



DÍOSPÓIREACHTAÍ PARLAIMINTE  
PARLIAMENTARY DEBATES

**DÁIL ÉIREANN**

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

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# DÁIL ÉIREANN

*Dé Máirt, 12 Meitheamh 2018*

*Tuesday, 12 June 2018*

Chuaigh an Ceann Comhairle i gceannas ar 2 p.m.

*Paidir.*

*Prayer.*

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## Leaders' Questions

**Deputy Micheál Martin:** We learned from Ms Susan Mitchell in *The Sunday Business Post* last weekend that the Government hired private investigators to spy on hospital consultants as part of a strategy to fight a pay claim pursued by these consultants, which is currently before the High Court. As part of a Government strategy, it seems that Ministers or their Departments authorised the hiring of private investigators to follow about ten consultants and place them under surveillance in their daily lives to try to collect and gather evidence against them regarding alleged non-compliance with their contracts. At a Cabinet meeting on 14 February 2017, the Government apparently decided on a strategy to defend these cases and specified that non-compliance by consultants with the contract should be a particular line of defence. When senior HSE management heard about this practice and objected, an attempt was made to stop it. The executive's solicitor wrote to the Office of the Chief State Solicitor stating that it was inappropriate. However, the Department of Health wrote back and stated that it had the backing of the Departments of Finance, Public Expenditure and Reform and Health, that the surveillance must continue and that, in the context of the consultants and the High Court case, any evidence of non-compliance must be gathered. It is my sincerely held view that, irrespective of the issues on the pay side, this sets a very sinister and dangerous precedent. Ministers and or their Departments should not order surveillance on citizens or on employees of the State. Without question, this is wrong and a potential abuse of power. Who is next? Will it be ESB workers who are pursuing a pay claim? Will it be bus drivers and rail drivers? Is anybody else out there pursuing a pay claim fair game?

Will the Taoiseach confirm that the Cabinet decided on such a strategy and that it was aware of the strategy pursued and of the hiring of private investigators? Does he accept that the constitutional right to privacy of these consultants may have been breached? Will he guarantee that patient data was not breached? How is one to check as to whether on-site activity is public or private without potentially breaching the files? Was a contract entered into between the Departments concerned - or their agencies - and the private investigators? What guidelines and protocols governed the behaviour of these private investigators while they carried out this

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surveillance of doctors, of which the latter were unaware? I would appreciate very specific answers to these questions I have asked. In particular, will the Taoiseach confirm whether the Ministers involved authorised, and were aware of, this surveillance?

**The Taoiseach:** I thank the Deputy. As he is aware, a court case on this matter is under way and even today there are negotiations on the possibility of settling the case to the satisfaction of consultants and the Government which, of course, is tasked with protecting taxpayers' money and money that should be going towards providing a better health service for patients. This case is active and negotiations are under way and, as a result, I am obviously limited in what I can say in response to the question.

What I can say is a huge number of consultants in the country work very hard and work well beyond the hours for which they are contracted. They deserve our thanks and respect. We also know, not from the Government but from "RTÉ Investigates" that there are other consultants who breach their contracts and who work full-time in private and public practice, which is impossible. We have seen from "RTÉ Investigates" that there are consultants who breach their contracts and who work in private hospitals when they should be in posts in public hospitals and who see more private patients than they are supposed to see. This is a serious issue because it is money and time that should be dedicated to public patients, many of whom have been on waiting lists for a very long time and who are facing overcrowded conditions. Let us not forget that the case the consultants have made is that the State breached their contract. What sort of case do they have if it turns out they actually breached their own contract? If their case is that they deserve money, compensation, hundreds of thousands of euros - or perhaps millions - for each individual at the expense of the taxpayer and if it is based on the idea that the State broke their contract, they do not have a case if they broke their own contract also.

It is not unprecedented for the State or its agencies to use investigators or inspectors when it comes to issues of this matter. We have, for example, welfare inspectors who check to see that people are genuinely disabled if they are in receipt of disability benefit or invalidity benefit. We have people who check on individuals to ensure that they are not claiming welfare while also working in the black economy. We have tax inspectors, part of whose role is to check up on people in all parts of society to see whether they are compliant in the context of paying tax. We had Revenue inspectors, for example, counting the number of chip bags that come out of a chip shop to see whether the owner is complying with the law. This should not be considered an unprecedented action.

To answer some of the specific questions asked by the Deputy, the HSE's legal representative, Philip Lee, engaged private investigators to examine the practice of these three individual consultants. The Departments of Health, Finance and Public Expenditure and Reform were aware of this approach-----

**Deputy Micheál Martin:** Who?

**The Taoiseach:** -----and had no particular issue with it as it was being done to gather evidence to support the HSE's counterclaim relating to consultants not compliant with their contract.

**Deputy Micheál Martin:** Were the Ministers aware?

**The Taoiseach:** Philip Lee wrote unexpectedly to the Office of the Chief State Solicitor on 6 April seeking confirmation that this approach was appropriate. Both the Departments

of Health and Public Expenditure and Reform confirmed it was appropriate and that it should continue. There was, however, no Cabinet decision on the matter. A letter to that effect issued from the Department of Health on 19 April to Philip Lee.

**Deputy Micheál Martin:** Were the two Ministers aware of this and did they authorise it? Will the Taoiseach give me a straight answer when I ask specific questions? I did not ask about the pay claim but I am aware of it. If the Taoiseach consulted the report by the director of the HSE to the health committee in December last year, he could have seen fully his position on the public-private split.

I asked the following question: a strategy was approved but were the Ministers aware of this and did they authorise it? The Taoiseach is fundamentally wrong. Is he aware of the Data Protection Acts? Does he think the Government and Ministers can wilfully violate and ignore those Acts? I asked if any legal contract had been entered into with the private investigators because such a contract would at least indicate some attempt to ensure compliance with the Acts. Is the Taoiseach aware of Mr. Justice Herbert's comments in the High Court about covert surveillance of employees in *Sweeney v. Ballinteer Community School*, where he said it amounted to malicious harassment of the individual concerned? The Data Protection Commissioner has articulated quite significantly on this matter over the past two to three years. The Taoiseach is cavalier and he articulated to *The Irish Times* on Monday the idea that because RTÉ does it, the Government can do it. Is the Government's new ethical code that whatever the media can do, it can do so as well? Social welfare inspectors are governed by a legal code and successive statutory provisions over the years governing those activities, which balance the rights of citizens versus the rights of the State. I want honesty from the Taoiseach and he should be straight up.

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

**Deputy Micheál Martin:** It is unacceptable, irrespective of who is involved. The Taoiseach might take the view, as he often does, that consultants are fair game and we can take chances or risks with their constitutional rights. Sure nobody will worry about consultants because we all know, etc. That is despite Mr. Liam Woods saying the opposite in his testimony to an Oireachtas committee. If the Taoiseach sets a precedent with one group of citizens, other citizens will be vulnerable.

**An Ceann Comhairle:** Please, the Deputy's time is up.

**Deputy Micheál Martin:** The Taoiseach cannot play fast and loose with our Constitution, and he cannot play fast and loose with people's rights under the Data Protection Acts.

**Deputy Fiona O'Loughlin:** Hear, hear.

**Deputy Micheál Martin:** I asked about data protection for patients and I got no assurances from the Taoiseach in that regard.

**The Taoiseach:** "RTÉ Investigates" did the country a service by using private investigators to follow some of these consultants who were in breach of their contract. A consultant or anybody working in the public service receives taxpayers' money-----

**Deputy Micheál Martin:** I am talking about the Government's actions.

**The Taoiseach:** They receive public money that they are supposed to use in the interests of patients, students in schools and the people they are supposed to look after. Any person in

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breach of a contract such as a consultant moonlighting in a private hospital when he or she is supposed to be working in a public hospital is damaging the interests of patients who are not seen and is also taking money from the taxpayer in a wrong way.

**Deputy Timmy Dooley:** The Taoiseach is judge and jury now.

**The Taoiseach:** I have no reason to have any concern that patient data were compromised in any way.

**Deputy Thomas Byrne:** They were.

**The Taoiseach:** I do not know if there was a legal contract with the private investigators. The Cabinet agreed that compliance with the contract should be part of the defence but there was no ministerial involvement in the execution of the strategy.

**Deputy Timmy Dooley:** It is a Cabinet without Ministers.

**Deputy Micheál Martin:** On a point of order-----

**An Ceann Comhairle:** There are no points of order.

**Deputy Micheál Martin:** Were they aware of the strategy? Yes or no?

**An Ceann Comhairle:** Please, Deputy Martin.

**Deputy Micheál Martin:** We are not getting the answers.

**The Taoiseach:** The Department of Health maintains the view it was necessary to pursue all avenues in the gathering of material relating to non-compliance in order to put forward the strongest possible defence in line with the Government decision. The use of private investigators and surveillance work is not unusual in defence and prosecution cases before the courts.

**An Ceann Comhairle:** I thank the Taoiseach. He is over time.

**The Taoiseach:** The Department's legal adviser for the cases has confirmed this.

### **Visit of American Delegation**

**An Ceann Comhairle:** Before proceeding with the business of the House, on my own behalf and on behalf of all the Members, I extend a céad míle fáilte to Dáil Éireann to Mr. Mark Farrell, who is the Mayor of San Francisco and a great friend of Ireland. He is paying a short visit to our country. He has strong family connections with Oola. We thank him in particular for bringing the good San Francisco weather to Dublin.

### **Leaders' Questions (Resumed)**

**Deputy Pearse Doherty:** This morning, the Cabinet approved the publication of the progress and interim report of the scoping investigation being conducted by Dr. Scally into the CervicalCheck scandal. We are told that the now final report will be delayed by anything up to six weeks. We are also told in Dr. Scally's progress report that information he requested

on a number of State agencies has only been provided in recent days. He also informs us that a significant proportion of these 4,000 documents were provided in a non-searchable format. Great effort was made in printing, scanning and then resending to ensure they would be non-searchable because many of the documents were electronic in their original format. Dr. Scally has said they are unable to read many of the documents.

This is of course highly regrettable, given that it has without a doubt caused the final report to be delayed, and given the time-sensitive nature of this investigation and the need for real and substantive answers for all the women affected and their families. However, even more troubling is the failure on the part of the Government to make good on its promises that the women affected at the heart of this scandal would have access to their own medical records. His comments yesterday that ensuring this is not as easy as taking out a book from the library were shocking. The comments lack empathy and miss the central point. They were described by solicitor Cian O'Carroll, rightly, as smart-alecky. Mr. O'Carroll said the Taoiseach did not address the central issue, which is the fact that records are still being kept from the victims of the CervicalCheck scandal. That is exactly what the Taoiseach did not address.

This is the reality and the Government knows it because we raised it. I raised it with the Tánaiste last month, on 17 May, when I told him of an incident in which the legal representatives of a woman affected by this scandal - and therefore a woman who did not have time on her hands - went down to Limerick on arrangement to collect her medical records and were told they would not be provided to her. The legal representation was told to leave the premises and was escorted off the premises. Nearly a month on, the same thing is happening. Women are still being denied access to their own records, and they need those records.

We all must play a role in rebuilding trust in this screening programme. I have said it before and I will say it again: it has saved lives and will continue to save lives. However, it must enjoy public support and women must have trust in it. Central to this is accountability, and central in turn to that is full disclosure of all the relevant information. The Scally investigation is just one part of this; access to the justice system is another core part. To have such access, access to basic medical information is needed, and that needs to be done with compassion and a sense of duty. I therefore ask the Taoiseach the same question I asked last month: will the Government intervene and ensure that women who are asking for medical records that are held by State agencies will be given them without undue delay? Will the Government call in the head of CervicalCheck to ensure that it gets the message clear that there will be no more stonewalling and no more putting up barriers in the face of these women who are in search of justice?

**The Taoiseach:** I also welcome Mayor Farrell to the Chamber. I had the opportunity to visit San Francisco last year and met his predecessor, Mayor Lee, who very kindly presented me with the keys to the city of San Francisco. As the House knows, there is a very special relationship between San Francisco and the city of Cork in particular, and I was really very sorry to hear of Mayor Lee's untimely death. The delegation has our condolences in that regard. We are really glad to welcome those in the delegation here.

There have been delays in providing information to the Dr. Scally inquiry, which was established by the Government, which he mentioned in his report published today. In some cases there have been delays in providing patient information to solicitors of patients who have requested it. I assure the Deputy that it is Government policy that there should be no undue delay in providing medical records and information to women and patients affected by any of these issues. The Government has given that policy direction to the public bodies concerned

and it will be reiterated. However, it is not as straightforward as going to the medical records department of a hospital and requesting a patient chart. Medical records are about much more than that. They can be in several different places, not only in paper and electronic format, and include the patient's charts and electronic records as well as X-rays, slides and other scans that may be in laboratories or radiology departments elsewhere. It should also be borne in mind that it in many cases it is reasonable to first go through the medical records to ensure they do not contain information about others which is privileged or belongs to somebody else or that cannot be released for another reason. Nevertheless, the Government's policy is that there should be no unreasonable or undue delay in providing records to patients when they request them or when their solicitors request them, and that also applies to Dr. Scally's inquiry. That policy direction has been made and will be reissued.

**Deputy Pearse Doherty:** We have heard similar words previously. The Tánaiste said the same a month ago after I brought this to his attention. I do not know what the Government did after that. Did the Government speak to CervicalCheck and ask why, when it had been arranged for a woman's records to be in Limerick in order that a court case that needed to be taken within a short window could be taken, her legal representatives were told that they could not have access to the records and were escorted from the premises after being told to leave? Over the past four weeks, other legal representatives have faced the same barrier. As I walked from my office to the Chamber, another legal representative was speaking on "Liveline" about how they were being stonewalled by the HSE, how they were not getting access to information and how, despite the laboratory saying that it has the test, it will not provide it. Yet the Taoiseach says that the Government's policy is that there should be no undue delay. However, there is a delay. What will he do about it? The Taoiseach is not an innocent bystander; he is the leader of the Government. This is a terrible scandal that we have raised here week in, week out, yet women are still unable to access their medical records. As Dr. Scally mentioned in his report, the women's sentiment can be summed up as, "My body, my records". As he said, I could not agree more.

The Taoiseach needs to intervene, as does the Minister for Health, because this cannot go on. Compassion and urgency must be shown, and these records must be provided immediately to any of the women who request them. This should have happened weeks ago. It is not acceptable that we are still discussing this four weeks later.

**The Taoiseach:** The Deputy has asked the same question again and I can only give the same answer. There are reasons there may be delays in providing records but it is Government policy that records, samples and files, whether they are in electronic or paper format, along with X-rays and other radiology scans, should be provided to patients when requested. The direction has been given to the public bodies concerned and will be given again.

The Government has acted swiftly to establish a serious incident management team, which has contacted all the women affected. We established the scoping inquiry and Dr. Scally produced his first progress report in that regard earlier. He also published a report on one of the terms of reference - (d) - relating to the information provided to women. Although it will be the end of the summer before Dr. Scally concludes his report, he will provide interim reports along the way, which is welcome and valuable. Part of the delay will also relate to the fact that he is very keen to engage with women and their families individually. I very much welcome that. We have also secured agreement with the Irish Medical Organisation to ensure that women who are concerned can have free consultations with their GPs and repeat smear tests if warranted. We have appointed a team from the Royal College of Obstetricians and Gynaecologists and the

British Society for Colposcopy and Cervical Pathology which is going to go through all of the slides again to see what anomalies were missed-----

**Deputy Pearse Doherty:** Will the Taoiseach call on the head of CervicalCheck as I asked?

**The Taoiseach:** -----and to help us understand whether they were the result of misreadings or ambiguous readings.

**Deputy Mick Barry:** Church and state were separated more than 200 years ago in the United States and more than 100 years ago in France. In the 19th year of the 21st century, however, church and State continue to be entwined in Ireland. We have church-controlled schools, hospitals and so on. Ireland lags behind and the Government lags behind. Where blows have been struck to this arrangement - and we saw a spectacular example recently with the vote for repeal and another in respect of the baptism barrier - the impetus for change has not come from the political establishment, rather it has come from below as a result of popular pressure.

The vote of the people to repeal the eighth amendment poses questions regarding church and State rather more sharply. The Government has announced its intention to bring forward legislation which would allow surgical abortions to protect the life of the pregnant person, to protect health and, also, to allow terminations in Irish hospitals in the event of fatal foetal abnormalities. If provided for in legislation passed by this Dáil, will these services be available in hospitals controlled by the church? Will these services be provided at the new national maternity hospital, which is due to be built on a campus controlled by a company with a board dedicated to a Catholic ethos? Is the Taoiseach aware that the St. Vincent's healthcare group annual accounts for 2017 state that the future directors of this company are obliged to uphold the "values and vision" of the founder of the Sisters of Charity, Mary Aikenhead, who is currently in the process of being made a Catholic saint? Is the Taoiseach aware that the emeritus professor of theology at Maynooth University has said that this obligation requires compliance with Catholic medical ethics?

Does he think it is satisfactory that, more than one year on from the announcement that the Sisters of Charity were due to step back at St. Vincent's, the new company due to take over ownership of the campus has yet to be incorporated? Is the Taoiseach concerned that the chair of the new company is the old chair of the St. Vincent's healthcare group, which refused a tubal ligation to Clare Malone and elective contraception procedures to many others? Finally, can the Taoiseach offer a guarantee to the Dáil and, more importantly, to the women of Ireland that abortions services, if provided for in legislation passed by this Dáil, will be fully available at the national maternity hospital?

**The Taoiseach:** The model we intend to follow for the abortion legislation, when we are able to publish it and bring it through the Oireachtas, is precisely the model used for the Protection of Life During Pregnancy Act, which the House passed in 2013. That legislation will allow individuals to opt out based on their consciences or religious convictions but will not allow institutions to do so. As is the case under the Protection of Life During Pregnancy Act 2013, hospitals such as Holles Street, which has a Catholic voluntary ethos, the Mater, St. Vincent's and others will be required and expected to carry out any procedure that is legal in the State. That is the model we will follow. Conscientious objection provisions will apply to individual doctors, nurses and midwives who do not want to participate in providing abortion services but it will not be possible for publicly-funded hospitals, no matter who their patron or owner is, to opt out of providing these necessary services, which will be legal in the State once the legisla-



tion is passed by the Dáil and the Seanad. I am happy to give the Deputy that assurance.

While the Deputy is correct to say that, in the United States, church and state may be separated, the United States has certainly not taken the church or religion out of its politics. In fact, religion is probably more present in American politics than it is here in Ireland. When we speak about church and state and while we should always acknowledge the many wrongs done by church bodies in the past — people will know what they are — we should not forget that many religious-based charities and many religious bodies do very good and valuable work today. The Deputy mentioned health and education but I would also point to the homeless sector. Very good work is done in this city by Crosscare, for example.

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

**The Taoiseach:** It is an agency of the Dublin archdiocese and it provides services for people who are homeless and helps to operate some of the family hubs. I also include bodies such as the Society of St. Vincent de Paul, which does such important work with disadvantaged families around the country. I hope it is not the policy of the Socialist Party or Solidarity–People Before Profit to stop Crosscare or the Society of St. Vincent de Paul from doing the work they do. The Deputy might tell us whether it is his view that they should no longer be State funded. I believe that is his view.

**Deputy Mick Barry:** Let us deal with the substance of the issue rather than side issues.

*(Interruptions).*

**Deputy Charles Flanagan:** Answer the question.

**Deputy Mick Barry:** That is what we are going to do. I welcome the fact that the Taoiseach said there will not be an opt-out for institutions but there are ways and means of opting out. The Taoiseach is well aware of this as a previous Minister for Health. He is well aware that, at the age of 21, Claire Hogan was refused tubal ligation at St. Vincent's Hospital despite the fact that the medical case for it was strong and overpowering. He is aware of the fact that Professor John Crown has reported on his experiences of sitting across a table from an ethics committee in St. Vincent's Hospital that objected to a cancer trial that stipulated contraception. He is also aware that we have a Catholic bishop who said that people who voted Yes should go to confession. How much pressure will there be on medical professionals in St. Vincent's Hospital?

Over 100,000 people signed a petition last year demanding that the new national maternity hospital be exclusively under public ownership. More than 1.4 million voted for repeal. The women of Ireland, the people of Ireland, expect that the new national maternity hospital will provide the abortion services sanctioned by this Dáil. Failure to provide them in full, including at St. Vincent's Hospital, with the national maternity hospital, will be met with a response from the repeal movement on a really massive scale.

**The Taoiseach:** As I indicated when it comes to the abortion legislation, just as is the case with the Protection of Life in Pregnancy Act, the conscientious objection will apply to individuals; it will not apply to institutions. Under that legislation, enacted by this Dáil in 2013, voluntary hospitals that have a Catholic ethos are required to provide the service if it is necessary. It will be the case that the new national maternity hospital, which I hope will go to tender this year and commence construction next year, will be required, expected and funded to provide abortion services. The new national maternity hospital will be publicly owned and publicly funded

and, therefore, will provide services that this Oireachtas deems necessary. That is the position the Government is taking. I am happy to reassure the Deputy on that.

I note that the Deputy declined to answer my question.

**Deputy Mattie McGrath:** Of course he did.

**Deputy Mick Barry:** Because, unlike the Taoiseach, I stuck to my time.

**The Taoiseach:** That silence was, perhaps, deafening. I believe in the separation of church and state-----

**Deputy Mick Barry:** Does he?

**The Taoiseach:** -----but I do not believe in the socialist ideology, which is to push religion out of the public space and to force people who are religious to be ashamed they have religious conviction and-----

**Deputy Paul Murphy:** That is shameful.

**The Taoiseach:** -----to hide them in a corner and to defund bodies and take public funding away from bodies such as the Vincentian Partnership for Social Justice, the Society of St. Vincent de Paul, Crosscare, Trócaire and Concern.

**Deputy Mick Barry:** Does he support church involvement in hospitals or schools, or not?

**The Taoiseach:** The policy of socialists is to take away that funding because they do not just believe in the separation of church and state; they want to turn religious people into pariahs, put them in a corner and hide them and take away funding from institutions.

**Deputy Paul Murphy:** Nonsense.

**Deputy Catherine Connolly:** That is a disgraceful comment.

**The Taoiseach:** I think that is wrong.

**Deputy Mick Wallace:** Tomorrow, it will be a year to the day since the setting up of the commission of investigation into the National Asset Management Agency, NAMA, under Mr. Justice Cooke. The second interim report landed on the Taoiseach's desk last week, which shows that NAMA does what it likes. Mr. Justice Cooke asked NAMA for the 40,000 documents it gave to the Comptroller and Auditor General for his investigation. That was a simple request but NAMA told him it would be too difficult to replicate. He had to ask the Comptroller and Auditor General for his copies. Mr. Justice Cooke then asked NAMA to produce all relevant documentation relating to Project Eagle. NAMA initially agreed and employed a team of solicitors to help it. They said they had created a keyword search system that would filter the relevant documents. NAMA sent over 34,000 documents but it quickly became clear to Mr. Justice Cooke that NAMA was leaving out key documents. To quote from his report, "it became clear to the Commission that the methodology used by NAMA and its agents was not sufficiently reliable to capture confidently, all relevant items". If this was the first time that happened we might be a little shocked, but this type of behaviour from NAMA is the norm.

The Office of the Data Protection Commissioner has similar problems with NAMA. It found in February that it was in breach of its statutory functions under data protection law yet

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the chairman and chief executive officer, CEO, remain untouchable. Section 14 of the National Asset Management Agency Act 2009 sets out that NAMA is answerable to the Minister for Finance but one would think it was the other way around.

In February, I asked the Minister, Deputy Donohoe, if he would instruct NAMA to stop its policy of deleting emails. I got a nice letter back from the Minister telling me how wonderful NAMA was and why he would not do it. I put in a freedom of information, FOI, request relating to my question to the Minister. To my amazement I discovered that rather than answer my question, the Minister asked NAMA to answer it. The Minister, Deputy Donohoe, sent NAMA the proposed response from the Department of Finance and got its edited version back, which was provided to me as his answer. The Minister signed the NAMA version that arrived to my office. How bad is that? Is the Minister for Finance not supposed to be holding NAMA to account? Who is running this country?

At this stage, we cannot trust NAMA to supply the Cooke commission with all the evidence surrounding Project Eagle because of its incriminating nature. Does the Taoiseach not believe it is time that he relieved the NAMA chairman and CEO of their duties and put in a public interest director instead? Given the thrust of Mr. Justice Cooke's second interim report, they certainly appear to be obstructing the work of a commission of investigation. Is the Taoiseach content to kick the NAMA issue down the road, postponing any day of reckoning for it? Does he have any appetite for the truth around the workings of NAMA?

**The Taoiseach:** I absolutely have an appetite for the truth. That is why the commission of inquiry was established. I look forward to it completing its work and making its findings, and I will not jump to conclusions. A commission of investigation has been established by this Oireachtas. It will carry out its inquiries and produce its findings. I ask Deputy Wallace not to jump to conclusions either. The purpose of setting up an investigation or inquiry is so that that inquiry or investigation can consider all of the facts, interview people and then come to its conclusions at the end of doing that.

The interim report of the Cooke commission, which I read only a week or two ago, does not make any findings against NAMA. It is largely a progress report on the work he is doing. He has requested an extension and that extension is being agreed. While there are certainly concerns in the report relating to the speed at which information and documents have been provided to the commission, he does not say that his work is being obstructed. That certainly was not in the document I read.

It might be worth noting for the House that Cabinet today approved the annual accounts and quarterly report of NAMA. They indicate that NAMA has done the job it was asked to do. It was asked to recover money for the taxpayer as a consequence of the property collapse and, as the Deputy knows, the property collapse cost the taxpayer a lot of money and not just people involved in that business. The report from NAMA confirms that it has now redeemed 100% of the senior bonds issued, which is in excess of €30 billion in senior bonds. It now expects that the surplus when NAMA is wound down over the next couple of years, and it will be wound down, will exceed its initial projections. It will be closer to €3 billion, and that will be remitted to the taxpayer.

**Deputy Mick Wallace:** When the assets were moved to NAMA for more than €30 billion it was not expected that the agency would just get its €30 billion back. The assets were valued at over €74 billion before they went to NAMA. That was their book value in the banks. It was

expected that they would reach somewhere in between, at least, which would put the figure around €60 billion. The notion that NAMA is making a profit is rubbish. I suggest that the Taoiseach read the interim report more carefully because the judge is saying that NAMA is not giving him what he needs.

On the issue of deleting emails, the Comptroller and Auditor General conducted an audit of this NAMA policy. It was never published but I got it under freedom of information. The Comptroller and Auditor General stated: “The deletion of emails, in particular board members’ emails, is contrary to and may compromise the principles of good governance”. He also stated: “There is a further risk to NAMA’s reputation when it becomes known that emails are being deleted, which may also have consequences for information sought under of freedom of information legislation.” In response to the recommendations from the Comptroller and Auditor General, NAMA paid PricewaterhouseCoopers, PwC, to do a report. PwC has been paid €10 million by the agency and, what a surprise, the PwC report is full of derogatory rubbish about how the Comptroller and Auditor General has provided no evidence to support his findings.

**An Ceann Comhairle:** I thank the Deputy.

**Deputy Mick Wallace:** Can the Taoiseach stand over that? How does NAMA get away with treating the constitutional officer responsible for public audit in the State so badly?

**An Ceann Comhairle:** I thank the Deputy.

**Deputy Mick Wallace:** Does the Taoiseach not think the Minister for Finance, Deputy Donohoe, should answer the questions and not get NAMA to answer questions about it? Does the Taoiseach think it is okay for the Minister for Finance to send NAMA the questions, so it can answer the questions? One could not make it up. What is going on in this place?

**An Ceann Comhairle:** I thank the Deputy.

**The Taoiseach:** A Minister’s Department may have a huge number of agencies under its remit. It is only reasonable when preparing an answer to a question about an agency under one’s remit that one might check with the agency and allow it to contribute to the reply. That is something every Minister does every day. Ministers have done that since the foundation of the State.

**Deputy Mick Wallace:** Not true.

**The Taoiseach:** If one is asked a question about a hospital or a school, there is a good chance one will check with the hospital or the school for the answer to the question.

With regard to the NAMA surplus, I recall the debates about establishing NAMA very well. Many Members said that NAMA would end up with a large deficit. It was suggested there would be a deficit of up to €10 billion. I cannot remember what the Deputy’s projection was-----

**Deputy Mick Wallace:** It has ended up with a deficit.

**The Taoiseach:** I may be wrong on that point but most people argued at the time that NAMA would not break even and that there would be a deficit.

**Deputy Micheál Martin:** Deputy Enda Kenny was one.

**Deputy Mick Wallace:** It has lost about €20 billion and the Taoiseach knows it.

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**The Taoiseach:** I have to be honest that I was one of the people at the time who thought there would be a NAMA deficit.

**Deputy Micheál Martin:** The Taoiseach was.

**The Taoiseach:** However, there will not be a NAMA deficit.

**Deputy Mick Wallace:** It is €20 billion.

**The Taoiseach:** There will be a surplus of between €2 billion and €3 billion which will be remitted in full to the taxpayer. In terms of getting taxpayers' money back-----

**Deputy Mattie McGrath:** It never paid.

**The Taoiseach:** -----NAMA has done its job.

**An Ceann Comhairle:** Please, Deputies.

**The Taoiseach:** On the other questions, the House establishes commissions of inquiry and we have established a number of them at this stage. They require a great deal of work by judges, lawyers and others and they are expensive for the taxpayer. We have set up a tribunal of inquiry as well, along with other inquiries. It is high time we allowed those inquiries to do their work-----

**Deputy Pearse Doherty:** If we got the information, we would not need inquiries.

**The Taoiseach:** -----and not second-guess their work while they are doing it or have parallel inquiries in this House.

**An Ceann Comhairle:** I thank the Taoiseach.

**The Taoiseach:** We have seen some of the results from the disclosures tribunal in Dublin Castle. We know-----

**Deputy Mick Wallace:** Has the Taoiseach seen the results?

**The Taoiseach:** -----Deputies raised and made allegations in the Dáil and we now know from what has emerged in Dublin Castle that those allegations were false. I have yet to hear those Deputies withdraw the allegations. They should do so.

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

**The Taoiseach:** I will return to that, incidentally.

**An Ceann Comhairle:** That concludes Leaders' Questions. I wish to point out to the leaders that we are way over time. Standing Orders provide for a specific amount time to deal with Leaders' Questions and it is extremely disappointing that the leaders continually disregard the order of the House when they speak. I ask them to have regard to the orders of the House.

**Deputy Micheál Martin:** On a point of order, is it in order for leaders to comment on a tribunal in the middle of the tribunal's proceedings?

**Deputy Brendan Howlin:** It is shocking.

**Deputy Mick Wallace:** Judge Charleton has not reported.

**An Ceann Comhairle:** No, we are not getting into that.

**Deputy Micheál Martin:** I believe we are precluded from doing so.

**Deputy Mick Wallace:** The Taoiseach is out of order.

**An Ceann Comhairle:** Please resume your seat. We are not getting into that.

I call-----

**Deputy Micheál Martin:** On a point of order, is it our position? We need to know for future reference for other Deputies, otherwise we will all come in every day and start commenting on various pieces of evidence given at tribunals.

**Deputy Pearse Doherty:** A ruling would be helpful.

**The Taoiseach:** People are constantly commenting on commissions and tribunals. I would be very happy if it was all out of order.

**An Ceann Comhairle:** I call Deputy Róisín Shortall to announce the Order of Business for the week.

**The Taoiseach:** I would be very happy if the commissions of investigation and tribunals were all out of order.

**Deputy Brendan Howlin:** They are only out of order for parliamentary questions.

**Deputy Micheál Martin:** The House has more compassion.

**An Ceann Comhairle:** Do you know what? If you all want to have a chat we can adjourn the House-----

**Deputy Mattie McGrath:** Adjourn the House.

**An Ceann Comhairle:** ----- and have a bit of a barney. If we are going to conduct the business properly, can I please-----

**The Taoiseach:** I might ask to have a ruling from the Chair at some point. We constantly have tribunals and commissions of investigation discussed in the House when they are ongoing. A ruling on that from the Chair would be helpful.

**An Ceann Comhairle:** We will communicate with leaders this afternoon.

**Deputy Micheál Martin:** My point is different. My point is-----

**An Ceann Comhairle:** No, you have no point now because we are at-----

**Deputy Mary Mitchell O'Connor:** He never has a point.

**Deputy Micheál Martin:** On a point of order, we have been warned-----

**An Ceann Comhairle:** No.

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**Deputy Micheál Martin:** Just briefly.

**An Ceann Comhairle:** No.

**Deputy Micheál Martin:** You know the precedent is we cannot comment-----

**An Ceann Comhairle:** Resume your seat.

**Deputy Micheál Martin:** I am asking a question.

**An Ceann Comhairle:** We are moving on to Deputy Shortall.

**Deputy Micheál Martin:** You know there is precedent that does not allow Members to comment on evidence to tribunals.

**An Ceann Comhairle:** We all know there is precedent.

**Deputy Micheál Martin:** Then, say it.

### **Order of Business**

**Deputy Róisín Shortall:** Tuesday's business shall be No. 6, motion re appointment of member to GSOC; and No. 23, Road Traffic (Amendment) Bill 2017 - Report and Final Stages (resumed). Private Members' business shall be No. 179, motion re inquiry into the death of Shane O'Farrell, selected by Fianna Fáil.

Wednesday's business shall be No. 7, motion re Offences against the State (Amendment) Act 1998; No. 8, motion re Criminal Justice (Amendment) Act 2009 - continuance of certain provisions; No 23, Road Traffic (Amendment) Bill 2017 - Report and Final Stages (resumed); No. 46, Parental Leave (Amendment) Bill 2017 [PMB] - Order for Report, Report and Final Stages; and No. 23, Road Traffic (Amendment) Bill 2017 - Report and Final Stages (resumed). Private Members' Business shall be No. 180, motion re housing, selected by Solidarity-PBP.

Thursday's business shall be No. 8*a*, motion re referral to select committee of the accession of Ireland to the European Organisation for Astronomical Research in the Southern Hemisphere; No. 24, statements on incorrect registrations; and No. 25, statements on external independent clinical review of the maternity services at Portiuncula Hospital, Ballinasloe. No. 9, motion re report on cybersecurity for children and young adults from the Joint Committee on Children and Youth Affairs shall be debated in the evening slot.

In respect of the proposal of arrangements for this week's business, I refer to the first revised report of the Business Committee, dated 11 June 2018 and in relation to today's business, it is proposed that the motion re appointment of member to GSOC shall conclude within 85 minutes, if not previously concluded and speeches shall be confined to a single round by a Minister or Minister of State and the main spokespersons for parties or groups or a Member nominated in their stead and shall not exceed ten minutes in each case. There shall be a five-minute response from a Minister or Minister of State and all Members may share time.

In relation to Wednesday's business, it is proposed that:

- (1) The motion re Offences against the State (Amendment) Act 1998 and motion re Crim-

inal Justice (Amendment) Act 2009 - continuance of certain provisions shall be discussed together and to conclude within 85 minutes, if not previously concluded. The speeches shall be confined to a single round by a Minister or Minister of State and the main spokespersons for parties or groups or a Member nominated in their stead and shall not exceed ten minutes each with a five-minute response from a Minister or Minister of State and all Members may share time; and

(2) The Report Stage of the Parental Leave (Amendment) Bill 2017 [PMB] be taken in Government time and shall commence at 8.15 p.m. and to adjourn after two hours, if not previously concluded, and if it concludes before 10.15 p.m., the order shall resume with the Road Traffic (Amendment) Bill 2017, if not previously concluded.

