It needs to be amended to make it fit for purpose and meet the needs of workers. We have been through this. We have done citizens a disservice by not getting on with the job and running with the Bill that was already past certain Stages as opposed to going back two steps just to take one step forward.

Acting Chairman (Deputy John Lahart): I call Deputy Michael Collins, whom I understand is sharing time.

Deputy Michael Collins: I welcome the opportunity to contribute on this motion. The Bill is important legislation that is intended to protect workers who are currently on zero-hour contracts. More often than not, these contracts are enforced by our larger employers. People are expected to work eight hours across a number of days each week. I do not want to paint all employers with the one brush. Many small business owners are struggling at this time. I speak to them on a daily basis. They are paying insurance, PRSI and rates. A large number are on the edge between continuing trading and going under. One employer whom I met last week in my constituency clinic at one time employed 40 staff. He is now down to ten staff because of the overheads. Rules and regulations that come into play when trying to employ someone affect most small employers, who comprise the majority of employers in my constituency of Cork South-West.

Statement after statement from the Government showing unemployment rates declining are not reflective of the real Ireland. Of the 80,000 in Turas Nua, 60,000 will be back on welfare

when their contracts are up. Many of those who have been chased into employment are paid the minimum wage, which is a major burden on many young families. I met a couple two weeks ago, each of whom was on the minimum wage earning approximately €370 per week, paying for child care and paying for cars to get to and from work. This couple is now contemplating which one of them will leave work to stay at home to rear the family because they are not paid enough to afford to keep two cars on the road or to pay for child care. They are struggling. The Government is reducing the incentive for people to get up and get out to work each day. It did little to nothing in the last budget to encourage people to seek work as opposed to signing on to the dole.

This Bill seeks to protect the employee. However, it is the larger firms that enforce these precarious working contracts. We need to protect employees from this type of work. They see no certainty in what wages they will take home at the end of the week. We have a responsibility as legislators to protect our citizens, including business people who have started up SMEs and employ people on a small scale as well as those who are employed under precarious contracts and are being exploited as workers. For that reason, I support the Bill, but I would not support any more regulations or bureaucracy being forced upon our already struggling SME owners.

Deputy Mattie McGrath: I am delighted to contribute on this Bill. I wish everyone a happy Valentine's Day, although it is getting into the night.

Acting Chairman (Deputy John Lahart): I appreciate it, though.

Deputy Mattie McGrath: The Minister might be in a hurry home to her partner and kids. I wish them all well. In fairness to the Minister, she seems to be grappling with some of the issues since getting her new post. There are many to be grappled with. I also hope that the staff - I am sorry, as I did not see the female staff because the Acting Chairman was blocking my view - and anyone else who wants to celebrate this night can enjoy it. I will not take too long with my speech.

Deputy Regina Doherty: It is not just the ladies, Deputy.

Deputy Mattie McGrath: I know, but normally flowers are for the ladies. It works both ways. It is a two-way street, like this Bill. Like employers and employees, it is a two-way street, and the grass grows in the middle.

Acting Chairman (Deputy John Lahart): I am glad that we are on to the Bill, Deputy.

Deputy Mattie McGrath: We are getting there. The issue of protection for workers who are in precarious work situations is of deep concern to us all. We are all aware from the amount of contact that we have received on this matter that the levels of uncertainty that zero-hour contracts create for workers and families is enormous and it is long overdue to be addressed. I wish the Minister well in that regard. Tús maith, leath na hoibre. That is why I am happy to note that the purpose of the Bill is to ensure that employees are better informed about the nature of their employment arrangements and, in particular, their core terms at an early stage of their employment. That information should even be available to them before they commence employment. The Bill will also create a new offence of the non-provision of core terms within a specified period and will prohibit zero-hour contracts in most circumstances.

Like Deputy Michael Collins and many others have stated, it is not the ordinary small business person we are discussing. Small shopkeepers, building contractors and manufacturers

look after their staff because they must provide a quality service. For example, a farmer knows that, if he or she does not produce quality milk or products, he or she will be penalised, and rightly so. Having clean and green food from field to fork is important. Employers need quality staff as well. The majority have them. This is a busy time for feirmeoirí go léir, given that it is calving season. They need reliable and dedicated staff. We all do. I should have declared at the start - the Acting Chairman might have said that I was too slow starting - that I am an employer and might have some vested interest. I have had excellent staff. I have been in business since 1982, with my good wife managing it and mise as láthair go leor den am. I have been missing in áit eile. Only for our diligent and dedicated employees, we would not still be in business and our customers would not be able to avail of our services. I thank the customers for their support as well. It is all encompassing.

It is a pity that greed has grown. It came with the Celtic tiger when that beast arrived on our shores, reigned for a number of years and ruined the situation for everyone. People believed that they would never see another poor day, but some pulled the ladder up after them and to hell with everyone else. “Croppies Lie Down”. That is how it came back again. That greed is sad. We were talking about it earlier when discussing what our bankers had been getting away with, but this is different. We want a recovering economy. We are supposed to be in a recovering economy, but Fine Gael overkilled that line in the election. It was “recovery, recovery, recovery,” but the tiger was gone and we could not find the recovery. Since then, Fine Gael has returned in much smaller numbers than in the previous incarnation. I hope that it has learned a salutary lesson from that.

I am not big on all of these new offences because enforcement is an issue. We have too many offences, laws and regulations. All we want is common decency, a fair day’s pay for a fair day’s work and proper treatment for employees by their employers. That is not too much to ask for. The Bill seeks to strengthen the provisions around minimum payments to low-paid employees who may be called in to work for a period but not be provided with that work. An enhanced minimum payment is being introduced.

A 2015 report from UL found that there was no commonly used national or international definition of “low hours working”. The report went on to note that CSO data showed that 2% of employees regularly worked one to eight hours per week, 6% worked nine to 18 hours per week and 24% worked 19 to 35 hours per week. Very low hours - one to eight hours - are prevalent in the wholesale, retail, accommodation and food sectors. These are important sectors, so it is not acceptable. The Bill should have been built around the study from UL, which is my good colleague’s erstwhile university. Indeed, we were down there in the days when it was dangerous.

Deputy Willie O’Dea: That is right.

Deputy Mattie McGrath: One morning when we were walking over a bridge, we were lucky to get to the other side alive, but we did, thank God, and we are here to tell the tale. It is an excellent institution.

Why do we constantly commission reports? I dealt with the Minister for Health, Deputy Harris, today regarding cardiac services in the south east in University Hospital Waterford. That was another report. We have scaffolding outside Leinster House. I was talking to the builders today. They are great lads and are doing a great job. I asked them whether the scaffolding was to keep up the building, but they told me that, no, it was only to keep up the steel framework. McAlpine would not have it when he was building in London. I said it would keep

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up Shannon Bridge or the whole of Dublin Castle. It is only to put up the scaffolding. They told me the ground conditions here are an issue. If we are not careful, we will fall through the cracks someday. The scaffolding they have out there would keep Dublin Castle up. They are doing a good job on health and safety and everything else.

8 o'clock

Why do we have all these reports? We have reports everywhere; they are coming out of our ears. Common sense is all we want. We do not need half of the reports because we know what is going on. There was a study from University of Limerick and the Bill could have been constructed around that. I heard the contributions of Deputies O'Dea, Penrose, Daly, Collins and others on the Bill. I watched them on a monitor. It is about common sense. It should be based on respect and support for workers instead of trying to milk them and blackguard them. The figures from the report and the CSO figures are stark. We need to act. We do not need to give another six months to debating this Bill. We need to debate it on Committee Stage and amend it to make it more meaningful. We need to direct the penalties in a more punitive way where they are deserved and in a less punitive way to ordinary small business people who are complying with everything. They have NERA and a plethora of Government agencies that have to be complied with and rightly so. It is overbearing on small companies because the amount of paperwork that has to be dealt with is enormous. The Bill is weak. I can see the lobbying of ISME in it. Sorry, not ISME, the bigger one.

Deputy Willie O'Dea: IBEC.

Deputy Mattie McGrath: IBEC. It is big business. I see them around here all the time. I know them from a former incarnation. Some of them are in the Construction Industry Federation. They are not interested in the little people. We have to recover na daoine beaga. It is na teaghlaigh go léir agus na feirmeoirí go léir who will recover it. They are on the ground every day, all day, 365 days a year. They are not interested in a quick buck. They are the cogs and chains keeping the system going and they must be supported.

Mol an óige agus tiocfaidh sí. Young people are also not supported. It is awful to see young employees being sucked into these companies. They were in here with great aplomb. They have been brought into our towns. I am mostly talking about Tesco, which is in many towns in Tipperary. They are welcomed when they announce all the jobs but there is no talk of the jobs they displaced. There is no talk of the sweet deals that are done for planning fees and planning conditions and everything else for them. There is no talk of sucking the vibrancy out of the towns which they have done in my town of Clonmel and Tipperary and further afield. They do not even bank their money in our banks. They do not even bank it here. It hurts me to see it.

People have a right to buy online and use delivery services. Some people are sick or working so maybe they have to. One sees the Tesco vans up and down every road now. We have gone back to the days of 70 years ago - I was talking to Deputy Healy-Rae about this earlier - when a man would go around selling stuff out of the back of a van. A lot of them grew into great entrepreneurs. Now it is done more clinically and costly and with no respect for the workers delivering it. That was a different situation. It is the same kind of a principle but it is really mean-spirited. The zero-hour contracts, as I have alluded to, are just not acceptable.

The colleges have caught the contagion. Many people in college have told me that they spend five days a week in college but might only have 12 hours of tuition with lecturers. That

is ridiculous, especially if it is spread over the five days. They cannot get a job or anything else because they are in college for two hours one day, one hour the next day and three hours the next day, which is ridiculous. It is a contagion which suits some of the higher up people in the universities and institutes who are doing that. It is not good. Families have to support their sons and daughters in universities and colleges and they like to have them get a bit of part-time work because it is good for them. It is a good grounding for them. They cannot do that if they have two hours in college every day. Why can they not have the lectures over two or three days a week and let them carry on with other activities. It must be streamlined. I do not know why the Minister is shaking her head.

Deputy Regina Doherty: I agree with the Deputy.