In relation to Thursday's business, it is proposed that:

(1) The motion re referral to select committee of the accession of Ireland to the European Organisation for Astronomical Research in the Southern Hemisphere shall be taken without debate and any division demanded thereon shall be taken immediately;

(2) Statements on incorrect registrations shall conclude within 90 minutes and shall be confined to a single round of a Minister or Minister of State and the main spokespersons for parties and groups or a Member nominated in their stead, which shall not exceed ten minutes each with a ten-minute response from a Minister or Minister of State and all Members may share time; and

(3) Statements on external independent clinical review of the maternity services at Portlucula Hospital, Ballinasloe, of a Minister or Minister of State and the main spokespersons for parties and groups, or a Member nominated in their stead, shall not exceed ten minutes, with ten minutes for all other Members and a five-minute response from a Minister or Minister of State, and all Members may share time.

**An Ceann Comhairle:** Is the proposal for dealing with today's business agreed? Agreed. Is the proposal for dealing with Wednesday's business agreed? Agreed. Is the proposal for dealing with Thursday's business agreed? Agreed.

**Deputy Micheál Martin:** As the House will be aware, this month marks the 25th anniversary of the decriminalisation of homosexuality by Máire Geoghegan-Quinn, a former Minister. As we all know, for far too many decades members of the LGBT community were wrongly discriminated against and many were convicted on charges of being gay. In the UK, Turing's law was passed to pardon all those who were convicted before decriminalisation was introduced. I am aware that the Northern Assembly passed a motion calling for a pardon. Will the Taoiseach indicate whether the Government intends to bring forth legislation to achieve a similar objective, namely, to pardon all those who were convicted? This dates back not to a latter era but to the mid-1970s, when up to 50 people were prosecuted.

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

**Deputy Micheál Martin:** I would be appreciative of the Government's response.

**The Taoiseach:** The 25th anniversary of decriminalisation will be marked on 24 June. We are working on a motion, which I hope all parties can agree, to recognise the wrongs that were done. There is a complication in that it is not always possible to distinguish one conviction



from another. In some cases, the convictions involve minors and it is not necessarily possible in all cases to distinguish whether the offence involved a minor, a point that makes things a little trickier in Ireland for reasons Deputy Micheál Martin will understand. It is our intention to have an all-party motion in the spirit mentioned by the Deputy. Senator Nash is leading on this in the Seanad, along with Senator Buttimer and others. We also intend to have a Government event, yet to be organised or arranged, to mark decriminalisation 25 years ago. I would like to reach out to Máire Geoghegan-Quinn and ask her to take part in that because she was the line Minister who brought in the reform at the time and she deserves credit for it.

**Deputy Pearse Doherty:** The news yesterday that the Taoiseach was prepared to allow the negotiations on the backstop arrangement to be subsumed into the wider Brexit negotiations is troubling. Last December, he told us that the backstop was a cast-iron guarantee. He told us that in the event of no deal there would be no hard border. He told us it was a sure thing, but the details were never worked out because, as we know, the British Government dithered and dithered. I am sure the Taoiseach will agree that the Government in Britain is in disarray following the resignation this morning of a senior Minister on foot of the outworkings of the Brexit negotiations there.

Does the Taoiseach believe that the backstop arrangement was not part of the overall negotiations, that it was a separate legal agreement? The Government told us it would be separate from the overall arrangements. Does he still believe that we need certainty regarding the backstop arrangement, that that certainty must come at the European Council meeting in June and that, without it, progress will not have been made?

**The Taoiseach:** It is not covered in the programme for Government and there is no legislation promised in respect of it. However, 16 questions relating to European affairs are due to be dealt with during Question Time so I am sure I will be answering the Deputy's query then.

**Deputy Pearse Doherty:** Can I-----

**An Ceann Comhairle:** No, the Deputy cannot.

**Deputy Pearse Doherty:** Other questions have been raised. It has become a trend-----

**An Ceann Comhairle:** I am sorry, Deputy, please resume your seat.

**Deputy Pearse Doherty:** Other questions have been raised. This is unfair.

**An Ceann Comhairle:** The Deputy should resume his seat.

**Deputy Pearse Doherty:** I would like to make this point-----

**An Ceann Comhairle:** The Chair is on its feet.

**Deputy Pearse Doherty:** I would like to make the point that this is deeply unfair.

**An Ceann Comhairle:** I am asking the Deputy to resume his seat.

**Deputy Pearse Doherty:** It is an important issue and the Taoiseach could have answered the question.

**The Taoiseach:** We are dealing with questions on promised legislation.

**Deputy Pearse Doherty:** The Taoiseach could have answered the question.

**An Ceann Comhairle:** The Deputy should resume his seat.

**Deputy Pearse Doherty:** It is disgraceful. There are many questions.

**An Ceann Comhairle:** Please do not continue a conversation with the Taoiseach, Deputy.

**Deputy Brendan Howlin:** I do not think there is a Deputy in the House who does not have a number of queries in his or her constituency office about the mobility allowance and the replacement scheme that has been promised for some considerable time. I understand the complexity of the issue and the difficulty in drafting the replacement scheme but we have waited for it for an inordinate amount of time.

**Deputy Danny Healy-Rae:** I do not believe this. It was Deputy Howlin who did away with it.

**Deputy Brendan Howlin:** I will ignore that comment.

**Deputy Michael Healy-Rae:** The Deputy cannot ignore the truth.

**Deputy Brendan Howlin:** There was a difficulty following advice from the Attorney General regarding the legal framework that defined the existing mobility allowance. We need certainty now. The Government in which the Labour Party was involved promised that there would be a replacement scheme but it has taken time to work it out.

**Deputy Mattie McGrath:** Why did the Deputy get rid of it?

**Deputy Brendan Howlin:** When will we see the scheme?

**The Taoiseach:** The Minister of State at the Department of Health, Deputy Finian McGrath, has prepared draft heads of a Bill to reinstate a transport support allowance but it has not yet gone through Cabinet. Once it does, he will engage with the all-party committee. We still intend to legislate this year.

**Deputy Brendan Howlin:** Will it be this side of the summer recess?

**The Taoiseach:** I do not know.

**Deputy Bríd Smith:** Despite the contempt the Taoiseach is showing Deputies for raising issues to do with inquiries that are ongoing, I wish to refer to the scoping exercise being conducted by Dr. Scally. Along with all other health spokespersons in the House, I sat down with the Minister, Deputy Harris, four or five weeks ago. We were given a commitment that the scoping exercise would be quick and that it would be completed by the end of June. However, on page 6 of the interim report there are worrying details regarding the lack of information coming from the HSE. On page 9, it is stated that the timescale is, very conveniently, being pushed back until the end of the summer when the House will not be sitting.

There are simple questions to be asked of, and answered by, the HSE. Does the Taoiseach remember Dr. Tony O'Brien? He was asked several times for a list of the clinics from where the 209 misdiagnoses came. He committed to giving us the list, as did the Minister, Deputy Harris, and the Minister for Finance, Deputy Donohoe.

**An Ceann Comhairle:** We cannot have a debate on the matter now.

**Deputy Bríd Smith:** The clinical laboratory technicians told us that it was a simple answer but the interim report from the inquiry does not contain such an answer. In addition, there will be a delay until the end of the summer. Women are dying while this is happening. I do not think it is fair to the women who are dying from cancer to delay this any further. There must be an investigation into why it is happening. Perhaps the Taoiseach could hire private investigators to monitor people in his Department and in the HSE.

**The Taoiseach:** All I said when we set up the inquiry, the terms of reference of which were agreed on an all-party basis, was that we should let it do its work and respect its independence. I do not think that is contemptuous or contemptible.

**Deputy Bríd Smith:** It is contemptuous of us.

**The Taoiseach:** If we set it up, we should allow it to do its work and should respect its independence. The first report of the inquiry, which deals with term of reference (d) regarding information provided to women about screening and the issue of consent, was published earlier today. There is also a progress report in which Dr. Scally updates us and the public on the progress he is making regarding the other parts of his inquiry. He has now asked for an extension and that he be allowed to complete his work by the end of the summer. We should respect his independence and allow him the time he has asked for to do the work.

**Deputy Mattie McGrath:** I respect the inquiry and, indeed, Dr. Scally but people are concerned and there are huge issues relating to this area. A family in Tipperary have contacted me to say that they have been waiting for six weeks for answers from the helpline. They are looking for information on their sister, who is deceased. Nothing will bring her back. Just ten minutes ago, the family were told that they will have to wait another four weeks before they get any information. The woman in question died of cervical cancer and it is just not good enough that the helpline cannot cope and is so inefficient. It is time something was done. The investigation is ongoing but I worry about it because our experience of inquiries has been so bad. Surely the helpline can be efficient, can give some information and can engage meaningfully with these families who have lost loved ones or are in the process of losing loved ones who have death sentences hanging over them.

**The Taoiseach:** I do not have the up-to-date figures for the helpline but those I saw from a few days ago indicated that well over three quarters, if not 80% or 90%, of calls have been returned. By returned, I do not mean answered - I mean that the people involved have been contacted and had their questions answered.

**Deputy Mattie McGrath:** That is not good enough.

**The Taoiseach:** If Deputy Mattie McGrath wants to pass on the details of that case to me or to the Minister for Health, we will certainly make sure that the person gets a reply.

**Deputy Catherine Connolly:** Tá an straitéis 20 bliain don Ghaeilge agus an plean gníomhaíochta atá geallta ardaithe go mion minic agam agus cúpla seachtain ó shin thug an tAire Stáit a bhriathar go mbeidh an plean sin os comhair an Cabinet inniu. Seo lá na cinniúna. Cá bhfuil an plean gníomhaíochta? Táimid leath bealaigh tríd Bliain na Gaeilge 2018 agus táimid fós ag fanacht ar an bplean gníomhaíochta. Thug an tAire Stáit geallúint, dúirt sé go mbeidh sé os comhair an Cabinet inniu agus tá mé ag lorg freagra ón Taoiseach inniu, ní ón Aire Stáit. Tá

seisean i gceannas agus tá plean gníomhaíochta ag teastáil go géar.

**Minister of State at the Department of Culture, Heritage and the Gaeltacht (Deputy Joe McHugh):** Tá na sonraí agam. I ndiaidh an comhad a fheiceáil inné táim sásta go mbeidh an plean gníomhaíochta cúig-bliana réidh fá choinne an bhord Rialtais Dé Máirt seo chugainn agus ina dhiaidh sin beimid ag déanamh agus ag treabhadh ar aghaidh fadúda plean gníomhaíochta a fhoilsiú ina dhiaidh sin ach beidh sé réidh Dé Máirt seo chugainn agus an fáth nach bhfuil sé réidh inniu ná go mbeidh cúpla rud de dhíth agus beidh cúpla pointe de dhíth fosta. Tá an Teachta Connolly ceart go ndearna mise gealltanais go rachadh sé go dtí an bord Rialtais inniu ach d'athraigh an clár. Táimid san áit sin ach beimid amach as an mbearna baoil Dé Máirt seo chugainn le cúidiú Dé.

**Deputy Catherine Murphy:** Three challenges have now been lodged against the results of the recent referendum. We are aware that there is a separation of powers and the courts will proceed accordingly. Some of us met the Minister for Health and we are expecting the legislation to be published next month. If those court challenges are not dealt with, is it possible for us to proceed with enacting the legislation? If both Houses can proceed with enacting the legislation, can it then be implemented if the court challenges have not been disposed of in advance?

**An Ceann Comhairle:** That would be a matter for the Department of Justice and Equality.

**The Taoiseach:** That is a good question. I am not sure I have the answer. I will check up on the position. There are legal challenges obviously. They are with the High Court and it will make its decision in its own time. However, I hope it will be done as expeditiously as possible. We will continue to prepare the legislation in the meantime based on the timeline we set out. There has been no delay in drafting the legislation but it could not be enacted until all the court cases, if there are any, have been heard. I am not sure if we can introduce it. I will check.

**An Ceann Comhairle:** I thank the Taoiseach. There are still 14 Deputies offering. I call Deputy Pat The Cope Gallagher.

**Deputy Pat The Cope Gallagher:** This question relates to A Programme for a Partnership Government and funding for the Ability programme. There was an announcement by the Minister for Employment Affairs and Social Protection, Deputy Regina Doherty, in conjunction with the Minister of State, Deputy Finian McGrath, last year inviting applications for this programme. Will the Taoiseach explain why there is such a regional imbalance in approving funding under this programme? Everywhere north of a line from Galway and Roscommon to Dublin has been excluded. No one can understand this. It was not that we were not here. Other Donegal Deputies and I were present when representatives from the Bluestacks Special Needs Foundation and other groups such as iCare met the Minister. However, yesterday we were chastised by the Taoiseach's Donegal Minister. He said we are wrong to say that Donegal is being snubbed and that this is a myth. Donegal is being snubbed. It is not a myth, it is a fact. Will the Minister of State please-----

**Deputy Joe McHugh:** It is separate. It is to do with jobs.

**Deputy Pat The Cope Gallagher:** I will leave one of these-----

**Deputy Joe McHugh:** It is to do with jobs.

**Deputy Pat The Cope Gallagher:** If the Minister of State was as vociferous about this as

he is about other things-----

**Deputy Joe McHugh:** The Deputy should tell the truth. It is a separate issue.

**An Ceann Comhairle:** Please, Deputies.

**Deputy Pat The Cope Gallagher:** I am asking the Taoiseach.

**An Ceann Comhairle:** The time is up. We can hear an answer to the question from the Taoiseach.

**Deputy Joe McHugh:** That was a separate issue.

*(Interruptions).*

**Deputy Pat The Cope Gallagher:** That is what it means to have manners. I will have manners.

**Deputy Joe McHugh:** The Deputy is playing to the Gallery.

**Deputy Michael Healy-Rae:** The Minister of State should know better.

**An Ceann Comhairle:** The question is heard. Please let the Taoiseach answer the question.

**The Taoiseach:** At this rate it is going to be a long five weeks.

**An Ceann Comhairle:** The Taoiseach is correct.

**The Taoiseach:** There is no legislation promised on this matter but I will make inquiries with the Minister for Employment Affairs and Social Protection, Deputy Regina Doherty, and ask her to furnish the Deputy with a detailed reply.

**Deputy Charlie McConalogue:** On the same point, as well as on a wider point, the Ability programme, funding for which has been announced, was supposed to assist young people between the ages of 16 to 29 to transition from school to employment and training. Of the 27 projects that were announced for funding nationally, at a cost of €16 million, only one was north of the Dublin to Galway line, which was a project in Roscommon. The rest of the northern half of the country was totally excluded, as if there are no children or young adults in that region with disabilities and in need of support.

Will the Taoiseach revert to the Minister for Employment Affairs and Social Protection, Deputy Regina Doherty, and the Minister of State at the Department of Health, Deputy Finian McGrath, and ask them to revise the criteria by which this funding was allocated and to ensure that funding is allocated to the Bluestack Special Needs Foundation, the Inishowen Children's Autism Related Education, iCARE, and the Extern applications, which were not given funding. The iCARE organisation provides autism-related support, education and respite in the Inishowen area, and the Minister of State at the Department of Health, Deputy Finian McGrath, and the Minister for Health, Deputy Harris, met it a couple of months ago when it was seeking extra funding, which has not been forthcoming as yet. The service is on its knees and needs funding. It receives no funding at the moment; it survives due to fundraising activities. Will the Taoiseach engage with those Ministers to ensure those services get a fair crack of the whip and that the north of the country, and Donegal in particular, is not ignored?

**The Taoiseach:** There is no legislation promised in this area, but I will certainly ask the Ministers, Deputies Regina Doherty and Finian McGrath, to provide a reply to that question.

**Deputy Michael Healy-Rae:** I want to speak on behalf of multiple sclerosis, MS, sufferers from Kerry and throughout the country. It is a fact that Irish patients have the slowest access to new medicines in western Europe. Ocrelizumab is a new treatment available for MS sufferers. The MS Society recently met with the Minister for Health, Deputy Harris. I am asking the Government to look seriously at this drug, and other drugs for MS sufferers in Ireland, and to please help make it available for them in order that they can have a better quality of life. Last night I met people who are suffering from MS. This drug would improve their lives greatly. I sincerely ask the Taoiseach, the Minister for Health and the Government to look at this request in a sympathetic way.

**The Taoiseach:** A process exists by which new drugs are approved in Ireland. It is a process that was set out in an Act of the Oireachtas. It does not involve a Government or ministerial decision, but rather an analysis by the National Centre for Pharmacoeconomics and a final decision by the HSE national drugs committee. I will certainly let the Minister for Health know that Deputy Michael Healy-Rae has raised the matter again and will relay his concerns on the matter.

**Deputy Niamh Smyth:** In the programme for Government a commitment was given to ensuring a strong and visible policing force in every community. However, in Cavan-Monaghan we have seen a surge in crime. It has increased by 36%, with over 483 burglaries last year. Only in the last month we have seen horrific, callous aggravated burglaries committed against the elderly, one of who was held at gunpoint in my constituency. The Garda did a fantastic job in apprehending these criminals. However, the Garda in my constituency are working with very stretched, minimal resources and is without the full complement of manpower it deserves. At the recent Garda Representative Association, GRA, conference real concerns were expressed about Garda policing in the Border region in the context of Brexit looming. There was a call for over 1,000 gardaí to be stationed in the area, with over 200 potential border crossings in the Cavan-Monaghan area alone. Will the Taoiseach give a commitment to the concerns of gardaí relating to the manpower and the resources that are badly needed in that area?

**Deputy Danny Healy-Rae:** A week ago this evening, in Cahersiveen, more than 500 people attended a meeting on the same issue, looking for their Garda station to be manned and open 24 hours a day and looking for more gardaí to address anti-social behaviour, which recently culminated in a murder in their town. The Taoiseach said in the programme for Government that he would open six new Garda stations. I am calling for him to open the ones that were closed full time. They are open in name, but they are not open for 24 hours a day. Along the coastline from Kenmare to Cahersiveen to Killorglin, Garda numbers are way down. People are looking for Cahersiveen Garda station to be manned 24 hours a day, and they are looking for the return of their superintendent. Even their superintendent was taken from them.

**Minister for Justice and Equality (Deputy Charles Flanagan):** I acknowledge the importance of the issues raised by the Deputies. I stress that unprecedented funding has been made available by the Government to An Garda Síochána - a sum in excess of €1.6 billion. I acknowledge the valid point raised by Deputy Smyth in respect of Border policing. I visited the Border recently and had an opportunity to discuss the issue with local gardaí.

In reply to Deputy Healy-Rae, the Government's ambition is to have 21,000 members of An

Garda Síochána in service in three years. We are on target to achieve that. I look forward to attending a passing-out ceremony in Templemore next Friday, which will result in another 200 highly ambitious, energetic and well-trained gardaí entering service. Having regard to the fact that it is the Garda Commissioner's job to disburse An Garda Síochána's numbers throughout the country, it is both fair and reasonable to suggest that some of these new members will be stationed in Kerry and in Cavan-Monaghan.

**Deputy Bernard J. Durkan:** The residential tenancies (amendment) Bill and the housing (regulation of approved housing bodies) Bill are both promised. They will affect the regulation of the rental sector. Is it envisaged that either or both of those Bills will come before the House before the end of this session?

**Minister for Housing, Planning and Local Government (Deputy Eoghan Murphy):** I thank the Deputy for the question. The residential tenancies (amendment) Bill is priority legislation. It is being drafted at the moment, and dates have been agreed with the Joint Committee on Housing, Planning and Local Government for pre-legislative scrutiny. It is my ambition, if we can get that Bill published shortly, to have it passed as quickly as possible and before the recess. That will depend on the co-operation of the committee in bringing forward those measures. As for other measures that we want to introduce to protect tenants in the market, a second Bill is proposed. I hope see that published before the end of this term but to be enacted in the autumn.

**Deputy Shane Cassells:** Section 9 of the programme for Government deals with care for the elderly, specifically the investment required for 30,000 of our citizens whose home is now one of the 580 private or public nursing homes in this country. Last week members of the Committee on Public Petitions were addressed by the Ombudsman, Mr. Peter Tyndall. He dealt with the issue of additional charges being levied on old-age pensioners, OAPs, for social activities in nursing homes, which has led to people being "impoverished by the charges", and having less money in their pocket than the grandchildren who visit them. He said people's autonomy was being eroded and they were ending up with a disposable income of €7 per week.

Will the Government examine the contracts for care in nursing homes and take into consideration the fears expressed by the Ombudsman in our committee hearings last week in respect of the impoverishment of our elderly?

**The Taoiseach:** That matter is currently being examined by the Minister of State at the Department of Health, Deputy Jim Daly, to ensure there is full transparency around charges in order that people know what they are for and that they only apply for additional or extra services and activities, and not for those that would be expected from a nursing home. This is an issue of concern to many elderly people and their families but the Minister of State is aware of it and he is working on it.

**Deputy Michael Collins:** I wish to address the tourism commitments in the programme for Government. One of the finest tourism assets we have is the West Cork Secret activity centre in Kilbrittain. Its visitor numbers have increased year after year since opening. This all-year-round secret garden is a popular attraction that brings in visitors from all over Ireland and abroad. It is the brainchild of the O'Mahony family, who built up this wonderful facility from scratch, putting hours of hard work and planning into it. It is now creating as many as ten jobs in the rural community of Kilbrittain. However, it is facing an uphill battle to remain open, as it has been hit with a increase in its insurance cost from €7,000 last year to €25,000 this year.

This is unacceptable, and it is the case in many more businesses throughout west Cork and Ireland. We have spent the past two and a half years talking about tackling the issue of insurance overcharging in the Dáil, but as the Taoiseach can see, we have not succeeded. Companies are going out of business. Will the Government take immediate action to stop what is nothing short of an insurance scandal?

**Deputy Michael Moynihan:** We have discussed the insurance issue as it affects householders, businesses and motor insurance policies over the past several months in this House. Nothing is being done by the relevant Departments. Meetings have been held throughout the country giving the impression that something was happening. Insurance costs are spiralling out of control in every sector of the insurance industry. Do the Minister or the Government understand how serious it is for businesses and for individuals?

**The Taoiseach:** The insurance Bill was approved by Cabinet last week and will shortly be published by the Minister of State at the Department of Finance, Deputy Michael D'Arcy.

### **Topical Issue Matters**

**An Ceann 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 Frank O'Rourke - to discuss funding for the Abbey community project in Celbridge; (2) Deputy Anne Rabbitte - the role of county councils when national routes are being upgraded; (3) Deputies Jan O'Sullivan, Maurice Quinlivan, Niall Collins and Willie O'Dea - the need to increase the number of hospital beds at University Hospital Limerick; (4) Deputy James Browne - the need to open the new Loreto school in Wexford town; (5) Deputy Carol Nolan - to discuss the imminent deportation of a widow and her two children from County Offaly; (6) Deputy Thomas Byrne - to discuss the waiting lists for speech and language and occupational therapy services for children in County Meath; (7) Deputy Mary Butler - the need to increase capacity at St. Declan's community college, Kilmacthomas, County Waterford; (8) Deputy Declan Breathnach - the need to review the speed limits and the use of haulage vehicles on minor rural roads in the interests of safety; (9) Deputies Alan Farrell, Darragh O'Brien, Clare Daly, Louise O'Reilly and Brendan Ryan - to discuss the ongoing water supply issues in Skerries, County Dublin; (10) Deputy Brian Stanley - to discuss with the Minister the long waiting lists in counties Laois and Offaly for occupational therapy and physiotherapy; (11) Deputy Eoin Ó Broin - to discuss the inclusion of foster parents in the one-parent family payment scheme; (12) Deputy Sean Fleming - to discuss the 2018 credit policy and the Rebuilding Ireland home loans scheme; (13) Deputy Danny Healy-Rae - the need to increase Garda resources and opening hours at Cahersiveen Garda station; (14) Deputies Dessie Ellis and John Curran - to discuss the problem of quads and scrambler motorcycles in local communities; (15) Deputy Timmy Dooley - the need to support and fund surgical intervention for patients with Ehlers-Danlos syndrome; (16) Deputies Éamon Ó Cuív, Hildegard Naughton and Catherine Connolly - an gá maoiniú a chur ar fáil láithreach do Bhóthar Dhoire Fhearta, An Cheathrú Rua, Contae na Gailimhe; (17) Deputy Mattie McGrath - to discuss the backlog in the passport office; (18) Deputy Mick Barry - to discuss the industrial dispute at LloydsPharmacy chain; (19) Deputy Jackie Cahill - to discuss the delay in the construction of a new bridge crossing at Ballina-Killaloe; (20) Deputy Mick Wallace - to discuss the protection for subcontractors following the liquidation of the Sammon Group; (21) Deputy Stephen S. Donnelly - the need for the Minister for Health to provide an update on the scoping inquiry into CervicalCheck; (22) Deputy Michael McGrath -



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to ask the Minister for Finance if he will consult the Central Bank with a view to reviewing their definition of “first-time buyer” with specific regard to certain individuals like returning emigrants and legally separated or divorced individuals; (23) Deputy Pat The Cope Gallagher -the need to address the regional imbalance in the allocation of funding under the recent announced ability programme; (24) Deputy John Brady - compliance with flood risk guidelines in the Bray local area plan; and (25) Deputy Eamon Ryan - to discuss the plans for the BusConnects project.

The matters raised by Deputies Frank O’Rourke, Anne Rabbitte, Eamon Ryan and Éamon Ó Cuív, Hildegard Naughton and Catherine Connolly have been selected for discussion.

## **Ceisteanna - Questions**

### **Taoiseach’s Meetings and Engagements**

1. **Deputy Micheál Martin** asked the Taoiseach if he has spoken to Chancellor Merkel since the last EU Council meeting. [22297/18]

2. **Deputy Brendan Howlin** asked the Taoiseach if he will report on the meetings he attended in Sofia, Bulgaria. [22462/18]

3. **Deputy Micheál Martin** asked the Taoiseach the purpose of his visit to Bulgaria; the meetings he held; and the items he discussed. [22569/18]

4. **Deputy Joan Burton** asked the Taoiseach if he will report on his attendance at the western Balkans summit in Sofia. [22575/18]

5. **Deputy Joan Burton** asked the Taoiseach if he has spoken to Chancellor Merkel since the last EU Council meeting. [23419/18]

6. **Deputy Richard Boyd Barrett** asked the Taoiseach if he has spoken to Chancellor Merkel since the last EU Council meeting. [23580/18]

7. **Deputy Richard Boyd Barrett** asked the Taoiseach if he will report on the meetings he attended in Sofia, Bulgaria. [23581/18]

**The Taoiseach:** I propose to take Questions Nos. 1 to 7, inclusive, together.

I travelled to Sofia, Bulgaria, where I participated in an informal EU Summit on the evening of 16 May, and the EU-western Balkans Summit on 17 May.

The informal summit on 16 May was chaired by President Donald Tusk, as part of the series of discussions on the future of Europe under his “Leaders’ Agenda”. The focus this time was on innovation and the digital economy. We had an exchange of views on future EU actions to promote investment in artificial intelligence and breakthrough innovation.

We also discussed transatlantic relations and developments regarding Iran and the Middle East. On transatlantic relations, there was strong support for insisting on a permanent exemption from US tariffs on steel and aluminium. There was a readiness to engage in subsequent talks with the United States on improving reciprocal market access, liberalisation of govern-

ment procurement and reform of the WTO should an exemption be secured. Subsequent events have taken a different direction, which is a matter of serious concern.

On Iran, we agreed that we should continue to support the nuclear deal, so long as Iran continues to comply with its own commitments under it. On the Middle East, we called for an investigation into the shootings in Gaza last month, and stressed the need to reduce tensions in the region.

The EU western Balkans summit on 17 May was attended by EU leaders and the leaders of the six regional partners, namely, Serbia, Montenegro, Albania, the Former Yugoslav Republic of Macedonia, Bosnia and Herzegovina and Kosovo. This was the first such summit in 15 years and I want to take this opportunity to congratulate the Bulgarian Presidency on having convened and successfully chaired it. We used the summit to reaffirm the European perspective of the western Balkans and their pathway to EU membership, and agreed a set of actions for enhanced co-operation with the region, including in areas such as transport and energy infrastructure, digital connectivity and co-operation on security, migration and wider geopolitical developments.

I had a meeting at the summit with the British Prime Minister, Theresa May, and our respective teams. Our discussions focused mainly on Brexit, including progress on the backstop in the context of the withdrawal agreement, as well as developments regarding Northern Ireland. I will report in more detail on this meeting in my response to the next group of questions.

I did not have a scheduled bilateral meeting with Chancellor Merkel, although I did, of course, engage with her informally over the course of the summit, as I did with my other EU counterparts.

**Deputy Micheál Martin:** The Taoiseach will deal with the EU and Brexit in the next set of questions.

**Deputy Brendan Howlin:** There is a bit of an overlap.

**Deputy Micheál Martin:** With regard to the Taoiseach's remarks on the Gaza situation, it seems we have pulled our punches somewhat as a country and as a State in response to what has happened in recent weeks and months in Gaza. Has the Government reviewed its position overall because it seems the prospect of a two-state solution is receding month by month? The unacceptable activities of the Israeli forces in wilfully and recklessly shooting protesters and murdering many young people who were not a threat and did not constitute a threat to the border were absolutely reprehensible and unacceptable and can only have the outcome of hardening and polarising positions and rendering very difficult indeed any reconciliation between Palestinians and Israel. We have been consistent as a country for many years in recognising the Palestinian right to a homeland, in line with the UN resolutions in accepting the illegality of settlements. Notwithstanding the views of the United Nations and the European Union, the Israeli Government has proceeded oblivious to any of it and continues to establish settlement after settlement, all of which calls into question any sincere or genuine commitment on behalf of the Israeli Government to a two-state solution. The wanton state violence of recent times copperfastens this opinion. In essence, what we are getting is subjugation of the Palestinian community, particularly in Gaza, as opposed to any genuine attempt to find a way out of the deadlock and ensure a genuine commitment to peace talks that would result in an effective and viable two-state solution emerging. The decision of the US Government and President Trump

to open an embassy in Jerusalem is to be strongly regretted, as it further compounded tensions in the area and has put back even further the prospect of a meaningful solution.

**Deputy Brendan Howlin:** I take it we will leave the bilateral discussion questions on Brexit to the next group.

I raised previously the issue of extending membership of the Union and whether that is something that has a horizon. Is there a timeframe now for the countries in the western Balkans joining? Was that laid out in any great detail? Is there a sequencing? Is the next expansion going to happen within a defined timeline? What is the Taoiseach's view on this?

Palestine is something on which we might need a special debate in the House. In the past, all of us in all parties in the House have expressed the deepest concerns at the policies being implemented by the Netanyahu Government. I strongly agree with the view expressed by Deputy Micheál Martin on the relocation of the US embassy as a very inflammatory and unhelpful gesture by the American Government. More practically and realistically, the killings in Gaza, which can never be justified, are something on which we have to take action.

With regard to the illegal expansions of settlements, I am aware of one instance where a Palestinian home was destroyed to make way for a new settlement. That cannot be right. What is happening is that a whole new generation of Palestinians are being reared in resentment and oppression, and it can only be an augury for further conflict in future. Although we are a small State we need to take definitive action on this, and there would be a very strong view across the House on this matter. There are two things we could do. There is an extant Bill, if I am allowed refer to it, in the other House sponsored by Senator Frances Black. It is one that merits consideration. The second issue is whether we could implement, as a clear indication of our views, the already determined policy of both Houses of the Oireachtas to recognise the state of Palestine.

**Deputy David Cullinane:** I will wait until the next round of questions to deal with Brexit.

I also want to raise the issue of Gaza with the Taoiseach. Everybody here accepts that what happened in Gaza over recent weeks is completely unacceptable. It goes beyond simply people being killed. It was a slaughter. It was state murder and state assassination of citizens. Far too often, we have had statements in the House on Gaza where people come in and give plenty of sympathy on what is happening to the people of Palestine and the people of Gaza. In 2015 and 2016, when we had similar attacks and when residents of Gaza were being slaughtered, we came in and offered sympathy and talked but we know from our own experience in this State and on our island that what is necessary in the Middle East and in Palestine is a peace process. We can only have a peace process if it is underpinned by justice and if the conditions are created to allow that peace process to prosper. Obviously the incendiary move by the US President, Donald Trump, to open an embassy in Jerusalem has certainly made that all the more difficult. The response from the Israeli State to legitimate protests also makes it all the more difficult. One of the things we can do, and this is my question to the Taoiseach, is to act on the will of this Parliament, which is to recognise formally the state of Palestine. This has been put to the Taoiseach time and again and he has never given us a satisfactory answer as to why it cannot be done. It is an act of solidarity we can take. We also know from our own experience that previous American Administrations took many risks and went against the advice of British Governments in supporting a peace process. International solidarity and acts of solidarity can work and are important. It would be a wise move for the Government to take.

**An Ceann Comhairle:** Only five minutes remain Taoiseach.

**The Taoiseach:** As I mentioned, at the EU summit in Sofia and Bulgaria last week we discussed the events that had taken place in Gaza and the appalling number of deaths and serious injuries that happened there. As Europe, we called for an independent and transparent investigation into the events and stressed the need to reduce tensions across the region. Almost 2 million people now live in Gaza and they deserve an end to the blockade so they can start to build normal lives, something that has been impossible for them for more than a decade. The Tánaiste and Minister for Foreign Affairs and Trade has made engagement with the Middle East peace process one of his personal priorities and the Government strongly supports him in that. He made his third visit to the region only last week from 5 June to 7 June, going to Israel, the Palestinian territories and Jordan, where we will open a new embassy in Amman next year. The Minister, Deputy Coveney, took the opportunity to meet Israeli Prime Minister Netanyahu in what was, I believe, a very frank meeting where he left the Prime Minister very aware of the Irish Government's views on the current position there. As I have stated, we cannot condone in any way the use of live fire against civilians, as occurred on the Gaza border a few weeks ago.

I largely agree with Deputy Micheál Martin's comments on the settlements. Going back to the Oslo Accords approximately 25 years ago, people were enormously optimistic about the possibility of peace in the Middle East with a two-state solution. That was very much led by Bill Clinton at the time. After that, attempts were made at a peace agreement at Wye River with the then Prime Minister Barak, and people were very confident at the time that a two-state solution could and would be achieved. There has since been an effort by the Israeli Government and authorities to create new facts on the ground that almost make a two-state solution impossible, absent mass expulsions from the settlements, which is difficult and becomes part of Israeli politics. There are settlement blocs such as the Shomron bloc, which goes deep into Palestinian territory, Gush Etzion, Ma'ale Adumim and others that effectively surround Jerusalem, thus making it very difficult to establish a Palestinian capital in east Jerusalem, as they would wish.

We must be unequivocal in our condemnation of the settlement policy, which makes peace so difficult to achieve. It is a counterproductive policy as, given the demographics, Israel may find itself as a minority in its own territory. There may come a time when the Arab and Palestinian populations decide not to demand their own state but rather the right to vote. They may find themselves at 45%, 50% or 55% of the population in the combined territory, which is something the Israelis should have regard to.

In line with the programme for Government, the Government will recognise the Palestinian state once it exists. It does not currently exist and I am not aware of any precedent when an Irish Government has recognised a state that does not yet exist.