Deputy Mattie McGrath: I thank the Minister. Normally the Minister nods when she agrees with me but she was doing something else so I thought she was saying she did not agree with me. That is grand. We will accept that. As I said, a quarter of all employees working nine to 18 hours per week are in wholesale or retail with another 17% working in health. A significant proportion of those who work 19 to 35 hours per week are in education and health. They are also in our nursing homes, which we badly need. I meet them all the time. There are a lot of staff in nursing homes who work very hard and they do not have many hours. I know nursing homes are normally small entities or a family business and it is difficult but they are a very important area. We will all end up there. We do not want to say anything in here that might bite us when we end up there. “Be nice to your kids, they pick your nursing home” - that is what stickers on the back of cars say.

We need to have respect for workers. It is a two-way street. If an employer respects workers, they will respect the job and be dedicated to it. It is not acceptable as I said. The penalties included in the Bill are too weak. As I said, we need real penalties that have teeth. We need to send a message to big employers, of which there are many. They are greedy and driven by greed. It is a race to the bottom. They abuse staff and do not respect them. We should send the message that it will not be tolerated. It is a land where we respect and value our workers and families. People will not be able to get a loan. We know that. How will they get a county council loan or any kind of credit union loan? The penalties included in the Bill still leave huge voids for people to get loans to be able to carry on in a small business or to repair their house or get on the market. It is a two-way street.

Employers must be respectful and *vice versa*. If that is the case, one will have a flourishing and happy company with good dialogue. Some companies might not even be unionised but there is respect. It is a two-way street and the workers go the extra mile when the pressure is on. That is especially true in the service industry when they have to respond to different situations whether it is after storms or different climatic conditions or perform seasonal work. When people are on zero-hours contracts and are threatened and cajoled and told they will lose some hours if they do not comply, it creates hostile and poor relations in a company. A company like that will not flourish.

There has to be a good environment with robust debate like we have here most times. I salute employers like SuperValu and even Marks and Spencer. I was in SuperValu in Carrick-on-Suir last week and was pleasantly told by one of the smiling staff that there were 90 staff and they are all very happy people. I could see that when I walked around and experienced the ambience of the shop. It is the same in SuperValu in Clonmel, Cahir and Tipperary Town and all the ones I go into. I salute them for that.

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I heard a very wonderful interview on radio one morning with former Senator Feargal Quinn and his son. I think it was “Miriam Meets” He was a powerful man and so were his forefathers. I think he is the fourth or fifth generation. The way they treated their staff and customers is what we need. We do not need mollycoddling and dancing around with each other and hugs and kisses. We need honest, decent and respectful work and honest, decent wages within the limitations of what the company is doing. One will always find that workers will be understanding in those situations. They put their shoulders to the wheel. They have understanding if we meet lean times or difficult times. There will be a better outcome.

We need to let the axe fall where it should fall and it needs to fall on a lot of them. Many of the companies that built our motorways - not many but a lot of them - now have issues with the quality of work. They get these Government tenders. We saw it today with the ferry for Tory Island in Donegal going in at ridiculously low prices. I salute the people we met today and anyone in the business. Hundreds of them came here. They could not all be from the island or they would have three times the population they do. If there were that many, Deputy Pat The Cope Gallagher would have a bridge built out to the island to go out canvassing. They have that little ferry and they know the lowest price is not the best. With eTenders we are getting companies coming in here and showing scant regard for Irish employees and tradespersons who are scarce commodities at the moment. I ask the Minister to support the trades because we need to get people back into trades as well.

As I said, women seem to be very poor. Some 32% of women are in temporary employment, many of who are on zero-hour contracts. That is not fair because in many instances they are homemakers as well and some are single parents but they are locked in a bind. Some 10% of Tesco staff are in receipt of family income supplement. Companies such as that make massive profits and while they give jobs and pay local rates, they have special deals and they should be well able to support their workers. I went to a supermarket with members of the IFA some years ago and we filled two trolleys with vegetables and other produce for €9 or €10. It is a race to the bottom and they are putting huge pressure on suppliers, the people who grow the potatoes, the cabbage and everything else. These people give employment and are the backbone of our economy but the supermarkets are putting them under enormous pressure to supply for below-cost selling. There is a lot of murky business going on, such as hello money, and with very few exceptions this is not going in small companies. Big is not always beautiful and we had a big beast here a few years ago in the form of a tiger, which wrecked us all then left us all in a heap of brus.

Deputy Róisín Shortall: Far too many people in this country are suffering because of insecure and precarious employment. Our young people, in particular, find themselves locked out of secure employment, decent conditions and fair pay. Having a set working week and a set wage is, for many people, now only something their parents' generation enjoyed. Too many people find themselves waiting for emails or texts from their managers or co-workers telling them the roster is done, or checking with trepidation to see where and when they are going to be called in to work in the week ahead. Plans for child care or social events go out the window along with the family's budget.

Increasing globalisation and the sense that some employers are getting away with treating their staff very poorly raise huge questions about the future of employment and there appears to many people to be a race to the bottom. The driving down of standards in jobs through low pay, zero-hour contracts, bogus self-employment and the growth of the gig economy all pose major challenges for our society and for young workers in particular.

It is not unreasonable for all workers to know in advance what their expected working week will look like. It is not unreasonable for all workers to know how much money they will be paid from week to week and it is not unreasonable for children to expect to know when their parents will be home from work. A dilution or an erosion of these expectations harms society in general. It harms families and it undermines the ability of people to plan their lives with any kind of certainty. While the Government is to be commended on bringing this Bill forward, the Social Democrats see this as the first piece of a larger suite of measures required to ensure all workers are treated with dignity and respect, and that all work is valued. The Social Democrats have proposed that there be a new deal for young workers, which guarantees fair terms and conditions in order that everyone is assured that their hard work will be properly rewarded. That is not too much for anybody to expect. They have a right to expect that work-life balance is possible and there should be a legitimate expectation that a decent job will allow a person to live a decent life, which is far from the case at the moment.

Fair pay and conditions are vital if we are to achieve high productivity and quality employment, which is evident in so many other countries where there is real social democracy at the heart of their politics. We can only hope the Government will see the value of this approach and choose to treat all workers with the respect they and their work deserve.

Precarious work is not a recent phenomenon and the issues this Bill purports to address have been consistently raised by workers in certain sectors and by the unions that represent them for more than ten years. Despite expert evidence in the form of an extensive and thoroughly researched report on low-hour contracts from the University of Limerick, which was commissioned by a Department, it seems the Minister has chosen to temper the recommendations of the report to satisfy employers. Elements of the Bill as it stands simply fly in the face of evidence-based decision making and I will table amendments to rectify these shortcomings in due course.

The fact that key recommendations of the report were completely ignored to keep employers happy speaks volumes when we look at the reality of the working conditions of those employed on these contracts. Qualitative research, carried out as part of the University of Limerick study, highlighted a number of serious issues for those who are employed on low-hour contracts. The two central issues highlighted are the ideas that people who take up low-hour contracts do so because there is nothing else available for them, as well as the unpredictability of hours and the related issues that stem from that. The idea that individuals are taking on employment described by one organisation as a business school model of running a business, that is, just-in-time for workers, says it all.

According to an ICTU report on low-hour employment practices, the exact number of employees on zero-hour contracts and subject to zero-hour practices in Ireland is unknown but we do know that 8% of workers - more than 150,000 people - work hours that vary considerably on a week-to-week or month-to-month basis. These workers disproportionately work in the retail, hospitality and social care sectors, all sectors where women dominate the workforce. Access to benefits, mortgages and loans and the protection of anti-discrimination law are inhibited by insecure contracted hours. Such arrangements have been shown to have long-term negative impacts on earnings potential and physical and mental health. The Bill should seek to address these issues but, sadly, has been found wanting in a number of respects. While the precise number of employers offering zero-hour contracts here is not available, some estimates can be gleaned by statistics compiled by the CSO. According to congress, employees on zero-hour contracts are likely to be a significant component of the group categorised as underemployed.

Ireland has the highest level of underemployment in the EU bar Spain and the increase in the numbers of underemployed has been substantial. Since the third quarter of 2008, the first year for which Ireland has data, the number of underemployed has increased by 50.5%, compared with growth of 31.9% across the EU during this period. These figures represent a complete indictment of the Government's ability to create quality and sustainable employment.

The second issue highlighted by the report is the broad issue of the unpredictability of hours and the issues that flow from that. In the University of Limerick, UL, report, congress and the National Women's Council of Ireland referred to the impact on individuals who are on low-hour work, which range from not knowing a schedule to waiting for a phone call and guessing hours. Congress argued that even where employees have regular hours, the fact they are on an if-and-when contract leads to anxiety because they do not know which is the week they will not get the hours. How can employees expect to be able to plan their lives around this type of unpredictability? It is simply not reasonable to expect workers to arrange for child care, transport, their personal lives or anything else which we take for granted, on the whim of the person doing the roster for the week.

The second issue is the power imbalance these contracts create for employees. In the qualitative research for the UL report, the National Youth Council of Ireland noted that there was not a relationship of equals between organisations and people on low hours. The National Women's Council argued that people on non-guaranteed hours can become trapped in a cycle of poverty, which strengthens employers' control over them. Mandate has collected evidence from its members that details how these contracts can be weaponised to punish workers in a very disturbing manner. One worker in a very well-known Irish supermarket complained about a fire exit being blocked. His hours were cut from 40 hours per week to ten for six months as a punitive response. Incredibly, this practice is not illegal as his contract stipulated a minimum of ten hours per week. This represented a 75% cut in this individual's wage. Again, how can a person plan life around this type of uncertainty? This type of hour allocation and wage fluctuation also has implications for welfare claims such as family income supplement and the casual claims for those on jobseeker's payments.

We must now ask whether this Bill addresses the issues identified by the UL report and the unions. The key objectives of the UL study were established by the Department of Jobs, Enterprise and Innovation. They were to fill the gap that existed in terms of the hard data and information about the prevalence of zero-hour contracts in the Irish economy and the manner of their use, to assess the impact of zero-hour contracts on employees and, crucially, to enable the Minister to make any evidence-based policy recommendations to Government considered necessary on foot of the study. If we are to judge the Bill on the third objective, we would have to say the Government has not succeeded. It has rejected and ignored several of the crucial recommendations of the report that would have provided enhanced protection for workers.

As a starting point, it is worth examining who the Bill will actually protect in its current form. According to Dr. Sinéad Pembroke of TASC, the Organisation of Working Time Act provided that employers give 25% of the hours they require someone to be on call for. The UL report revealed that in order to get around the legislation, employers use "if-and-when" contracts. If the employees are available and when the employers have hours, the employers call them for work. The difference between zero-hour and if-and-when contracts is that for the latter, there is no obligation on the employer to offer work and, equally, there is no obligation on the part of the employee to accept meaning that an employee does not have the protection of employment law. Consequently, this Bill does not tackle if-and-when contracts, which as

the UL report on the prevalence of zero-hour contracts found, are much more prevalent than zero-hour contracts. Furthermore, zero-hour contracts already have some statutory protection for employees whereas if-and-when contracts do not. The conclusion from reading the various reports from TASC, UL, ICTU and others has been that in a wide range of circumstances, employees on if-and-when contracts rarely feel that their hours are truly optional and fear being “zeroed out” if they do not accept hours which are offered to them. The absence of protections for if-and-when workers is a very serious flaw and seriously undermines the effectiveness of the legislation. I will table amendments to address this issue in due course as I am sure will many other Members because it must be changed.

Nobody should have to work without knowing their rights and this information should be available from the day a person commences their employment. This is a core recommendation of the UL study and is echoed in an ICTU report from last year. Unfortunately, these proposals have been watered down in the Bill, which instead grants this right only from the fifth day of employment and only grants recourse where the employer fails to provide this statement for more than a month so it renders it pretty well meaningless because there are so many restrictions on it. There is simply no reason why this information cannot be made available immediately to employees. People should not spend an entire working week in the dark about their actual hours, pay and terms and conditions and requiring employers to provide this from day one is not an onerous burden when these conditions will typically be very similar for the majority of employees in similar roles. Indeed, in most cases, these conditions can be provided to employees before they begin working at the stage of making a job offer. That is a fair and reasonable expectation for employees to have.

Changing hours at extremely short notice without compensation represents a serious intrusion into the family and social lives of precarious workers. Workers schedule their lives around their work and the practice of cancelling hours at short notice can often put huge financial pressure on employees to work antisocial hours whenever they are offered because they do not know how large or small their next weekly pay cheque will be. While accounting for the fact that sometimes there will be unforeseen circumstances which require an employer to request additional help at short notice, it should be paying its employees for the inconvenience caused. Workers may have to arrange child care at short notice, cancel social occasions and family time in order to perform work thus damaging personal relationships and quality of life. The UL study recommends that the premium for being called in at short notice should be an additional 50%. This provision is not in the Government draft legislation before us and is a key omission which fails to address one of the most serious issues in precarious contracts.

The UL report recommended the introduction of legislation that would require employers to pay any worker it asks to come in for at least three hours at their regular wage whether that work is made available or not. Workers should not be made to come in for extremely short periods of time which take a large period out of their days and require them to pay for transport without sufficient compensation. A weaker version of this provision is in the Bill, which only compensates workers at the national minimum wage or employment regulation order rate rather than their actual wages. This does not provide the certainty that some workers need. We believe anyone who hires a worker has an obligation to provide them with actual work.

The Bill’s provisions for banded hours contracts have an 18-month “look-back” period for calculating the average hours and very wide bands. Therefore, it does not protect workers who have not been in employment for a minimum of 18 months. The UL study recommended that this look-back period should be six months while the Oireachtas committee which examined

the report recommended 12 months. A very sizeable proportion of employees in the sectors noted for precarious work have not been employed for 18 months and this length of a look-back period increases the incentives to turn over staff when they are approaching this date as there is greater scope to have relatively experienced staff while still avoiding providing those staff with secure hours and wages. The UL report also recommended that these bands should be reviewed on an ongoing basis to prevent employers keeping an employee on an artificially low number of hours. This is absent from the draft legislation. Unions say this long look-back period will lead to exploitation and have drawn attention to the “spread” of the bands as currently set out in the Bill. The Oireachtas committee, TASC, the UL report and unions recommend that the bands be no greater than five hours which would provide a degree of working certainty.

Finally, unions have noted that the Bill as currently constituted does not provide for sufficient protection or recourse for workers who find themselves at the mercy of employers who seek to penalise workers for exercising their rights. The Bill’s current provisions against penalisation are difficult to enforce by individual workers given that individual cases of reduction of hours can often be justified by reasons other than penalisation. The burden of proof should fall to the employer to show that the changes to the work practices were a punitive response to raising concerns.

The issue of bogus self-employment is not addressed in the Bill; it is a glaring omission. The likelihood is that even the meek measures in the Bill when implemented will lead to an increase in the amount of bogus self-employment. Increasing numbers of workers are being forced into this phoney position, which must be addressed. I and other Members of the House will table amendments to the Bill in order to strengthen that area.

I return to the theme of the locked-out generation. In many ways, the most pressing issues we face as a society, such as the housing crisis, the future of pension and welfare provision and so on, impact most on those who will come after us. The type of working world that we design for them is no different. In many ways, it is the issue that will impact most on their lives. If we deny young people the ability to earn a fair wage in a fair way, what kind of society are we creating? It is a society that many people feel excludes them. It is a society that will not be inclusive and will not work satisfactorily for all. We cannot afford to create that kind of society. Action must be taken. The Bill fails to address the key issues involved and must be substantially amended.

Deputy Seán Canney: I am sharing time with Deputy Fitzpatrick.

I welcome the Bill, which is part of the programme for Government, and I compliment the Minister on bringing it to the House. It is important to set out exactly what the Bill intends to do. It seeks to improve the security and predictability of people in employment. Many people do not know what they are going to earn or how many hours they will work from week to week or even from day to day.

In certain cases, it proposes to ban zero-hour contracts. We need to watch out for this because some exploitation can go on with employers. However, in some places employers need to have flexibility in work hours. In the main, the Bill gets that balance right. We often talk about big companies and how they might take advantage of their employees because of big numbers or whatever, and that they can dictate terms and conditions outside good practice or what is morally right. The Bill is very important from that point of view.

I take the opportunity to raise another matter in the area of employment. I have had much correspondence from school secretaries and caretakers who are not all treated equally. A small number of school secretaries have been employed under the 1978-79 scheme. They are paid on the equivalent of grade 3 or grade 4 civil servants depending on the school size. More than 3,000 school secretaries are employed by boards of management funded by the Department of Education and Skills. However, the rates of pay vary from school to school depending on the board of management and on affordability.

In addition, school secretaries are not paid for the 52 weeks and they have to sign on the dole for the summer, which is very degrading for them. The role of the school secretary needs to be valued; they are often the engine that keeps the school going. They deal with all the day-to-day problems that arise and keep the school running smoothly. They are also the problem solvers, but they seem to be treated differently. It is vital that their pay and conditions are corrected and that there is parity between schools so that they get equal pay for equal work and get the same terms and conditions nationally. This anomaly needs to be addressed. While the Bill deals with employment, we need to talk about the broader problems and anomalies involved.

For school secretaries and caretakers, there is a substantial difference between the rate paid in one school and the rate paid in another school for the same work carried out. The school secretaries have been very patient. There is an onus on us, as legislators, to ensure these issues are addressed and that we get parity for everybody. An arbitration case in 2015 found that there should be increases in pay and a minimum hourly rate for school secretaries. I welcome that the Department has given extra funding to schools, but there is still a significant disparity in the rates of pay between schools. We need to take these anomalies out of the system. There are many more anomalies with young educators working in crèches where they get paid for the hours worked and do not necessarily get paid the same rates as schoolteachers. They have been through four years of college and have a level 8 qualification, but yet are treated differently.

We have a very significant amount of work to do and it is vital that we bring in the Bill as quickly as possible. It is part of the programme for Government. I wanted to put on record my remarks on school secretaries but I welcome the Bill and offer my support to the Minister on it.

Deputy Peter Fitzpatrick: The Employment (Miscellaneous Provisions) Bill 2017 proposes to introduce measures to improve the security and predictability of working hours for employees who work under insecure contracts and also those who work variable hours. The Bill addresses areas that have been identified where current employment rights legislation should be strengthened to the benefit of employees, particularly low-paid more vulnerable workers, without imposing unnecessarily onerous burdens on employers and businesses.

Like many others, employers in my home town, Dundalk, have concerns that vulnerable low-paid workers are being exploited by unscrupulous employers in various ways, such as workers being called into work and then sent home without being given the hours of work or any compensation; insecure working arrangements; employees not knowing what hours they will be working from one week to the next; workers not being properly informed of their terms and conditions of employment by their employer; workers not knowing who their employer is or what is the legal entity that employs them; and workers on low-hour contracts who consistently work more hours than provided for in their contract. These cause difficulties for workers when they try to get a mortgage or access to other financial credit.

It may also be used as a means of exercising undue control over employees where the threat

of being put back on lower hours hangs over the employee. The Bill will address these issues. The Bill will prohibit zero-hour contracts in most circumstances except in situations of genuine employments and where they are essential to allow employers to provide cover in emergencies or to cover short-term absences.

All employees, including those on if-and-when contracts, will benefit from the balanced measures proposed in the Bill. It will also provide for a new minimum payment for low-paid workers who may be called into work but are sent home again without the promised work or any meaningful compensation. The focus is on low-paid employees and this new minimum payment is being linked to the national minimum wage to ensure the measure is focused on those most in need of stronger protection in this area. It is expected that the provision will also act as a deterrent against the unscrupulous practice of employers calling into work, for example, ten people where there is only work for five people and the first five who show up get the work.

The Bill also provides that employers must give employees five core terms of employment within five days of commencement of employment. Employers who have not provided this statement after one month will be open to prosecution, which is a new offence. It will also be an offence for an employer to deliberately misrepresent the information required in the statement of five core terms.

The Bill will provide strong anti-penalisation measures for employees who invoke their rights under the legislation. This is a key element of the Bill, particularly for workers in less secure employment who may be afraid to exercise their rights. The legislation will also introduce new rights for employees whose contract of employment does not reflect the reality of the hours they habitually work. This creates difficulties for employers in accessing credit, including mortgages.