**Deputy David Cullinane:** We sought the recognition of this State by America.

**Deputy Micheál Martin:** We asked Woodrow Wilson.

**Deputy David Cullinane:** Even Mr. de Valera might have disagreed with the Taoiseach.

**The Taoiseach:** Once it exists, it is of course our intention to recognise it as part of a two-state solution.

I will briefly remark on the fact that last Friday saw Pride in Tel Aviv, with 250,000 people from diverse communities, many of them lesbian, gay, bisexual and transsexual, attending Pride

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celebrations across Tel Aviv through the main streets and on to the beach. We should not deny the fact that in neighbouring countries in the region, it would not be possible to have a Pride parade or for people to lead their normal lives. We should not forget that, notwithstanding the behaviour of the Israeli Government over the past decade or two. There are many people in Israel who share our values, that is, share values that are akin to those of a European liberal democracy. Many people in Israel believe in peace and a two-state solution and they are equally aggrieved at the extent to which that early pioneering liberal democratic spirit that imbued Israel at its foundation has been trampled on in recent years. It is of enormous regret to everyone who likes that country and admires the Jewish people.

### **Brexit Issues**

8. **Deputy Micheál Martin** asked the Taoiseach if he will report on his recent discussions with the British Prime Minister, Mrs. Theresa May. [22293/18]

9. **Deputy Micheál Martin** asked the Taoiseach if he will report on his own guarantee regarding his commitment on 15 May 2018 on there being no border between North and South; and the responses he has received from British Prime Minister May and European Union partners when he informed them that under no circumstances will there be a border. [22571/18]

10. **Deputy Micheál Martin** asked the Taoiseach if he has spoken to Ms Nicola Sturgeon recently or since the Scottish Parliament rejected the Brexit Bill on 15 May 2018. [22572/18]

11. **Deputy Brendan Howlin** asked the Taoiseach if he will report on his bilateral meeting with British Prime Minister May in Sofia. [22706/18]

12. **Deputy Richard Boyd Barrett** asked the Taoiseach if he will report on his recent meeting with the British Prime Minister, Mrs. Theresa May. [22709/18]

13. **Deputy Joan Burton** asked the Taoiseach if he has spoken to Ms Nicola Sturgeon recently or since the Scottish Parliament rejected the Brexit Bill on 15 May 2018. [23418/18]

14. **Deputy Joan Burton** asked the Taoiseach if he will report on his recent discussions with the British Prime Minister, Mrs. Theresa May. [23420/18]

15. **Deputy Micheál Martin** asked the Taoiseach if he and British Prime Minister May discussed the reconvening of the Northern Ireland Assembly when they met in Sofia. [23439/18]

16. **Deputy Micheál Martin** asked the Taoiseach if he has spoken to British Prime Minister May since 6 June 2018. [25654/18]

**The Taoiseach:** I propose to take Questions Nos. 8 to 16, inclusive, together.

I met British Prime Minister May on the margins of the EU-western Balkans summit in Sofia, Bulgaria, on 17 May. We discussed current developments on Brexit and the ongoing efforts to assist the parties in Northern Ireland to re-establish the institutions of the Good Friday Agreement. Prime Minister May told me in Sofia that she expected to table proposals on the customs relationship between the European Union and the UK shortly thereafter. At this time, I made clear that any move on customs that can keep the UK close to the European Union is to be welcomed. I also emphasised to her that upholding the commitment to avoid a hard border

requires progress on more than just customs.

As the House will be aware, the UK Government published its proposals last week and they are now the subject of discussion between the UK and the EU task force. The agreed report from December makes clear that continued alignment on both Single Market and customs rules is necessary. In many ways, the regulatory issues are even more important than customs here. Whereas the UK paper contains proposals on customs, it does not deal with regulatory issues other than acknowledging that they will also have to be dealt with. Consequently, even if we can reach agreement around the latest UK proposals, that will not of itself constitute a full and satisfactory backstop.

When we met, I made clear to the British Prime Minister that Ireland would continue to insist on a legally operable backstop being in the withdrawal agreement. This would be in line with the commitments made by the UK in December and repeated by the British Prime Minister in her letter to Mr. Donald Tusk in March. It must apply unless and until any better arrangements are agreed, be compatible with the rules of the Single Market and customs union and ensure the avoidance of a hard border. To this end, I have been consistent in my message to both Prime Minister May and my fellow EU Heads of State and Government at the European Council that the reintroduction of a border on the island of Ireland is not acceptable under any circumstances. I am grateful for their continued understanding and support.

Finally, while I have not spoken to Scottish First Minister Nicola Sturgeon recently, I expect to see her next week at the meeting of the British-Irish Council in Guernsey.

**Deputy Micheál Martin:** This group of questions deals with the European Union specifically and I will focus on the Brexit negotiations while dealing with the Northern Ireland matters in the next group of questions. Following the Taoiseach's error at the previous summit, when he said that letting the negotiations slip to October was okay by him, we had a couple of months' worth of statements from the Taoiseach and the Tánaiste indicating that a failure to agree a backstop text in June would be a major problem. On 28 March, for example, when he was sent out to clean up after the Taoiseach's comments, the Tánaiste said that any failure to agree the text in June would raise "very serious questions" as to whether any deal was possible. They were the Tánaiste's comments some months ago on the importance of the June deadline. The Taoiseach was asked about this by me repeatedly during Question Time and he repeated that a failure to meet the June deadline would be a very ominous sign.

When the British Government revealed its plan, the Taoiseach welcomed it as important progress but it has now been formally rejected by the European Union. It is reported this morning that yesterday the line changed again and the Taoiseach has said that October was always been the deadline and we should not be too worried. I believe the Taoiseach is familiar with "The Thick of It" and in that programme, this was called a "reverse ferret". It is the changing of a position without acknowledging the position that has just been abandoned. Given all the statements from the Taoiseach and the Tánaiste that the backstop, as defined by them, was watertight and that a failure to hit a June deadline would mark serious trouble, will the Taoiseach say if it is still his view that the backstop is watertight and the negotiations concerning Ireland are in serious trouble?

From the very start it was stated that a fundamental objective for Ireland was that the Irish issue would not still be in question when the final withdrawal text was being discussed. We have not now achieved this. Will the Taoiseach explain how he expects us to get from today's

blockage to a breakthrough that delivers for Ireland? Mr. Michel Barnier has restated his demand that a Northern Ireland-specific proposal be tabled. Is the Taoiseach proposing to take any initiative on this or will the position remain that the United Kingdom alone should do what it has so far been incapable of doing, which is to propose a credible mechanism for delivering a soft border?

**Deputy Brendan Howlin:** Most of us are becoming very fearful of the direction of travel in the negotiations, despite what was said last December. The Taoiseach warned the withdrawal agreement would be in question if progress was not made by the June Council. Specifically, he stated that “if we are not making real and substantial progress by June then we need to seriously question whether we are going to have a withdrawal agreement at all”. The UK Government is unable to agree a route to implement the backstop it had agreed. Westminster, as the Taoiseach knows, today and tomorrow is going through critical votes. A junior Minister, Phillip Lee, has resigned from government because of government policy on not allowing Westminster a conclusive final vote on the matter. The Tánaiste, Deputy Simon Coveney, previously said serious questions would have to be asked if progress on the backstop was not made by June. This seems to have changed because he is now saying the June Council meeting should not be built up to something it is not. However, he was the one who built it up. The Taoiseach himself has changed his tune. He said last Saturday, “The deadline is October and I do think it is possible between now and October for us to finalise and negotiate.” This seems to be the current position. Real and substantial progress on a document to implement what we understood to have been agreed and to be bullet-proof last December was to be achieved before the final negotiating Council, which is in June. Now, as I had feared and as I have said in a number of contributions here and elsewhere, that seems to be slipping to the October deadline. The October Council meeting was always going to be simply to ratify finally. It is not a negotiating Council in and of itself and there would be very little scope for the European Parliament or indeed national parliaments to debate and understand the details if we are going to slip into the October deadline, so we need now to now make a very clear statement of the Irish position on these matters.

The Taoiseach’s predecessor, Deputy Enda Kenny, said yesterday, at a function the Taoiseach and I both attended, that little progress has been made since September and he was very honest in saying so. He said that in order now to address the outstanding issues, it might be necessary for a special Council meeting to be convened before October. Does the Taoiseach think this strategy might be needed?

**Deputy David Cullinane:** Our job in the Opposition is in the first instance to hold the Taoiseach and his Government to account. The very least we expect is that he and his Government deliver on their own commitments and the benchmarks they set. Last December, the Taoiseach was very clear and unequivocal in his comments on the backstop, which he knows and I know was meant to be a permanent solution for Ireland to align the North with the rules of the Single Market and customs union in the event of no deal between Britain and the European Union. What happened a number of days ago, when the British Government published its paper, was that it reconstructed that backstop to nothing more than a UK-wide extension of the implementation period. There is now no certainty for Ireland as to what will happen if the talks break down, which is obviously very serious. I do not necessarily blame the Taoiseach for this. While obviously we must hold him to account, and his Government did say we would only be able to move past June if we had real and substantial progress, we also have a responsibility as Oireachtas Members and as politicians in Ireland to ensure we support positions that get the best deal for Ireland. This is genuinely what we have done in approaching all these

Brexit negotiations. We need to ensure there is no fracture in the Irish position. We will be as supportive as we can but we also need to see real progress. The people were entitled to see real progress in June and, unfortunately, they have not seen it. The reality is - it has been said over and over - that the Government has possibly oversold the December agreement and the British Government, as divided as it is, has pulled a rug from under the European negotiators and the Irish Government by essentially taking the backstop off the table and replacing it with an extension of the implementation period, which does nothing for the people of Ireland.

My final point is this: regarding the high-level principles on which everyone - the British Government, the European negotiators and the Irish Government - agrees, namely, protection of the Good Friday Agreement, no hardening of the Border, and citizens' rights, in huge swathes of these areas we still have no agreement and it is our responsibility to hold the Taoiseach to account as to why this is the case.

**Deputy Eamon Ryan:** Perhaps we will look back on history and see that a mistake was made last December in respect of the first agreement that was set whereby we would have an arrangement for Ireland, North and South, which was not accepted by the DUP, which insisted it be broadened to include some arrangement with the UK. Perhaps we would have been better to stick with the original deal because it does not seem to me likely that the European Union will accept "a" customs arrangement which would allow the entirety of the UK and Northern Ireland the benefits of such a deal without committing to regulatory alignment and so on. I would be interested to hear the Taoiseach's thoughts on this. Does he think the end outcome may be that we will revert to that original deal, which I think was agreed on the Monday of that week in December, whereby we will agree customs checks in effect at ports on the island of Ireland? I would be interested to hear his thoughts on the likelihood of our getting a deal whereby east-west customs arrangements would get similar special provision that we are seeking on a North-South basis. When I listen to Monsieur Barnier now, I think that is highly unlikely. Perhaps we should have been more honest back in December to stick to the original Monday deal.

**An Ceann Comhairle:** Perhaps we will take five or six minutes to deal with this grouping.

**The Taoiseach:** Absolutely.

**An Ceann Comhairle:** We shall say six minutes.

**The Taoiseach:** Referring back to the December 2017 agreement, it is of course a political agreement between the United Kingdom and the EU, and in that political agreement the UK guarantees there will be no hard border, with no physical infrastructure, customs or controls. I believe this will be honoured and achieved. I used the term "bullet-proof" to describe the agreement at the time but I also used other words. I said it was the end of the beginning, not the beginning of the end, I said we needed to stay vigilant and I said our next objective would be to ensure it was made legally binding by ensuring that it was written into the withdrawal agreement. This is exactly the work we have been doing in recent months and we have a draft withdrawal agreement with an Irish protocol which achieves exactly that. The United Kingdom has not agreed to it, but that is the point at which we are now, where we have a draft legally binding withdrawal agreement with an Irish protocol-----

**Deputy David Cullinane:** Which is not agreed.

**The Taoiseach:** -----which achieves exactly what we want to achieve.



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**Deputy Brendan Howlin:** The Government does not have an agreement if it is not agreed.

**The Taoiseach:** I should say that there is no such thing as a negotiating council. We do not have negotiations at the Council. When we enter Article 50 format, the UK is not there; it is the EU member states' heads of government among ourselves. The negotiations happen bilaterally between the task force, the TF50, and the United Kingdom. I have heard people talking about European Council meetings in June or October as though they were the Fisheries Council-----

**Deputy Micheál Martin:** No.

**The Taoiseach:** -----or the budget Council, as if late at night a meeting or deal would be cobbled together.

**Deputy Brendan Howlin:** There often is.

**The Taoiseach:** That is not how this will work because it is not like that. The negotiations do not happen at the Council. The UK is not-----

**Deputy Micheál Martin:** It was the Tánaiste who emphasised the June Council meeting more than anyone else.

**The Taoiseach:** -----in the room. These negotiations happen bilaterally-----

**Deputy Brendan Howlin:** Everyone in the building can talk.

**The Taoiseach:** -----and I think Deputy Enda Kenny made that point extremely well when he spoke yesterday. Perhaps another former Taoiseach saw it differently, but there will not be a last-minute, 2 a.m. deal in the run-up to Hallowe'en in October because that is not how this is structured. The negotiations happen between the task force and the UK, not at the Council meeting itself.

I have always said that the deadline for finalising the withdrawal agreement, including the Irish protocol, was October. That is what is in the EU guidelines. That is what I said many months ago at the March Council meeting, if Deputies want to check back. However, I have also said we need to see real and meaningful progress before the June Council meeting. The UK proposal, which came out last week is welcome, it is a small step forward, but it is at best a partial solution to part of the problem. It deals with customs but does not deal with regulation. The paper admits this, that standards and regulation would have to be dealt with separately, and it appears to be time-limited, which we cannot accept. For a backstop to be a backstop, it must apply unless and until-----

**Deputy David Cullinane:** That is a crucial point that is missing from the agreement.

**The Taoiseach:** -----something better is found to replace it in the context of the new EU-UK agreement. The EU 27 will decide at the June Council meeting whether or not real and meaningful progress has been made. As things stand, I must say it has not. What was produced last week from London was a small step in the right direction: it was welcome but as I said earlier it is at best a partial solution to part of the problem and therefore does not constitute real and meaningful progress in my view. We will therefore need to see more from London, from the United Kingdom, in the next two weeks as we head into the Council meeting. Otherwise, it will not be possible to say that progress is being made. That brings into question whether it will be possible to agree a withdrawal agreement by the October deadline. As everyone appreciates,

this is a difficult negotiation. It often feels as though the United Kingdom is negotiating with itself more than with us, which makes matters rather tricky. The upside is that the European Union is totally united, with all 27 member states standing together behind the task force, whose members are our agents, in support of our shared objectives. It is from that position of strength that we will get the outcome we want.

## **Electoral Reform**

17. **Deputy Alan Farrell** asked the Taoiseach if he will report on the interdepartmental group which is chaired by his Department and which is examining threats to the integrity of the electoral process. [23411/18]

**The Taoiseach:** Following consideration of the Online Advertising and Social Media (Transparency) Bill 2017, the Government established an interdepartmental group to consider the substantive issues arising from recent experiences in other democratic countries having particular regard to the use of social media by external, anonymous or hidden third parties. In carrying out its assessment, the group is examining ways to safeguard the electoral process from disinformation and associated risks.

The group will also consider Ireland's approach to the issues outlined in the EU Commission's communication of 26 April 2018 on tackling online disinformation.

The group, which has met on a number of occasions to date, is chaired by officials from my Department and includes representatives from the Departments of Housing, Planning and Local Government, Communications, Climate Action and the Environment, Foreign Affairs and Trade, Justice and Equality, Business, Enterprise and Innovation, Education and Skills and Defence, An Garda Síochána and the Defence Forces. An initial draft report is being finalised.

**Deputy Micheál Martin:** The decisions on the part of Google and Facebook to block a large amount of advertising during the recent referendum campaign was unfortunate but necessary. The reality is that the Taoiseach and his colleagues have dropped the ball on this matter. It is not a matter for private firms to regulate our elections, but it is a fundamental duty for our Government. Earlier this year, the Government initially rejected Fianna Fáil's Bill on online transparency, sponsored by Deputy Lawless, saying that nothing could be done and that it was not technically possible. Only a few months later, it was fully technically possible for these companies to identify the source of advertising.

The regulation of referendum spending is a mess in Ireland. Each political party abides by donation limits and spending transparency, neither of which is respected by some non-party elements. This was not only the case at the most recent referendum, it was also evident during the Lisbon treaty referendum campaign when vast sums were spent by organisation of which we would not have heard prior to the referendum. They were able to mount and finance a campaign which was of crucial and fundamental importance to this country and our membership of the European Union. Unless something urgent is done, the limits and oversight central to our elections will be open to abuse by those who seek to influence our debates. As has been seen throughout Europe in the past 12 months, even elections in small countries are open to being targeted by forces that want to undermine the European solidarity and liberal democracy we all cherish.

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When will the Taoiseach and the Government produce proposals? Is not the issue sufficiently serious and profound to necessitate an immediate move to establish a cross-party group to make recommendations before the summer which could be drafted without delay?

**Deputy Brendan Howlin:** This is a serious issue. I welcome this question and compliment Deputy Alan Farrell on tabling it.

We would be extremely naive to think that the influence of online advertising on the political process would not have an impact on us. It has had an impact and will continue to do so. The size of our population makes it cheaper and easier to do so. We need a robust legislative response to the issue and I urge the Government to do so. We have long advocated the establishment of an electoral commission in this country. Such a commission should be part of the response in question.

We need to police the impact of advertising and other things are made on our electoral process and on referendums. There are also other things that an electoral commission could do including the protection of the integrity of our electoral register and ensure that it is constantly updated. It should also facilitate recent immigrants voting. We need to take these matters seriously and I support Deputy Micheál Martin's suggestion that a small, all-party group could look at this very quickly and make recommendations that Government could work with in order to provide a robust legislative response, hopefully in advance of any further elections in this jurisdiction.

**Deputy Eamon Ryan:** I am sure the Taoiseach will agree that the Transparent Referendum Initiative did an excellent job during the recent referendum campaign. Along with researchers in UCD, it did detailed analysis on what sort of advertising was happening during the campaign. Much of it was very positive. We do not want to stop all advertising in the digital world. Much of the advertising helped people on both sides to be involved, which is welcome.

When representatives from Facebook came before the Joint Committee on Communications, Climate Action and Environment, I asked if they would provide volumetric data on the amount of advertising that took place. The researchers in UCD and the Transparent Referendum Initiative are unable to get this data, which is vital to the real understanding of what happened. Similarly, my colleagues in the European Parliament asked Mark Zuckerberg if Facebook would provide this data. We have not yet received it. Will the Taoiseach add the Government's voice to the calls that Facebook provide data - in a way that is safe, secure and does not reveal any personal data - on how much advertising was paid for in order to help us get a picture of what happened. I support the comments of Deputies Micheál Martin and Howlin to the effect that we would work together, based on knowledge from sound research, as to what we do next in the matter of election advertising.

**Deputy Alan Farrell:** This is a fundamental question for the integrity of any democratic country, particularly in light of recent events internationally. Without being sensationalist, the decisions of the Internet service providers to ban advertisements from foreign jurisdictions highlighted the murky underbelly of the Internet and the nature and source of much of the advertisements during the recent referendum. My view is that not only is it necessary for us to ensure that the authorities in this State have the necessary tools in their arsenal to police this but that, as has been mentioned, that funding for non-party organisations in the electoral process is monitored more closely.

There is also a need for change regarding the electoral register. I appreciate that the Minister of State, Deputy Phelan, is hard at work in his Department regarding changes in that area. However, we need to change from a primarily paper-based system of registration to an online one. We trust our banking system when it comes to logging on online, etc., as we do with many other institutions such as the Revenue Commissioners, where things may be done initially on paper and maintained online thereafter so that there are no questions regarding integrity. There should be serious consideration given to implementing those changes and learning from the experience of the referendum in May.

**The Taoiseach:** I recognise Deputy Farrell for tabling this important and topical question. He referred to the work that the Minister of State, Deputy Phelan, is doing on updating the electoral register. There have been improvements to the electoral register in recent years but it remains quite out of date, as we know from canvassing and knocking on doors. Proposals are being developed on online registration but we need to be careful. Deputy Farrell is correct that we trust banking systems that are online-----

**Deputy Brendan Howlin:** Look at what happened to Visa last week.

**The Taoiseach:** -----but, as we have learned from issues affecting Visa, Ulster Bank and other entities, those systems can also go horrendously wrong. It might be easier to hack an electoral register or even influence the result of an election if it was all held on a central database. We must consider all of these matters.

We are right to be concerned about external interference in elections.

It is now evident that there was external interference in the Brexit referendum and in elections in Ukraine and that there were at least attempts in France and Italy. We know that when it came to our referendum only a few weeks ago Facebook and Google decided in one case not to carry any advertisements related to that referendum at all and, in the other, not to allow any from overseas. I do not know why the companies did that but one can only assume that they may have seen something coming which caused them to act. In the run-up to the European Parliament elections next year I am concerned that if external actors wanted to influence our elections they would be interested in the European elections because those who do not like Europe, those who want Europe to be weak and those who do not share European values would like nothing more than a European Parliament full of nationalists, populists and extremists. We need to be wise to the fact that the European elections are not that far away and that there is a risk of foreign interference in those elections.

Foreign interference in elections is not new, nor is big money influencing politics in any way new. We know that in the 1950s and 1960s, both the CIA and KGB were involved in manipulating elections in a number of countries. We also know that big media owners in the UK, and in Ireland, have tried to use their influence on elections. The example that always stands out is the 1997 general election during which a particular newspaper put an editorial on its front page telling people to vote a certain way. There are many theories connected to that. The idea of big money or foreign governments and their agents influencing elections is not new but it is happening in a new way through the Internet.

I am not entirely sure what the solutions to it are but there may well be solutions. We should have the draft report from the group soon. I propose to share the report with the various parties and then try to map a way forward from there because I would be loath to have the Gov-

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ernment amend electoral law. People would not trust it if it were just a Government proposal. It must be done on an all-party basis. The group is examining, in particular, the experience in EU members states and other countries. It is examining our electoral process and disinformation, and social media and cybersecurity. It is trying to examine how other countries have tried to deal with this threat to see what we can do.

**Deputy Eamon Ryan:** Will the Taoiseach ask Facebook to give the data?

**The Taoiseach:** I do not fully understand the request.

**Deputy Eamon Ryan:** I will explain it to the Taoiseach.

**The Taoiseach:** I genuinely do not.

## Priority Questions

### Public Transport Provision

34. **Deputy Robert Troy** asked the Minister for Transport, Tourism and Sport the steps he is taking to address overcrowding on the public transport system, most particularly in cities; and if he will make a statement on the matter. [25611/18]

**Deputy Robert Troy:** What steps has the Minister for Transport, Tourism and Sport taken to address the chronic overcrowding on our public transport system, particularly in our cities, our larger urban areas and on the commuter routes into the larger cities?

**Minister for Transport, Tourism and Sport (Deputy Shane Ross):** I thank the Deputy for the question. Following a period of reduced transport usage and suppressed transport growth during the recession, Ireland's transport activity and demand has been increasing again and is expected to expand further in future years in line with forecast economic growth rates. The National Transport Authority's, NTA, recent bus and rail statistics bulletin shows that more than 250 million passenger journeys were provided nationally last year on public obligation services provided by the transport operators. For the capital city, the latest annual canal cordon report published by Dublin City Council and the NTA shows that 70% of all inbound trips crossing the cordon were made by a sustainable mode, that is, by people cycling, walking, or using bus, tram, train or taxi.

While these figures are encouraging, they present their own challenges. We want more people to use public transport but, as the Deputy indicated, if left unchecked, this can lead to crowded services. We recognise that, which is precisely why we are investing extensively not only in expanding passenger capacity and services on the public transport network, but also in providing better infrastructure for people who choose to cycle or walk. We need to safely and comfortably continue to accommodate more passengers and give them better, more reliable and attractive services. The major investment programmes we outlined in the national development plan, NDP, are needed to respond appropriately to this growth in demand for public transport services and to address congestion and capacity constraints on the existing network.

Our flagship investments all to be delivered within the ten-year NDP horizon include: Bus-

Connects to transform, enhance and expand the bus system in Ireland's cities; MetroLink and priority elements of DART expansion to increase the range, scale and frequency of passenger rail services across the greater Dublin area; increasing Luas capacity for passengers on both the red and green lines; and considerably developing cycling and walking infrastructure in the greater Dublin area, Galway, Limerick, Cork and Waterford.

Planning of these larger projects is under way and they are scheduled for delivery progressively over the lifetime of the NDP. Meanwhile, in the shorter term, our agencies are also taking a range of less elaborate, but nonetheless important, measures that will help ensure more effective functioning of transport services, particularly in the cities. These include improving timetables to intensify the frequency of passenger services; buying new vehicles and fleet and increasing the size of the fleet in service so we can carry more passengers; providing upgraded cycling and walking infrastructure; and investing in sustainable transport projects. All this planned investment in public transport across the short, medium and long term will combine to add greatly to the level of service available for the travelling public, connecting more people with more places, easing congestion and combatting climate change.

**Deputy Robert Troy:** The Minister said he wants more people to use public transport. If he is serious about encouraging that modal shift, he needs to provide reliable, efficient and punctual public services. I acknowledge that there was a positive announcement this morning in respect of BusConnects but that will be a ten-year project. If one talks to any commuters who currently use bus or rail services, they will talk of overcrowding, delays, congestion and the lack of park-and-ride facilities. I will give the Minister two examples. Councillor Kate Feeney identified that people were contacting her with regard to the Brewery Road bus stop on the N11, which is on a quality bus corridor and which is served by three different buses. People are waiting in excess of 15 minutes because when buses pass, they are full. Councillor Daithí de Róiste raised a similar issue with me regarding Chapelizod, which is served by four different bus routes. Representing constituents in Mullingar, I am aware the problems with Bus Éireann services and trains travelling from Mullingar. If the Minister is serious about getting people out of their cars and into public transport, he needs to accelerate investment. How many additional buses will he make available nationally this year? How many of these new buses will be green, energy efficient, hybrid buses? How many hybrid buses are in State ownership nationally?

**Deputy Shane Ross:** I will have to provide the Deputy with the exact figures but they will not be difficult to provide. I will be able to provide him with some of them immediately. Against the backdrop of growth in demand for bus services, 140 new buses are being purchased in 2018 for the Dublin Bus fleet to replace older buses and to cater for market growth and new routes, with a further expansion of the fleet expected in 2019 in advance of the roll-out of BusConnects. Passengers will also experience service improvements following the recently announced opening of the bus market with an increase in service capacity of approximately 35% across the 24 routes involved.

I thank the Deputy for acknowledging the initiative which was taken this morning. It will do nothing short of revolutionise the bus service in Dublin. There is no doubt that the effect of the 16 new routes or roads which have been announced will be to transform what the Deputy recognises is a congested city and it will also have an equally beneficial effect on Cork, Galway and other areas. This is only one of several initiatives I could identify. The Deputy will be aware that later this year an all-day ten-minute DART service will be introduced across all lines. Planning for the delivery of the DART expansion programme has already commenced, including in 2018.

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**An Leas-Cheann Comhairle:** The Minister's time is up.

**Deputy Shane Ross:** There will also be increases in respect of the Luas.

**Deputy Robert Troy:** Could the Minister confirm that the industrial relations difficulties in regard to the ten-minute DART service have been resolved?

Over the past four years, only 20 new additional buses have been provided on average *per annum*. That represents a 2% increase at a time when there is double-digit growth. Dublin Bus still has 70 buses that are older than 12 years. They should not be in operation. They are harmful in terms of emissions and are unreliable. Therefore, we have a long way to go. While I acknowledge there are plans for the next decade, what will the Minister say to the people on Brewery Road on the N11 and in Chapelizod in September when the schools and colleges are open again? What will he say to them when seven buses pass them when they are standing at a bus stop? Will Deputy Ross, as Minister for Transport, Tourism and Sport, ensure that in September, there will be sufficient capacity on our bus routes to encourage more people to use buses instead of cars and that when they do get out of their cars and wait at bus stops, we will be providing an efficient public service on which they can rely? They cannot rely on one at present, unfortunately.

**Deputy Shane Ross:** What the Deputy always does so well in this situation is point to the problems and not towards the facts that we are addressing them and that there are solutions on the way. If the buses were empty, he would be saying I was running a white elephant and that there were too many people in their cars. The increasing demand for buses is a reflection not only of the demand for buses but of the good and much more punctual services being offered and the fact that people are very willing to take public transport.

The Deputy rightly identifies difficulties, no doubt at the bottom of Brewery Road. I cannot comment on that specific case. Like the Deputy, I can ask questions of the NTA or Dublin Bus but I cannot comment on individual cases because the timetable and daily operation cannot be micromanaged by me. There will, however, always be circumstances of that sort. What the Deputy ought to acknowledge — he has, in a way — is that BusConnects, improvements regarding the DART and Luas expansion, and the money we will be spending on cycling and walking infrastructure comprise a serious and very dramatic attempt to address that problem, which needs a certain amount of time to be resolved. We are determined to resolve it.

**An Leas-Cheann Comhairle:** We must set an example now. We have taken ten minutes on the first question. We are not going to allow that to continue.

## Driver Test

35. **Deputy Imelda Munster** asked the Minister for Transport, Tourism and Sport the reason his Department was unaware of the legal standing of the policy in regard to the mandatory nature of public services cards for those who wish to obtain a driver's licence or theory test; the reason his Department and the Road Safety Authority appear to have had a significantly different understanding of the policy; the way in which approximately €2 million was spent by the Road Safety Authority in making arrangements to implement a policy which was then scrapped; the situation regarding public services cards and obtaining driver licences and driver theory tests; and if he will make a statement on the matter. [25536/18]

**Deputy Imelda Munster:** Will the Minister clarify what appears to be a change in policy by his Department over the mandatory nature of public services cards, PSCs, for those who wish to obtain a driver's licence or do a theory test? Can he clarify how it came about that his Department was unaware of the legal standing of this policy? Can he clarify why the Department and the RSA appear to have had a significantly different understanding of the policy? Can he explain how approximately €2 million was spent by the RSA in making arrangements to implement a policy that was then scrapped? What is the situation now?

**Deputy Shane Ross:** I thank the Deputy for the chance to clear this up. There is a certain misconception about this problem, which was misunderstood by people writing about it. Of course, their message was then conveyed to the Deputy and others who do not actually know what is happening in this case.

It is the policy of the Government since 2013 that the PSC should be integrated into service provision across public services. The use of a single card through which people can have their identity verified offers great benefits to both the individual and the State in terms of time and convenience, as well as the integrity of public service delivery.

The policy of integrating the PSC into the provision of public services is not a matter of making it mandatory, but optional. The legislation in this area is complex and there was evidently a misunderstanding as to this policy and its implementation. The Deputy is partially right in that regard. I personally clarified the misunderstanding by directing that use of the PSC in driver licensing should be an option rather than a mandatory requirement.

The current situation is therefore that a person applying for a driving licence may present a PSC as proof of identity, or use such other documentation for proof of ID as was previously accepted.

At present, to undertake the driver theory test, a PSC is being called for. However, in the interests of consistency, alternatives to the PSC will be catered for. As the driver theory test is operated by the Road Safety Authority through a contractor, I gather that allowing for the use of a passport, for example, may involve revisions to that contract. That is an operational matter for the RSA.

In regard to expenditure, it is not correct that €2 million was spent on the effort to make the PSC mandatory in driver licensing. The €2 million in question was in fact the expenditure on the development of an online application system for driving licences, and this system is going ahead.

The expenditure by the RSA in regard to the PSC was an amount of the order of €30,000 to €40,000, which was spent on advertising the use of the PSC. While the PSC is not in fact mandatory, even this expenditure cannot be considered as waste. It was important to enhance awareness of the benefits of the PSC, as well as the availability of an online option for driving licence applications. The RSA awareness campaign encourages the use of both.

**Deputy Imelda Munster:** According to the RSA, in March 2017 the Department of Transport, Tourism and Sport instructed that PSCs were to be mandatory in the process of applying for a driver licence or a theory test. Last year, the PSC became mandatory for theory tests. PSCs were to become mandatory for driver tests in April. In March, just one month before the card was to become mandatory for driver licences and nine months after it was made mandatory for theory tests, the Department received legal advice from the Attorney General that there was



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no legal basis for the change. Therefore, the Minister pulled the plug on the project. This was a year in, after he had instructed the RSA to prioritise it and had overseen the waste of €2 million implementing a policy that turned out to be illegal. Why did the Minister and his Department not check, in the first instance, that there was a legal basis for that change?

**Deputy Shane Ross:** The Deputy is using rather dramatic language. During the integration of the PSC into the driver licence application process, an erroneous policy of making the card the only acceptable form of identification was pursued by the RSA. At no point did the Department then direct the RSA to adopt a mandatory approach. In light of concerns, the RSA's planned approach was in line with neither Government policy nor legislation. I decided in March 2018 to make clear to the RSA that the PSC should be an optional form of ID verification but not mandatory.

The Deputy really should not be talking about waste of €2 million. There was money spent on promoting the PSC. The Deputy is absolutely right in that regard. I refer to the €30,000 to €40,000 to which I alluded. The €2 million to which the Deputy is referring was to promote the online system for driver licences. The two should not be confused.

**Deputy Imelda Munster:** The correspondence between the Department and the RSA on this matter shows total confusion and disorganisation. From the documents released under freedom of information provisions, it would appear the RSA believed it was operating on instructions from the Department that PSCs were indeed to be made mandatory. It seems clear from the freedom of information documents that the law was broken in regard to the theory tests. Who is responsible for that? Who will be accountable for potential data breaches regarding the personal data of theory test applicants? The Department seems to be suggesting that the RSA went on a bizarre solo run. The Minister's own spokesperson said no losses have arisen, yet the RSA claims €2 million was wasted. Therefore, one side is being economical with the truth. Which side is that? Someone has to be held accountable here.

**Deputy Shane Ross:** If there was any confusion, I hope I have been able to clear it up. The Deputy referred to the theory test. She is absolutely right that a PSC is being called for but, in the interest of consistency between the theory test and practical test, alternatives to the PSC will be catered for. To suggest that the €2 million allocated, not all of which has even been spent at this stage, which will be spent on promoting online driving licence applications, is somehow wasted is confusing the two ideas. The Deputy is right that there was a misunderstanding between the RSA and the Department but that was corrected and it is now working perfectly well.

**Deputy Imelda Munster:** I asked the Minister who was responsible for the theory test but the RSA is contradicting him. The authority is saying it was instructed that it was to be mandatory and the Minister is saying otherwise. We would like some clarity as to exactly who misunderstood whom in this case.

**Deputy Shane Ross:** I made it clear. To clarify matters, I instructed that it was optional.

### **Cycling Facilities Funding**

36. **Deputy Robert Troy** asked the Minister for Transport, Tourism and Sport his plans to reverse cuts to the cycling budget over the past two years; his plans to publish a statutory instrument to enact a minimum passing distance; and if the national greenway strategy will be

published. [25612/18]

**Deputy Robert Troy:** It is National Bike Week and I ask the Minister to give a commitment to reverse the cuts to the cycling infrastructure budget he has implemented over the past two years, to outline a definitive timeframe as to when he will publish the statutory instrument to enact the minimum passing distance, and to give a clear timeframe as to when the national greenway strategy will be published.