Under the Bill, such employees will be entitled to be placed in a band of hours that better reflects the hours they have worked over the 18 month reference period. The banded hours provisions will significantly improve the predictability and security of working hours for employees so that they can better plan and get on with their lives outside of work.

The Bill is the result of extensive consultation, including a public consultation following the University of Limerick study on zero-hour contracts and low-hour contracts. The University of Limerick study was published in 2015 and was commissioned in 2014 by the Department of Jobs, Enterprise and Innovation. The key objective of the study established by the Department of Jobs, Enterprise and Innovation included the following:

To fill the gap that currently exists in terms of the hard data and information that is available concerning the prevalence of zero hours contracts in the Irish economy and the manner of their use.

To assess the impact of zero hours contracts on employees.

To enable the Minister to make any evidence-based policy recommendations to Government considered necessary on foot of the study.

The research found that zero-hour contracts within the meaning of the Organisation of Working Time Act 1997 are not extensive in Ireland. There is evidence, however, of if-and-when contracts. The fundamental difference between the two is that individuals with zero-hour contracts are contractually required to make themselves available for work with an employer while

individuals with an if-and-when contract are not contractually required to make themselves available for work with an employer. It is also reported in the study that employer organisations argued that if-and-when contracts and low hours suit employees. It is claimed that such arrangements especially suit students, older workers and women with caring responsibilities. Some employer organisations argued that they have difficulty finding employees who want to work more hours. A number of employer organisations also argue that providing any work to people reduces the cost to the State of paying unemployment benefits.

The University of Limerick recommended amending the Terms of Employment (Information) Acts 1994 to 2012 to require employers to provide a written statement on the terms and conditions of the employment or by the first day of the employee commencing employment. The requirement should also apply to people working non-guaranteed hours on the date of first hire. It also recommended amending the Act to require employers to provide a statement of working hours which are a true reflection of the hours required of an employee. This requirement should also apply to people with non-guaranteed hours. It also recommended repealing section 18 of the Organisation of Working Time Act 1997 and introducing either new legislation or a new section into the Act to include the following provisions:

(i) For employees with no guaranteed hours of work, the mean number of hours worked in the previous 6 months (from the date of first hire or from the date of enacting legislation) will be taken to be the minimum number of hours stipulated in the contract of employment.

(ii) For employees with a combination of minimum guaranteed hours and If and When hours, the mean number of hours worked in the previous 6 months (from the date of first hire or from the date of enacting legislation) will be taken to be the minimum number of hours stipulated in the contract of employment.

(iii) A mechanism will be put in place whereby, after the minimum number of hours is established, employers and employees can periodically review the pattern of working hours so that the contract accurately reflects the reality of working hours.

(iv) Where after 6 months an employee is provided with guaranteed minimum hours of work as per subsection (i) and (ii), but is contractually required to be available for additional hours, the employee should be compensated where they are not required by an employer in a week. The employee should be compensated for 25% of the additional hours for which they have to be available or for 15 hours, whichever is less.

These are only some of the recommendations from the University of Limerick study. We must improve the security and predictability of working hours for employees who work under insecure contracts and also those who work variable hours. I agree with the Minister that it is difficult for people to plan their lives outside of work and this Bill will significantly improve employment protection for these people. I wish the Minister the best going forward with the Bill. I think she has done a fantastic job with it. She will be getting my full support.

Deputy Michael Moynihan: I welcome the opportunity to speak on the Bill. There are many fine points in it and we want it to go to Committee Stage when we will examine potential amendments. I want to deal with a number of issues, in three sectors. Many people's contributions addressed agency work, zero-hour contracts and people who are working from day to day or hour to hour. Many of those are in the care sector, including nurses, care assistants in hospitals, nursing homes or in care facilities for people who have intellectual disabilities. I know

many of them. When one is talking to them on a daily basis and asks them how things are going, they might say they have a shift on that night, tomorrow and on Saturday night but are not sure about the rest of the week. That shows up the difficulties with zero-hour contracts. The Minister and Department have looked at it and how best to eliminate agency workers. There is no doubt that the issue of agency workers on the care side arose over the last eight or ten years during the economic recession. They experience huge difficulty. It is very difficult for those people who are on zero-hour contracts to, as many speakers have said, plan their lives, get mortgages and to get integrated into society. The other difficulty is where people have had difficulties with mortgage arrears. I know several families who are working on a day-to-day basis.

It is very difficult to go to the banks and will be more difficult as new information has come from the banks and vulture funds over the last 48 hours about the loan books which are being sold off. The Minister needs to look at that carefully because a train crash is coming down the tracks where that issue, the vulture funds and house repossessions are concerned. Parking that to one side, the difficulty I have relates to the people on zero-hour contracts trying to engage with the Money Advice and Budgeting Service, MABS, with their creditors or who are trying to find a solution. This Bill goes some way towards helping them. It is not how we need society to develop. There was huge apprehension and opposition from some parts with regard to this Bill but it fundamentally gives people from all age groups a platform so that they can plan their lives. I spoke to senior officials in the HSE today about home care packages and home helps, the difficulty it is experiencing in providing services and the financial challenges that exist with the HSE not providing funding for them.

The other issue I want to address relating to minimum hour contracts is pension rights and what is accessible by way of pension rights and details. Many employees paid from the public purse, either through the Minister's Department or through section 39 organisations, do not have the benefits of being a State employee. There is an ongoing issue relating to community employment, CE, supervisors. Those people who are working have been paid for by the State over the years. The CE schemes were put in place in the early 1990s. Community groups formed community organisations which were allowed to employ these people and which employed supervisors. The State made no provision about how to ensure that pensions are in place. This is an issue that comes within the remit of the Department of Employment Affairs and Social Protection and the Department of Finance and it needs to be resolved in favour of the community employment supervisors, many of whom have been left high and dry with no pension.

It was mentioned that school secretaries and ancillary school staff, by and large, work what is termed by the Department of Employment Affairs and Social Protection as the school year term, or 38 weeks a year. There are many people in that sector. There are also many people privately employed in a range of areas who have very little entitlements outside of those to which they are entitled under PRSI. I am sure the Minister is familiar with this issue. We need to strengthen the law to ensure that these people are protected going forward.

Living exclusively on a State pension is manageable for a couple living in one house but this becomes a challenge when a person is widowed. When the partner of an elderly person dies he or she has to meet the cost of burial and so on and this is causing huge poverty. However, that is outside the scope of this Bill.

I would like to raise another issue which is also slightly outside the scope of this Bill, namely, the entitlement of self-employed people to invalidity pension. I acknowledge that entitle-

ments for self-employed persons was addressed in the social welfare Bill, and I welcome that because that provision was badly needed. It means that self-employed people whose businesses cease operating are now entitled to any State benefit.

However, there is an issue with regard to invalidity pension. Where a husband and wife are working a farm and the husband has an accident, becomes ill or has a serious diagnosis, under the terms of this Bill for the husband to be eligible for invalidity pension the business has to cease trading. This is causing huge difficulties. The term “cease trading” needs to be reviewed. This is a get-out clause that is being used by the Department. It was also used in regard to payment protection plans that were sold by the banks ten or 15 years ago. Where a person was self-employed and his or her business ceased operating and that person opened a new business such as a restaurant, he or she could not get payment protection in respect of a van that was used for the first business. A self-employed person who owns a small shop in the countryside or elsewhere who becomes ill and has to undergo surgery and further treatment over 12 or 15 weeks also does not qualify for invalidity pension. Self-employed people who get a serious diagnosis will do their best to fight it in the hope that they will be able to return to their business at some stage but if they are a sole operator they might have to cease trading to qualify for the invalidity pension. This measure needs to be revisited. This “cease trading” clause, which is contained in the social welfare legislation, is taking the good out of what was intended.

Deputy John Lahart: I thank Deputy Moynihan for sharing time with me. While I was in the Chair a number of the points I had intended to make were repeated many times on this side of the House and so I was deliberating on whether I ought to repeat them again. For the purpose of reinforcing the argument coming from this side of the House, I will repeat some of them.

My colleague, Deputy Moynihan, mentioned the CE scheme. I had a case in respect of which my engagement with the Minister’s predecessor was going forwards and backwards for so long I raised it with the Ombudsman, who I think is investigating the matter. I am struck by how far we have moved away, almost unconsciously, from common decency when it comes to employment. That is a reflection not on the Minister but society. Public servants take their terms of pay and conditions for granted. I choose public servants only because they enjoy permanent employment.

When it comes to people in the private sector who enjoy permanent employment we do not question the things that they expect as a matter of right. I was self-employed and I know that the Minister was too. People in so-called good jobs came to expect these rights which were fought for over generations by trade unionists and organisations that worked on behalf of labour, including pensions, sick leave, maternity leave, compassionate leave, leave of absence and holiday pay. These are things which as a young man, and now as an older man, I took for granted. In this Bill, there has been a slide away from those expectations, which again is not a reflection on the Minister personally or politically. Senator Elizabeth Warren from Massachusetts has written about this. Obviously, it would be more pronounced in the United States. In one of her books she references the erosion of the middle class, which is a little more subtle here.

One of the Impact representatives I met spoke of a time that resonated with me. On one income he raised a family. He lived in a modest three or four bedroom, semi-detached house in Dublin in my constituency. The family went on holidays and one or two of the children went to college. He did all of that on one salary. He was what we would call a white collar worker, or somewhere between a white collar and a blue collar worker. Elizabeth Warren makes the point

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in one of her books that since the 1960s and the 1970s the cost of living has risen substantially for people. Working couples nowadays are bringing in two incomes but they have twice the expenses. They have a mortgage and child care costs, which is equivalent to another mortgage. I make this point because the Minister is tasked with the responsibility for maintaining these standards and maintaining the protections that generations of people, including trade unions, fought for. There are a lot of union representatives in my family on the teaching side. Trade unions fought for what people up to this generation have come to appreciate and understand are basic rights that will continue into the future. All the other points my colleagues made, on the insecurity of the banded hours, living with the associated tension, waiting for the call, and not being able to make plans and follow through on them if one is a single parent, build on that basic argument. Therefore, I will not repeat all the themes mentioned.