**Deputy Shane Ross:** In regard to funding, I have no doubt the Deputy will welcome the increases I have secured over the 2018 to 2021 period. More than €110 million allocated will be allocated to develop cycling and walking infrastructure in the greater Dublin area, Cork, Galway, Limerick and Waterford. In addition, I have also secured funding of €135 million over the same period for sustainable transport projects in the five cities. These projects will also improve, directly and indirectly, both the cycling and walking infrastructure in them, and the efficiency and safety of their existing infrastructure.

In addition, the significant investment planned in the BusConnects programme will also deliver an extensive new network of cycle lanes, greatly improving the safety of our cyclists. My Department also spends in excess of €2.5 million per annum on behavioural programmes to encourage a modal shift and to increase safety and awareness among all road users.

In regard to the minimum passing distance, draft regulations providing for an amendment to article 10 of the Road Traffic (Traffic and Parking) Regulations 1997 were submitted to the Office of the Parliamentary Counsel for consideration and settling. As that process identified a number of complex issues, legal advice was sought within the Office of the Attorney General. The Department is currently giving consideration to that advice and will shortly engage with the Attorney General's office to resolve outstanding issues. The Deputy has a particular interest in this and I will keep in touch with him.

My Department is currently finalising the national greenway strategy and I expect to publish it in the coming weeks. The strategy will provide a framework for the development of Ireland's greenways ensuring the best possible return for State investment. Furthermore, the strategy will determine the type of project that will be funded over the coming decade by my Department and will set out guidance and options for project promoters in regard to the challenges faced in delivering greenway infrastructure. It will also emphasise the need for early and wide consultation by project promoters with communities and affected landowners.

**Deputy Robert Troy:** The Minister's commitment to cycling over the past number of years has been questionable. According to a reply to another of my parliamentary questions, funding in 2015 was just shy of €19 million while last year it was just shy of €17 million, a reduction of approximately €11 million at a time Cycling Ireland membership increased by 720% and, according to Central Statistics Office, CSO, figures, there was an increase of 42.8% in the number of people cycling to work between 2011 and 2016.

On the minimum passing distance, the Minister referred to legal advice from the Attorney General's office on the statutory instrument. He was aware of this proposal because it was made by his own colleagues, the Minister for Employment Affairs and Social Protection and the Minister of State at the Department of Foreign Affairs and Trade, Deputy Ciarán Cannon, more than 18 months ago. He procrastinated about it and did not act to implement it for almost 18 months. It was only when I tabled an amendment to the Road Traffic (Amendment) Bill 2017

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that he decided to do something about it. He made a solemn promise that he would introduce this within weeks when he held a press conference three months ago and it is disappointing that he has not honoured that.

The Minister referred to the funding that will be made available between 2018 and 2021. Who will ensure this funding is adequately spent because the fiasco regarding the proposed cycle route along the Liffey quays raises questions as to whether there is capacity to roll out this funding?

**Deputy Shane Ross:** I accept fully what the Deputy said about cycling. I do not question his commitment to cycling and if he says I was slow about implementing the statutory instrument, I will accept that criticism in some ways. I am a convert to cycling. I took some time to be converted to the urgency not only for the imperative of the modal shift, which must be more dramatic, but also for all the bells and whistles that go with that shift. I am convinced of the need to not only protect our cyclists but to encourage people to get out of their cars and on to bicycles, and that is working. It may not be working fast enough for the Deputy but it will accelerate during my tenure.

On the suggestions the Deputy has made, I am not in any way hesitant to say that I was not persuaded of the need for the minimum passing distance by a large number of the groups led by Phil Skelton and others. I was being educated and I have been converted to the need to transfer people to bicycles and to protect them.

**Deputy Robert Troy:** I welcome the fact that the Minister acknowledges that but now that he is a convert, will he get on and do his job? He should not mind the Judicial Appointments Commission Bill 2017. He should look after his own Department. He has responsibility to ensure that this statutory instrument is published without delay. If he spent more time focusing on his own area of responsibility, it might have been published by now. Fifteen cyclists lost their lives last year while six have lost their lives so far this year. It is imperative that this statutory instrument be published and enacted without delay.

On the additional funding, I welcome the fact that the Minister will reverse cuts he made in the past two years.

What percentage of the funding for BusConnects will be ring-fenced for cycling? In light of the fiasco relating to the Liffey quays cycling route, about which a Fine Gael councillor said, "We have made a complete balls of how we've managed this from day one", what action will the Minister take because he has not shown any leadership in that regard? How will he ensure that the proposed new cycling routes will be progressed without unnecessary delays?

**Deputy Shane Ross:** It is appropriate that the Deputy welcomed the fact that I am committed to cycling, and it is something on which we can move forward and co-operate.

The issue of BusConnects and cycling is important. I would not like the message to be lost, and I would hate it to be lost on the Deputy, that BusConnects is a massive vehicle for improving the lot of cyclists in this and other cities. There will be 200 km of dedicated cycle lanes as a result of BusConnects.

**Deputy Robert Troy:** Ten years.

**Deputy Shane Ross:** There is no point in muttering when it will happen. It is a serious

commitment and it will benefit future generations. It is a permanent commitment to cycling and walking. That is what is so important about it. The bus situation is one element of it, but perhaps a more important one is the message that one cannot build bus lanes of this nature without also accommodating the cyclists. That commitment is made and is absolutely evident. It will guarantee a future for cyclists in the city.

**Deputy Robert Troy:** A Leas-Cheann Comhairle, the Minister has not even answered the question I asked about the percentage of funding that will be allocated.

**An Leas-Cheann Comhairle:** I have no control over that.

**Deputy Robert Troy:** Can the Minister answer that question? He cannot because he does not know.

**An Leas-Cheann Comhairle:** I have no control over the answers. You can draw your own conclusions. I cannot.

### **Road Safety Strategy**

37. **Deputy Imelda Munster** asked the Minister for Transport, Tourism and Sport the engagement he has had with the Minister for Justice and Equality regarding increases in resources for the Garda traffic corps, in particular increases in personnel; the plans to increase personnel and resources for the traffic corps for budget 2019; and if he will make a statement on the matter. [25537/18]

**Minister for Transport, Tourism and Sport (Deputy Shane Ross):** Resourcing for An Garda Síochána falls within the area of responsibility of my colleague, the Minister for Justice and Equality, and resourcing of the roads policing unit within An Garda Síochána is a matter for the acting Garda Commissioner.

The issue of resourcing the roads policing unit, along with targeted visible enforcement of road traffic law by An Garda Síochána, was identified as a priority in the mid-term review of the road safety strategy, which I approved last year. The review, which is available on the Road Safety Authority's website, also focuses on enhancing interventions to address the main killer behaviours on Irish roads - speeding, drink-driving, using a mobile telephone and not wearing a seat belt - with stricter penalties for non-compliance.

Enforcement of road traffic law by An Garda Síochána is discussed at every meeting of the ministerial committee on road safety. At the most recent ministerial committee meeting on 2 May 2018, the Minister for Justice and Equality, as he was unavailable to attend, was represented by an official from his Department. The Garda was represented by the relevant assistant commissioner. The meeting was informed by An Garda Síochána that 70 new members were assigned to roads policing by the end of the first quarter of 2018 and an additional 80 new members will be assigned to roads policing by the end of the third quarter of 2018.

The Garda also informed the meeting that a competition is to commence later in 2018 to select additional members to be assigned to roads policing in 2019, with the objective of adding a further 100 members by the end of 2019. I was directly assured that just under 1,000 gardaí will be assigned to roads policing by 2020, to meet the target set last year in the mid-term review of the road safety strategy.

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There is little doubt that high-visibility Garda roads policing and enforcement influence driver behaviour and are key components in reducing the number of fatalities and serious injuries on our roads.

I am confident that this increase in resources, together with implementation of the other key interventions identified in the mid-term review of the road safety strategy, will have an impact on further reducing deaths and injuries on our roads over the coming years.

**Deputy Imelda Munster:** According to a reply I received to a parliamentary question which I put to the Minister for Justice and Equality last month, the figure for the Garda traffic corps at the end of February was 635 members. That is just over half what the figure was ten years ago, when there were 1,200 members of the traffic corps. In 2016, the number was 681. The Minister said in his response that he was directly assured of increases in resources. The reason I tabled this question is that I recall the Minister telling a transport committee meeting last September that he had been directly assured last year of a 10% increase in the traffic corps between September and December. That never materialised. We did not get one extra. The Minister has asked how many members have begun to work there but what pressure has he put on the Minister for Justice and Equality? The Minister for Justice and Equality told the Minister last year that there would be a 10% increase but he did not deliver on that. In fact, he reneged on it. What pressure is the Minister, Deputy Ross, applying? He can introduce road traffic legislation every day but if the numbers are not in place to enforce it, it is not worth the paper on which it is written.

**Deputy Shane Ross:** The Deputy is right in the sense that the traffic corps has been depleted and has been too low. As a result, it has not been up to the efficiency we sought in apprehending people for committing the offences to which I referred, such as speeding, drink-driving, using mobile telephones and driving without safety belts. The Deputy is also correct that the number fell back to a level which would now be considered unacceptable. I will return to the figures momentarily but I wish to reassure the Deputy that this is the primary issue and one of the reasons we hold quarterly meetings of the ministerial group on road safety, which has representatives of all the key stakeholders of the Garda, the Medical Bureau of Road Safety, my Department, the Department of Justice and Equality and everybody else who is relevant. The first question asked is not just about the road death figures but also about the figures for enforcement. The Deputy is correct that the number fell behind but according to the figures I have it is now catching up. It will have fully caught up by the end of the year.

**Deputy Imelda Munster:** Sometimes I despair at the Minister's responses. He is living in fantasy land. I have given figures which prove that the number is just over half what it was ten years ago. The Minister has introduced two road traffic Bills and my party has supported both. However, on each occasion I raised the need for an increase in the Garda traffic corps. Each time the Minister was asked about it he came out with the same spiel. Is the Minister for Justice and Equality making a fool of the Minister? He is giving the Minister these commitments but he is not following through on them. The Minister, Deputy Ross, is introducing road traffic legislation that is not worth the paper it is written on if there is no enforcement. How seriously is the Minister, Deputy Ross, being taken at the ministerial and Cabinet meetings? How is it that the Garda traffic corps, and we are sick of being told the economy is in recovery, is half of what it was ten years ago?

**Deputy Shane Ross:** I will give the Deputy some figures. I do not dispute much of what she is saying about ten years ago. Neither she nor I was around then, and she cannot really

blame me for that.

**Deputy Robert Troy:** The Minister has been around for 30 years.

**Deputy Shane Ross:** The RSA's road safety strategy lists a target of 990 roads policing gardaí by 2020. I was assured at the ministerial committee a few weeks ago that this will be achieved.

**Deputy Imelda Munster:** The Minister was assured of that last September. That is my point.

**Deputy Shane Ross:** I was further advised on 2 May 2018-----

**Deputy Imelda Munster:** The Minister was assured of that last September and nothing happened.

**Deputy Shane Ross:** -----that 70 new members were assigned to roads policing by the end of the first quarter of 2018 and an additional 80 new members will be assigned to roads policing by the end of the third quarter of 2018. A competition is to commence later in 2018 to select additional members to be assigned to roads policing in 2019 with the objective of securing an additional 100 members by the end of 2019. I accept what the Deputy says about the inadequacies of the past but she must accept the figures for the present.

**Deputy Robert Troy:** They are less than what they were 12 months ago.

**An Leas-Cheann Comhairle:** I call Deputy Brendan Ryan for the next question.

**Deputy Imelda Munster:** They are less than what they were 12 months ago and the Minister is saying he has received assurances. Are they the same assurances he got last September?

**An Leas-Cheann Comhairle:** You have had your second supplementary question. The next question is in the name of Deputy Brendan Ryan.

**Deputy Imelda Munster:** The Minister for Justice and Equality is making an eejit of the Minister. They are the same assurances that were not delivered upon.

**An Leas-Cheann Comhairle:** I call Deputy Brendan Ryan.

## **Road Tolls**

38. **Deputy Brendan Ryan** asked the Minister for Transport, Tourism and Sport his views on the payment structure of the Dublin Port tunnel, with particular reference to the fact it disadvantages commuters from the northside in view of the fact the greater cost is borne in the mornings by southbound traffic and in the evenings by northbound traffic; and if he will make a statement on the matter. [25538/18]

**Deputy Brendan Ryan:** The Dublin Port Tunnel is a great piece of infrastructure connecting Dublin Port and the East Link Bridge with the M1 corridor and the M50. However, will the Minister comment on the payment structure for the Dublin Port Tunnel with particular reference to the fact that it disadvantages commuters from the north side? The greater cost is borne in the morning by southbound traffic and in the evening by northbound traffic. The key point is

the cost of tolls at times when people from the north side are going to and coming from work.

**Minister for Transport, Tourism and Sport (Deputy Shane Ross):** I thank the Deputy for raising this question and I understand the reasons for what he said. As with many of the parliamentary questions, much of what the Deputies say is true but there are very good reasons for certain things happening. As Minister for Transport, Tourism and Sport, I have responsibility for overall policy on roads. The planning, design and implementation of individual road projects on national roads are a matter for Transport Infrastructure Ireland under the Roads Acts 1993-2015 in conjunction with the relevant local authority.

More specifically, the statutory powers to levy tolls on national roads, to make toll by-laws and to enter into toll agreements with private investors are vested in TII under Part V of the Roads Act 1993, as amended by the Planning and Development Act 2000 and the Roads Act 2007.

The Government's decision in October 1994 to proceed with the construction of the Dublin Port tunnel required, in accordance with the DTI strategy, that the implementation of the project would be accompanied by tolling of the tunnel for traffic-management purposes. The purpose of tolling the tunnel was, and is, to ensure that the tunnel performs its primary function of facilitating heavy goods vehicles, HGVs, accessing Dublin Port.

The toll scheme was developed with the following objectives: ensure that the non-HGV traffic would not interfere with the ability of the Dublin Port tunnel to meet its primary objective of providing a high-quality access route for HGVs to Dublin Port; ensure that the Dublin Port tunnel would not cause an increase in car-based commuter trips into the city centre; and limit the potential for traffic congestion, which is undesirable in a tunnel situation, to occur within the tunnel.

The transport strategy for the greater Dublin area, GDA, published by the NTA, provides the framework for the planning and delivery of transport infrastructure and services in the GDA for the period from 2016 to 2035. The strategy identifies a broad range of measures necessary to provide for the efficient, effective and sustainable movement of people and goods in the GDA.

The strategy specifically identifies the need to ensure that Dublin Port tunnel continues to perform its primary function of providing access to Dublin Port for freight traffic. This, in turn, not only facilitates trade but also reduces the impact of freight movements on people who live and work on alternative routes to the port.

**Deputy Brendan Ryan:** I thank the Minister for his response. I have spoken many times in this Chamber about the fragility of the M1 corridor. Any accident in the Dublin Port tunnel brings traffic on all northside arteries into the city to an absolute standstill, reinforcing the need for the MetroLink to be delivered. For now, commuters from north County Dublin are using this tunnel as a means to get to the city centre or down the eastern boundary of the city through the East Link Bridge. They are being unfairly hit by the charging structure in place.

It costs €10 for southbound commuters between 6 a.m. and 10 a.m. from Monday to Friday and northbound between 4 p.m. and 7 p.m. Those living on the city side of the tunnel and working on the county side pay €6 a day in tolls if they use the tunnel to and from work. This compares with €20 per day for a commuter who comes from north County Dublin or beyond and works in the city, which is a difference of €70 per week. This is plainly unfair. I acknowledge the response outlining the primary function of the tunnel, but the reality is that commuters are

using it whenever they can, leading to unfairness.

**Deputy Shane Ross:** I do not dispute the facts. However, I underline that the primary purpose of this tunnel is to get HGVs to the port and not to encourage commuters to either enter the centre of the city or go anywhere else, particularly at peak times. It would be unacceptable to have congestion in the tunnel at peak times on many fronts and that is the reason for the tolling structure. Of course, it would be everybody's wish that there would be no tolling and, certainly, that the tolls would not be as high as they are in that area. They are obviously a huge expense for people who use the tunnel. I imagine if the tunnel were used by a larger number of commuters it could lead to safety difficulties. In addition, congestion would deter people and negatively impact on trade. It is very important that the HGVs can reach their destination, namely, Dublin Port, on time. In the context of Brexit, this will assume even greater importance.

**Deputy Brendan Ryan:** The behaviour of commuters who use the tunnel is driven by the congestion in the city centre, which is also the Minister's responsibility. The injustice to people living on the Dublin's northside has gone on for too long and cannot be allowed to continue. The differential is too great and the price is too high. As a minimum step, the differential should be reduced. With MetroLink in the pipeline, there is a long-term solution to the transport problem in Fingal and along the M1 corridor. In the interim, however, it is the responsibility of Government to make things a little easier for commuters. Dublin Port tunnel made a pre-tax profit of nearly €1 million last year, so there is fiscal space to give something back to the northside commuters who contributed to this massive profit.

The people of Fingal and beyond have no choice but to travel the M1 corridor. In particular, those in towns such as Swords that are not served by a rail link deserve better; they deserve a break. The pricing injustice needs to end and I ask the Minister to do what he can on this. I ask him to remember his past. When in opposition, he spoke with some zeal about the tyranny of tolls and tolling. Commuters using the tunnel are driven by congestion and there must be recognition by Government that as long as that congestion exists, commuters will use the tunnel.

**Deputy Shane Ross:** I do not blame commuters for using that tunnel and certainly not for the desire to use it. However, I do not wish them to do it. I remind the Deputy that the purpose of the tunnel is to get HGVs to the port on time, to keep traffic out of the port at peak times and to keep traffic out of the city at those times. This tunnel is of great assistance to trade and traffic control. We must accept that they are avoiding it because of congestion in the city and elsewhere. This is just part of the bigger problem which we are addressing as a matter of urgency. It is my wish and hope - it is not a vain hope - that those commuters who are using that tunnel or who are finding it too expensive to do so will soon be moving to a new form of public transport - a change of modal transport that is also cheaper.

## **Other Questions**

### **Brexit Issues**

39. **Deputy Brendan Smith** asked the Minister for Transport, Tourism and Sport if his attention has been drawn to the particular concerns of communities throughout the Border region regarding the adverse impact Brexit will have on the area and the need to upgrade infrastructure



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such as the road network in order to assist businesses to remain competitive (details supplied); and if he will make a statement on the matter. [25398/18]

**Deputy Brendan Smith:** As the Minister is aware, there is great uncertainty and concern in Border communities, in the Cavan-Monaghan constituency I represent and in neighbouring counties, both north and south of the Border, regarding the adverse impact Brexit will have on our daily lives. There are considerable concerns regarding the impact on the local economy. As the Minister is aware and as we debated in the Chamber previously, the economy of Cavan-Monaghan is very heavily dependent on the agrifood sector, the construction products sector and the engineering sector. By definition, those sectors involve bulky products that need to be transported to ports and airports in order that they might be exported to the marketplace. We need to assist the companies to remain as competitive as possible by having the necessary road infrastructure upgraded. It is the only means to get the product from the area because we do not have a rail service. The road network is of critical importance to us.

**Deputy Shane Ross:** I thank the Deputy. I know he has been a most vocal and consistent advocate for the problems of Brexit, not only for the roads but also for the entire Border region. I share his concerns regarding the potential adverse effects of Brexit on the sectors he identified. The efficiency of our transport infrastructure is just one element that determines transport costs. Other elements include the cost of the vehicle and fuel, the cost of the driver, overhead and back-office costs and the time taken to transport the goods. Brexit has the potential to impact on overhead and back-office costs in particular and also on time-related costs.

My Government colleagues and I are working to address the potential impacts of Brexit across all sectors. On transport, we have identified the key areas of adverse regulatory and operational impacts and are seeking to ensure that acceptable alternatives to the current EU structures are agreed as part of the withdrawal agreement and future relationship with the EU.

The publication by the UK of written proposals on customs arrangements aimed at making progress in the Brexit negotiations is a welcome step. However, the Commission will make a first assessment of the technical and legal feasibility of the proposals, and whether they provide a basis for negotiation. We look forward to its assessment and to discussing whether the proposals could be helpful in meeting the UK's repeated commitment to avoiding a hard border and thereby making progress on the backstop on Ireland and Northern Ireland.

The national development plan, NDP, sets out the Government's ambition in the area of roads and the Border region. In chapter 4 of the plan, there is an examination of how targeted investment can promote economic resilience in the Border region in the context of Brexit. This chapter touches on a range of measures, including investment in transport links. The NDP includes references to, among other projects, the N2-A5 roads, the N14 from Manorcunningham to Lifford, the N52 Ardee bypass, the N2 Slane bypass, the N4 from Collooney to Castlebaldwin and the N56 in Donegal.

Schemes on these routes are at various stages of development and Transport Infrastructure Ireland, in conjunction with the relevant local authorities, will be advancing them on a phased basis within the overall capital budget available to it.

The NDP also sets out ambitious investment programmes in our main ports and airports that will enhance capacity and facilitate smoother connectivity to international markets.

**Deputy Brendan Smith:** I thank the Minister for his reply. I referenced in particular the

need to develop the east-west route. Unfortunately, this project is not referenced in the section of the plan dealing with investment in the Border region. It is regrettable that this is not a priority project.

I appreciate the opportunity to discuss in this Chamber with the Minister the need to develop the east-west route. In the early 2000s, the east-west route from Dundalk to Sligo was identified as an important project. It was concluded that the best route would be Dundalk, Carrickmacross, Shercock, Cootehill, Belturbet, Enniskillen, Sligo. In the meantime, substantial parts of the route were upgraded with the building of the Belturbet bypass and stages 1 and 2 of the Cavan bypass as well. In the road allocations for 2010 and 2011, substantial funds were allocated to the local authorities, with Cavan County Council being the lead authority, to carry out substantial planning and design work on the section of the route from Cootehill, Shercock and Carrickmacross to Dundalk. Unfortunately, the then Minister for Transport, Tourism and Sport, Deputy Varadkar, did not continue that specific funding for the planning, design and upgrade work on that particular route. We are fortunate that in that particular part of Cavan and Monaghan there is substantial employment, with Abbott Ireland and a number of major engineering companies in Cootehill and Carton poultry products in Shercock. There are many substantial employers in Carrickmacross and Dundalk as well. All of these companies need proper road infrastructure to get their products away from their base.

**Deputy Shane Ross:** To make an informed statement or decision on the basis of what the Deputy has spelled out to me requires me to visit the area concerned. This is a matter on which I cannot give any assurance across the floor. If the Deputy so wishes, I will visit the areas some time over the summer. Members opposite sometimes think that politicians on this side of the House are dripping with insincerity in terms of the responses they give in this House but that is not the case. I am conscious of the fact that the Border area is awaiting Brexit with trepidation in terms not only of the roads but also the industries to which the Deputy referred, including the agrifood industry and other areas. It would be beneficial if I visited the areas to see the roads to which the Deputy refers. I do not doubt what the Deputy says but there are incredible demands upon the public purse for these roads. I believe the Border area has made its case for priority attention, by which I do not mean preference over any other area. It is important it is not forgotten, particularly because of the danger of a hard border, which could have a devastating affect not only on the roads but also on industries and people in the area. I am conscious that we are speaking about an area where a devaluation has already had an effect.

**Deputy Brendan Smith:** I welcome the Minister's commitment to visit the area. I would be happy to show him the roads concerned. Traffic from Cavan to Clones passes through County Fermanagh three times. From the point of view of the transport industry, the concerns of which the Minister will be aware of in terms of possible tariffs and barriers to the free movement of goods, people and services, economies North and South are intertwined and interdependent. I mentioned the local economies in Cavan and Monaghan. Neighbouring economies north of the Border in Fermanagh, Tyrone and Armagh are similarly dependent on the same sectors as a source of employment. There is huge concern in the wider Border area, which spills into neighbouring constituencies as well, be that Deputy Troy's constituency of Longford-Westmeath or Deputy Scanlon's constituency of Sligo-Leitrim. Also, the Leas Cheann-Comhairle spoke eloquently yesterday at the British-Irish Parliamentary Assembly about the concerns of all of us in the south of Ulster, the north midlands and the midlands in regard to the adverse impacts, economic and social, of Brexit.

**An Leas-Cheann Comhairle:** The Deputy did not seek additional time in view of that

credit he was given.

**Deputy Shane Ross:** He did look for extra money for all of his colleagues.

There is considerable pent-up demand for road improvement projects on regional and local roads. One such project, the east-west Dundalk to Sligo link, was referred to by the Deputy. The Department has provided funding this year to allow the appraisal to be updated. The Government is committed to cross-Border roads and development in this regard but there are one or two problems arising in this regard. The Deputy will be aware of the situation with the A5 upgrade, which is a massive commitment in monetary terms. The Stormont House Agreement, A Fresh Start, reaffirmed the Government's commitment to provide funding of €50 million for the A5 project and committed an additional €25 million to ensure that phase 1 of the project can commence as soon as the necessary planning issues are resolved by the Northern Ireland authorities. The Government will be contributing €75 million towards the estimated €163 million cost of phase 1A if the current legal challenge to the scheme is successfully defended. The construction of phase 1A will take about two and a half years to complete.

As regards decisions on any additional financial commitments in regard to further phases of the A5 project and others referred to by Deputy Smith, this is a matter for the Government as a whole.

**An Leas-Cheann Comhairle:** Deputy Troy has been given permission to take Question No. 40.

### **Tourism Industry**

40. **Deputy Barry Cowen** asked the Minister for Transport, Tourism and Sport the criteria by which his Department designated the heart of Ireland tourism area. [25415/18]

**Deputy Robert Troy:** I thank the Ceann Comhairle's office for allowing me to ask this question in the absence of Deputy Cowen. As an advocate for the designation of a heart of Ireland brand, I welcome that the Minister recently announced this brand. What criteria were applied by the Department in designating the heart of Ireland tourism geographical area and is the Minister satisfied that sufficient funding has been put in place to ensure there is an adequate marketing fund to establish and promote this brand on the international stage?

**Deputy Shane Ross:** I thank Deputy Troy for taking this question which asks about the designation of the heart of Ireland tourism area, a mistake I am sure he would not have made if he had drafted the question.

As the Deputy may be aware, development of Ireland's Hidden Heartlands, including its geographical boundaries, was the responsibility of Fáilte Ireland rather than the Department and it was supported in this task by indepth research. The brand was designed to service those areas not covered by the existing regional tourism experience brands, in particular, those areas of the midlands whose primary tourism asset is the Shannon and also the areas to the west of the Shannon not serviced by the Wild Atlantic Way. Although Ireland's Ancient East continues to include all areas east of the Shannon, I am advised by Fáilte Ireland that it included a small overlap area for the new midlands brand to the east of the Shannon to allow for the development of riverside walking and cycling trails and access to the Shannon navigation from the eastern

banks. Nonetheless, each brand experience has a very different focus, with separate and distinct unifying themes and experiences.

As regards the brand elements, including the name, logo and what this new tourism experience brand stands for, Fáilte Ireland developed these following extensive research with consumers in Ireland, the USA, the UK, Germany and France and with reference to key Irish and international benchmark offerings. As part of this process, Fáilte Ireland interviewed over 10,000 consumers through which it received valuable insights that gave it strong confidence that the brand focus and related offering - Active in Nature - has the potential to be both appealing and motivating to visitors.

Given its responsibility for its development, I have asked Fáilte Ireland to reply directly to the Deputy in regard to the criteria by which it designated the Ireland's Hidden Heartlands region. The Deputy should please contact my private office if he has not received a reply within ten working days. The detail of this is a matter for specialists in Fáilte Ireland but I can supply it if they do not provide the information to the Deputy.

**Deputy Robert Troy:** It is quite bizarre for the Minister to tell me he will get Fáilte Ireland to inform me. This is not a written question and the whole purpose of submitting questions in advance of Question Time is for the Minister to come into the House fully armed with the information. I have no doubt about the research but when Ireland's Ancient East was established there was no brand for the midlands, as a consequence of which some of the midlands was included. Part of my home county, Westmeath, which is in the centre of Ireland and is home to the Hill of Uisneach, is excluded from Ireland's Hidden Heartlands. It is bizarre stuff. County Laois, also in the centre of Ireland, is also excluded from Ireland's Hidden Heartlands and it is bizarre that the Minister cannot explain why that is the case. Between 2007 and 2014, County Laois received the least amount of funding from Fáilte Ireland.

**Deputy Shane Ross:** I am not reluctant to answer any of the Deputy's questions but I thought that, because of the extent of the detail in the survey of 10,000 people, it might be appropriate to get the information from Fáilte Ireland. I can arrange for the Deputy to have a full briefing from it because I know it is close to his heart and to his neighbourhood. I am often asked to micromanage by answering questions which are more appropriate to others and I just thought the Deputy might get a better reply from Fáilte Ireland. I am very happy, however, to get it from them and give it to the Deputy, if that is what he wants.

There was apparently a problem with Laois, but I do not think it is a real problem. County Laois completed a long-term tourism strategy recently, with input from Fáilte Ireland, and it is very much aligned with Ireland's Ancient East. My understanding is that the local chamber is happy with that, as is the chairperson of Laois Tourism. I understand that when this was announced and Laois was left in Ireland's Ancient East, while the response from one or two people was somewhat knee-jerk, the response from people at the coalface was favourable and they wanted to stay where they were.

**Deputy Robert Troy:** I will take up the Minister's offer. Perhaps in future the Minister can provide the information in advance of the questions so that we will be better informed to ask him questions on the floor of the Dáil. On the question of marketing, we now have four distinct brands, namely, the Wild Atlantic Way, Ireland's Hidden Heartlands, Ireland's Ancient East and brand Dublin. How does the marketing budget for Ireland's Hidden Heartlands compare with the three other brands? Can the Minister give the exact amount of funding to be allocated to

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Ireland's Hidden Heartlands in the coming year and say how it compares with the other brands? Since 2012, total marketing funding has decreased by €25 million, or 18%. In light of the new flights announced this week between Dublin and Beijing, there are huge opportunities to increase our presence on the international stage but if we do not have sufficient resources behind our marketing brands they will not develop or prosper. Can the Minister confirm that all our brands will be sufficiently funded?

**Deputy Shane Ross:** The Deputy is right about the overseas flights, and about bringing more people in and increasing tourism. The anecdotal evidence I have received in the past couple of days is that the response to the new brand, and the marketing of the new region, is way above and beyond expectations and that is extremely encouraging. An initial €2 million has been allocated for 2018 to start the development stage of the new brand, with further funding and capital grants to follow. The first round of investment will help to develop visitor experiences and the development of infrastructure, tourism products, services and marketing. Next year and beyond, Ireland's Hidden Heartlands will benefit from investment planned under the national development plan, which allocates €300 million in Exchequer funding to tourism under the national strategic outcome No. 3, while €133 million is due to be allocated to Fáilte Ireland between 2018 and 2022 for investment capital. I do not think the Deputy will find it wanting in any way as regards funding.

*A referred reply was forwarded to the Deputy under Standing Order 42A.*

## Road Projects

41. **Deputy Eamon Scanlon** asked the Minister for Transport, Tourism and Sport the status of the completion of the western distributor route. [22879/18]

**Deputy Eamon Scanlon:** I welcome the Minister's answer to a previous question on the N4 and the stretch of road from Castlebaldwin to Collooney. I recognise the fact that he is committed to the project and we are all looking forward to work on the road starting, hopefully at the end of this year. Given the number of fatalities on this stretch of road, on which 27 people have been killed over the past number of years, this is very important.

This question relates to the western distributor route, which is crucial to the development of Sligo and its environs. The IDA needs the road to serve 70 acres of land it owns in order that it can progress factories on that parcel of land for companies to move in very soon and create jobs.

**Deputy Shane Ross:** I am grateful to Deputy Scanlon for raising this matter. The news is encouraging. The maintenance and improvement of regional and local roads is the statutory responsibility of the relevant road authority under section 13 of the Roads Act 1993. Works on those roads are funded from the local authority's own resources, supplemented by State road grants. The initial selection and prioritisation of works to be funded is also a matter for the local authority.

While the construction of the western distributor road was not included in the original Building on Recovery capital plan, nevertheless my Department facilitated the development of the project by providing grant assistance for the project planning and design over a number of years.

As for the construction phase of the project, my Department made a strong case for additional funding under the capital plan review and, following the conclusion of the review in 2017, significant extra funding was allocated to my Department in the period to 2021. I was, therefore, very glad to be able to commit grant funding for the construction phase of the distributor road.

Sligo County Council, as the statutory road authority, is responsible for implementation of the distributor road scheme which is, I understand, at land acquisition stage. The council is required to comply with the requirements of the public spending code, the Department's capital appraisal framework and the memorandum relating to the provision of grants for regional and local roads. In this context, during 2017, approval was given to the council to proceed with the detailed design of the scheme and the preparation of contract documents. In addition, approval was given to the council to proceed with an advance works contract for fencing and site clearance. I understand that the fencing work is now substantially complete.

Grant funding of €800,000 has been allocated to the scheme this year. The project tender documentation has been finalised and was submitted to my Department for review in mid-April. Approval has recently been given to the council to invite tenders for the main construction contract.

**Deputy Eamon Scanlon:** I welcome the fact that approval has been given because it is crucial for the region for the road to be put in place to facilitate the building of factories. There is a greater chance of getting companies when buildings are available than when there is no building for them to move into. I welcome the fact that the funding is in place. I am sure the county council has been informed and that it will progress the project as fast as possible.

**Deputy Shane Ross:** This is a happier story than some of the others we have had today. I am glad to be able to welcome it as well. It is important we take note of not only the views of the local authority and ourselves and our own examination but also the views of the Industrial Development Authority, IDA. The development of this land was regarded as essential to enable the IDA to attract foreign direct investment, FDI, to the Sligo region. That is a significant fact, not forgetting as well that local representatives made such strong efforts to get funding and to progress this. It has been ongoing since the mid-2000s. Planning through the Part 8 process was achieved in 2006, phase one was constructed in 2010, a compulsory purchase order for phase two was approved by An Bord Pleanála in 2011 and the notice to treat was subsequently served on landowners. It has been a long journey to get as far as we have. When I put forward the Department's submission as part of the capital review process in 2017, additional funding was sought to allow it go ahead. The extra funding allocated as part of the capital review process, and reflected in the national development plan, means the project is now being progressed to construction.

**Deputy Eamon Scanlon:** I welcome and want to convey again the importance of this project. The current IDA industrial estate in Finisklin is chock-a-block. There is no space for new factory buildings so it is crucial that this progresses as quickly as possible.

**Deputy Shane Ross:** I thank the IDA, Sligo County Council and the local representatives. The Department of Transport, Tourism and Sport provided €11 million and I think the IDA provided €5 million. It is a good combined effort.

## Health Promotion

42. **Deputy Kevin O’Keeffe** asked the Minister for Transport, Tourism and Sport the measures he is taking to increase the number of children and adults who play sports on a regular basis. [25418/18]

**Deputy Kevin O’Keeffe:** The Minister’s Department published a report in 2016 on the national physical activity plan. It is being implemented at the moment on a stage-by-stage basis. Are we doing enough for the well-being of our children, adults and senior citizens regarding fitness? Can we do more on activity and is the Minister progressing matters on this issue?

**Minister of State at the Department of Transport, Tourism and Sport (Deputy Brendan Griffin):** I thank Deputy O’Keeffe for raising this. We are all well aware of the important health and well-being benefits of participation in sport by children and adults. Government investment in participation initiatives is having an impact and we will continue to invest in programmes and initiatives to increase participation levels further.

The national physical activity plan, launched in early 2016, contains a series of actions designed to foster increased physical activity by children and young people, including primary school children. My colleague, the Minister for Education and Skills, Deputy Richard Bruton, exercises lead responsibility for the majority of these actions. Significant progress has been made in relation to these actions, details of which are available in a progress report published on the Healthy Ireland website in December 2017. In respect of adult participation in sport, the 2017 Irish sports monitor report published by Sport Ireland last month shows that 43% of the adult population regularly take part in sport, representing 1.6 million regular participants.

Government investment in participation in sport is channelled through Sport Ireland, which invests in a wide range of programmes aimed at increasing participation in sport, including programmes aimed at groups currently underrepresented in sport. Sport Ireland is committed to providing enhanced sporting opportunities targeted at those less likely to participate through the local sports partnership network, national governing bodies and other partners. In the context of the new national sports policy, currently being finalised in my Department, there will be a strong focus on increasing participation levels in sport and physical activity at all ages and particularly for children and young people.

Achieving such increased participation levels is a significant challenge that will require the development of new projects and programmes in the future as well as continued implementation of existing successful initiatives. I consider that a fundamental requirement in this context is to maintain and strengthen links between the various Departments, agencies and sporting organisations. The means to address this requirement will be set out in the new sports policy. This will also refer to the need to invest further in sport. However, I can also point to many positive things happening on the ground, particularly in respect of our young people. The “daily mile”, which was an outstanding success in Scotland, has been reported on here. Schools, Athletics Ireland, Sport Ireland and our Department are trying to see this rolled out in all schools throughout the country. It is very positive.

**Deputy Kevin O’Keeffe:** I welcome the Minister of State’s response. I note the contents of the report. As the Minister of State said, only 43% of adults actively participate in sport. How can we increase this percentage? It is important. Almost 60% are still not participating in sports or activities for the sake of fitness. Do we need to give more hours to physical education

for our children in our schools? The Minister of State opened a conference last week in Trinity College Dublin with the Sports Federation of Ireland. We are trying to put ourselves on the same level as New Zealand. It has the same population and the same approach to sports but we do not win the same number of medals. One of the things brought home to us during that deliberation was that schoolchildren in New Zealand get three hours a week of physical education while here there is a maximum of two hours. I do not know if the schools are actually doing the two hours. I am concerned. Could we do more and make it statutory that a number of hours be given to physical education?

**Deputy Brendan Griffin:** As Deputy O’Keeffe knows, the Department of Education and Skills has carried out much work in respect of increasing the status of physical education in schools. I will address some of the other work going on that is worthy of a mention. The Government provides €10.8 million in core grant funding through the national governing bodies and Sport Ireland. Another €6 million goes to the local sports partnerships. Their key aim is to increase participation in sport at local level. That is sometimes overlooked but their work is very important. I refer in particular to areas underrepresented in sport. They do really good work.

The women in sport programme provides another €0.6 million to 26 national governing bodies. In addition, €7.54 million was allocated in 2017 to youth field sports by Sport Ireland. That money is again often overlooked but it is important funding as well. The sports monitor gave us some very interesting data recently but also something about to be published later this year will be very important in respect of young people and children in particular. I refer to the updated children’s sport participation and physical activity, CSPPA, report. The last one was published in 2010. That is something we will be watching keenly because it gives us a specific focus on children.

**Deputy Kevin O’Keeffe:** I thank the Minister of State, Deputy Griffin, and compliment him on his work. When we think of obesity, we straightaway refer to the Mars bar and the bag of Tayto. However, much is also down to non-participation in physical activities. Physical education is a good way of getting our youth up to standard in the education system in respect of physical co-ordination and other aspects of well-being like that. We will keep an eye on things.

**Deputy Brendan Griffin:** There is a subgroup of the national physical activity plan on children and young people. That focuses on 14 of the 60 actions trying to increase participation by children in sport. There is also representation on that group from Comhairle na nÓg, the National Parents Council and the agencies and national governing bodies as well. That is an important area in trying to implement those action points. I commend the work of everybody involved. To add to what Deputy O’Keeffe said, we do need to have more outlets. We try to provide outlets through the sports capital programme to ensure the best possible infrastructure is available to as many people as possible. Another key area has to be a focus on nutrition and what people, and children in particular, are putting into their bodies. Sometimes high levels of sugars and saturated fats are accepted as part of ordinary diets and they really should not be. That is another area we need to examine. I also compliment Healthy Ireland on the work it is doing on that front. That is all part of the bigger picture that we need to focus on.

## **Transport Policy**

43. **Deputy Imelda Munster** asked the Minister for Transport, Tourism and Sport the impediments which exist to the regulation of rickshaws in view of the fact that most other Euro-



pean states have regulated their use; and if he will make a statement on the matter. [25253/18]

**Deputy Imelda Munster:** What are the impediments to regulating rickshaws, given that most other European cities have regulations?

**Deputy Shane Ross:** The Deputy will be aware that, like her, I am very conscious of the case for taking steps to regulate the operation of rickshaws or to curtail their activities. She will also be aware that my Department is deeply engaged in working out whether and how the problems that have been identified in connection with rickshaws could be addressed or regulated in a meaningful and legally robust way that is also proportionate, effective and cost-efficient. She was part of the very useful and extensive discussion we had about this two weeks ago at a meeting of the Joint Committee on Transport, Tourism and Sport. The choice is simple. Rickshaws can be banned, left as they are or regulated. Banning them is one option, as is regulating. Leaving matters as they are is not an option.

As rickshaws are vehicles that operate on the public road, regulation requires us to consider the matter in the context of the Road Traffic Acts in the first instance. Given the extensive record of litigation under those Acts, we must be very exact in terms of how we define a vehicle as a basis for developing new laws. The NTA advises that a pedal-powered rickshaw can be converted to a motorised one within minutes by attaching a small motor and that the motor can also be removed just as quickly. However, the provisions of the Road Traffic Acts are clear in distinguishing mechanically propelled vehicles from others. There would be a very different set of requirements for a motorised rickshaw - because it would be regarded as a mechanically propelled vehicle - than those that would apply in the case of a non-motorised rickshaw or bicycle.

While it may not be impossible, it is clear that a significant impediment in this context relates to the ability to develop new legislation that can be enforced in any meaningful way – especially given the ability to switch from one type of vehicle to another at such speed.

In the international context, the position is not absolute. There are EU member states where, like Ireland, rickshaws are not regulated at all. There are some where rickshaws are subject to regulation or where legislation is currently under development. In many cases where regulation has been introduced, this has often happened at local or municipal level.

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

The Deputy will be aware that the tradition across Europe demonstrates a model with stronger powers and functions at municipal level than is the case in Ireland. The question of regulation at local level has also been considered here. While some would favour that approach, there are also matters to be considered in terms of the powers currently available for local authorities, particularly the question as to what extent those powers could be used to ensure effective enforcement.

As I said when I appeared before the joint committee recently, I am putting the rickshaw industry on notice that I will be deciding very shortly as regards the introduction either of an outright prohibition or a new regulatory framework for rickshaws. While the preferred approach at present is an outright ban, I am aware that this option is not entirely without obstacles. My Department is engaging with the Office of the Attorney General to consider any blockages which might arise, including how best to weigh and balance private interests in the context of the public good. Once consultations with the Office of the Attorney General are complete, I expect to be in a position to finalise and announce my decision before the end of this Dáil term.

**Deputy Imelda Munster:** I have said previously that rickshaws constitute a novel way of travelling that tourists enjoy. They are another transport option for many people, and the service provides around 1,000 jobs. There are problems with rickshaws but nothing that cannot be solved through regulation. The lack of regulation is the main reason for the problems. I have been calling on the Minister to regulate rickshaws for the past two years. I tabled an amendment in December 2016 to allow for regulation but, until now, the Minister has done absolutely nothing. Two weeks ago he announced that he favoured an outright ban on rickshaws. It seems that, after two years of having every option on the table, the Minister has favoured the laziest one available rather than the most suitable in terms of policy or law.

The National Transport Authority, NTA, exists as a licensing authority. It regulates taxis, for example. Is the Minister saying that sufficient expertise is not available, between the NTA and his Department, to regulate for something as simple as a rickshaw?

**Deputy Shane Ross:** The Deputy really does talk in exaggerated, broad-brush-----

**Deputy Imelda Munster:** The Minister does that regularly.

**Deputy Shane Ross:** She said that she has been calling on me to act for two years. It has certainly not been two years. The amendment to which she refers-----

**Deputy Imelda Munster:** That amendment was made in 2016.

**Deputy Shane Ross:** -----was made in December 2016. That is not two years ago.

**Deputy Imelda Munster:** The Minister has done nothing.

**Deputy Shane Ross:** We would have four-year parliamentary terms if we used the Deputy's calculations and all sorts of other unpleasant problems would arise.

The Deputy went on to say that I have done nothing during the period in question. That is simply not true. We have been through this at the Joint Committee on Transport, Tourism and Sport. The NTA carried out an extremely thorough survey in respect of this issue in the past year and has come up with some fairly startling conclusions, one of which is that the majority of the people want to ban rickshaws. How can the Deputy say that nothing has been done when we have had a public consultation that has produced serious conclusions? I ask that she examine those conclusions before she comes out with rash statements.

**Deputy Imelda Munster:** There is an onus on the Minister to regulate. I have read a couple of the reports that have been compiled. They contain every single excuse under the sun. That is why I referred to the lazy option. The Minister is talking as if this is an impossible task, suggesting that we could never regulate the industry. Here is an example of what is possible. Rickshaws are regulated in cities such as Vienna, Copenhagen, Paris, Berlin, Frankfurt, Hanover, Hamburg, Budapest, Krakow, Milan, Rome, St. Petersburg, Barcelona, Valencia and London. Those cities are able to do rickshaw regulation. Two years have passed and the Minister needs to get his act together and do it.

**Deputy Shane Ross:** This is ludicrous. The Deputy has said that I have done nothing and that I should get my act together. We seem to have an amnesiac in our midst. I accepted the amendment tabled by the Deputy. Does she remember that?

**Deputy Imelda Munster:** Other countries are able to regulate rickshaws.

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**An Leas-Cheann Comhairle:** I will move on to the next question.

**Deputy Shane Ross:** I accepted the amendment tabled by the Deputy. I gave her that commitment. I found that the legal problems were too great and that the matter has to be addressed in a different way. I immediately responded to what the Deputy did and said that we would take her point on board. To say that I do not have the enthusiasm for tackling this issue is absurd. We now have legal complexities which will be resolved.

### **Brexit Issues**

44. **Deputy Brendan Smith** asked the Minister for Transport, Tourism and Sport if the necessary upgrading of national and regional roads in the Border region will be prioritised for investment due to the particular economic challenges that will arise for the region following Brexit; and if he will make a statement on the matter. [25397/18]

**Deputy Shane Ross:** The national development plan, NDP, sets out the investment priorities to 2027 that will support the implementation of the national planning framework. In doing so, the NDP sets out the major challenges facing the country including: demographic change; the need to move to a being a low-carbon, climate-resilient society; Brexit; and realising sustainable growth.

The plan seeks to set out a balanced set of investment priorities - with those challenges in mind - within an overall capital envelope. While the NDP acknowledges the continuing uncertainty about the final arrangements relating to the UK's exit from the EU, chapter 4 of the plan contains an examination of how targeted investment can promote economic resilience in the Border region in the context of Brexit. This chapter touches on a range of measures, including promoting research and innovation, attracting new investment, assisting SMEs to prepare for Brexit and investment in transport links.

In the context of the road network serving the Border region, the NDP includes references to many roads to which I have already referred in an earlier question.

Schemes on these routes are at various stages of development, and Transport Infrastructure Ireland, TII, in conjunction with the relevant local authorities, will be advancing the schemes on a phased basis within the overall capital budget available to it.

As regards the A5, implementation of the upgrade of the route is the responsibility of the Northern Ireland authorities. Under the Fresh Start agreement, the Government is committed to providing €75 million sterling towards the cost of the first phase of the scheme. The project is the subject of legal proceedings at present.

The funding allocated to my Department as part of the capital plan review last year includes financial provision for meeting the Government's commitment regarding the A5 in three £25 million tranches over the period 2019 to 2021.

**Deputy Brendan Smith:** I will take just one supplementary in order to facilitate other members. I welcome the fact that the Minister has committed to visiting the Border region during the summer months to see at first hand the interdependence of the road network in the North and the South and the huge challenges that businesses and commerce in general in the Border region face due to the adverse impact that Brexit will have. I emphasise that our local economy

in the Cavan-Monaghan and south Ulster area is very heavily dependent on the agrifood sector, the construction products sector and the engineering sector. By definition those sectors require good infrastructure to transport their products to ports and airports. They use heavy goods vehicles. If vehicles are delayed on the roads as a result of inadequate infrastructure, there will be a cost to the business of the primary producer. The challenge is for local businesses to remain competitive. We have to try to assist those companies to remain as competitive as possible through the upgrading of infrastructure, and trying to reduce those transport costs as much as possible. That is within the competence of the Government. For historical reasons, the region has not had the investment required. It is now facing the particular challenge of Brexit. Investment must be prioritised.

**Deputy Shane Ross:** I hear the Deputy loud and clear. I will be delighted to visit. Perhaps as well as looking at the roads the Deputy could arrange that we visit one or two of the companies that are likely to suffer.

*Question No. 45 replied to with Written Answers.*

### **Sports Capital Programme Administration**

46. **Deputy Martin Heydon** asked the Minister for Transport, Tourism and Sport the status of a new sports capital programme; when it will be announced; and if he will make a statement on the matter. [25280/18]

**Deputy Martin Heydon:** When will the new round of sports capital grants open this year? The grants are important for sports clubs that are planning development. The programme has had a positive impact on Kildare South clubs, and many are lining up to apply again. Can I have an update on that?

**An Ceann Comhairle:** Has the Deputy projects in mind?

**Deputy Brendan Griffin:** Every Member has a few projects in mind.

I thank the Deputy for raising this matter again. Along with many other Deputies, he has been a great champion of the sports capital programme. The Government allocated more than €60 million to more than 1,800 projects throughout the country under the 2017 programme. The Minister and I were delighted to do that, particularly with an increased budget.

A review of the 2017 programme has been finalised and is available on the Department's website. The review highlights aspects of the 2017 round that worked well, but also suggests further improvements that are currently being prioritised for consideration prior to the opening of the next round of the programme. Some of these changes will also require amendments to the Department's online application process and they have commenced.

The good news I have to announce is that formal sanction was received in recent days from the Minister for Public Expenditure and Reform to open a new round of the programme. Accordingly, the Minister for Transport, Tourism and Sport and I expect to make an announcement on the timing of this round in the coming weeks. Some €40 million will be available for the 2018 programme, and all clubs and organisations registered on the Department's online application system will be notified at that time. I very much look forward to engaging with all Members on delivering that programme, as I have done in the past. It has a great impact on

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clubs and organisations on the ground, and we very much look forward to getting that money into communities in order that these organisations can improve their sporting infrastructure for everybody's benefit.

**Deputy Martin Heydon:** I thank the Minister of State for his positive response. It is great to hear that the programme will reopen soon. The sum of €40 million, an increase from last year, is a great resource for which the clubs can apply.

As we enter into the new process, I wish to ask about the lessons learned from the last one, and the sore and contentious issue of those clubs whose applications were deemed invalid. I discussed this with the Minister of State privately, and he shared my frustrations. Those decisions were disappointing for clubs that invested a great deal of time and effort in filling out the applications. It is hard on the individuals who volunteered to do that and who sometimes gets caught in the middle, along with the local politician, and is blamed for something falling through. At times, that can be because of a technical point. We need a system whereby if a club's application is deemed invalid, it is told early on and given a brief opportunity to rectify it, and the error is either sorted or it is not. We should not drag them through the process, not knowing until the last day when everyone else's result is announced. In particular, I refer to two clubs in Kildare South whose applications were deemed invalid in 2017 - Cill Dara Rugby Football Club, with which the Ceann Comhairle will be familiar, and Clogherinkoe GAA club. I hope they will be facilitated in the new process, taking into account the difficult process they went through last year.

**Deputy Brendan Griffin:** I thank the Deputy. Great progress was made in the 2017 programme in cutting down the number of invalid applications. In 2012, 48% of applications were invalid while in the 2014 and 2015 rounds, the percentage was in the mid-thirties. It reduced to approximately 20% in 2017 and, for the first time, we had an appeals process for applicants that felt they were harshly adjudicated and their applications wrongly invalidated. That resulted in a further €2.3 million worth of allocations for applicants.

One of the key aspects of the 2018 programme is that no organisation will have its application ruled invalid without having a second chance to rectify the matters raised. That will be positive because, as the Deputy mentioned, one of the key frustrations for volunteers over the years has been disqualification of applications for a minor infraction of the rules. By giving people a second chance to set the application right before it is adjudicated on will give everybody a day at the races. After that, they can be adjudicated on based on the number of points they achieve under our scoring criteria.

**An Ceann Comhairle:** I thank the Minister of State. That sounds sensible.

*Written Answers are published on the Oireachtas website.*

## Topical Issue Debate

### Addiction Treatment Services

**Deputy Frank O'Rourke:** I welcome the Minister of State into the Chamber to discuss this matter, for what is probably the second or third time in the past two years. Hopefully we

can achieve a positive outcome. I spoke to the Minister of State about this in recent times. The Abbey Community Project is a group in Celbridge that provides important counselling and dual diagnosis services to people with different addictions such as alcohol addiction, drug addiction, etc. The group comes at these from the perspectives of both mental health and addiction treatment. Qualified counsellors provide the services. I know that the Minister of State is familiar with the group .

I met the Minister for Health regarding this issue last July. He believed this was a good model, with the service established in the community with good support and providing an excellent service. Given the HSE was not able to provide the service in the way that was intended, he felt this was a model that should be supported. This project has received plaudits from the Minister, the Minister of State and her colleague, Minister of State at the Department of Health, Deputy Jim Daly. The HSE is in favour of it, as is the South-Western Regional Drugs and Alcohol Task Force, yet ten years on, the group is without any funding. Its members raise funds to cover public liability insurance by chipping in themselves or carrying out a bucket collection. They do this on a voluntary basis. The project has seen more than 500 people and has 75 or 80 live cases on its books at the moment. I have a copy of a memorandum of understanding which provides for the HSE to give the project referrals. That is a reflection of its status. Unfortunately, I also have a letter from the task force and the HSE acknowledging the service the project provides and suggesting that it could, and should be, supported in its work, which is badly needed in that area and beyond, but unfortunately cannot be without funding.

I ask the Minister of State to prioritise this case and allocate funding. This organisation is not looking for a massive sum. It just needs money to cover its own overheads such as office hire, which is free at the moment, insurance, the day-to-day running of the facility, and remuneration for the two qualified counsellors who have provided the service on a voluntary basis for ten years.

If we are serious about mental health issues, drug addiction and assisting people to get back on the right road and giving them the supports they need at all the different levels, we need to act and support this group, otherwise it will not be sustainable. The group cannot continue to operate as it is without funding. Everyone acknowledges that this is a worthwhile project, but it needs funding to continue. After all the discussions, meetings and engagements I have had with the Minister of State and all the other Ministers over the past two years - I have been raising this since I came into this House - I hope that we can achieve a positive outcome. I hope that we can get the project the funding, resources and supports that are needed because, to date, it has not received a cent. It was indicated last year that it would be allocated €3,500, but when the staff went looking for that to pay the insurance, they were told that the funding was no longer available.

**Minister of State at the Department of Health (Deputy Catherine Byrne):** I thank the Deputy for raising this matter. When I conclude my contribution, he probably will not be happy, but I will explain as I go along.

The Department of Health co-ordinates the strategic response to drug and alcohol problems, as set out in Reducing Harm, Supporting Recovery - A health-led response to drug and alcohol use in Ireland 2017-2025. An objective of that strategy is to achieve better health and social outcomes for people who have experienced harm from substance misuse, and to meet their recovery and rehabilitation needs. Ensuring timely access to health and social care services and extending the range of treatment options available is essential to achieving better outcomes.

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To this end, the strategy commits to expanding the availability and geographical spread of relevant quality drug and alcohol services and improving the range of services available, based on identified need. Drug and alcohol task forces play a key role in assessing the extent and nature of substance misuse in their areas, and in supporting community responses, as part of a co-ordinated approach involving all sectors at local and regional levels.

The south western regional drug and alcohol task force covers south and west Dublin, west Wicklow and Kildare. I am aware that the Deputy is a member of the task force and I thank him for dedicating his time to this initiative and other groups in the area. As the Deputy is aware, the task force supports many community addiction services in Kildare. These include the Abbey Regional Addiction Service, the HALO project for those aged under 18 and various community and family support projects. In addition, the HSE provides addiction services in the county, including outreach workers and addiction counsellors. In 2018, the Department of Health allocated €3.2 million to fund the expansion of drug and alcohol treatment services. Kildare has been prioritised under this funding and I understand the HSE recently submitted a proposal to the Department of Health for an addiction day service in the county, at a cost of almost €260,000. This service will cater for up to 80 clients at full capacity.

I understand the Abbey community project has met the task force to discuss its funding proposal and this was subsequently forwarded to the HSE. I advise that the project continues to engage with these bodies to advance its proposal, which can be considered as part of the Estimates process for the HSE for 2019.

I very much appreciate the importance of community based projects such as the Abbey community project in Celbridge, County Kildare, in offering support to individuals and their families affected by substance abuse and mental health issues. Such projects provide a vital first step for those affected by drugs in seeking recovery. They reflect a compassionate and human approach to addiction underpinned by values of respect, equality and inclusion. I assure the Deputy the expansion of the drug and alcohol treatment service will continue to be a priority under the national drug strategy in order that counties such as Kildare, which have an expanding urban population, are adequately catered for in terms of available and accessible services.

**Deputy Frank O'Rourke:** I thank the Minister of State. I am a member of the task force but, unfortunately, I do not get to attend too many of the meetings because they overlap with proceedings in this House on a Tuesday. I thank the Minister of State for acknowledging it.

The difficulty with this is we are without a commitment for funding. While I respect and understand what the Minister of State has said in her statement, if we are serious about supporting people and providing such a valuable and worthwhile service, and that has been acknowledged by everybody at various levels all the way down the chain, why is there not a commitment in place to give it funding and start the funding stream for them? It is engaging with the task force, as the Minister of State has correctly pointed out, but it has engaged *ad nauseam*. It has followed that path through. Obviously, it will continue to attend the meetings but it has gone to the full process. It had an excellent system in place but to meet current guidelines it had to be tweaked, fine-tuned and modified. We engaged positively with the system to ensure the i's were dotted and the t's crossed. That is all in place. I have letters from the task force and the HSE confirming that the house is in order in this regard.

It is acknowledged that, with regard to 80 of the cases it is dealing with at present, if it was not there to see those people, under the heading of dual diagnosis and on individual mental

health and drug addiction issues, it would probably be very difficult for those people to find a service anywhere else that would give them the notice and supports they are getting, and who knows where some of them would have ended up.

The point I am trying to focus on is that while everyone is committed, and I get that and I hear it, now we have to measure that commitment with funding. I am asking, two years on, when will this group be given a commitment that it will be included in the funding and it will get it, even on an incremental basis. Otherwise it cannot go on, and if it closes its doors it will put massive pressure and strain on a system that already cannot cope with the numbers it is getting, not to mention another 80 cases. We should work together to try to bring this over the line.

**Deputy Catherine Byrne:** I will refer back to the structure of the new strategy on reducing harm, support and recovery. I am very much dedicated to helping people through the strategy of bringing people into services, particularly with regard to recovery and counselling. It is not in my remit to allocate money to certain individual groups. The allocation of money through the strategy on reducing harm, support and recovery is through the local task forces. It is up to the service to make a case to the local drugs task force if it is short of money in order to be able to be included in the budget.

I have listened to all of the drugs task forces throughout the country stating they have been starved of money since 2008. We are in a new process here. We did not have the money but now we are starting to see a better avenue of funding coming down the line. This is what I want to concentrate on and bring in as many groups as possible. This is not the first time a Deputy has stopped me or asked me to look for funding for other groups. It is happening every day. I get emails from individual groups who do not get any money from the HSE or the task force. I am not in a position to give a commitment to any project on its own to fund it. The only way I can do it is through the task forces. We will be looking at funding the task forces through the budget on an evidence basis. I am reviewing the task forces at present with regard to their structures and this takes time. I hope that as we enter the next budget there will be the possibility of more funding being available to go to the task forces, but on an evidence basis. It will be up to the projects to apply.

I cannot stand here and tell the Deputy this project will get money this year. I cannot say it because it would be unfair to all of the other Deputies and people who write to me on a daily basis looking for money. All of the money for the drugs initiatives is centred through the task forces. That is why they were put there. I will continue to keep it at the top of the agenda. As I said, I hope that with the budget coming up we will be able to make cases for these groups and projects, because that is what I want. I want the task forces to be able to facilitate groups such as that which the Deputy has been speaking about to help them with extra funding in order that they can continue to work with those people who are most vulnerable in our communities. At present I am not able to stand up here and commit to give a certain budget to this project.

## **Road Network**

**Deputy Anne Rabbitte:** I thank the Ceann Comhairle for the opportunity to raise this issue this evening. What Minister would be before me this evening was one of the best kept secrets. I have been trying to find out for a long time who is responsible for parliamentary questions on this matter and under the remit of what Department do they fall. On 28 May I tabled nine questions of which seven were ruled out of order. The reason was that I had tabled them to



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the Department with responsibility for local government after the Department of Transport, Tourism and Sport had come back numerous times to tell me it was the role of Galway County Council. The reason I tabled such a vague question is I want to understand the matter clearly.

I acknowledge the hard work that public representatives do locally in acquiring funding for local areas. I am going to talk specifically about the national school in Milltown, where recently more than €400,000 was spent on an upgrade through the town and village scheme. Milltown national school is actually at the end of the M17-M18. It is on a stretch of road with a speed limit of 100 km/h but it is less than 1 km from Milltown. There are no traffic calming measures. There are flashing lights but the cars and trucks drive there at 100 km/h. For the past six months I have been looking for Galway County Council to provide me with a Road Safety Authority, RSA, safety audit. I cannot understand how this has been going on since February 2001. I have a document from 2001, which was the first time there was engagement with the Department when there was consultation with an engineer in Galway County Council. I tabled a question asking whether the Department could provide me with the details of all of the safety audits carried out on that stretch of road. That question was ruled out of order and the information could not be provided. We are leaving our most vulnerable, namely, our youth, their parents and their teachers, exposed, not to mind road uses on the M18. It should not have been overlooked when we were upgrading that section of road.

At the Gort end, in Ardrahan, land was purchased for the road and a fabulous job was done. The local authority members were beating themselves up trying to state it would be delivered months in advance. It was delivered, but one landowner was left exposed on three sides. We went back to see if we could get an extension of the barrier for sound dampening purposes. I am not talking about complicated material but rather clay that would extend the existing land bank. It could not be done. All of a sudden, the process was taken over by the company and the price came in at €130,000.

If I go 5 km further down that road there is a man whose land was divided in two. Lagan forgot to put the pipe from one side of the motorway to the other and although he can have animals on one side, there is no water available for them on the other side. It is absolutely disgraceful. He was told at the end of the process that he would be paid €3,000 but the cheque bounced, believe it or not, as Lagan went into receivership. The man is without money and water and his land is useless because he cannot put cattle on it. I am on to Galway County Council on a regular basis to see what we can do, either by going under the road or by drilling a well for water in order to assist the man, but there has been no engagement whatever.

There is also the N67 at Kinvara. In fairness to the Minister of State at the Department of Foreign Affairs and Trade, Deputy Cannon, he lobbied very hard to have funding brought to Kinvara, which is a gateway to the Wild Atlantic Way from Kinvara to the Burren. It is fabulous. However, the authorities want to get rid of the stone walls and only want to replace it with post fencing. What will be the insurance position because of this? What postcards will be designed for the Americans when they are going home? Will we have postcards with post and rail fencing?

People have been looking for one light at Kilmeen cross on the N65 near Loughrea for 20 years so people can see when they are turning right and going to Portumna. It is a main route to the port in Rosslare for lorries but on a foggy night it cannot be seen. People met the Minister recently but the matter has not been addressed. Where could we join a few of those dots?

**An Ceann Comhairle:** The Minister of State might try to turn on the lights rather than join the dots.

**Minister of State at the Department of Transport, Tourism and Sport (Deputy Brendan Griffin):** At least it is bright until 11 p.m. at this time of the year but it is not quite the same in December so I appreciate where the Deputy is coming from. As a rural Deputy I understand many of the challenges so I will try to assist Deputy Rabbitte with some of those matters.

I am taking this issue on behalf of the Minister, Deputy Ross. County and city councils - the local authorities - are the road authorities for national, regional and local roads. I will try to explain the breakdown of responsibilities as it is frustrating trying to figure out exactly who to go to and whose responsibility it is. The Minister for Transport, Tourism and Sport has responsibility for overall policy and funding for national roads. Each year my Department makes available to Transport Infrastructure Ireland, TII, funding for the maintenance and construction of national roads. The disbursement of those moneys to local authorities under its various programmes of works is a matter for TII.

Under the Roads Acts from 1993 to 2015, the planning, design and implementation of individual national road projects is a matter for the TII in conjunction with the local authorities concerned. Within its capital budget, the assessment and prioritisation of individual projects is a matter in the first instance for TII in accordance with section 19 of the Roads Act. TII may, with respect to national roads or proposed national roads, do all or any of the following. It may prepare, or arrange for the preparation of designs for construction or improvement works, programmes of maintenance works or schemes for the provision of traffic signs; allocate moneys and make payments for construction or maintenance works; and specify standards for design, construction or maintenance works to be complied with by a person, road authority or public authority carrying out such works.

Whereas TII has an overarching responsibility for planning and supervising national road projects, it is local authorities, as road authorities, that have the responsibility for the operation and implementation of TII's planning strategies for national road developments. When national routes are being upgraded, councils normally arrange for undertaking the planning and design work, the preparation of compulsory purchase orders and environmental impact assessments, the submission of schemes to An Bord Pleanála, the subsequent acquisition of land and the procurement of contractors. In light of the above it is clear that, in general, local authorities which are designated under the Roads Act as the road authorities have primary responsibility for the implementation of construction and maintenance works on the national road network.

It should be noted that under other legislation local authorities are empowered to undertake many other roles and functions separate to their powers under the Roads Act. Under section 213 of the Planning and Development Act 2000, a local authority may, for the purpose of performing any of its functions "acquire, permanently or temporarily, by agreement or compulsorily, any easement, way leave, water right or other right over or in respect of any land or water or any substratum of land". This is a general local authority function and not a function under the Roads Act so it is the local authority that must account for its use of powers under this legislation. The Minister has no role in the oversight of individual projects on national roads. It is far from layman's language but it is specific to the legislation.

The Deputy mentioned the N67 and the roads department has indicated that TII has recently introduced a new boundary treatment with the aim of providing more forgiving roadsides in

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accordance with the Road Safety Authority strategy for 2013 to 2020. In this context, TII's road standards now only permit the use of timber posts and tensioned mesh fencing within eight metres of the road edge for 100 km/h roads unless a safety barrier is erected in front of the hazard or departure from the standard is approved by TII. It is understood that in the particular case of the N67 project, the existing boundary wall comprises a variety of boundary treatments, including fine examples of dry stone walls, rendered block walls in the vicinity of dwellings, concrete posts and rail fence. Approximately 80% of all boundaries are mature hedgerows that have developed over collapsed rubble walls.

**An Ceann Comhairle:** We can come back to that.

**Deputy Brendan Griffin:** Perhaps I can finish it after the supplementary question.

**Deputy Anne Rabbitte:** The Minister of State has answered my question. He has told me it is to do with the county councils so why has the Minister for Housing, Planning and Local Government not come here to answer my questions? I do not have a problem with the Minister of State's Department, it seems, but rather with the Department of Housing, Planning and Local Government. Its people are not answering their phones and they are infuriating, frustrating and annoying me. They are letting us down completely with their communication.

I have experience of the N63, the road from Roscommon to Galway. It is a fantastic stretch of road and €850,000 was allocated to it. It was a magnificent improvement for the areas from Abbeyknockmoy to Annagh Hill. The county council forgot to put a compulsory purchase order, CPO, in for the land. I asked the Minister a number of times when a compulsory purchase order would overrule a way leave. There was a group water scheme in this area that was not purchased by way of CPO. While the road has been upgraded in the past number of weeks, the contractors have pulled the pipes from the road. On the hottest day of the year so far two weeks ago - on 28 May, the day I put this question - one man lost three cattle because the contractor decided to pull the pipe up from the road. That pipe was owned by the group scheme and was not purchased by Galway County Council. It was not even on the design plan. There is much frustration because of a lack of communication between the council, local residents and the general public, business owners and farmers. It is inexcusable. We are about to start a project on the N67 where there is no transparency and it is not good enough.

I apologise to the Minister of State, who has been sent in here in good faith. It is his colleague, the Minister for Housing, Community and Local Government, who needs to take the heat on this. Somewhere along the line, people must be accountable and responsible. Washing machines have been blown because pressure was turned too high when water was turned back on. Pipes are not being rinsed. The group water scheme should receive some communication.

**An Ceann Comhairle:** The Deputy might table an issue specifically directed to the appropriate Minister.

**Deputy Anne Rabbitte:** I did not know until today to whom I should address it.

**Deputy Brendan Griffin:** There is an overlap between Departments in that respect. I have not operated in a dual mandate system and I know it can be frustrating as a Member of the Oireachtas trying to get accountability from local authorities. One does not have a forum in which to demand answers. There are matters that are not being addressed by members of Galway County Council and the executive and officials could be held to account.

Perhaps the Deputy's good colleagues could liaise with her in this regard.

I have a further response in respect of the N67, and the details relating to the project, which I will supply to the Deputy. She also mentioned Ardrahan and Milltown. I am quite familiar with that road, having travelled up and down during my three years attending college in Galway. That is some time ago now. There have been some improvements to some sections of that road but there are others in respect of which work is still required. It is a road with which I am very familiar and I appreciate that people can drive very fast on it. Speed is certainly a factor in the context of the Milltown Road. Any primary school located at the side of a national secondary route on which there is a 100 km/h speed limit is a concern and special protection must be afforded to it. Whatever traffic calming measures that could be put in place there need to be put in place because we are talking about the safety of children. They may not see the dangers that other road users see and need to be given special treatment as a result.

I will pass on to the Minister the specific cases to which the Deputy referred. I have a written response on the N67 that I can supply to her afterwards.

### **Transport Policy**

**Deputy Eamon Ryan:** I mean no disrespect to the Minister of State. Perhaps he was very well qualified to answer the previous question - well, he probably was not - but the Minister should have stayed in the Chamber for the ten or 15 minutes it would have taken to address this matter. It was totally inappropriate-----

**Deputy Éamon Ó Cuív:** Hear, hear. Absolutely.

**Deputy Eamon Ryan:** -----for him to slink out of here 15 minutes ago. This is an issue of huge interest to his constituency and this city. He does not have the courage to answer a question. It is a disgrace and it should be noted. We must do something about this when it comes to Topical Issue matters. The Minister was here for transport questions only a few minutes ago. There is no reason or excuse for his not having remained in the Chamber. This is particularly the case because he need not have been too afraid because I am supportive of the project. For once, I might actually agree with him on something.