9 o'clock

It was mentioned that there are 150,000 affected workers. I acknowledge the unemployment rate is down to 4% or 5%, which is fantastic, but we must also consider employment. People have mentioned underemployment. Are there 250,000 households in which there is nobody employed? I do not know whether pensioners are included in that figure. It is up to the Government to maintain the standards that employees came to expect over a generation. This Bill does not meet those standards. It holds out no hope that householders can ever get to the point where, on one salary, they might be able to raise a family, never mind own house. Therefore, people are entitled to a little more. It is in this regard that I make my plea. We have come to a certain point but need to start moving further in regard to the quality of employment and life to which people are entitled. Someday we may return to the point where a household can be funded by just one working person, if that is what the household wishes to do. We have gone a million miles away from that.

Deputy Thomas Pringle: This Bill is welcome. Any efforts to bring about greater security for workers must be commended. The Bill attempts to focus on employees being better informed about the nature of their employment arrangements and, in particular, the core terms at the early stage of their employment; prohibit zero-hour contracts in most circumstances; and strengthen the provisions on the payment of low-paid employees who may be called in to work for a period but not provided with that work. I am aware that many employee groups have welcomed aspects of the Bill, including the entitlement of workers to a minimum payment if called in but not given work. I am well aware of this practice in the fishing industry in Killybegs. We were called in many times at 9 a.m., sent home again at 10 a.m., called back at 2 p.m. and given work then until 6 p.m. Workers all across the country have to contend with this.

The unions have done considerable work on this Bill but the workers in question are non-unionised. The workers right across rural Ireland affected by this Bill are non-unionised, and they have been left behind, as I will explain later.

The Bill is by no means perfect. While I support it, I agree with some commentators that it does not go far enough in dealing with if-and-when and zero-hour contracts. In the context of Donegal, it certainly does not go far enough for seasonal workers who have been largely left behind under existing legislation and in any reports looking into atypical work patterns. The most recent report, which was commissioned by the Fine Gael-Labour coalition, did not include seasonal workers within its remit and failed to adequately define if-and-when contracts to include seasonal work, while failing all the while to assess the implications of legislation on them. I would like to take the opportunity today to discuss the matter of seasonal work, the need for

greater trade union recognition in the workplace and for the proper and effective enforcement of existing and new legislation to ensure employers respect the rights of workers across the board.

Seasonal work is a common form of employment for many people in Donegal and includes work in the tourism, farming and fisheries sectors. There are very few coherent statistical data available on seasonal work so we have little information on the trends of employment in these sectors. This is because most of the employments are non-unionised, particularly in rural areas. Unfortunately, workers are disadvantaged when decision-makers are ill informed. That political decisions are being made without sufficient knowledge of the issues affecting seasonal workers warrants a separate report into this category of work. In the case of Donegal, particularly Killybegs, fish factory workers are often wrongly classified according to the current definition of seasonal work. This may have been the case 20 years ago when, in each year, there were three fishing seasons. Owing to substantial changes in the sector, however, the fishing season currently lasts only six to eight weeks of the year. Fish factory workers often engage in employment between the shorter seasons and, as a result, may be incorrectly labelled as self-employed. This severely reduces their income security and social welfare entitlements.

Seasonal workers do not have written contracts, yet the onus is on the worker to prove a contract exists. I hope that this legislation will help place the onus back on the employer by obliging it to set out the five basic terms of employment to a staff member within the first week of employment. Regarding the core terms of employment, however, I believe all workers should be provided with the core conditions of employment, including the employer details, length of working day and contract duration. These should be provided in writing before the employee commences, as opposed to after the employment has begun.

I want to discuss issues concerning access to social welfare. Obtaining it is becoming increasingly difficult as a result of looser employment arrangements. This must be talked about in conjunction with the legislation because the workers are not fully employed and therefore depend on social welfare to make up their income. As employment is harder to categorise, it makes access to social protection difficult. Many fish factory workers are mislabelled as self-employed initially by the Department of Employment Affairs and Social Protection, yet after an appeal the label is removed for some of them.

I deal with a number of people who are part-time farmers but who also engage in factory work in a particular season. Again, they are incorrectly classified as self-employed. However, the issue remains for seasonal workers that hours, as opposed to days, are used to measure eligibility for the jobseeker's allowance. Substantial cuts to social protection payments and income support created greater income insecurity for people in precarious employment as their nature of employment makes them heavily reliant on income supports, such as the jobseeker's allowance and the farm assist payment, and subsidiary employment and income disregards. Much of my work involves assisting workers to appeal the decision by the Department of Employment Affairs and Social Protection in regard to these entitlements.

As mentioned, fish factory workers are traditionally associated with a particular employer. It may be factory A or factory B but never both, with the expectation that the employee remains loyal to that particular employer, season after season. Deputy Shortall referred to two-sided contracts. They are not. The contract benefits the employer, not the worker. It is not two-sided as workers do not have the choice. They cannot say to the employer they are doing something else on a given day. It does not happen in practice. It might be envisaged when writing legislation for the Dáil, and it might look great on paper, but it does not happen in practice. Em-

employers have the power and workers do not. One cannot say workers have the right to say they are going to do something else. If they say it, they will not have a job afterwards. That is the bottom line. It is not a case of equal rights.

Employees are expected to be available for work when the employer requires them or they risk a reduction in hours or even a termination of employment. Consequently, a worker might not be asked back to work the following season and will be dissociated from a particular factory. For some, there is no option but to start work in another factory, if they can. Another serious consequence of mislabelling certain workers as self-employed, according to the definition that they are not contractually required to work, is that they may not be entitled to any compensation for hours not worked.

I have concerns relating to the barriers still facing workers and their right to be represented by their trade union of choice. Some employers still do not recognise trade unions. Until recently, they included Ryanair. The Bill does not acknowledge or address the urgent need for greater trade union recognition and the associated protections, including visits to the workplace by trade union representatives. Unfortunately, the Minister's people will not visit workplaces. If they do, they successfully prosecute but then never follow up. Therefore, what is the point? If there is no following up, the employer will continue the way he did and will not give workers the compensation to which they were entitled. There is no follow-up from the Department at all.

At the same time, it needs to be recognised that most seasonal workers are not unionised or organised and, therefore, suffer the consequences. A mechanism should be established that would allow non-organised workers to be represented and consulted during the drafting of legislation. Furthermore, there is the ongoing issue of the need for proper enforcement of existing employment legislation. Time and again we have employers ignoring the instructions of the Workplace Relations Commission or trade unions representing staff. The same is true of instructions from the Department's own agency, the National Employment Rights Authority, NERA. I hope that sufficient resources are provided to ensure the proper enforcement of current and new legislation. We can have all the fancy legislation we want, and we are great at introducing legislation in this country. If one looked at our legislation, one would think this is a fantastic country but when one looks at what happens on the ground, none of it is being implemented and that is the problem we have. If we only implemented a fraction of the existing legislation this could be a decent place to work and live.

I welcome any clarification carried out on current legislation that may result in positive changes empowering both the employer to adhere to the law and accept responsibility for any legal implications and the employees to defend their rights and entitlements as workers. I believe it is in the interest of the Government to protect workers in atypical contracts, including seasonal workers, because strengthening their rights will bring about better working conditions and better wages, which in turn would reduce the cost to the State in terms of Department of Employment Affairs and Social Protection payments. I hope that employers do not forget that it is also better for businesses if workers are protected as businesses will gain greater access to workers if the employer can guarantee better working conditions rather than the treatment of workers that is currently evident.

Deputy Alan Farrell: I am pleased to have the opportunity to address this very important Bill. I note, as did the Minister in her opening remarks, the significant contribution made by others to the production and progress of the Bill to this Stage.

The legislation before us is essential in terms of providing workers, especially those in low-paid and precarious employment positions, with additional protections. As such, I am pleased to have the opportunity to address this matter in the House. In recent years, job creation has been to the fore of the agenda for many Members of this House. It is perhaps fair to say that it was probably the sole objective and in that regard, certain matters were not necessarily skipped over or left to the wayside but it was a priority and it was necessary to have presented the opportunity to study the prevalence of zero-hour contracts in particular, as well as precarious work employment and practices. That is why bringing this Bill forward has been so important to so many people, especially workers such as those who are employed in Dublin Airport where a significant number of individuals are on bandless contracts. I am pleased that once this Bill is enacted, it will have an effect on those individuals who are such a significant contributor to the State with more than 3.5% of GDP.

Job creation has been essential in terms of getting our economy on the road to recovery and ensuring the State builds the resources necessary to provide communities across this country with the investment in social infrastructure they deserve. However, it is now essential that we act to provide workers with certainty and security in their employment. This Bill puts forward a number of worthwhile protections and advances in terms of employment rights, particularly for people in more vulnerable working positions. I refer to the fact that this Bill will prohibit the use of zero-hour contracts in the vast majority of instances. With the exception of cases of genuine casual labour, and where they are required to provide cover for emergency situations, zero-hours contracts will become a thing of the past as a result of this legislation. That will be an important milestone in improving employment conditions for so many people working on tenuous and unfair terms and conditions.

Essentially, the intention in this regard is to remove the phrase “zero-hour practice” from the title of section 18 of the Organisation of Working Time Act 1997. That will effectively mean that, apart from the aforementioned exceptions, an employer will be prevented from engaging an employee on a contract which would fall within the meaning of section 18(1)(a) or 18(1)(c) of the 1997 Act. Getting rid of those unfair contracts in most circumstances will undoubtedly benefit individuals and families across the country, and will prevent companies from abusing their position of power. That will be built upon through the provisions of the Bill, which will mandate that employees receive a new minimum payment in cases where they are called in to work but sent home again without having worked. The fact that a minority of employers deem it acceptable to call people in to work to just send them home again without work is outrageous. Many such scenarios have been brought to my attention in recent years but especially in recent months whereby six or eight people are called into work but there is only enough work to sustain three or four people and the balance are sent home. That is incredibly unfair.

To go back to the example I gave of Dublin Airport, some individuals might be called into work before the public transport system is up and running so they have to get a taxi to work and then get a bus or train home. It is very difficult for an individual on relatively low pay and banded-hours contracts to be able to afford to do that on an ongoing basis. Accordingly, the provisions set out in the Bill as I have read them are most welcome. Requiring a new minimum payment for those who are called into work but then sent home without being required to work will certainly be a positive step in stamping out that practice by the select few companies who engage in it. The focus of the provision is on protecting and supporting employees who are low paid. Linking that to the minimum wage is also important to prevent employers from finding a work-around. I am pleased that the Minister has included such a provision in this Bill.