**Deputy Kevin O'Keeffe:** The Minister is probably at the High Court.

**Deputy Eamon Ryan:** Tens of thousands of people will be nervous tonight that they may, if their houses are in the wrong place, lose their front gardens. This is not a small issue. It is not inconsequential. The Minister should have had the guts to come in and answer a few questions or to set out his thoughts on what is probably one of the most significant transport projects we face. I mean no disrespect to the Minister of State but his senior Minister has behaved despicably, to my mind, in walking out of the Chamber just before this question was to be asked.

I am supportive of this project because we need a radical solution to our transport problems in this city. We need what is set out in this plan to get a 50% cut in bus journey times rather than a 50% increase, which will happen if we do nothing. We need a radical approach to cycling. One of the concerns I was going to raise is that while I welcome the 200 km of cycle routes in the plan, I have real questions to ask about the practicality or the wisdom of, for example, taking

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cyclists out of Rathmines high street. The Minister of State may well be aware that many Kerry people know that area fairly well, having stayed in the flats along the road. The high street is our main cycling thoroughfare. Cycling is the dominant mode of transport there. We must look at this as we go into consultation.

I am concerned about what we did not get today. I would have preferred to see the orbital bus network, which I believe is due only next month, and the inner city new network review, which I understand is also due to be published next month. Perhaps, in hindsight, we should have done these together with what was announced today because there is a concern that by just concentrating on the radial routes we perhaps do not get the mesh effect, the network effect, that might overcome some of the concerns people have about changing to this system that they would lose local bus services. That is just one piece of advice I wanted to give the Minister and I wanted to know his thinking on it. I also wanted to ask him what sort of design office he will put in place. This is a massive, incredibly difficult, complex, vital and time-urgent project. Having worked in the past with the quality bus network project office on some of the design issues, my view is that it would be good to develop in-house resource expertise either in the NTA or in the local authorities. Even if we did so in the local authorities, we would have to do it in such a way that we could replicate this in Cork, Galway, Limerick and Waterford, where we will need to do something similar.

Perhaps the reply the Minister of State has been given contains some details on the final question I wanted to ask the Minister. The consultation on this is critical. I wish to give some comfort to people around the city who are terrified they will lose their front gardens. The first example we have seen of this project, the Fairview-to-city-centre route, which is part of the project, has gone through a process. In this case, the original design involved taking out every tree along the Fairview Park section of the route. For cyclists, it represented a very inferior scheme. However, through good consultation and engagement with stakeholders and local people, we have ended up with a good design. We have not had to take out those trees. Perhaps the same will be possible as we get into what is a critical project.

I mean no disrespect to the Minister of State but the Minister should really be here.

**Deputy Brendan Griffin:** I cannot speak for the Minister as to why he is not here. He has had a very busy day, including a Cabinet meeting this morning. We have just had over an hour and a half of parliamentary questions and he will be present again later for the taking of legislation. I apologise on his behalf. I will try to answer as many questions as I can for Deputy Eamon Ryan, give him the detailed written response I have and pass on his concerns and further queries to the Minister.

Everyone recognises that traffic levels have grown steadily since the economy began to recover and congestion is now one of the most significant challenges to the sustainability of Ireland's growth performance. On the busiest routes, bus lanes are only in place for less than one third of the corridor. This means that for most of the journey, buses are competing for space with general traffic and are affected by the increasing levels of congestion. In the capital, for example, approximately 70% of people travelling into the city each morning do so by sustainable transport. The bus system is important because each day the majority, 57% of all public transport trips, use the bus system for the journey. Buses are, therefore, the main component of the solution to address the current congestion problem and to meet future transport needs. As those numbers grow, and as congestion worsens, it is becoming increasingly difficult to operate a reliable bus system with sufficient capacity to cater for the needs of the region. The NTA

published a discussion document earlier today outlining the core bus corridor project that is part of a wider BusConnects programme for Ireland's cities, starting in Dublin and rolling out to Galway, Cork and Ireland's remaining cities. The NTA's document focuses on the 230 km of continuous bus priority across 16 core bus routes expected to achieve up to 50% on current journey time savings. It also focuses on the more than 200 km of cycle tracks and lanes and pedestrian facilities that are emerging as the likely core bus corridors in and out of Dublin city under this new investment programme. These proposals will revolutionise traffic in the city of Dublin and on its outskirts. They take into consideration the current congestion situation and the challenges and opportunities that Dublin will face over the coming decades while setting out some of the key impacts, issues and challenges that relate to the 16 corridors. The document also sets out mitigations to these challenges, including compensation, as appropriate.

In response to one of the key questions Deputy Eamon Ryan asked, following today's launch by the NTA of a discussion document focusing on 16 core bus routes, the NTA will conduct a public consultation on the redesign of Dublin's bus network, including proposals on a major redesign of routes, schedules and fare structures. This is expected in July. Later this year, the NTA plans to hold a public consultation on the emerging proposals for the 16 core bus corridors, expected in September or October. This is to ensure that the public is fully informed by the NTA about the BusConnects programme as it progresses and will have the opportunity to have an input at various stages into its development.

There is a clear need to expand attractive public transport alternatives to car transport to reduce congestion and emissions and enable the transport sector to cater for the demands associated with longer-term population and employment growth in a sustainable manner. This is why the major flagship investments to be delivered within Project Ireland 2040 and the ten-year national development plan, such as BusConnects and projects like MetroLink, DART expansion, expanded Luas services and cycling and walking infrastructure, are needed to ease congestion, lower carbon output and add greatly to the quality and standard of our transport system.

Again, if there are specifics that have not been answered by this response, I would be happy to take them back to the Minister for Deputy Eamon Ryan. Specifically regarding public consultation, we will see the start of that next month and further stages of that process in September and October. I hope that is of some benefit to the people who are concerned tonight about this process.

**Deputy Eamon Ryan:** I very much welcome that and we will try to play a positive role. This will take huge resources. The level of public consultation in itself, and the level of design, detail and engineering expertise we need, is not insignificant. In order to kill two birds with one stone, I ask that Transport Infrastructure Ireland stop the work that it is doing on widening the N7 on the approach to Dublin and the widening of the N2, N3 and N11. While we are trying to make the city work and not get into gridlock, Transport Infrastructure Ireland is turning the tap on to allow yet more traffic into it and is using some of our best engineers in order to do it. I would switch them around and get them involved on this project because it should have priority. If we do not get it right and do so quickly, Dublin will grind to a halt.

We should give people hope that we may be able to do it without always turning to a four-lane solution that seems to be the standard design here. In fact, once the two car lanes and two bus lanes have pavements and cycle lanes added, there effectively are six lanes. There are places which have used a bus gate system and traffic light regulation to ensure that buses get priority and their speeds are increased but that do not maintain and 12 or 15 m carriageway width.

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Earlier, I listened to the Minister answering questions and he recognised that this project should be and is just as much about promoting cycling as it is about promoting bus networks, as much as possible. Everything that we have learned, and the best international design advice on cycling infrastructure is clear that at all costs one should try to provide straight, continuous routes. In so many routes, when it comes to the crunch, the cyclist is removed. They are put into other wayward alternatives. The detail is not there but from the broad approach, and knowing the areas as I do, I am concerned we will lose that capacity.

I suggest that the resources from widening the M50 on the approach to Dublin be diverted to this project. Bus gate solutions should be examined rather than just six-carriageway width solutions and cyclists should be given priority at all times.

**Deputy Brendan Griffin:** I will pass the Deputy's sentiments on to the Minister. As far as cycling is concerned, I have often been stuck in gridlock in this city but I have not attempted to get on a bike here. I will be doing the Ring of Kerry cycle in a few weeks but that is less of a challenge. I can assure the Deputy, I would rather go up Coomakista or Moll's Gap any day than try and cycle around Dublin city. However, within the BusConnects plan, there is a plan to upgrade and enhance more than 200 km of cycling route. It has a huge role to play in the future of Dublin's transportation network.

I had the pleasure of being in Copenhagen last autumn. Over a few hours, it was incredible to see the level of cycling in the city centre and how it completely transforms the whole ambience of the city centre as well as providing a very effective means of transport for all the family. Dublin can learn much from it.

**An Ceann Comhairle:** An bhfuil an tAire Stáit ag déileáil leis an gcéad ábhar eile, in ainm Theachta Ó Cuív, Teachta Naughton agus Teachta Connolly?

**Deputy Brendan Griffin:** Tá mé ag fanacht anseo.

### Road Improvement Schemes

**Deputy Éamon Ó Cuív:** Mar aon leis an Teachta Eamon Ryan, tá an-díomá orm nach bhfuil an tAire sinsearach anseo. Bhí sé anseo níos luaithe agus d'fhéadfadh sé fanacht. Is dóigh liom go dtaispeánann sé easpa measa ar an Dáil agus ar Thithe an Oireachtais nach bhfuil sé anseo. Ar ndóigh, ní hé seo an chéad uair a d'ardaigh mé ceist an bhóthair seo. Tá droch-chaoi ar an mbóthar. Tá sé contúirteach i láthair na huair. Tá cuid den bhóthar ag titim. Tá an bruach tite isteach. Go bunúsach, is féidir a rá go bhfuil an Rialtas ag déanamh faillí ar bhóithre tuaithe. Ar ball beag, bhíomar ag caint faoi láná bus i mBaile Átha Cliath. Tá níos mó daoine ina gcónaí amuigh faoin tuath in Éirinn ná mar atá i gcathair Átha Cliath. Níl fadhb ar bith €1.5 billiún a chaitheamh go héasca sa chathair ar láná bus, agus €3 billiún eile a chaitheamh ar an meitreo, ach ní féidir linn cúpla euro suarach a fháil le caoi a chur ar na bóithre tuaithe. Tá airgead beag á lorg againn le hobair fíorphráinneach a dhéanamh ar Bhóthar Dhoire Fhearta. Ba cheart tús a chur leis an bpleanáil chun an cuid eile a dhéanamh. An mbeidh an Roinn ag cur airgid bhreise ar fáil do na comhairlí contae i mbliana? Má tá airgead breise ar fáil, cén chaoi ina roinnfear an t-airgead sin idir na comhairlí contae? An mbeidh an Roinn ag iarraidh iarratais ar an airgead breise sin i mbliana?

**Deputy Hildegard Naughton:** I also wish to speak in favour of improvements to Bóthar

Dhoire Fhearta in Cearthrú Rua. It is a local road which has been an ongoing issue for residents there for many years.

The county council has acquired land in order to widen the road and deal with part of the problem, namely that it is very narrow in places. Some work has been done and our call today is for funding to be made available for the most dangerous part of the road. There is a very dangerous bend where there are no sight lines. Schoolchildren travel on this road each day. There are double-decker buses filled with students. As we move into the summer period, the Gaeltacht summer courses will commence and there will be a huge influx of people who will use this road. Thousands of vehicles use it daily and over many years, residents have called for this to be addressed. One more spell of bad weather could seriously undermine the road and we need funding to start the process at least, as it is critical that we start to deal with the most dangerous areas.

**Deputy Catherine Connolly:** Tá mé tuirseach traochta ag ardú na ceiste seo. Tá cúrsaí sábháilteachta agus sláinte i gceist. Táimid ag caint faoi phíosa bóthair nach bhfuil rófhada, agus a cheanglaíonn An Cheathrú Rua leis an R374, a théann siar go dtí na hoileáin. Is é an chéad rud atáimid ag iarraidh a chur os comhair na Dála ná cé chomh práinneach agus chomh baolach is atá an t-ábhar seo. Tá an tAire ar an eolas anois agus ní mór dá Roinn rud éigin a dhéanamh. Tá inní mhór ar an gcoiste áitiúil nach bhfuil ann ach ceist ama go dtí go marófar duine i dtimpiste ar an mbóthar seo. Bhí na hAírí Stáit, na Teachtaí McHugh agus Kyne, amuigh ag breathnú ar an mbóthar seo inné agus cúpla mí ó shin. Níl a fhios agam cé mhéad cruinniú ar a d'fhreastail muidne agus na Teachtaí Dála eile ón Dáilcheantar i leith na ceiste seo le blianta beaga anuas. Tá daoine ag impí orainn rud éigin a dhéanamh. Níl i gceist, i ndáiríre, ach airgead suarach. Táimid ag iarraidh ar an Rialtas ar a laghad tús a chur leis an obair atá ag teastáil anois ionas nach mbeidh sábháilteacht agus sláinte i mbaol.

**Deputy Brendan Griffin:** Gabhaim mo leithscéal nach bhfuil an tAire anseo. Beidh mé ag labhairt ar a shon agus an freagra seo á léamh agam. Tógfaidh mé teachtaireacht ar ais chuige ó na Teachtaí. Tá an freagra atá agam i mBéarla. I am taking this matter on behalf of the Minister, Deputy Ross.

**Deputy Éamon Ó Cuív:** We do not need a translation service, we do understand English. The Department was offering us translation services.

**An Ceann Comhairle:** That is okay. Tóg go bog é.

**Deputy Éamon Ó Cuív:** We greatly appreciate the offer but we do understand English.

**Deputy Brendan Griffin:** This matter has been raised with the Minister, Deputy Ross, previously and I am pleased to restate the position in the House this evening.

The improvement and maintenance of regional and local roads is the statutory responsibility of each local authority, in accordance with the provisions of section 13 of the Roads Act 1993. Works on those roads are funded from the local authority's own resources supplemented by State road grants.

I must emphasise that the initial selection and prioritisation of works to be funded is a matter for the local authority. Regarding grants provided by my Department, allocations are made at county council level and the distribution of grants to municipal districts is a matter for each council. It is also open to each local authority to prioritise the allocation of its own resources to



address road issues in particular areas.

Before the financial crisis, local authorities could apply on a regular basis for specific grants for schemes costing less than €5 million and for strategic improvement grants for schemes costing more than €5 million with a view to strengthening, widening or realigning regional and local roads. However, the extent of the cutbacks in grant funding during the crisis meant these grant schemes had to be curtailed from 2013 because expenditure on maintenance or renewal was falling well short of what was required to adequately maintain the regional and local road network.

The capital plan does provide for the gradual build up in funding for the road network but it will take some years yet to reach the level required for the adequate maintenance and renewal of the network. For this reason there continues to be very limited scope for funding projects under the specific grant programme. Any projects proposed by local authorities for consideration under this grant programme are assessed by the Department on a case-by-case basis, with particular consideration given to higher cost bridge rehabilitation works, significant safety schemes and improvement works that promote employment. All projects put forward by local authorities for consideration must comply with the requirements of the public spending code and the Department's capital appraisal framework. For this reason the Department has issued an updated set of project appraisal documentation to local authorities. If Galway County Council wishes to prioritise works on the Derrartha Road then it needs to undertake and submit to the Department a preliminary appraisal for the project. Any such appraisal would need to consider options and costings for any improvement works. Any appraisal submitted by the council would then be examined by the Department along with other proposals from other local authorities. Given continuing funding constraints on all projects there is considerable competition for available funds.

**Deputy Éamon Ó Cuív:** Fáiltim go mór roimh an dá alt deiridh den mhéid atá ráite ag an Aire Stáit. Beimid ag cur ceiste anois ar Chomhairle Contae na Gaillimhe an bhfuil sé i gceist aici measúnú a dhéanamh ar Bhóthar Dhoire Fhearta le cur chuig an Roinn. Tá dhá cheist agam don Aire Stáit. An bhfuil airgead ar fáil leis an réamh-mheasúnú a dhéanamh nó an gcaitear é a dhéanamh as airgead na comhairle contae? Is í mo dhara cheist an cheist a chuir mé an chéad uair. An mbeidh allúntas breise á thabhairt do chomhairlí contae i mbliana - abrainis ag tús Mheán Fómhair tar éis an tsamhraidh - le cur leis an méid airgid bóithre a fuair siad go dtí seo? Bhíodh an nós sin ag an Roinn Iompair, Turasóireachta agus Spóirt. An mbeidh airgead breise á thabhairt do chomhairlí contae i mbliana? Da mbeadh, d'fhéadfaí cuid den obair fhíorphráinneach atá le déanamh ar an mbóthar seo a dhéanamh láithreach.

**Deputy Hildegard Naughton:** I thank the Minister of State for his reply. We have to meet Galway County Council and we will be asking it to submit that preliminary appraisal for the project. As I stated, perhaps it could even commence on the critical, really dangerous area of that road. As I understand it, that would cost far less than the total upgrade of the entire section. Many of the residents would be very happy if the council could even start with that. I accept the procedure here but we will be in contact with Galway County Council. It is important that we raised the issue here with the Minister of State's Department in order that it can be given top priority once this appraisal has been received.

**Deputy Catherine Connolly:** I dtús báire ba mhaith liom a rá gur maslach é freagra a thabhairt i mBéarla. Seo Bliain na Gaeilge. Mar Chathaoirleach Chomhchoiste na Gaeilge, na Gaeltachta agus na nOileán, cuireann sé isteach go mór orm go bhfuil an freagra i mBéarla.

Sin rud amháin. Araon le mo chomhghleacaí, fáiltím roimh an dá alt deireanach. Tá rud dearfach ansin. Tá litir os mo chomhair anseo ón innealtóir is sinsearaí sa chomhairle contae ag rá gur chuir an chomhairle iarratas isteach, go raibh an t-iarratas sin os comhair na Roinne ó mhí Eanáir, agus go bhfuil sé ag fanacht ar fhreagra. Dúirt sé go bhfuair sé gaoch gutháin tar éis an t-iarratas a chur isteach agus go ndúradh leis go raibh scéim dheontais faoi leith ann agus go raibh an Roinn ag breathnú ar an gceist seo faoin deontas sin. Tá iarratas curtha isteach de réir mar a thuigim. Is maslach ar leibhéal eile an freagra seo mar níl a obair bhaile déanta ag an Roinn maidir leis na comhaid atá agam anseo agus maidir leis an uafás litreacha agus iarratas atá curtha isteach. Ar a laghad, an dtabharfaidh an tAire Stáit soiléiriú dúinn anois mar gheall ar an iarratas atá curtha isteach ag an gcomhairle contae?

**Deputy Brendan Griffin:** Mar a dúirt mé, thóg mé na ceisteanna sin ar son an Aire féin chun freagra a thabhairt do na Teachtaí faoi shonraí na scéime seo. Tá nóta agam anseo a deireann that there has been significant local lobbying for Galway County Council to carry out road improvement works on the local Derrartha Road, which connects the island areas of Connemara with An Cheathrú Rua. While Galway County Council did write to the Department about funding for this road in January of this year, the county council would need to submit a preliminary appraisal as required under the updated project appraisals process and any such appraisal would need to consider options and costings. I know from lobbying for improvements to roads in my native county that this is the procedure the Department now looks for. It seeks to have local authorities complete these appraisals in advance of further funding allocations for the specific improvement grants. I know the documentation had been awaited for quite some time and was only finalised and distributed to the local authorities in recent weeks. I urge the Deputies to continue to engage closely with the local authority as Deputy Naughton suggested. I am quite familiar with the part of the country to which the Deputies are referring and I understand the challenges there in terms of the sheer logistics of getting around and the risks of losing key infrastructure. I appreciate that this is a matter of urgency and I will be raising the matter further with the Minister, Deputy Ross. I apologise that I am not in a position to give any further detail on the specifics or some of the minutiae which might perhaps be more helpful in this regard but I will pass on the Deputies' serious concerns in respect of this matter.

### **Garda Síochána Ombudsman Commission: Motion**

**Minister for Justice and Equality (Deputy Charles Flanagan):** I move:

That Dáil Éireann, noting that the Government on 8th May, 2018, nominated Mr. Patrick Sullivan for appointment by the President, as a member of the Garda Síochána Ombudsman Commission, recommends, pursuant to section 65(1)(b) of the Garda Síochána Act 2005, that Mr. Patrick Sullivan be appointed by the President to be a member of the Commission.

The appointment of members of the Garda Síochána Ombudsman Commission, GSOC, is governed by the provisions of the Garda Síochána Act 2005, which requires the Government to satisfy itself that a person to be nominated for appointment has the appropriate experience, qualifications, training or expertise for appointment. The Act also provides that a member of GSOC is appointed by the President following the nomination by the Government and the passage of resolutions by both Houses of the Oireachtas recommending the appointment. In this regard the Government nominated Mr. Patrick Sullivan at its meeting on 8 May and I am pleased to formally recommend to the House that Members approve Mr. Patrick Sullivan for

appointment by the President to be a member of the Garda Síochána Ombudsman Commission. Mr. Sullivan was recommended by the Public Appointments Service as the best qualified candidate for the position. This followed an independent, international competition organised by the Public Appointments Service.

I can assure the House that Mr. Sullivan brings with him a wealth of experience from his work with various federal agencies in the United States. The expertise he has gained in a career which spans over 40 years in federal law enforcement will bring a different perspective to the excellent work of the Garda Síochána Ombudsman Commission. The House will agree that it is vital that the public has strong confidence in the Garda Síochána and its system of oversight. I believe that Mr. Sullivan's vast experience in oversight within federal agencies in the US will only serve to enhance the existing confidence in GSOC's role of investigating complaints against members of our police service.

His most recent position as assistant inspector general for investigations in the Environmental Protection Agency's Office of Inspector General, which required the supervision of both criminal and administrative investigative cases, equips him very well for the position. The role also required Mr. Sullivan's appearance before both congressional and Senate committees to provide testimony into the actions taken by Environmental Protection Agency staff. I know that the Joint Committee on Justice and Equality had hoped to have the opportunity to hear from Mr. Sullivan prior to his appointment. However, I understand that he was unavailable due to commitments to his current employers in the US. Nevertheless, I hope that the committee will have an opportunity to hear from Mr. Sullivan in due course. Prior to holding this role, Mr. Sullivan was deputy assistant director of the Transportation Security Administration's Federal Air Marshal Service under the Department of Homeland Security and assistant director of the Government Accountability Office's office of special investigations. In his 23 years as a special agent in the Secret Service, Mr. Sullivan had a variety of high-profile assignments, which included assignments in the counterfeit division, presidential protection division, anti-smuggling unit and organised crime strike force. These are, I am sure the House will agree, impressive credentials, and I have every confidence that the work of GSOC will be strengthened by Mr. Sullivan's presence.

The background to his nomination as a member of GSOC arises from the resignation of Mr. Mark Toland last October to take up the position of chief inspector with the Garda Síochána Inspectorate. Mr. Toland's term of office with GSOC was due to last until 11 December 2020. Under the provisions of the Garda Síochána Act 2005, a person appointed to replace a member of the commission holds office for the remainder of the term of the person being replaced. Mr. Sullivan's term of office, therefore, will expire in December 2020. I acknowledge the contribution that Mr. Toland made as commissioner to GSOC during his time there. He brought more than 30 years' experience gained with the UK Metropolitan Police Service. This extensive knowledge of policing served him well while sitting on GSOC. His policing expertise and experience in GSOC can only serve to benefit the Garda Síochána Inspectorate.

The Government nominated Mr. Sullivan at its meeting on 8 May. The appointment arose following Mr. Toland's resignation last October. Following this, I informed the Government on 5 December of my decision to fill the vacancy by way of an open competition conducted by the Public Appointments Service. This preference was taken with a view to ensuring the best candidate would be identified from an international field of suitably qualified candidates.

It is important to recognise the contribution that GSOC makes to policing in the State. The

commission has been operating now for more than ten years and has grown in stature during that time as has its reputation for independence and fairness. This is in no small part due to the dedication and drive of the current commission under its chairperson, Ms Justice Mary Ellen Ring, and commissioner Kieran Fitzgerald. Their vision for GSOC's policing oversight reaches into the future, seeking to extend its remit and, accordingly, its size. The dedication and commitment of its staff are unquestionable. In the ten years of its existence, the commission's role has been expanded somewhat, for example, by bringing complaints against the Garda Commissioner within its remit. In addition, GSOC is now a designated body to which members of the police service can make protected disclosures. At the same time, significant changes have been made to legislation governing the Garda. In particular, the establishment of the Policing Authority has created a public forum where the Garda Commissioner can be asked about matters related to policing services.

These are welcome developments. No one would suggest that a service such as the Garda Síochána, which can invoke extensive powers, should not be fully and openly accountable for how it uses these powers. The Commission on the Future of Policing in Ireland is another example of the commitment the Government has undertaken to review the functioning of An Garda Síochána. With regard to its remit and purpose, the commission has been tasked with reshaping the legislative landscape in which An Garda Síochána operates. The commission members bring a wealth of experience and dedication to their task and they are undertaking an ambitious work programme with alacrity. Their report, which will be of huge significance, is due in September. This major publication should provide a framework for a modern, professional policing service, which will protect and defend the community and be subject to appropriate and robust accountability.

GSOC recently made proposals for legislative changes to enable it to function more effectively and efficiently. These are being considered by my officials but I am conscious that any changes to the commission should align with the recommendations of the Commission on the Future of Policing. GSOC has been engaging with the commission and I will take care to ensure appropriate alignment

GSOC has also sought additional staffing resources and has submitted a business proposal to my Department. My officials are liaising with the agency to ensure a clear business case can be put to the Department of Public Expenditure and Reform. The proposal contains a focus on medium and long-term planning and demonstrates the commitment of the current commission to ensure it is properly equipped now and into the future. I assure the House that I am supportive of the broad thrust of the business case and supportive of the valuable work undertaken by the commission.

This Government and I have given serious consideration to providing GSOC with the resources it needs to maintain high standards of policing oversight. I would like to take this opportunity to restate that commitment. GSOC will be fully supported in its role, and will be given all the tools needed to continue to perform at the high level it has continuously striven to maintain over the years.

GSOC has a critical role to play in the architecture of policing in the State. Its independence is the guarantee to the public that complaints against members of the Garda will be investigated "without fear or favour". My predecessors and I have made the point many times in the House that there will be no interference with GSOC investigations, despite occasional calls for some form of ministerial or governmental intervention.

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Public confidence in GSOC will be bolstered with Mr. Sullivan's appointment. Oversight in public administration is nothing new to him, and the administration of law enforcement is also not unfamiliar territory to him. That is what marked him out as the preferred choice to be a member of the commission. The international nature of his knowledge and experience can only serve to benefit GSOC in policing oversight.

I hope the House will join me in welcoming Mr. Sullivan and wishing him success in his new role as a commissioner. On behalf of the Government, I am pleased to commend the motion to the House.

**Deputy Jim O'Callaghan:** Section 65 of the Garda Síochána Act sets out that there should be three commissioners in GSOC. It also sets out how those commissioners should be appointed. They should be appointed by the President but, before he or she appoints them, two hurdles have to be overcome. First, the individuals have to be nominated by the Government. As the Minister indicated, there is also a requirement that the Government shall satisfy itself that the person has the appropriate experience, qualifications, training or expertise for appointment to GSOC. The second obstacle is that each House of the Oireachtas has to pass resolutions recommending the appointment. That is what we are doing through the motion.

Prior to hearing the Minister's recitation of Mr. O'Sullivan's qualifications, I knew little about the man other than that he had worked in the US Environmental Protection Agency. For the House to fulfil its statutory obligation to make a recommendation that a person is suitable, Members should be given some information in advance as to the qualifications of the individual and his or her suitability, otherwise, the function of the Houses of the Oireachtas in passing resolutions could become meaningless. However, I have had the benefit of listening to the Minister describe Mr. O'Sullivan's qualifications. It appears from what he said that Mr. O'Sullivan is qualified for the position. I note that he applied through the Public Appointments Service. I presume there was a competition. The Minister has indicated Mr. O'Sullivan's experience working for 23 years as a special agent in the Secret Service in the United States.

One of the requirements of section 65 is that a person who has been appointed as a commissioner cannot be, or have been, a member of An Garda Síochána. Mr. O'Sullivan was never a member of An Garda Síochána but he was involved in law enforcement. On one level, that means he can provide expertise that may be of assistance to GSOC but, on another, we need to be careful that we do not allow the body that adjudicates on complaints against members of An Garda Síochána to become too populated by individuals who have worked in what can loosely be referred to as the law enforcement sphere. We will, however, support the motion. Based on the Minister's contribution and the content of the document I have been given, it appears Mr. O'Sullivan is a person whom Fianna Fáil and I are prepared to recommend.

I would like to make some points in respect of the process that the Minister should reflect on. The first is that we have known since 7 November 2017 that there was a vacancy in GSOC. We were informed on 7 November 2017 that Mr. Toland would be resigning as a commissioner on the basis that he was going to fill a position in the Garda Inspectorate. It is important that in the future we do not leave vacancies on the Garda Síochána Ombudsman Commission for a period of nearly five to six months. I am conscious that a process has to be gone through where individuals are identified but it is incumbent on whoever is in the Department of Justice and Equality to ensure that that process can be expedited. I note in this instance the Government decided that it would use the Public Appointments Service for the purpose of identifying a suitable individual. Nowhere in the legislation is that required, unlike in other legislation in

respect of appointments to senior offices in An Garda Síochána. If we are going to use the process of the Public Appointments Service and if there is knowledge that people will be resigning as commissioner, it is incumbent upon us to ensure that the position is filled as expeditiously as possible.

Since this is a motion dealing with the functions and responsibilities of the commissioners in the Garda Síochána Ombudsman Commission, it is appropriate to say a few words in respect of the commission itself. The Minister stated in his contribution that he is aware that the commission is looking for further resources. I welcome that the Minister and the Government have stated that they have given a commitment to provide GSOC with the resources it needs to maintain the very highest standards of policing oversight. However, I heard the Minister say that approximately three months ago. It is incumbent on the Government to ensure that GSOC is provided now with the resources it needs to carry out its statutory function.

As mentioned in the Minister's contribution and as is apparent from recent legislative changes in this area, GSOC is not just responsible for hearing complaints made by members of the public against An Garda Síochána. It also has to adjudicate on protected disclosures made by members of An Garda Síochána. That is a significant body of work. For the public to have confidence in the work being carried out by GSOC, it is imperative that it is properly and adequately resourced. I am concerned, notwithstanding the Minister's commitment, that those resources do not appear to have been provided to GSOC as of yet.

It is relevant that later this evening, in Fianna Fáil's Private Members' time, we will debate a motion seeking the establishment of a commission of investigation in respect of the Garda investigation into the death of a young man called Shane O'Farrell. GSOC produced a report in March 2018 in respect of an investigation by GSOC that went on for a period of six years. We need to reflect seriously on a statutory body such as GSOC which has had to devote six years to the production of a report in respect of complaints made by members of the family of the late Shane O'Farrell.

We will be ignoring an elephant in the room if we do not comment upon the fact that many Members of the Oireachtas, arising from the report into the Shane O'Farrell investigation and other issues, have had their confidence in GSOC dented in recent times. That may be as a result of GSOC's lack of resourcing but when the Commission on the Future of Policing in Ireland reports and when the Government, and Opposition parties, come to reflect on that we will need to ensure that we can re-establish some of the confidence lost in respect of GSOC. We need to ensure also that when members of the public make a complaint against An Garda Síochána, they can be satisfied that the complaint will be investigated thoroughly and quickly and that a report will be produced which provides them with satisfaction. I am not suggesting longer reports are always better than shorter ones but sometimes, reports into very serious issues GSOC is investigating, such as the matters in respect of Shane O'Farrell, do not convey the impression or the meaning that the investigation was carried out thoroughly. That may be unfair to the investigators within GSOC but we would be doing them a disservice if we did not indicate that that is a concern I and other Members of the Oireachtas have in respect of some investigations carried out by GSOC.

We will be supporting the motion. I wish Mr. Sullivan well. I have never met the man but from what the Minister has said about him he seems to have had an interesting life working in the counterfeit division of the Secret Service and also in the presidential protection division. I am sure he could tell us some interesting stories about his functions in those jobs over a period

of 23 years. It is an important job. I am not suggesting he applied for it on this basis but it is not a job for somebody who was looking for an easy life or something to retire into. It is a very important job indicated by the fact that one is appointed by the President. We have to ensure that full confidence is re-instilled not just in An Garda Síochána but in the body that investigates An Garda Síochána. I hope Mr. Sullivan will recognise that he, as part of that troika of commissioners, has a responsibility in that regard and I wish him well in seeking to achieve that.

**Deputy Donnchadh Ó Laoghaire:** Gabhaim buíochas leis an Aire as an moladh seo a thabhairt os ár gcomhair. This vacancy arises out of the departure of Mr. Mark Toland from GSOC who gave a number of years of service to GSOC and is now serving with the Garda Inspectorate. I take this opportunity to commend Mr. Toland on his work in that regard.

It is right and proper that there is a procedure of this kind and that this matter comes before both Houses of the Oireachtas before proceeding for appointment by the President, but I echo what Deputy O'Callaghan has said. Greater detail could have been provided in advance of this debate. My office contacted the Minister's office seeking additional detail and some was forthcoming but, nonetheless, it should have been provided as a matter of course. As the Minister said, ideally, we should have had the opportunity to invite Mr. Sullivan to appear before the Oireachtas committee. Notwithstanding that, Sinn Féin will not oppose the motion. It appears that Mr. Sullivan, on the basis of the qualifications and criteria outlined, is very capable. He has considerable experience with various federal agencies across a wide range of areas relating to the law and law enforcement. The most recent position was as an assistant inspector general for investigations in the US Environmental Protection Agency's Office of Inspector General, which required the supervision of criminal and administrative investigative cases. Obviously, he is very senior and experienced and I hope he will be able to bring that to bear with GSOC and add to it.

I ask the Minister to clarify a point. I understand that, presuming he is duly appointed, Mr. Sullivan will commence his role with GSOC on 1 July. After that date, will he retain commitments to any other organisations and if so, what will be the extent of those commitments? It would be in the interest of the House to have that information provided if that is possible.

I echo some of the points made by Deputy O'Callaghan. I count myself among the Members who have had their confidence in GSOC somewhat undermined in recent times. The example has been given, which I will return to, of the report produced in regard to Lucia O'Farrell, the killing of her son Shane and the failures related to that. I have said previously that more appropriate approaches to that could have been taken, given that the failures extended beyond An Garda Síochána, but I will deal with that later. It is not good enough to say that the report took six years to produce. Even if it was produced in a shorter period, it would not be of an acceptable standard. There are numerous examples of that. The assertions of gardaí in the report are not tested but simply accepted. I do not believe that properly constitutes an investigation.

I believe there are wider issues in GSOC. I have put down a series of questions to the Minister. He has answered some of them but not all of those have been answered to my satisfaction. It is clear there are issues with resources and I hope the Minister can address that business case as soon as possible but I believe there is more to it than that. I am not of the view that cases are being handled or managed in an efficient way. In addition, I am not convinced that GSOC's offices are being managed efficiently. My understanding is that often, even after they are investigated, cases remain with the directorate for far longer than they should before they are escalated to the commission. Obviously, that has implications for the conclusion and publication of

reports and for the ability of GSOC to operate effectively.

GSOC has been in existence for more than ten years. Sinn Féin believed it was badly needed long before that. We were anxious to see an ombudsman established in the North and it was an important aspect of the Patten reforms. However, it is in the interests of the Garda and of the public that there is proper oversight. The Garda performs better when there is proper oversight. If GSOC is not functioning to the best of its abilities or to satisfy its duties, that creates problems for the Garda. The Garda will not reach the standards it should if GSOC is not holding it properly to account. I am concerned that GSOC is not doing that currently and is not in a position to do it. There is a role in that regard for the Minister and the chairperson of GSOC, Ms Justice Mary Ellen Ring. I hope Mr. Sullivan will be able to contribute to that.

We believe there is a need for greater independence for GSOC and the strengthening of its powers. The Garda Commissioner should be fully within the remit of GSOC for investigative purposes. There should be powers to secure co-operation from gardaí. They must be clarified and bolstered because there are serious blockages to GSOC investigations at present. It is an issue GSOC has identified and it has sought legislative changes. There is also an issue in terms of its independence and serving officers of An Garda Síochána being seconded to GSOC. I understand there are still such instances, such as with regard to the Templemore investigation. It is not right and proper that serving gardaí should be seconded. It is probably not ideal that there would even be former members of An Garda Síochána with GSOC but serving gardaí should certainly not be seconded, particularly to an investigation of that nature. Gardaí should not be investigating fellow gardaí, to allow for a freer and fairer course of justice and to dispel any sense of bias or prejudice.

In a similar vein, a duty of impartiality and independence must be included in GSOC's objectives, along with a statutory obligation to report at regular intervals to the justice committee. Where a garda retires or resigns any complaint against the departing officer should still be potentially investigated by GSOC where there is a public interest in doing so, and the time limit for the making of complaints to GSOC should be extended from six months to at least a year or perhaps longer, with the period running from the date of knowledge of the supposed wrongdoing.

Another issue relates to protected disclosures and the business case in that regard. GSOC was seeking 12 additional staff but has only received five. While I made my point about administration and its management of resources, there is also the reality that the resources it needs for protected disclosures do not exist. The sum involved in this regard is relatively small, approximately €900,000 in that specific case. Given the potential costs of commissions of investigation or tribunals and in light of what GSOC can prevent if a protected disclosure is properly addressed, that is very little. GSOC must also have a broad right to make unannounced visits and inspections. Its access to PULSE should be put on a statutory footing in order to give it access to all the materials it requires, by its own definition, for investigating cases to ensure it investigates them properly and assertively.

There is also a need for a statutory framework to be created for GSOC to provide An Garda Síochána with observations on systemic issues arising from complaints in order that these complaints might be addressed and remedied in an agreed and relatively short timeframe depending on the nature of the issues. There were examples of these failings recently, such as the issues relating to road traffic incidents highlighted on RTÉ's "Prime Time". In addition to dealing with individual complaints against gardaí, there is a need for GSOC to be able to provide a



commentary and analysis of systemic issues that are emerging repeatedly. The commission must have that role. It also must have the scope and ability to engage in joint investigations with other relevant State organisations, where required, because there are organisations that will have expertise where procuring specialist skills for that via the private market would be expensive and inappropriate. GSOC must have that capacity.

GSOC has a long road to travel to be able to carry out its functions properly. It must manage itself better and use its resources better. It also requires additional resources in particular areas and additional powers. It is not in the interest of the public, the Garda or the victims of crime if the Garda is not properly held to account. That will only happen if we have a strong, well-organised and well-resourced GSOC.

**Deputy Sean Sherlock:** I have no desire to hold up the appointment of a new member of GSOC. We wish Mr. Sullivan well but we have questions about the process. My understanding is that the Dáil approved a previous appointment without debate on the basis of a widespread agreement on the appointee. We have some concerns about the process employed here, specifically as it relates to the Houses of the Oireachtas. I only learned this evening that this went through the Public Appointments Service, PAS. This is the first time Members have had a sense of the CV of the proposed appointee.

One could argue that we found ourselves in an invidious position where we had no view on the appointee because we did not have an opportunity to form one until this evening, when the Minister gave us an outline of the credentials of the person to be appointed.

*7 o'clock* What is the point of asking us to approve a person to be appointed by the President if there has not been any formal or iterative process with regard to that person's credentials? The process this evening is effectively a set-piece event, without questions and answers or a chance to interrogate further the person's credentials. We do not doubt the person's bona fides and we wish him well. He went through the PAS but we believe it might have been more appropriate if, for example, the justice committee could have had a process for an engagement with the Minister on the appointment.

The legislation provides that GSOC is to consist of three members, all of whom are to be appointed by the President on the nomination of the Government and the passing of resolutions by Dáil Éireann and Seanad Éireann recommending their appointment.

PAS has interviewed the person and Cabinet has given the formal nod. Now we find ourselves in the position tonight where at the last minute the Oireachtas is expected to ratify this on the basis of the Minister's say-so.

I do not want to doubt the bona fides of the person, who has been through a process, but the Government needs to change the procedure to ensure that this House, through one of its committees - the most appropriate being the Joint Committee on Justice and Equality - would have an opportunity to have some sort of interaction as opposed to going through this set piece. It should be an iterative process involving some interrogation of the process and of the person's bona fides. I find myself very curious about the bona fides of the person in question. It is genuine human curiosity given his background. I have further questions which I will not articulate tonight. I believe the process needs to be more robust and needs to have better regard to the Houses of the Oireachtas. That might involve a slight amendment to the 2005 Act.

In his speech the Minister made specific reference to the Commission on the Future of

Policing in Ireland. We all look forward to getting that report in September. We all made submissions to the Commission on the Future of Policing in Ireland. If we are to look at GSOC specifically, we endorse last December's publication in its proposals for legislative change and we accept the thrust of its 2016 report on Garda oversight and accountability.

We stated that the commission should have regard to the legal advice to the previous Government that under the Constitution, policing belongs inherently to the Executive branch of Government. We were told that the powers of any independent policing authority would have to be delimited. With respect, the argument that the Constitution requires the Government to directly control policing needs careful consideration. We are hopeful that the report will address that concern. The Constitution makes no reference, even in passing, to policing. How the system in other states operates is well articulated. Even in those states with a common law tradition there is a view that policing could be more devolved and under more democratic control.

I share in the endorsement, if only to go through a formal process. It is a bit strange to be standing here supporting the Government in ratifying somebody for appointment to GSOC on the basis of a recommendation made by the Public Appointments Service when we have only just learnt about the bona fides of the person in question. I ask that we review the process for the future so that Oireachtas Members can have more of an interaction with the Government on the basis of the recommendation made to it.

**Deputy Clare Daly:** Deputy Sherlock said that this is a set-piece event with no opportunity for questions and answers. There is. He said he has questions but is not going to put them. If somebody has questions about this appointment, I would like to hear them. This is a public forum and I am sure the Minister would answer any questions that people have on the specific nature of the individual. It may be the case that there are problems with the process; I have not given that much consideration. However, each group has been given ten minutes to raise whatever concerns we have and if people have concerns about the process or the individual, albeit through lack of knowledge or whatever, they should raise them and vote against the motion; that is the responsible thing to do. Those of us on the Business Committee set the scheduling of this against the backdrop of the legislation as we have it now. That is what we are working with. If any group had a problem with that, it could have tabled it before now.

That said, we obviously know that Mr. Sullivan is being proposed as replacement on GSOC for Mr. Mark Toland, who departed to take up his role as head of the Garda Inspectorate last October. I wish to acknowledge the role Mr. Toland played. The Garda Inspectorate itself has played an incredibly important role in the detailed work it has carried out over years and the work it continues to do under Mr. Toland should be recognised. As far as I am concerned, it is the key oversight body. Other people have said they welcome the pontifications of the Commission on the Future of Policing in Ireland, but I do not because I can already tell them what its report will state. It will state exactly what the Garda Inspectorate outlined years ago. Had the inspectorate been listened to over the years and the recommendations that it repeatedly made implemented, An Garda Síochána would not have found itself battered by scandal after scandal. However, there we have it.

Like other Deputies, I have no personal or prior knowledge of Mr. Sullivan. In some ways I give a guarded welcome to his appointment. The position certainly needs to be filled. We know that he was the US EPA's inspector general and that during that time he was forthright in his criticism of the Office of Homeland Security within that agency and what he described as it blocking his investigative work on the grounds of so-called national security. It sounds like

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the sort of good attitude that someone who is being appointed as a member of GSOC should have. I understand he worked as a US federal air marshal in that service; I will try not to hold that bit against him.

The key thing for GSOC is not who is appointed, but whether the organisation as a whole has the resources and powers it needs to allow him to do his job. Irrespective of how good somebody is, without the resources and the powers, the job will not get done. That is the real debate we should be having here. For years we have been making the point that GSOC really is a paper tiger. I welcome that of late GSOC has repeatedly stated that it does not have the powers under the legislation to do its job of holding the Garda to account properly. It does not have the resources to do it either. In the words of many of its members, which we have quoted previously, it almost appears as if the organisation was set up to fail. It could not possibly do what it was supposed to do given how it is set up now.

Those of us on the Joint Committee on Justice and Equality who drew up the 2016 report on Garda oversight and accountability made a list of recommendations on amending Part 4 of the Garda Síochána Act 2005 in order to give more powers to GSOC, including things like GSOC being empowered to investigate retired members; a statutory means of redress for GSOC where there is a failure to comply with requests for documentation or evidence; and enhanced powers to GSOC to review investigations and so on. These are issues that have been highlighted in the House on many different occasions.

During the debate on that report in February 2017, the former Tánaiste and Minister for Justice and Equality told us that she would shortly go to Cabinet to secure approval to prepare heads of a Bill to amend Part 4 of the Garda Síochána Act 2005. She also said that the Government needed to be absolutely sure that the committee's recommendations for changes were implemented. However, when members of GSOC appeared before the committee in February, they were asked if any of the recommendations had been implemented and if anything had been changed. They told us that nothing had changed, months on. The legislation has not even been published 18 months after the former Minister promised it was on the way. GSOC members may be getting frustrated with the slow progress. Proposals were submitted in December 2017 for changes to the current Act and we have had nothing yet.

We keep hearing about the Commission on the Future of Policing in Ireland; it has been bandied about as a panacea to every Garda ill. It is not good enough that changes which could have been made now - changes that have been called for over many years and were committed to neither today nor yesterday - are being delayed until the commission reports. Whatever about sitting on changes to the legislation until such time as the commission reports, it is difficult to understand the excuse for not giving GSOC the resources it needs. GSOC has been very vocal in terms of its needs and what has been provided to it to date. It has been totally categorical in this regard, including in its remarks in February to the effect that the decision not to increase its staffing resources at that crucial time would undoubtedly result in its failure to meet its obligations to the public and its staff. GSOC predicted the future in that it has not been able to meet the expectations of the public or the obligations to its staff because the Government has not given it sufficient resources. That is a fact. GSOC currently has over 1,000 open investigations, which equates to approximately 30 per investigator. It is also investigating at least 25 whistleblower cases and has had to issue an apology for the slow pace in which they are being dealt with. In 2017, it asked for 12 additional staff to deal with the protected disclosures, in respect of which it was given five. Two of its investigators have been seconded to the Charleton tribunal. Ms Justice Mary Ellen Ring has described it as half a protected disclosures unit. There is

currently a tribunal under way in respect of protected disclosures. Do we need more? Would it not be better that GSOC be empowered to do its job and deal with those protected disclosures? The Minister will be aware, because we have raised this with him many times, that some of those protected disclosure cases have been with GSOC for almost four years because of a lack of co-operation on the part of the Garda in providing files. When the Garda Síochána indicates an intention to discipline some of its members and GSOC asks to sit in on that process, it is told to back off.

This time last year GSOC was given a commitment by the former Tánaiste and Minister for Justice and Equality, Deputy Fitzgerald, that it would get the resources it needed. In February, however, Ms Justice Mary Ellen Ring told us that it still does not have those resources. GSOC submitted a business case for additional resources in respect of which it is still awaiting a decision. In this regard, GSOC sought 37 additional staff at a cost of €1.7 million, which is a small amount of money in light of the fact that An Garda Síochána, in 2017, provided €7.7 million to Accenture for 49 staff, which is €7 million more for 12 additional staff. I find the latter incredible. If some of that money could be diverted, GSOC might get the powers it needs. It is an indication of the esteem, or not, in which the Department has held GSOC up to now that, unlike the Policing Authority and the Irish Human Rights and Equality Commission, IHREC, it does not have its own budget or Accounting Officer. If we want to avoid having to establish more commissions of investigation or tribunals of inquiry we need to give GSOC what it needs to do its job properly.

This person may be the best thing since sliced bread. Regardless of whether he is, however, if GSOC does not have the staff and powers it needs, then all we are doing is making the beds while the house is on fire. Sadly, this is what has got us into the situation in which we find ourselves regarding An Garda Síochána.

**Deputy Michael Healy-Rae:** I wish Mr. Patrick Sullivan every success in his appointment, which I support. I, too, have questions with regard to the effectiveness and workings of GSOC. I am sure the Minister and members of An Garda Síochána are sick to death of the chipping away on the part of certain people regarding the role they perform. When it comes to An Garda Síochána, we should nail our colours to the mast. Our gardaí are the people on whom we rely to protect the State and to uphold law and order. They are the people on whom we call to put themselves in harm's way. I do not propose to name individuals because everyone here will be aware of the many fine people who have lost their lives in the course of performing their duties. Not every person, in terms of his or her work, has to put himself or herself in such danger.

As an elected representative of the people of County Kerry and a legislator in this Dáil, it is important that every so often I reiterate my support for law and order, for the people who enforce the rules and, in particular, for the legislation that this House enacts. I compliment the Garda Síochána. I do not believe this is the time to raise my concerns regarding GSOC. I wish Mr. Patrick Sullivan good luck in his appointment. Taking into consideration his vast experience and the many important roles he has performed for and on behalf of this State, I have no doubt he is the right person to carry out this important job. I wish him good luck in doing so. I reiterate my support for the rank-and-file gardaí and their management, including the superintendent, chief superintendents and sergeants, in the performance of their day-to-day duties on behalf of all of us. It is only right and proper to say that.

**Deputy Mattie McGrath:** I, too, welcome the opportunity to comment briefly on the appointment of a member to GSOC. The current arrangement, in terms of the relationship be-

tween An Garda Síochána and GSOC, is not as effective as might be the case. There remain many areas of contention between both organisations. I do not think anybody would dispute that.

In April, Niall O'Connor reported that the president of the Association of Garda Sergeants and Inspectors, AGSI, said that he was concerned that GSOC is inadequately resourced to conduct fair and robust investigations into members of the Garda Síochána. There is nothing worse than a half-baked system of investigation or a half-baked management of a team. GSOC must have the resources and the wherewithal to conduct proper, fair and prudent investigations. I find incredible and somewhat disturbing the findings of the most recent public attitudes research poll commissioned by GSOC which indicate that only eight in ten Irish adults have heard of GSOC and that fewer than half of the members of the population are confident of the ability of the commission to resolve problems. This indicates how much work needs to be done in terms of improving not only the public's understanding of the role of GSOC but also its faith in the mechanism we have established to hold those in positions of authority to account.

For decades, there was no oversight in this area. There was a forerunner to GSOC - the name of it eludes me - which was based in Dublin and to which I made a complaint. I had no sense of confidence that it had the interest, wherewithal or motivation to carry out proper investigations, and this was ten years ago.

When the chair of the Policing Authority, Ms Josephine Feehily, was before the Joint Committee on Justice and Equality a fortnight ago she referenced some of the challenges facing GSOC in terms of its effectiveness - one might more accurately say its lack of effectiveness. It is worrying that she should say this in this House. She noted that the regulatory architecture governing how GSOC operates was unnecessarily complex and crowded with much duplication. What has gone wrong with our system? I am not saying this is done deliberately but I see it in many areas of governance, where it is so complicated and unwieldy that it is just not effective. Is it lethargy on the part of the people who put institutions together or is it downright carelessness? I would like to think it is downright carelessness but it could be something more sinister. I do not know why the Minister is ag gáire because it is not funny. There seems to be a desire for confusion and muddying the waters instead of clear-cut policies and demarcation lines. This system has developed in the 100 years of our autonomy and Independence.

Ms Feehily went on to say, "The Garda believes there is too much oversight and accountability but we do not agree." She also said, "Our report noted that one of the significant barriers to the effectiveness of the Policing Authority was the challenge of overseeing the performance of an organisation while the head of that organisation is accountable to somebody else, in this case, the Minister for Justice and Equality and the Secretary General of the Department." One cannot serve two masters, in business or any walk of life. We need clear boundary lines for people operating in these areas. She also said:

This has been a barrier to our effectiveness and has created serious confusion in the public mind. In the context of being a regulator, allowing the regulated body to have two places to go leads to a risk of gaps in oversight.

This is true. If we come to a crossroads and take the wrong way, we might still get home but it could be a very scenic route.

This is a good example of the blame game. Members of the Garda are the villains accord-

ing to this, and the ones who resist oversight and accountability. I am not sure this is how the ordinary rank-and-file gardaí would see it and I do not accept it. Like Deputy Michael Healy-Rae, I salute An Garda Síochána of all ranks, including the new recruits in Templemore, whom we need but whom we need to arm with the tools of the trade and to support. We cannot have cases such as that of the young boy in Monaghan. He was slaughtered but there was no proper investigation. In another case in Dungarvan, two young men's lives were taken at sea without a proper investigation. I have a meeting with the chief superintendent in Waterford next Monday morning but it is like trying to get a meeting with the Pope. There are always barriers in front of people who seek justice.

No police force can police a country without the support of the public. I give them that support and I have been involved in the community alert scheme since 1998. I salute the ordinary rank and file but we need accountability up the line. I salute the gardaí in Sligo over the weekend, where we had a lot of guests. They did an excellent job and could not have been more courteous and pleasant. Every day and night they put their heads on the line so they need proper lines of communication if they have issues such as with discrimination or bullying. A lot of tidying up is to be done and I do not think changing one board member will do that.

**Deputy Róisín Shortall:** I join with other Members in endorsing this proposed appointment of Mr. Sullivan as a commissioner to GSOC. He seems a very fine person. He seems to be very well qualified and has a long history of involvement in federal agencies and in law enforcement. He has very extensive investigative experience and has served as a deputy special agent with the US Secret Service. His curriculum vitae reads very well and he has a lot of relevant experience, as well as a reputation of being fearless and not afraid to stand up and speak out when necessary.

I am sure he will make a good commissioner and I wish him well. However, I have to express some concern about the process which is under way. While it is strictly in keeping with the legislation providing for the appointment of commissioners to GSOC, it is not really very satisfactory. Apart from Government, Members of this House do not know anything further about Mr. Sullivan than what we read on paper and what has been provided to us by the Department. It is no reflection on Mr. Sullivan himself but it would be far better - and would give him a stronger mandate - if an arrangement had been made for him to come in and meet with the justice committee and to have an opportunity to exchange views and be questioned on his background and his attitude to things in order that Members of this House could assess his suitability for this very significant post. In the interest of openness and transparency, and to enable Members of this House to do their job properly, it would have been much preferable if that opportunity had been allowed to members of the justice committee. As things stand, we have no choice but to take the Government's word on this. How could we go off and research somebody? It would be much better to meet candidates face to face and interact with them to get a sense of what they are like, and of their suitability or otherwise for a job.

This has been presented to us as a *fait accompli*. I accept that Mr. Sullivan is well qualified on paper and I am certainly not going to object to his appointment. However, it would be better to have had proper engagement with this prospective candidate. Having said that, I wish him well. He is entering into an organisation which is very important as the oversight body and watchdog for An Garda Síochána, though I do not know how familiar he is with the issues affecting GSOC at the moment. The organisation is extremely poorly resourced in terms of funding and there are issues around appropriate senior staff. There are issues around its powers and there is an undoubted need for substantial reform. There is not much of a point in having a

watchdog unless it has teeth and we know that GSOC lacks teeth at the moment, not as a result of shortcomings on the part of people at the top of the organisation but as a result of its under-resourcing and the fact that it does not have adequate staff to carry out its important remit, which is to take complaints from the public about the performance by members of the Garda of their duties and to address issues raised by members of the Garda themselves.

It is important that the public has a high level of confidence in its police force but, for various reasons, public confidence in the Garda has taken quite a battering over recent years. There is an issue relating to the low morale of members of the Garda as a result of all the trials and tribulations they have had over many years. If the issues relating to whistleblowers had been dealt with properly at an early stage, we would have avoided a lot of the damage that has been done to public confidence and to morale within the force, and we would have avoided the procedures we are going through now in respect of investigations and the tribunal. We are very good in this country at setting up oversight and watchdog bodies but we are very poor at resourcing them properly, so they are hamstrung in doing the job. Unless those bodies are equipped to do the job properly, we will inevitably end up with situations where there has not been and there cannot be an adequate response to complaints made. They can then fester and become serious issues. That is what we have with the whistleblowing issue in the Garda at the moment and all of the damage that has been allowed to do. I refer also to the damage that was allowed to happen to individuals. It is important, from that point of view, if any public body is to function properly, that there is a well resourced and empowered oversight body to ensure that organisation works to the best effect for its own members and for the public.

GSOC acknowledged it is an organisation with serious issues. It has stated that it does not believe that complainants' issues are best addressed by the current system. That is a shocking admission for the organisation itself to make. For some time now, GSOC has raised these concerns. It has said that it needs to become an independent body and that it also needs proper resources to employ the kind of necessary and senior investigative staff required to carry out its duties adequately. Greater powers are also needed. GSOC has not, by any means, been silent about this. It has been raising these concerns about its inability to respond adequately to complaints for a number of years. It has been doing that with consecutive Ministers. It started by doing it in one-to-one meetings with Ministers and by raising concerns confidentially. Then it had to become more public because Ministers made promises that GSOC's concerns would be addressed but they were not. They went unheard for a long time.

It was not until last January that GSOC felt that it had no choice but to go public about its concerns. Increasingly, it was being criticised for its failure to deal expeditiously with complaints coming before it. We are dealing with one of those issues later on tonight - I refer to the late Mr. Shane O'Farrell. There are many other scandalous cases like that as well that have not been addressed in a timely manner. We know that justice delayed is justice denied. That is what is happening because of the Government's failure to resource GSOC properly.

After ten years in operation and having handled more than 23,000 complaints from the public, GSOC is in a very strong position and understands what its own shortcomings are. It has called for radical changes. Its proposals include allowing GSOC to become a fully independent agency, that it would be constituted as such and that it would operate similarly to how the Committee of Public Accounts operates. It is an extremely unhealthy situation where the funding Department has oversight and responsibility for GSOC and at the same time has oversight and, as we know, an unhealthy relationship with the Garda. How can GSOC operate independently and with full confidence that it is going to be listened to while it is under the wing of the Depart-

ment of Justice and Equality? It just does not work. It means we have a watchdog that does not really have teeth. That issue needs to be addressed.

We continue to tie the hands of GSOC because of the Government's failure to tackle this. There are endless delays giving it the necessary powers and resources and we are paying a big price for that. I refer to ongoing concerns among the public about lack of confidence in the Garda and its ability to police because of a lack of oversight. We cannot allow that to continue.

**Minister of State at the Department of Justice and Equality (Deputy David Stanton):** I thank the Deputies for their contributions to this important debate. From the Minister's contribution earlier, I hope that it is clear to the House that the skills and experience that Mr. Sullivan has gained in both investigative and oversight roles demonstrates why he is a most suitable candidate for appointment as a member of GSOC. It cannot be stated enough that the work GSOC does every day benefits the society we live in by instilling a public belief that accountability extends to all public services and to the police service of the State in particular. All too often, words such as accountability are used without any due regard for the organisation's character ensuring that accountability. Organisations such as GSOC are called upon when situations demand a strong, robust and unquestionable response.

When the organisation in question is An Garda Síochána, the Minister believes that we have to be particularly strong in our response. GSOC fulfils that role admirably. The public demands a police service that is independent in the exercise of its obligations and functions yet is accountable for those actions. Those bodies charged with oversight of our national police service must also be independent. It is incumbent on all of us to support those bodies and respect the outcomes reached by them. As the House is aware, the Garda Síochána Act stipulates that GSOC is independent in the exercise of its functions. The Minister has no role in the processing of individual complaints referred for investigation nor does he have any legal authority to intervene or interfere in any investigations undertaken. Indeed, this guarantee of independence is the hallmark of effective oversight.

I recognise the point made by Deputy O'Callaghan. As the Minister has stated, it was hoped that Mr. Sullivan could meet the Joint Committee on Justice and Equality before this resolution was taken in the House. However, as Mr. Sullivan still had commitments to his employers in the United States, that did not prove possible. I thank Deputy O'Callaghan for his and his party's expression of support for the nomination of Mr. Sullivan and, indeed, other Deputies' and parties' as well. I thank Deputies Ó Laoghaire and Sherlock for their support too.

I assure Deputy O'Callaghan there were no undue delays in moving to have the vacancy filled. Furthermore, to ensure full transparency, the services of the Public Appointments Service were utilised. This should reassure the House that the process was independent. On the question of whether Mr. Sullivan would have any commitments to any other organisation following his appointment to GSOC, the answer is he will not. His commitment is 100% to GSOC. There may, however, be a requirement that Mr. Sullivan give evidence in a case in the United States arising from his current work but that is something he will have to agree with the chair of GSOC.

It is important there is general consensus in the House on the nomination of Mr. Sullivan and I thank the Deputies for that. References were made to the independence of GSOC and the fact that it engages gardaí on occasion. These matters are being examined in light of GSOC's submission on legislative change and I have no doubt they will be addressed in the report of



12 June 2018

the Commission on the Future of Policing in Ireland That report is due to be presented in September. The Minister has dealt with the issue of resources in his speech. Mr. Sullivan is joining GSOC at a time of great transition within the field of policing. It is timely that we should welcome him as the newest member of GSOC and wish him every success during this time of transition.

Question put and agreed to.

### **Road Traffic (Amendment) Bill 2017: Report Stage (Resumed)**

Bill recommitted in respect of amendments Nos. 4 to 21, inclusive, and amendment No. 28.

Debate resumed on amendment No. 7:

In page 3, to delete lines 11 to 32, and in page 4, to delete lines 1 to 14 and substitute the following:

“(a) by the substitution of the following for subsection (7):

(7) The fixed charge is—

(a) €500 in the case of a concentration of alcohol referred to in subsection (1)(a) or subsection (2),

(b) €500 in the case of a concentration of alcohol referred to in subsection (1)(b), or such other amount that, for the time being, stands prescribed in lieu of either of those amounts.”,

and

(b) in subsection (8) by the substitution of the following for paragraph (a)(i):

“(i) did not exceed 80 milligrams of alcohol per 100 millilitres of blood, 5 penalty points shall be endorsed on the entry relating to the person, or”.”.

- (Deputy Robert Troy)

**An Leas-Cheann Comhairle:** Deputy Robert Troy has moved amendment No. 7, which has already been discussed with amendment No. 4. There is no further discussion permitted on the group but the amendment has yet to be decided.

**Deputy Robert Troy:** Can we make any contributions?

**An Leas-Cheann Comhairle:** No, the Deputy cannot. It has already been discussed.

**Deputy Robert Troy:** If I could be indulged with a small bit of leniency for a moment, we all made contributions - some were far more lengthy than others - but at no stage did we get an opportunity to hear the Minister for Transport, Tourism and Sport, Deputy Shane Ross, reply to the numerous points and questions put to him. Can the Leas-Cheann Comhairle give us the benefit of his guidance in respect of at what stage, under Standing Orders, will the Minister have an opportunity to outline his replies? I feel I made some valid points and contributions and raised some valid questions and I would like to hear his reply.

**Deputy Michael Healy-Rae:** I have one last point on-----

**An Leas-Cheann Comhairle:** Is it on the same issue?

**Deputy Michael Healy-Rae:** It is in the same vein. I want to say that-----

**An Leas-Cheann Comhairle:** I do not believe Deputies all have different views.

**Deputy Michael Healy-Rae:** I beg the indulgence of the Leas-Cheann Comhairle. It is-----

**Deputy Thomas P. Broughan:** This is out of order. We have made a decision that we would proceed with the votes on this amendment. This is more filibustering.

**An Leas-Cheann Comhairle:** Deputy Troy has made a point and I am going to deal with it. If Deputy Michael Healy-Rae is making the same point as Deputy Troy, I am going to deal with it.

**Deputy Michael Healy-Rae:** I can only speak on my own behalf. I made valid points throughout the debate, and it is only right, fair and proper that the Minister should be given the opportunity to reply. He has listened for long enough to what others had to say.

**An Leas-Cheann Comhairle:** The Deputies who are complaining are all from the same group. I can make two recommendations to the House. I sat through all of this, and I am sure the Minister would appreciate an opportunity to respond. There will be no further debate, and if the House agrees I will give the Minister ten minutes to respond to a number of the issues.

**Deputy Thomas P. Broughan:** The House has made a decision to proceed with the vote.

**Deputy Mattie McGrath:** The Deputy does not want to hear the answers.

**An Leas-Cheann Comhairle:** I am trying to be helpful.

**Deputy Mattie McGrath:** We want to hear the Minister.

**An Leas-Cheann Comhairle:** I cannot call the Minister. He will have to find another opportunity to respond.

**Deputy Mattie McGrath:** That is ridiculous.

**An Leas-Cheann Comhairle:** It might be ridiculous but-----

**Deputy Michael Healy-Rae:** The Leas-Cheann Comhairle is the boss.

**An Leas-Cheann Comhairle:** I have to implement the rules. Amendment No. 7 in the name of Deputy Troy-----

**Deputy Mattie McGrath:** I remind the Leas-Cheann Comhairle that-----

**An Leas-Cheann Comhairle:** The Deputy cannot take advantage of the Chair. He will not take advantage of the Chair.

**Deputy Mattie McGrath:** I am not taking advantage.

**An Leas-Cheann Comhairle:** No Deputy will take advantage of the Chair. Amendment No. 7, in the name of Deputy Troy, has been discussed.

Amendment put:

<i>The Dáil divided: Tá, 41; Níl, 57; Staon, 0.</i>		
<i>Tá</i>	<i>Níl</i>	<i>Staon</i>
<i>Aylward, Bobby.</i>	<i>Adams, Gerry.</i>	
<i>Brassil, John.</i>	<i>Brady, John.</i>	
<i>Breathnach, Declan.</i>	<i>Brophy, Colm.</i>	
<i>Browne, James.</i>	<i>Broughan, Thomas P.</i>	
<i>Butler, Mary.</i>	<i>Bruton, Richard.</i>	
<i>Byrne, Thomas.</i>	<i>Buckley, Pat.</i>	
<i>Cahill, Jackie.</i>	<i>Burton, Joan.</i>	
<i>Canney, Seán.</i>	<i>Byrne, Catherine.</i>	
<i>Casey, Pat.</i>	<i>Carey, Joe.</i>	
<i>Cassells, Shane.</i>	<i>Connolly, Catherine.</i>	
<i>Chambers, Jack.</i>	<i>Corcoran Kennedy, Marcella.</i>	
<i>Collins, Michael.</i>	<i>Cullinane, David.</i>	
<i>Curran, John.</i>	<i>D'Arcy, Michael.</i>	
<i>Donnelly, Stephen</i>	<i>Deering, Pat.</i>	
<i>Fitzmaurice, Michael.</i>	<i>Doherty, Pearse.</i>	
<i>Fleming, Sean.</i>	<i>Durkan, Bernard J.</i>	
<i>Healy-Rae, Danny.</i>	<i>English, Damien.</i>	
<i>Healy-Rae, Michael.</i>	<i>Farrell, Alan.</i>	
<i>Kelleher, Billy.</i>	<i>Ferris, Martin.</i>	
<i>Lahart, John.</i>	<i>Flanagan, Charles.</i>	
<i>Lawless, James.</i>	<i>Funchion, Kathleen.</i>	
<i>MacSharry, Marc.</i>	<i>Halligan, John.</i>	
<i>Martin, Micheál.</i>	<i>Harris, Simon.</i>	
<i>McConalogue, Charlie.</i>	<i>Healy, Seamus.</i>	
<i>McGrath, Mattie.</i>	<i>Heydon, Martin.</i>	
<i>McGrath, Michael.</i>	<i>Howlin, Brendan.</i>	
<i>McGuinness, John.</i>	<i>Kehoe, Paul.</i>	
<i>Moynihan, Aindrias.</i>	<i>Kenny, Gino.</i>	
<i>Moynihan, Michael.</i>	<i>Kenny, Martin.</i>	
<i>Murphy O'Mahony, Margaret.</i>	<i>Madigan, Josepha.</i>	
<i>Murphy, Eugene.</i>	<i>McHugh, Joe.</i>	
<i>O'Callaghan, Jim.</i>	<i>McLoughlin, Tony.</i>	
<i>O'Dea, Willie.</i>	<i>Mitchell O'Connor, Mary.</i>	
<i>O'Keefe, Kevin.</i>	<i>Mitchell, Denise.</i>	
<i>O'Loughlin, Fiona.</i>	<i>Moran, Kevin Boxer.</i>	
<i>O'Rourke, Frank.</i>	<i>Munster, Imelda.</i>	
<i>Ó Cuív, Éamon.</i>	<i>Murphy, Eoghan.</i>	
<i>Scanlon, Eamon.</i>	<i>Naughten, Denis.</i>	

<i>Smith, Brendan.</i>	<i>Naughton, Hildegarde.</i>	
<i>Smyth, Niamh.</i>	<i>Neville, Tom.</i>	
<i>Troy, Robert.</i>	<i>Noonan, Michael.</i>	
	<i>O'Brien, Jonathan.</i>	
	<i>O'Connell, Kate.</i>	
	<i>O'Donovan, Patrick.</i>	
	<i>O'Reilly, Louise.</i>	
	<i>Ó Broin, Eoin.</i>	
	<i>Ó Caoláin, Caoimhghín.</i>	
	<i>Ó Laoghaire, Donnchadh.</i>	
	<i>Ó Snodaigh, Aengus.</i>	
	<i>Phelan, John Paul.</i>	
	<i>Quinlivan, Maurice.</i>	
	<i>Ring, Michael.</i>	
	<i>Ross, Shane.</i>	
	<i>Sherlock, Sean.</i>	
	<i>Stanley, Brian.</i>	
	<i>Stanton, David.</i>	
	<i>Zappone, Katherine.</i>	

Tellers: Tá, Deputies Michael Moynihan and John Lahart; Níl, Deputies Joe McHugh and Tony McLoughlin.

Amendment declared lost.

**Minister for Transport, Tourism and Sport (Deputy Shane Ross):** I move amendment No. 8:

In page 3, line 11, to delete “(a) in” and substitute the following:

“(i) in”.

Amendment put.

**Deputy Mattie McGrath:** Vótáil.

**An Leas-Cheann Comhairle:** Will the Deputies claiming a division please rise?

*Deputies Michael Collins, Danny Healy-Rae, Michael Healy-Rae and Mattie McGrath rose.*

**An Leas-Cheann Comhairle:** As fewer than ten Members have risen I declare the question carried. In accordance with Standing Order 72 the names of the Deputies dissenting will be recorded in the Journal of the Proceedings of the Dáil.

Amendment declared carried.

Debate adjourned.