Stating that this floor payment or new minimum payment is linked to the national minimum wage means that workers who find themselves called into work, and who are then sent home without receiving any hours, will have to receive a payment of three times the minimum wage, or three times the minimum rate set down in an employment regulation order, ERO. Ensuring people who find themselves in such a situation receive that level of compensation is important, especially for those on very low pay grades. Making it a requirement that this compensation is paid is an acknowledgement of the disruption such a call into work can have to an individual's social and family life, as well as to one's finances, given the requirement on some to travel to work outside the hours when public transport is provided.

Strengthening the rights of employees with regard to their basic terms of employment is also of paramount importance and I am pleased that the Bill also aims to do that. Should the Bill pass into law, it will be a requirement that employers provide their employees with five core terms of employment within five days of the employee starting work. These core terms are: the full names of both employer and employee; the address of the employer; the expected duration of the contract in instances where the contract is temporary or fixed-term; the rate or method of calculating pay and; what the employer reasonably expects the normal length of the employee's working day and week will be.

It is a positive step that this legislation will make it an offence for employers if they fail to fulfil this obligation within one month of an individual commencing employment, and subsequently it will be possible for the employer to be prosecuted. Furthermore, the employer will also be open to sanction in cases where he or she deliberately misrepresents the information required in the statement of the five core terms of employment which each employee must receive. While it is all well and good to talk about how placing new requirements upon businesses can benefit employers, I am pleased that we are coupling this with sanctions through the creation of these offences. In fact, the inclusion of the offences shows that the Minister and the Government are committed to putting the well-being of employees at the centre of policy.

As it stands, employers must provide employees with 15 terms of employment within two months of an individual commencing work. The new requirement for the five terms of employment to be provided within five days will not detract from this as employers will still be required to furnish the employee with the remaining terms within a two-month period.

With regard to banded hours, I am pleased that the Government is taking action to address the reality in which many workers find themselves. Often, determining the hours an employee works by simple examination of their contract can be tantamount to examining working conditions through rose-tinted glasses. The reality is that the hours a person habitually works can be significantly different to, and in excess of, those listed in their contract. While an employee can habitually work many hours in excess of those listed in the contract, and be paid for that work, he cannot access credit or gain access to a mortgage due to the fact the contract does not reflect the reality of the employment or the work done. Under the banded hours provisions, employees will be able to be placed in bands of hours that are more reflective of the hours they actually work on the basis of time worked over an 18-month reference period.

Why is the reference period 18 months? It seems 18 months is a significantly long period, sufficient to provide a genuine overview of the conditions of a person's employment, taking into account the normal ebbs and flows of business activities. Therefore, it provides a strong reflection of the reality of working hours within a company.

Let us suppose we were merely to look at the hours a person worked during a quiet period. That would not allow for the longer hours the person may work during the festive periods to be taken into account. Likewise, let us suppose we were merely to look at a given timeframe. Should it be examined during the festive period, when the employee is working longer hours, it would not take notice of the fact the business may be significantly quieter at other times of the year when working hours are shorter. In this regard, it is important to ensure employers receive the protection they require and deserve while also being cognisant that measures will not put jobs at risk in instances where the provisions may be deemed unfair to employers, particularly in the cases of smaller businesses.

I note that the proposals in this area include a mechanism for a review of the arrangement after a period of 18 months. This applies where the employee has been sought and placed in a band of hours through utilising the rights as provided for under this legislation. I am pleased the Workplace Relations Commission will be able to place an employee in an appropriate band of hours when that employee has sought redress through the Workplace Relations Commission. Of course this is a last resort, but the measure should be included and I am pleased to see it written into the Bill.

The measures outlined with regard to an employee's request include the rationale by which an employer can refuse an employee's request. The rationale is reflective of instances where an employer is genuinely adversely impacted. The defences for employers include cases where the employee's claim is not supported by the facts; cases where significant adverse changes have impacted the business and may have a detrimental effect on future operations, for instance, where an important contract is lost or where emergency situations have occurred and adversely impacted the business, like flooding - unfortunately we have seen a good deal of flooding in recent years; and where the employment situation was genuinely temporary, for instance, where it was maternity cover for another employee or a specific term or contract hours for the festive season or the summer season etc.

The changes in this regard will be significant to many employees, particularly since employees will finally be able to use effective working hours to access credit or the mortgage they have been saving for. That is an important point to dwell upon. Given the escalation of house prices and rental prices in recent years, especially in the past two years, individuals may find themselves on lucrative but uncertain contracts. Where the contracts are not reflective of the income that they receive, it can be problematic in saving deposits and getting credit from financial institutions. That is so important. Even motor or home improvement loans are difficult to come by when a person does not have a contract that stands up to the credit analysis of the various financial institutions. It is worth mentioning that point in the context of the current housing market. The changes in this regard will be significant in providing individuals who have been saving for months or years with the ability to access the credit they so richly deserve. Moreover, it will provide them with greater security in employment and more freedom in planning their home and social lives.

Providing this safety in respect of employment will, I hope, allow many people to leave the stress of their working environment in work and no longer bring it home. Of course, such stress can have a severe effect on family life, especially given the stresses and strains of bringing up children. Concern over employment status or the work schedule and how a person might organise child care early in the morning or late in the evening, depending on the industry, is relevant as well. Having an enjoyable and relaxing home and social life is vital for physical and mental health, something the Oireachtas has spent some time focusing on in recent months and years

on an all-party basis. Anything we can do to support employees in that regard is most certainly positive.

I commend the fact that anti-penalisation provisions are included in the legislation. When we pass legislation to benefit any member of society, we must never be afraid for any reason if they access their rights. On that basis, I am glad that where employees invoke their rights under the provision of the Bill, once it is passed into law, they will be protected from any recourse on the part of the employer. This is of particular importance to any individual who may be in less-secure employment. Should an instance arise where an employer threatens to reduce an employee's working hours due to the fact that the employee sought to exercise his rights under this legislation, the employee can pursue penalisation through the Workplace Relations Commission against the employer. The inclusion of this protection will undoubtedly provide peace of mind to more vulnerable workers and ensure they have access to their rights and can exercise them without fear of potential consequences.

I note that in developing the Bill the Minister for Employment Affairs and Social Protection, Deputy Doherty, and her Department have engaged in extensive consultation with bodies such as ICTU and IBEC. They have worked to ensure the Bill is balanced and fair to employees and employers. I see nothing in this proposed legislation that could be deemed to be anything but positive. I thank the Minister and her Department. I thank the former Minister with responsibility for this area, Deputy Mary Mitchell O'Connor, and the former Minister of State, Senator Ged Nash, for the significant contribution they have made. I thank the relevant people in the University of Limerick who carried out the back-work to put this Bill forward.

I look forward to participating in the various Stages of the Bill as it comes through the floor of the House and through Committee Stage. Thank you, a Leas-Cheann Comhairle, for the opportunity to address the House on this matter.

Deputy Éamon Ó Cuív: Cuireann sé áthas orm an deis a bheith agam labhairt ar an ábhar tábhachtach seo. I am pleased to speak on this subject. In the first place it is fair to say that, especially in small businesses, there is normally a good and flexible working relationship between the employer and the employee. Most things are worked by trust and agreement. It is not always the case but that has been my experience in most small businesses that I know of. It is fair to say that bigger organisations, perhaps because of distance or because they do not have to deal with people on the same one-to-one basis, are in a far stronger position to bring in practices that suit their business but perhaps do not suit employees.

One of the concerns I have about society in general is that the gap between low and high wages and top salaries is ever-widening. It would appear that wages are not generally half as adequate in providing people with the wherewithal to buy or own a house. This was not the case in the past. Therefore, I believe there are issues far beyond this Bill that we need to look at in terms of employment.

I read a comment on the whole question of ownership. Most of us get to own a thing because we get a wage or salary. It was said that the objective of Government should be to ensure that private ownership is protected. However, a rider was put on that aim to the effect that ownership should be as diverse as possible. In other words, the idea was that the great share of ownership would not be controlled by a small number of people. We are facing a world in which more and more of our businesses are big multinational businesses. I am not referring to the manufacturing sector, which actually tends to produce good employers. I am referring

to the retail sector, for example, and even the hospitality sector. There are more and more conglomerates as opposed to family firms in the hospitality sector and ownership is becoming more concentrated as opposed to diverse. This is also having an effect on the day to day lives of people. As I stated, we appear to be being pressed into a position in which a small number of people will own large numbers of houses and an increasing number of people will become tenants. We must examine the shape of our society. The Bill is an effort to redress the balance in favour of those at the bottom of the pile. Let us be honest, it is not aimed at people with high salaries but at those who are paid the minimum wage or slightly more, many of whom are in low income families and struggling to live from week to week.

In my experience, one of the things that differentiates those who have good incomes from those on small incomes is the ability of the former to ride out a small crisis and take the hit if something goes wrong. This could be a car accident resulting in damage to their property or home or another unexpected expense. Those living on smaller incomes do not have a financial cushion or the borrowing power to create a cushion when one is needed. Uncertainty can, therefore, cause significant problems for such persons.

The Minister of State, Deputy Paul Kehoe, represents a rural constituency and will be familiar with the grief caused every year when an agricultural payment fails to materialise. When someone contacts the Department seeking a payment that was expected in October and on foot of which he or she has promised the bank manager to repay a loan, the Department will often state it has carried out an inspection and the applicant will have to hang on for a few months before the payment is made. The equivalent of that scenario for employees is not knowing from week to week how much income will come into the house, not because of their availability for work or otherwise but because of the availability of work for them. I am glad, therefore, that the Government has moved on this issue by introducing this Bill. As we say in Irish, is fearr go deireanach ná go brách or it is better late than never.

It would be churlish of me not to recognise that big wheels move slowly. While the development of legislation appears simple in that one can often achieve 90% of the task reasonably quickly, the final 10% can be tedious as is it must be discussed with the various interests - na páirtithe leasmhara - that one is trying to balance. The trade unions and IBEC have been consulted on the Bill. I was surprised to receive a document from Chambers Ireland in which it takes a highly critical position on the proposed measures. I would have expected Chambers Ireland to acknowledge that the Bill protects good employers and seeks to impose a burden only on those employers who do not act to the highest standards. Having read the various provisions, I do not regard the information that must be provided to an employee in the first five days of employment as excessively onerous. As a manager of a co-operative, I was the employer on a day-to-day basis because I had to fulfil the various obligations imposed on the co-operative. While I am always conscious of the need to keep paperwork to a minimum, the type of information being sought is not onerous. On the contrary, it is fundamental that employers provide this information in the stipulated period, with the rest of the contract to follow thereafter. This means employers will give some information regarding how a person will be paid, for how long he or she will be employed and the number of hours he or she can reasonably expect to work. One would expect that even without such a requirement, a good and fair employer would provide this information to employees in any case. The provision is simple and basic and I cannot understand the reason anyone would object to it. It is also appropriate to remove the exclusion that currently applies to employees who work fewer than eight hours per week. The provision of this information does not impose a significant burden on the employer.

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On zero-hour contracts, it is appropriate to address the issue of employees being on call for a certain period during which they do not know when they will be called. The method by which this has been done is proportionate and reasonable. If there are flaws in these provisions, they can be teased out on Committee Stage but none is immediately apparent to me.

The proposal regarding cases where an employee is called into work to find there is no work available is also appropriate. Nowadays, some people travel considerable distances to work and employees in the catering industry who work evenings in hotels and so forth often have to arrange babysitters. It is reasonable, therefore, to require that a payment be made to those who are called into work only to find none is available. This payment should cover the time travelling to and from work and the inconvenience caused.

It is always a matter of concern that people fear being penalised for exercising rights granted to them by this House. This is a common enough fear and I am glad it is being addressed in the Bill. Many people are afraid that an employer will take it out on them if they act to protect their interests. Every agreement and all human relations, for example, between landlords and tenants and workers and employers, can work in one way or another. An employer can wind up with the employee from hell and *vice versa*. In most cases, particularly where larger companies are involved, the employer is in the driving seat and position of power and this must be recognised in legislation.

The most important thing about legislation is that it protects vulnerable people and ensures they cannot be exploited by unscrupulous and powerful people. We should recognise that the vast majority of people do not need this legislation because relations in most workplaces are such that the employer would act in good faith even if there were no contract and create a good personal relationship with his or her employees. This is the day-to-day experience of most employees. As with almost everything else in life, one often introduces laws to deal with a minority who are exploiting others and, in doing so, one imposes a slight additional burden on those who would always comply with the law and treated their employees fairly.

When I was an employer I used to have a little slogan which contained an element of truth. I used to say that for good employees, no rules are needed because they would do the job in any case and do it well and willingly, with cop-on and effectiveness, whereas for bad employees, no rules were good because they would find a way to circumvent them. In this case, the same applies to the good employer or anything that is good in life. I accept that legislation of this nature is probably utterly unnecessary for good employers and will impose a burden on them. With regard to unscrupulous employers, I hope I am proven wrong and these laws will have an effect. I hope those employers do not dream up some other way of getting around the law to exploit ordinary workers. I can never understand the reasons for doing that as it creates an unwilling workforce and bad relationships. There is nothing worse than somebody who does not respect an employer. It seems to be the case that some employers go that way and therefore need to be stopped from exploiting employees.

I am glad the Bill has come before the House and I am sure that in principle it has universal support. I hope it gets a reasonably speedy passage through the House and goes steadily through Committee Stage and so on. If amendments are required, I hope they are made and this becomes law. I hope it does what is intended, which is to provide better working conditions for our citizens, more certainty and a guarantee of knowing what they can expect in employment and income. As I said at the beginning, life is difficult now. There may be many more people working but many are working on low wages in society. We need to ensure they are not

exploited in an unfair way.

Deputy Joe Carey: I welcome the opportunity to speak on this important legislation, the Employment (Miscellaneous Provisions) Bill 2017. It addresses key issues which have been identified as areas where current employment rights legislation should be strengthened to the benefit of employees, particularly low-paid, more vulnerable workers, without imposing unnecessarily onerous burdens on employers and businesses. The key objective of the Bill is to improve the security and predictability of working hours for employees on insecure contracts and those working variable hours.

What are the key issues of concern to people? Vulnerable, low-paid workers can be exploited by unscrupulous employers in various ways. For example, employees might not be properly informed of their terms of employment by their employer; employees might not know who is their employer, and specifically the legal entity that employs them; employees may be called into work and then sent home without being given the hours of work or any compensation; and employees on low-hour contracts may consistently work more hours than provided for in their contract, which causes difficulties for workers when they try to get a mortgage or access other financial credit. It may also be used as a means of exercising undue control over employees where the threat of being put back on the lower contract hours hangs over him or her. Employees may feel afraid to exercise their rights for fear of being penalised by their employer. Insecure working arrangements mean employees may not know what hours they will work from one week to the next.

How does the Bill address these matters and achieve its objectives? It will ensure employees are informed of the core terms of employment at an early stage. The Bill also provides that employers must give employees five core terms of employment within five days of commencement of employment. Employers who have not provided this statement after one month will be open to prosecution, which is a new offence. It would also be an offence for an employer to deliberately misrepresent the information required in the statement of five core terms. Currently, 15 terms of employment are required to be given by employers to employees within two months. A University of Limerick study recommended that all 15 items be given on the first day. Following consultation, it was accepted that this would be excessive. Instead, it is proposed that employers must inform employees in writing within five days of commencement of employment of the following five core terms of employment: the full name of the employer and employee; the address of the employer; the expected duration of the contract, whether the contract is temporary or fixed term; the rate or method of calculating pay; and what the employer reasonably expects the normal length of the employee's working day and week will be. Other required terms of employment should be provided within the current two-month period. Strengthening the sanction for non-compliance will help to promote better work practices and provide greater clarity around the essential elements of the employment relationship for both the employer and the employee.

The Bill will address the issues described earlier by strengthening the existing provisions around zero-hour contracts. It will prohibit zero-hour contracts in most circumstances and improve compensation for low-paid workers called into work but sent home again without the promised work. The Bill will prohibit zero-hours contracts, except in cases of genuine casual work, emergency cover or short-term relief work for that employer. It is intended to delete the phrase "zero hours practice" from the title of section 18 of the Organisation of Working Time Act 1997. The Bill will provide that an employer will no longer be able to engage an employee on a contract within the meaning of section 18 (1)(a) or 18(c), where the stated contracted hours

are zero, unless it is genuinely casual work, emergency cover or short-term relief work for the employer. This proposal is to avoid the contagion of an increase in zero-hours practices in this jurisdiction.

The legislation will lead to improved compensation for low-paid workers called into work but sent home again without the promised work. The Bill will introduce a floor payment for low-paid workers who are called into work and then sent home in these circumstances. The University of Limerick study called for a minimum of three continuous working hours where an employee is required to report for work and if there is no work, the employee should be paid for the three hours. The study's recommendation did not differentiate between low-paid workers and high-paid workers, meaning it would result in disproportionate benefits for high-paid employees over low-paid employees and significant costs for employers. Furthermore, the recommendation did not take account of arrangements where it suits both parties to agree a contract of employment for less than three continuous working hours. The recommendation would set aside the possibility of individuals agreeing mutually convenient contracts for less than three continuous hours. Following consultation, it has been accepted that changes in this area should focus on improved compensation for low-paid workers and to this end, the Bill will introduce a new minimum floor payment of three times the national minimum wage or three times the minimum rate set down in an employment regulation order to compensate workers if they are called into work but do not receive the expected hours of work.

The Bill will provide that workers on low-hour contracts who consistently work more hours each week than provided for in their contracts of employment are entitled to be placed in a band of hours that reflects the reality of the hours they have worked over an extended period. The Bill also provides for the creation of a new right for an employee whose contract of employment does not reflect the reality of the hours worked on a consistent basis over a reference period of 18 months to be placed in a band of hours that better reflects the actual hours worked over that reference period. This will provide greater certainty and a truer reflection of their hours of work and level of earnings, thereby addressing, in particular, difficulties employees may have accessing financial credit, including mortgages.

The reference period of 18 months is considered sufficiently long to allow for the normal peaks and troughs of businesses, including those subject to seasonal changes. The proposals also provide a mechanism for a review of the arrangement after a period of 18 months, that is, after the employee has sought and been placed in a band of hours in exercise of his or her right under this proposal. An employee will be able to seek redress through the Workplace Relations Commission but redress will be limited to being placed in an appropriate band of hours. The proposal includes reasonable defences for employers to refuse an employee's request where the facts do not support the employee's claim; significant adverse changes have impacted on the business; in emergency circumstances such as the business having to close due to flooding; and where the hours worked by the employee were due to a genuinely temporary situation such as cover for another employee on maternity leave. The provision will not apply to an employer who has entered into a banded hour arrangement through an agreement by collective bargaining with their employees.

The Bill will strengthen anti-penalisation provisions for employees who try to invoke a right under these proposals. The Bill provides strong anti-penalisation provisions for employees who invoke their rights under this legislation. This is a key element of the Bill particularly for workers in less secure employment who may be afraid to exercise their rights. It is intended to provide against an employer penalising or threatening to penalise an employee for exercising any

right under the proposed legislation. It is important that all employees feel safe to exercise their employment rights without fear of being penalised for doing so. The penalisation provisions in this Bill are broadly drafted to provide strong protections for employees. The penalisation provisions are core to the Bill and the new banded hours provisions in particular. Under the Bill's banded hours provisions, if an employer reduces an employee's working hours or threatens to do so for the sole reason that the employee sought to exercise his or her rights, the employee can pursue a penalisation case through the Workplace Relations Commission.

Section 10 of the Bill inserts a new section 6C in the Terms of Employment (Information) Act 1994 which prohibits the penalisation of an employee for exercising their rights under the Act. Penalisation is broadly defined in the section and includes threats of penalisation. It is important that employees believe they can exercise their rights under the Act without any repercussions. This is all the more important in the case of vulnerable workers. Section 16 of the Bill amends section 26(1) of the Organisation of Working Time Act 1997 to strengthen the existing protections against penalisation for employees who wish to exercise their rights under the Act.

I support the Bill and look forward to its passage through the Houses of the Oireachtas.

Deputy Bernard J. Durkan: I am glad to have an opportunity to speak to this important legislation which levels the ground somewhat in particular sectors in the employment market and labour force. It goes without saying that a good working relationship between employers and employees is essential to a well-run business. Be that business large or small, the two sides depend upon each other. The employer depends on the reliability of the employee and *vice versa*. There is nothing more soul destroying to the employee than to find at the end of the week that his or her wages are not what was expected. There is not much sense going into the supermarket afterwards and saying, "My wages are down this week, so can we have credit?" It does not work that way for a whole number of reasons.

Often employees in that income bracket are working on a very tight margin and they find that they are in a serious situation if anything goes wrong at all. This could be a flu, cold or other illness in the household or whatever the case may be. It can be particularly serious if they are living in rental accommodation. If they are in rental accommodation and their income fluctuates, they might be partly dependent on social welfare support. That can be in the form of HAP or, more likely in this type of situation, rent support. They could be dependent on the family income supplement or any other segment that might make up their weekly wage. Without it, they would not be able to go to work at all because they would not be able to pay the rent. This is not at all uncommon.

In the past few days I dealt with the case of a person with a wife and family who is homeless although he has a job. The reason he was homeless was that, as is often usual, the finance company or the landlord required him to leave the house and he could not afford to pay an increased rent. That is a fact of life. All he could do is declare himself homeless. He was on the local authority housing lists but, like lots of other people on the local authority housing lists, his chances of being housed in the short term are slim to nil. This is despite the efforts of Government to try to bridge the gap and bring on to the market a sufficient supply of housing to ensure that a person in those particular circumstances could survive.

It is also worth remembering that this does not just apply to one person in the household. It can apply to the breadwinner initially but it affects the whole family. It affects the children

who may have to go to a different school etc. They may find themselves in a very difficult and challenging situation and may not be able to resolve the problem themselves. Prior to the introduction of this legislation, they would have to rely on the goodwill of others to see them over their particular situation. What I am saying is not unusual. It is quite common nowadays and is the result not of labour factors but the cost of renting or buying a home. It applies more particularly to renting, however, because, as we know, in some cases it is more expensive to rent a home than purchase one. It should not be that way but that is the way it is. If we consider it from the point of view of people in that particular income bracket, imagine the person who is called into work on a zero hours contract who suddenly finds that he or she is not wanted on a particular day. It is humiliating and soul destroying for those who are treated in this fashion.

I do not accept the notion that the Bill is an attack on employers. It has the effect of leveling the ground between employers as well. If one employer resorts to zero hour contracts and another looks after his or her employees better, the second employer may find him or herself at a competitive disadvantage in the marketplace. Regardless of the product they sell, the service they provide or the goods they manufacture, although normally this does not affect manufacturing, a distinct advantage can be given to one employer over another adjoining employer. This applies in the service sector in particular and it needs to be pointed out to a far greater extent than that referred to already. Employers recognise it but we should also recognise that there is only one conclusion if one employer has an advantage along those lines, which is that the person who is disadvantaged will become even more disadvantaged. That applies to both the employer and the employee in the competing business.

10 o'clock

I mentioned at the outset the importance of a good employer-employee relationship. The employer and the employee are the first to benefit from it. Customers or those to whom the service or the goods are provided are then the people to benefit from a good working relationship between employer and employee in the workplace. We all remember in the days gone by when one could get what was termed an "after a bank holiday" car. It was well-known in the motor manufacturing business. It was a clear indication that there was something wrong in the workplace and people were disenchanted in it. They either had not worked the hours they should have, they had been unsatisfactory, or they had done something they should not have done over the weekend and were not in a position to give it their full attention when they went back into the workplace. In those circumstances, we need to look at the wider impact of the introduction of this legislation which will deal directly with those kinds of situations. In that sense, the customer will be the beneficiary.

We also need to ensure a good understanding of the position of the worker *vis-à-vis* the employer. They need to understand each other's position. The employer needs to know how, for example, the employee is situated financially. Can he or she be relied upon in all circumstances? Have they an adequate wage? Have they adequate provision in their own particular lives and in their household? Have they adequate provision in the quality of life they have? Are they under threat from week to week and day to day as to whether they are going to be able to make ends meet and as a result have extra stress and an unseen harassment? At the same time, the same applies to the owner of the business as well. He or she needs to be able to rely on the banks and his or her customers. How do they rely best on their customers? They rely best on their customers when they have a good working relationship and a good understanding of each other's position in the workplace. In turn, this leads to good labour relations and, obviously, a better and higher quality of service.

We have a situation where people on zero-hour contracts and who found themselves having to return home after being called into work when there was no work available, will receive a floor payment. The payment is a good idea. However, it is important that, notwithstanding the floor payment at the end of the week or fortnight, the employee can rely on a certain level of payment in any event, other than being fired. If they cannot do that, then they cannot run their household. There are ongoing demands made in every household. If they cannot meet those demands as they arise, then their confidence will go and they will be working under stress and pressure.

As I said earlier, all people in that employment bracket work on a tight margin. That tight margin can have an effect on their output, their demeanour, their relationship with the customer and, as a result, the standing of the firm for which they work. They need to be able to predict what they are likely to have at the end of the week or the end of the month. The demands which arise at the end of the month for electricity, the telephone and other household charges are predictable. They come on time all the time: most times they come too soon. The fact is when they do come, the employee - the householder - needs to be able to say in advance he or she can handle that. There is nothing as rewarding for a householder than being able to say he or she can plan for this month, he or she knows what will come up and the income that can be relied on to discharge liabilities at the end of the month. If the householder cannot do that, then he or she is at a disadvantage and will not be a good employee because the person has too many worries, stresses and competing demands. All of this tends to make life less reasonable and happy.

The quality of life of the person who is employed is important. It is important the person is reasonably happy in his or her workplace. Several factors can affect that such as if their employment is not permanent or there is a danger their salary will fluctuate from week to week. There may be a case where a competitor may not be as kosher as they should be in how they deal with their employees. That competitor may be working at an advantage and, as a result, may put another employer out of business. We need to realise that this is not all one-way traffic. This is a combination of proposals to address issues which have become a problem or will become problematic.

In general, when we look at what this country has come through over the past ten years, many people suffered a great deal. There were issues over which they had no control. Many people lost their jobs and had to emigrate. Thankfully, many of them have come back again. For many people, their working conditions changed dramatically. To be fair, many of their employers similarly had to undergo serious curtailments of their standard of living, quality of life and the degree to which they could have a reasonable degree of job satisfaction.

Most people enjoy giving a good return for their wages. There is a certain amount of responsibility among the Irish workforce which has always indicated that one is obliged to give a reasonable account of oneself in the workplace because it is one's job. If one looks after it well, it will be there tomorrow, next week and, please God, next year. Similarly, it is incumbent on the employer to be able to say to his or her employee that he or she is employed on certain conditions, that there may be fluctuations from time to time over which the employer has little or no control but that both parties have confidence in each other. To show that confidence, we are now proposing to improve the legislation and, in turn, working conditions. As a result of that, both parties will be able to look each other in the eye, say they are doing their best, playing the game according to the rules and both will benefit.

The number of families on low wages currently is not as bad as it was. It is still there, how-

ever. It is not so much that wages are low but costs, such as housing, are extremely high. Due to that, the unpredictability of what lies ahead for employees is an issue to which we have to pay due regard. It is being done in the course of this legislation but we have to pay particular regard for that now. As the competing demands of the costs of housing and rent continue to rise, it creates an ongoing serious concern for the people who live in those houses, first because they have to pay when they can afford to pay. Second, it is not entirely certain as to whether there will be a house there for them next week or next month, depending on what happens. Incidentally, related to this is the dependency on social welfare for the payment of rent. Due to the changes in the rules several years ago, social welfare now has to pay for the rent for the house in one shape or form. Any interruption in the continuity of payments creates a serious problem for the employee, particularly where that employee has a family. We all deal with people in our clinics on a weekly basis who come to us full of serious intent, know what their incomes are and, even if they have medical cards, are still concerned about whether they will be able to make ends meet if there is an issue like an illness or hospitalisation on the horizon.

I wish to emphasise a point. Landlords get a bad name. Some of them deserve it. Others are decent landlords who give a good service and treat their tenants like family. I pay tribute to that group of people because they have done the country a considerable service in recent years when it was difficult for them and their tenants to survive. They survived, and they treated their tenants well. The other group is the minority. I have spoken about it many times, as has every other Deputy. Suffice it to say, those landlords do not treat their tenants well. It may or may not be analogous to this Bill but, in the context of the issue under discussion, it would not be right to ignore the sacrifices made by the good, decent and caring landlords and by the people living in rented accommodation that has been under threat in recent years and who have experienced difficulties in terms of the continuity of their employment and the return on same.

The Leas-Cheann Comhairle will be glad to know that I will finish soon.

An Leas-Cheann Comhairle: The Deputy will be moving the Adjournment in three minutes' time.

Deputy Bernard J. Durkan: I welcome this legislation. It does a good job of addressing the issues that have presented. They have been debated many times in the House, and rightly so. The Bill addresses a social imbalance that became obvious in recent times. To do that, it was necessary and desirable - excuse me, but the flu must have caught up with me at last. Expiry might come sooner than I thought.

As a result of this Bill, I expect to see in the workplace a recognition by both sides of the other's predicament. The employer should also recognise that this is good, constructive and progressive legislation that has been needed for some considerable time and that - excuse me again-----

Deputy Paul Kehoe: It is old age, Deputy.

Deputy Bernard J. Durkan: It could well be old age, but I was not expecting it to come on in such a quick onslaught.

Deputy Paul Kehoe: It is the fags.

Deputy Joe Carey: Deputy Durkan should take his time.

Deputy Bernard J. Durkan: I hope that the legislation works well. I have hopes for the onward thrust of business and employment and the good relations between the employer and the employee that have become a hallmark. Employers and employees made considerable sacrifices during the bad times of recent years. We hope this legislation will address some of the aftermath of those times and that the country at large will benefit.

Debate adjourned.

The Dáil adjourned at 10.15 p.m. until 10.30 a.m. on Thursday, 15 February 2018.