8 o'clock

**Death of Shane O’Farrell: Motion [Private Members]**

**Deputy Jim O’Callaghan:** I move:

That Dáil Éireann:

notes that:

— on 2nd August, 2011, Shane O’Farrell was killed while cycling home when he was struck by a car driven by Zigimantas Gridziuška;

— previously, on 11th January, 2011, in Monaghan Circuit Court, Mr. Gridziuška was convicted of theft, and his sentence was adjourned for one year, with the judge stating that if he was convicted of other theft or fraud offences he was to be brought back before the court and that he would be put in jail;

— on 9th May, 2011, in Ardee District Court, Mr. Gridziuška was convicted of theft yet was not then brought back before Monaghan Circuit Court where a prison sentence would have been activated;

— on 11th May, 2011, in Dundalk District Court, Mr. Gridziuška was convicted of speeding;

— on 8th June, 2011, in Carrickmacross District Court, Mr. Gridziuška was convicted of possession of heroin;

— on 14th July, 2011, in Newry, Mr. Gridziuška was convicted of theft;

— on 25th July, 2011, in Monaghan District Court, Mr. Gridziuška was convicted of having no tax disc;

— all of these offences constituted a breach by Mr. Gridziuška of his bail bond, yet no steps were taken to revoke the bail granted to him;

— consequently, at the time of the collision, Mr. Gridziuška was on bail in respect of a number of offences and had breached his bail bond, and was serving a number of suspended sentences which should have been activated had the courts been informed of the relevant previous convictions;

— approximately one hour prior to the collision, the car in which Mr. Gridziuška was travelling was stopped by Gardaí and was noted to be unroadworthy and without a National Car Test certificate; and

— in January 2012, a complaint was made to the Garda Síochána Ombudsman Commission (GSOC) regarding the conduct and role of An Garda Síochána in the above matters, and a report into part of the complaints was published in April 2018;

recognises that:

— there is an obligation on An Garda Síochána to bring persons convicted of criminal offences, while serving suspended sentences, before the court and to inform the sentencing court that the person has been convicted of subsequent offences;

— where a member of An Garda Síochána becomes aware that a person has breached, or is in breach of a condition of bail, there is an obligation on such member to bring that breach to the attention of the court; and

— there is an obligation on GSOC to properly investigate all complaints it receives and to determine all admissible complaints in a timely and expeditious fashion; and

calls on the Government to:

— immediately establish a Commission of Investigation into the death of Shane O’Farrell; and

— ensure that adequate information systems exist within the Courts Service, so that courts can immediately access information in respect of sentences imposed or orders made on persons previously convicted of offences.

I will share time with Deputies Niamh Smyth, John McGuinness and Declan Breathnach.

As the proposer of the motion I welcome the opportunity to commence the debate. I will begin by informing the House as to the purpose of the motion. It is to try to convince and force the Government to establish a statutory inquiry in respect of the circumstances preceding the death of young Shane O’Farrell, the circumstances that took place afterwards, and the Garda investigation in respect of it.

The death of Shane O’Farrell was a tragedy. It was a tragedy in particular for his loving mother and father, Lucia and James O’Farrell, and for his four sisters. I very much welcome them here this evening for the hearing of this Private Members’ motion.

The circumstances of Shane O’Farrell’s death, for those who are unaware of them, are that on 2 August 2011 Shane O’Farrell was knocked down and killed by a vehicle being driven by a Lithuanian man, Zigimantas Gridziuška. Shane had gone out on the road around his house in Carrickmacross at 9.30 p.m. to go for a cycle. As a result of that he was killed through the collision with and actions of Mr. Zigimantas Gridziuška, who was driving the vehicle at Tullyvara Upper, Carrickmacross, County Monaghan. As I said at the outset, Shane’s death was a tragedy for his loving family. In particular, however, it was a tragedy for him, a young man who was a law graduate of University College Dublin. He was obviously a person who excelled in academia but also had great sporting abilities and interests. On the day he was killed he had just submitted his thesis for the purpose of his masters in law that he was carrying out at Trinity College Dublin.

I am aware that tragic deaths occur in many families in Ireland. Just because there is a tragic death it does not mean it should be debated in Dáil Éireann, and just because there is a tragic death it does not mean there is any responsibility on the Government to have a statutory inquiry in respect of that death. However, there are circumstances in respect of the death of Shane O’Farrell which, in my opinion and in the opinion of Fianna Fáil, mean the Government should establish an inquiry into the circumstances preceding and after his death.

I am conscious that I am sharing time with my colleagues, but I want to identify what I believe is one of the central issues that merits and justifies an investigation into the circumstances giving rise to the death of Shane O’Farrell. We know Shane was killed on 2 August 2011 when

he was cycling home and struck by the car driven by the Lithuanian man. What is particularly relevant, however, is that some seven months prior to that, on 11 January 2011, the driver of the vehicle had been convicted of theft in Monaghan Circuit Court. As a result of that conviction the judge hearing the case adjourned it for one year to determine whether a custodial sentence would be imposed. However, the judge hearing that case in Monaghan Circuit Court directed that if the person driving the car was convicted of any further fraud or theft offences in that year he must be brought back before Monaghan Circuit Court and he would be put in jail. What is particularly relevant is that on 9 May 2011, some three months before Shane was killed, the same individual was convicted of a theft offence in Ardee District Court but, inexplicably, he was not brought back before Monaghan Circuit Court, where his custodial sentence would have been activated. As if that was not bad enough, we know that on 11 May 2011 the same person was convicted of speeding in Dundalk District Court. On 8 June 2011 he was convicted of possession of heroin in Carrickmacross District Court. On 14 July 2011 he was convicted of theft in Newry and on 25 July 2011 he was convicted in Monaghan District Court of having no tax disc.

One of the reasons we believe there should be an inquiry is that the O'Farrell family and the Irish public are entitled to accountability as to why the individual who had been convicted of all these subsequent offences was not brought back before Monaghan Circuit Court. Had he been brought back we believe the custodial sentence would have been commenced. This is one of the reasons we believe there should be a commission of investigation and an inquiry. There are very many others but I want to allow my colleagues speak.

**Deputy Niamh Smyth:** I welcome Lucia, Jim and their beautiful daughters tonight to the Gallery to hear us speak about a very tragic case. Almost seven years have passed since Shane O'Farrell was killed in an horrific hit-and-run incident in Carrickmacross in County Monaghan. Shane was a bright, young, intelligent man, an only son with four loving sisters and his whole life ahead of him. He was killed in a hit-and-run by a man with 42 previous convictions. When Shane was killed, the accused was on bail arising from a number of offences and had breached the conditions of those bail bonds. He was serving suspended sentences which would have been activated had the courts been informed of his convictions. In short, had the criminal justice system been functioning properly, the accused would not have been at liberty on that day to kill Shane.

The O'Farrell family has worked tirelessly seeking justice for their only son and brother. The State has failed them in the manner in which Shane's death was investigated and prosecuted, and it is continuing to fail them in the manner in which their complaints around the investigation and the prosecution are being handled by the Garda Síochána Ombudsman Commission, GSOC. Shane's death is a personal tragedy for the O'Farrell family as a light has been shone on a dysfunction in many elements of our criminal justice system. There is a systematic problem in the way in which the State deals with breaches of bail conditions and conditions attached to suspended sentences. Furthermore, the courts are overly reliant on information being provided by An Garda Síochána. It is clear the GSOC inquiry has been a total failure. We are six years into the process and the O'Farrells have no more answers than when they started the process. The only conclusion to be gleaned from the report is that the Government must step in and establish a commission of investigation so we, as a nation, can learn from this awful tragedy.

The O'Farrell family must be commended on the courageous and dignified manner in which they have pursued justice for their son and brother. They have been unrelenting in the quest for justice and in doing so they honour Shane's life. If our justice system had been operating effec-

tively, the accused would not have been driving on that awful day in August 2011 but he would have been in jail. The accused had been released on bail on numerous occasions arising from offences and despite breaching bail bonds he had not been brought before the court for those breaches. Three weeks before the O'Farrell death, the accused was convicted of a theft in Newry and this should have led to his imprisonment in the Republic for breach of bail conditions. The car in which the accused was travelling was pulled over by the Garda not an hour before Shane was killed. The vehicle he was travelling in was being driven by an uninsured driver and the vehicle did not even have a valid national car test, NCT, certificate. The car should have been seized. The driver was well known to An Garda Síochána, Interpol and the Police Service of Northern Ireland, PSNI, and he had an extensive criminal record. As I stated, he had over 40 previous convictions for a variety of offences.

I must finish because I am sharing time with colleagues but this case reveals a shocking dysfunction in the criminal justice system. Anybody who has met Lucia, Jim and Shane's sisters knows that Lucia knows the case inside out and has forensic knowledge of how it was dealt with in an unsatisfactory way for the family and Shane. I ask that a commission of investigation be established by the Government.

**Deputy John McGuinness:** I welcome Ms Lucia O'Farrell, as well as Jim and the rest of the family, to the Gallery. I compliment them on the investigation they have undertaken of the death of their son and brother, Shane. It is an appalling indictment of the State that from the time of his death in 2011, they have had to fight the might of the State in dealing with this case. We are not asking for an investigation into the death of Shane O'Farrell just for the sake of his family or as an acknowledgement of what happened to Shane; it goes way beyond that. The Minister is responsible for justice matters and if he read any of the information sent out by Lucia or looked at the dates of court orders and peace bonds, he must be concerned about the state of the justice system. It is not about the date on which he died but rather what happened before.

The man in question was extremely well known to the Garda in that area. From 2008 he had clocked up appearances in court related to drugs such as heroin, traffic offences and fraud. He got six months for one conviction at Carrickmacross District Court but he did not serve a day of it. That was between 2008 and 2010. In 2010 he started again with offences related to theft, traffic, insurance fraud, not having a valid NCT certificate and so on. He appeared in Monaghan District Court at Carrickmacross, at Virginia in Cavan and so on. He was well known to gardaí in the area as an abuser of drugs and a criminal. That is a fact. The Minister knows the justice system better than most and he cannot have confidence in that system after reading all the detail that Lucia O'Farrell has put before us. In 2011 the man in question had five consecutive days of theft and the gardaí failed to send proof in this regard to a laboratory for testing.

From 2008, the Garda and the courts system have failed this family. Had they taken action, Shane O'Farrell would not have been killed on the road that night. Around 14 July 2011, the PSNI told the Garda about this man's antics across the Border. On the night in question, 2 August, as previous speakers noted, this man was waved on by gardaí despite insurance on the car being obtained by false or misleading information. When the man got bail at Dundalk, the superintendent did not object and we must ask why. After Shane's death, on 24 August 2011 the superintendent failed to inform the court about his death when the man was up before it for another criminal incident. In 2011 the man was jailed in Belfast but had not been missed from Carrickmacross, where he was supposed to have been signing on. He failed to sign on and was not even in the jurisdiction.



As a result of the manner in which this was investigated by the Garda and the complete failure of the justice system in this case, the country deserves an investigation that will thoroughly deal with all the matters that have been raised. The Office of the Director of Public Prosecutions must be questioned about the processes and procedures relevant to Shane's case. There can be no question or doubt after one reads the evidence presented by Lucia O'Farrell. The prosecution of the case must be dealt with. At the end of another case involving this man, he was given the option of going home to his son or serving time in prison. I do not know anybody before the courts who got such options. I was at the Court of Appeal today and Ms Yvonne Walsh did not get much of an option there as she was sent straight back to jail. Why has all this happened with the man involved with Shane O'Farrell's case?

The Government must take the lead on this, step in and provide the type of inquiry with extended terms of reference to ensure all these matters are covered. It is a litany of failure across the Garda Síochána, the courts system and the Prison Service. The Minister would not be acting properly and in the interests of the State if he did not recognise the matters we are putting before him this evening, stand up after we finish and grant the type of inquiry that will provide information to the public and deal with these issues. As a consequence, the Department might instigate the appropriate reforms to ensure this does not happen again. I appeal to the Minister not to read a script that has been handed to him. He should listen to the O'Farrell family and do the right thing.

**Deputy Declan Breathnach:** Like many in this House, I have been made aware of the tragic loss and concern surrounding the sad death of Shane O'Farrell, the loved son of Jim and Lucia. I was a short time elected in 2016 when Lucia came to meet me. I was taken aback by the detail, research and forensic evidence she had compiled on what, to me, was a deeply concerning failure of our justice system not just within the Twenty-six Counties but beyond as to how we could allow the driver of the car involved in the killing of Shane O'Farrell to escape the full rigours of the law.

Fianna Fáil has persistently called for a full public inquiry into this incident. I call again for a full and open inquiry that will get to the bottom of and expose the issues and serious flaws in our judicial system in this country.

It is blatantly obvious to anyone reading the current GSOC report that there is an added danger that criminals can move willy-nilly in and out of our jurisdiction, unimpeded by their records not being properly shared by the justice departments and courts services, not to mention the PSNI and the Garda. Until we have proper information-sharing between the Garda and the PSNI, people will continue to be allowed to move freely between our jurisdictions, which will have grave consequences for public safety, as was the case with the death of Shane O'Farrell. With Brexit looming, the situation may become worse.

The key issue, as others have said, centres on the granting of bail and the failure to communicate to the courts such conditions. As a public representative in a Border constituency, I am gravely concerned about the apparent failure of the courts systems in the North and the South to share information on the issues between both jurisdictions. By GSOC's own admission in the report, this man had 53 previous convictions, 17 of these outside the jurisdiction of the Twenty-six Counties, either in Northern Ireland or in Lithuania. This is an appalling failure, and the risks associated with the lack of sharing of this information can be seen in other prominent cases. The Minister should watch this space regarding the Crevan Mackin case and the murder of Garda Tony Golden.

Regarding the issue of the sharing of information, and on foot of requests by Deputies Brendan Smith, Joe Carey and Peter Fitzpatrick and me to raise the issue with the British-Irish Parliamentary Assembly, we issued letters to the Minister, Deputy Flanagan, and to the Permanent Secretary of the Department of Justice in the North, Nick Perry. To date, no response has been received from the Minister, Deputy Flanagan's Department. A reply was received, however, from Nick Perry stating that regarding cross-Border policing strategy, while the arrangements were working well, they would welcome further integrated information-sharing between all the criminal justice partners in both jurisdictions. The letter states that the probation boards both in the North and the South have a cross-Border protocol and that the Youth Justice Agency currently has an informal arrangement in place. These arrangements have no legal standing and are just what they say - informal. The letter to the Minister, Deputy Flanagan's Department that was sent in September 2017 asked specifically what changes have been made to the way in which information is shared between policing and criminal justice institutions since 2011. We are still awaiting a response to that letter. It is regrettable that with all the trouble the Department of Justice and Equality has faced, the Minister's officials have not seen fit to respond to BIPA's request. The Taoiseach, Deputy Leo Varadkar, said himself in 2014, when he was Minister for Transport, Tourism and Sport, that the Department of Justice and Equality was "not fit for purpose".

I will not go into the details that others have gone into regarding the convictions of this man and the failures to pass on information from one court hearing to the next. However, I want to know why the proposed criminal records (information systems) Bill, which Government approved on 17 April 2012, with the intention of providing for the exchange of criminal records information, is still not enacted. It beggars belief that the GSOC report states that GSOC is not aware of the current status of the legislation. As in this case, the recording of foreign convictions is done also on an *ad hoc* basis. There is no requirement on the Garda to check for convictions outside the Irish jurisdiction.

I and others in this House believe we must have a full and open inquiry to expose, as Deputy Smith said, the failures of the past and ensure that justice is given to the O'Farrell family.

**Minister for Justice and Equality (Deputy Charles Flanagan):** I move amendment No. 2:

To delete all words after "Dáil Éireann" and substitute the following:

— offers its sincere condolences to the O'Farrell family following the tragic death of Shane O'Farrell on 2nd August, 2011;

— expresses its genuine and heartfelt concern at the circumstances and events that led to the road traffic incident that cut Shane O'Farrell's life so tragically short; and

— commits itself to ensuring that those circumstances and events are fully investigated so that the lessons of this tragic loss are learned and applied to prevent other families suffering similar losses in the future;

notes that:

— the Oireachtas established the Garda Síochána Ombudsman Commission (GSOC) in 2006 with the statutory responsibility to deal with complaints concerning the conduct of members of An Garda Síochána;

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— GSOC’s independence and impartiality are its guarantee to members of the public, and indeed to members of the Gardaí who are the subject of complaint, that any and all complaints will be investigated properly and thoroughly, with due regard to the rights of all those involved;

— members of the family of Shane O’Farrell made in excess of 50 complaints to GSOC in relation to the circumstances surrounding his death and subsequent events and that in April 2014, the then Minister for Justice and Equality asked GSOC to investigate certain related matters;

— GSOC investigated all matters admitted for investigation as a single investigation;

— in May 2014, the then Minister for Justice and Equality referred a number of complaints surrounding the road traffic incident and subsequent matters to the Independent Review Mechanism (IRM);

— the IRM was established to provide for independent reviews of certain allegations of Garda misconduct, or inadequacies in the investigation of certain allegations with a view to determining to what extent and in what manner further action may be required in each case;

— the recommendation made by the IRM was that no further ministerial action should be taken in this case, and that the appropriate forum for raising matters related to alleged Garda failings was GSOC, which was already investigating certain matters arising from the tragic death in this case;

— over the course of a lengthy criminal investigation, GSOC considered a total of 56 allegations that it had received in relation to the case;

— in April 2018, GSOC issued its first report on this case to the Minister for Justice and Equality and provided a copy to the family of Shane O’Farrell and that the report was subsequently published by GSOC;

— this first report considered the case from a criminal perspective in accordance with Section 98 of the Garda Síochána Act 2005 and that each allegation was examined to determine if any conduct by the Gardaí could constitute a criminal offence; and

— GSOC found that there were no grounds for criminal proceedings against any Garda, but that it did identify conduct that may amount to a breach of discipline by members of An Garda Síochána;

further notes that:

— GSOC has made a number of recommendations in its first report and that the Minister for Justice and Equality will be pursuing these with relevant parties;

— GSOC issued a statement with its first report in which it states that it has commenced an investigation under Section 95 of the Garda Síochána Act into 13 of the 56 allegations concerning matters that may constitute breaches of discipline by members of An Garda Síochána; and

— the instigation of another investigatory process while the GSOC investigation is

underway would risk undermining GSOC's disciplinary investigation and any disciplinary proceedings that may be instituted at a later date by the Garda Commissioner;

resolves that the GSOC investigation under Section 95 of the Garda Síochána Act 2005 be allowed to take its course independently and with respect for natural justice and fair procedures and that nothing is done in the Dáil that would undermine that investigation; and

acknowledges the commitment of Government, upon completion of the disciplinary process, to consider whether there are matters that require further investigation and if so, to bring before Dáil Éireann, for its urgent consideration, any proposals that it may wish to make in this regard."

I wish to start by repeating my opening comment here less than two weeks ago when we had statements on the Garda Síochána Ombudsman's report following a referral by my predecessor, Alan Shatter, and complaints on behalf of and on the part of Mrs. O'Farrell. In this regard, all our thoughts very much remain this evening with the O'Farrell family in the wake of the dreadful loss they have suffered arising from the death of a clearly much-loved son and brother. I find it very difficult to imagine the scale of grief they have suffered since the tragic evening back in August 2011.

It is clear there are a number of troubling matters surrounding the circumstances leading up to the road traffic incident in which Shane O'Farrell's life was tragically cut short. These have been clearly identified in the GSOC report. They were, in fact, failures, and I categorically call them what they were - failures. A man who had numerous previous convictions, including for theft, drugs and road traffic offences, and who was out on bail at the time of the accident, had also been arrested for other offences while on bail. We all know there are laws related to the obligations on those who obtain release on bail and there are sanctions for those who breach bail conditions. Unfortunately, in this case, those sanctions were not implemented, and this of course was a very serious failing.

The Garda Síochána Ombudsman Commission has spent six years investigating the allegations made in respect of this case. Its very thorough first investigation focused on potential criminal offences. I am sure everyone who makes a contribution to and listens to this debate has taken the care to read the report carefully. In its first report, GSOC did not identify any criminal offence by any Garda but identified a number of matters which require further investigation. That investigation has now commenced. I expect a further report in early course when GSOC completes its investigation into disciplinary matters. That report may lead to the Garda Commissioner instituting disciplinary proceedings. I will come back to this matter in a moment but I wish to point out yet again that GSOC is an independent statutory agency with an important role across the State. My officials are working with GSOC to advance a business case for additional staff for consideration by the Department of Public Expenditure and Reform. I am also looking at ways to strengthen GSOC's powers. In this context, I wish to align any action I take with the forthcoming report of the Commission on the Future of Policing in Ireland to ensure a coherent criminal justice architecture is very much in place. I am committed to ensuring that GSOC has the resources it needs to carry out its functions efficiently and effectively. I know that Members of the House had a concern that the GSOC investigation was taking a long time. This is understandable. However, it is important to pause and reflect on the complexity of the investigation undertaken, involving in excess of 50 separate allegations which involved multiple people. We are all aware of the importance of due process and the seriousness of a finding

of criminal wrongdoing, so we can understand the care taken by GSOC to ensure it carried out a thorough criminal investigation and could stand over each and every one of its findings.

It is very regrettable that some Members opposite have chosen to criticise GSOC and its report. In fact, it would not be going too far to say that some Members sought to castigate GSOC for its deliberations on this issue. I remind the leader of Sinn Féin that on 31 May, in the course of statements in this House on the GSOC report, she said that there are statements in the report that, as she put it “are simply erroneous”. She went on to state that the absence of a summation on each complaint was “inexplicable and disgraceful”. In saying that, the Deputy herself was erroneous since the list of all 56 complaints made by the family of Shane O’Farrell are set out in an appendix to the report. She accused GSOC of “playing for time” and “playing games”. I find those remarks to be completely unacceptable about a body led by a highly-respected High Court judge, Ms Justice Mary Ellen Ring, which is carrying out a very important, and at times, difficult job. If that was not bad enough, her colleague, Deputy Ó Laoghaire, described the report as a farce.

Other Members also jumped on the bandwagon. Deputy Gino Kenny described the report as a “whitewash” while Deputy Mattie McGrath described GSOC as “useless, toothless and fruitless”.

**Deputy Mattie McGrath:** It took six years.

**Deputy Charles Flanagan:** A nice soundbite perhaps but completely inaccurate. Other Deputies cried that there had been a cover up. These are unacceptable remarks by elected Members of this House about GSOC -----

**Deputy Mattie McGrath:** Is it a sacred cow?

**Deputy Charles Flanagan:** ----- I would ask the Deputies to withdraw them. GSOC has a deserved reputation for calling it as it is, whether that involves criticism of the Garda Síochána, the Government or whoever, to suggest that it would participate in a cover up or a whitewash is deplorable and should be withdrawn.

Leaving that to one side, I will say that the failings identified by GSOC are very serious. The failings regarding follow up following breach of bail conditions is unacceptable and my Department will work closely with An Garda Síochána to ensure that appropriate systems are in place to bring such breaches to proper notice.

With regard to some, more general findings by GSOC related to victims and court proceedings, my Department is examining these with a view to improvement in these areas.

I will return briefly to the ongoing GSOC investigation. The matters which will now be investigated by GSOC are an alleged failure to check tax and other matters related to the car and the owner of the car involved in the collision and an alleged failure to bring bail conditions to the attention of the court or to re-activate a suspended sentence when the person was charged with subsequent offences prior to the date of the incident in question. This investigation should be allowed to take its course without any outside interference. Any person who is subject to investigation by an independent body is entitled to an assurance that such independence is in no way compromised. Indeed, a complainant is also entitled to the assurance that GSOC’s investigation is untainted.

On the motion itself, the most obvious thing to say is that it fails to set out any detail of what a commission of investigation would examine. Would it, for instance, examine each and every complaint made by the family of Shane O'Farrell, even though these have already been examined by GSOC and its findings on them are set out in its report? Would it examine matters after the road traffic incident? What would be the implications for the disciplinary investigation being carried out by GSOC? What would be the implications for the future of GSOC itself?

I am open minded about the prospect of a further inquiry in this case, but as Minister, I want to proceed on the basis of evidence and due process. This House established GSOC, it commenced an investigation following complaints from the O'Farrell family and my predecessor did not, and neither do I, intend to undermine either its current investigation or its role in general. What I will commit to, as I have in the past, is that when GSOC has completed its work, I will consider the question of a further inquiry and I would be happy to consult with Deputies O'Callaghan and Ó Laoghaire and other members of the Opposition at that stage.

As I said, I accept GSOC's first report on criminal matters and I have confidence in GSOC's ability to carry out its investigations fully and comprehensively. Therefore, I must ask whether the Members opposite have the same confidence in GSOC. What signal does it send if Members pass the resolution tabled by Fianna Fáil? That would say that we do not have confidence in GSOC. Such a statement would undermine the integrity of GSOC and its processes in the eyes of the general public, this House and of An Garda Síochána.

Others might ask what is the point of the Oireachtas establishing independent bodies to carry out very important functions if parallel structures can be set up to second-guess their findings. GSOC has been the State's response to complaints against gardaí for over a decade. There has never been a challenge to its independence or impartiality.

It is primarily for these reasons that the Government has proposed an amendment to the motion. The net impact of the amended motion is that the Government will commit itself to consider what further action may be necessary when all other investigations are completed. I assure the House that if such further action can best be advanced by a commission of investigation, the Government will take steps to do that. As Deputies will be aware, the Commissions of Investigation Act requires that this House approves the order to set up such a commission so there will be further opportunity to debate the issues before a commission could be established.

Shane O'Farrell's mother, Ms Lucia O'Farrell, has been campaigning for some form of statutory inquiry into the circumstances of her son's death.

**An Leas-Cheann Comhairle:** Go raibh maith agat.

**Deputy Charles Flanagan:** The previous Taoiseach and Tánaiste, who met with the O'Farrell family in late 2016 stressed that they would examine whether any further action was warranted once the GSOC investigation was completed. While the criminal investigation has now concluded there is still an investigation under way that could result in a recommendation for disciplinary action against one or more members of An Garda Síochána.

I will conclude and thank the Leas-Cheann Comhairle for his indulgence, as these points are important. The commitment was previously given to the O'Farrell family that once the GSOC investigation is completed, the question as to whether there remain issues that require further investigation will be fully considered. I reiterate that commitment here to the House tonight. The Government's amendment to the motion is very clear that that commitment can be a com-

mitment, not just of the Government, but of the whole House.

I commend the amendment to the House.

**An Leas-Cheann Comhairle:** I thank the Minister. We now move to the Sinn Féin slot and to Deputy Ó Laoghaire.

**Deputy Donnchadh Ó Laoghaire:** I am glad to have the opportunity to address this issue. I thank Fianna Fáil for tabling this motion so that we can have this debate. Sinn Féin has also tabled an amendment which has several key differences and aims which I will return to.

I acknowledge and thank Lucia O'Farrell, her husband Jim and her daughters for being here. Shane would be very proud of them and their resilience.

**An Leas-Cheann Comhairle:** For clarity, the Deputy will not have to move his amendment until Thursday.

**Deputy Donnchadh Ó Laoghaire:** I commend their commitment, resolve and attention to detail, which is quite forensic, and that they have not allowed a significant injustice to be swept under the carpet.

Shane O'Farrell was failed by several justice agencies of the State. There was a failure to monitor bail, failure to object to bail, failure to convict, failure to deport, failure to arrest, failure to imprison and failure to protect. Zigimantas Gridziuska should not have been at liberty and there was a failure to protect Shane O'Farrell.

There are serious deficiencies with the GSOC report. I can assure the Minister that I will certainly not withdraw my remarks. I will not impugn the motivations of GSOC, nor did I in my remarks on previous occasions, but this is a bad piece of work. It took six years and it is a bad piece of work. I do not believe there is anything wrong with Deputies going through a report and identifying failures and asking the question of how, after six years, such a deficient piece of work came out. I am not going to go into motivations and GSOC has an important role to play, but the report is simply not good enough.

There are clear deficiencies. The underlying problem with the whole thing is that at every stage the word of An Garda Síochána is taken as a given. It is not a proper investigation. There is no testing, or pursuit. The word of the investigation is simply accepted and taken as a given. There are numerous examples of this. On two occasions, there were issues with Zigimantas Gridziuska being before the courts in the North. GSOC simply accepted the word of the gardaí that because it happened outside the jurisdiction they were unaware of it, despite there being documentary evidence that the PSNI informed An Garda Síochána of these events. GSOC does not address that at all. The GSOC report also simply accepts that while the car was stopped a number of hours before Mr. O'Farrell was killed, and despite the fact that the car was not properly insured, there was no basis for an arrest or for taking the car off the road because the divisional drug unit made the stop. That is simply accepted. The O'Farrell family disputes the account given by a garda in respect of the complaint involving Mr. Gridziuska's wife. Again the word of the garda is simply accepted and the issue is not pursued any further. There is also the fact that Mr. Gridziuska was not asked to take a drug or drink test on the basis that, as it was the morning after, it would have produced no evidence. This is despite the fact that Mr. Gridziuska has a heroin conviction and that substance stays in the system for a number of days. Again, the position of An Garda Síochána is simply accepted in that regard. The whole issue of

the manner of his departure from the country is also not dealt with adequately.

This is a bad piece of work but, even if it were not, this is the answer to the question the Minister asks, which is where does this leave us? It should not simply have been a matter for GSOC in the first instance. There are clearly failures which go beyond An Garda Síochána. Any objective reading of the facts would make that very clear. There are failures on the part of the Director of Public Prosecutions, DPP, and on the part of the Courts Service. These need to be examined and investigated. It is only right in order to pay tribute and to do justice to Shane O'Farrell, but it is also in the public interest. If there can be such a string of failures, not only the part of GSOC but on the part of these other organisations which are responsible for administering justice, there is a public interest in finding out why they occurred. That is the reason we have tabled this amendment. I will finish on this a Leas-Cheann Comhairle. I ask Fianna Fáil and other Opposition parties to consider the amendment. We believe that this should be a public inquiry and that all those agencies I have referenced and that are referenced in our amendment need to be part of it. I do not believe that it creates any difficulty or precedent or anything like that because the matter should not have been before GSOC in the first place. This is the model that should have existed. There should have been a public inquiry into the failures that occurred.

**Deputy Gerry Adams:** Cuirim fáilte roimh theaghlach Uí Fhearghail: Lucia agus Jim, tuismitheoirí Shane; agus a dheirfiúracha. The death of Shane O'Farrell was a devastating blow to the O'Farrell family but so too has been the incompetence and the catalogue of appalling decisions made by An Garda Síochána, the DPP, the justice system and all of the agencies of the State that have been involved in this case. Like other citizens who have had to suffer an injustice, Mr. O'Farrell's family have had to take on the entire State. Let me ask the Minister a very straight question. If it was not for the work of Mr. O'Farrell's mother, there would be no discussion here tonight and there would have been no proper scrutiny of what had occurred. This family and this young man have been very badly let down by the very systems that are supposed to protect citizens. Sinn Féin believes that a public inquiry is best placed to get all of the facts. I also appeal to Fianna Fáil to accept our amendment.

I want to focus on one particular area with the Minister, as I have previously done with the Taoiseach. That area is the role and responsibility of the DPP in this and in other cases. The constant refrain of the Government is that the DPP is independent and that it has sole responsibility to decide when and if charges are brought in any given case. However, the DPP's role in the Shane O'Farrell case raises significant concerns about its incompetence. In addition, we know that in the case of Crevan Mackin, who shot and killed Garda Tony Golden, that a decision was taken by the DPP not to charge him with offences to which he had admitted, including the possession of weapons and explosives. One of these weapons was almost certainly responsible for the murder of Garda Golden and the grievous wounding of Siobhán Phillips. There are also the serious questions arising from the DPP's decision to prosecute people over the incident at Jobstown involving the former Tánaiste, Deputy Joan Burton.

There should be an oversight body, a criminal justice inspectorate, that can hold the DPP to account for the inexplicable decisions it takes. In November 2016 the then Taoiseach, Deputy Enda Kenny, met the O'Farrell family and told them that he would ask the Attorney General to "request the Law Reform Commission President Mr Justice John Quirke to examine how we can reform the law to provide enhanced public understanding for significant decisions made whilst fully preserving the independence of the Director of Public Prosecutions." Nothing more has been heard of this proposal. I have also written to the Minister on this matter but, so far, I



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have not received a reply, although I have learned that prompt and clear replies from the Minister are extremely rare. Can the Minister clarify the status of the former Taoiseach's request to the Law Reform Commission? Was the request ever made? Has the president of the Law Reform Commission ever agreed to undertake this work? The Government has a responsibility to ensure that the DPP is accountable for its decisions. It has a responsibility to ensure this happens. In the meantime the Minister should establish the public inquiry the O'Farrell family deserves.

**Deputy Martin Kenny:** I also welcome the O'Farrell family to the Gallery. This issue is certainly very relevant not only to the particular case at hand, but to many other cases around the country which have involved similar situations. We are all aware of them. We are all aware of the role that GSOC has played in many cases in which people have made legitimate complaints about Garda inaction or inappropriate action. While the Minister's defence of GSOC has been very valiant on this occasion, to call it to account in no way suggests that we do not need a body in place to hold the Garda to account. Somehow or other we seem to be in a situation in which we find that all of these cases are in the same place. The system circles the wagons. In many cases which GSOC is called to investigate, the investigations are carried out by people who are seconded to GSOC by An Garda Síochána. The Courts Service, the DPP and all of these people exist in a world into which the public cannot look. They are in a very cosy little relationship and continue to support one another. That is certainly the view the general public has in regard to this case and many others.

That Shane O'Farrell lost his life at the hands of someone who very clearly should not have been at large strikes a chord with many people around the country who find themselves in very similar situations. In fact, I would suggest that there needs to be an inquiry into the relationship between people in the criminal fraternity and certain gardaí and into how they act and how they co-operate. Supposedly it is for the greater good but very often it causes great harm to the public and to people who happen to become collateral damage in that relationship. This is one of the most serious examples of that collateral damage.

The GSOC report has clearly been a failure. We can decide how and why that is the case, whether it is absence of resources, an absence of appropriate legislation to support GSOC or whatever, but the truth is that this report has been a failure. It took six years to produce a report which stands for nothing. That is the reality. The Minister needs to come to realise that. What we are very clearly suggesting here, and what has been suggested, is that we need to have a public inquiry. It should be out in the open so that everyone, the public at large, can see that the right thing is being done by this young man who lost his life so tragically and by so many others around the country who are losing confidence not just in An Garda Síochána, but in the system the Minister stands over. That system is in the dock. This is an opportunity to do something clear about that and to show the public that this Government is going to take responsibility for this issue. It needs to do that immediately. A clear public inquiry is required immediately.

**Deputy Caoimhghín Ó Caoláin:** The words we all employ here tonight will be of little comfort to Mr. O'Farrell's family. Unfortunately, as I have previously stated, he cannot be brought back. What is needed and what can make a difference and may provide some comfort to Mr. O'Farrell's mother, Lucia, his father, Jim, and the O'Farrell family is what most of us have already called for, that is, a full public inquiry. The circumstances of this case have been well covered in broadcast media, print media and other fora, including the Houses of the Oireachtas. There is nothing new to add. We are all very aware of the substantive issue. The individual who mowed down innocent Shane O'Farrell should not have been behind the wheel

of any car. He should not have been in a position to do what he did. The GSOC report has found that gardaí did not act criminally. I believe, however, it is fair and just for us to say and incumbent on all to recognise that there were very deep failings on the part of members of An Garda Síochána and our justice system. This man should have been in jail. A bail bond was in place. It was broken repeatedly by various criminal acts. The Garda had ample opportunity to apprehend and detain Mr. Gridziuska and it failed. It failed utterly.

The only instrument that will get to the bottom of why this happened and why it was allowed to happen is a full public inquiry. We, as a society, need to learn lessons from this horrible tragedy. No family should ever again have to go through what Shane's mother, Lucia, father, Jim, and sisters have been put through. The Garda needs to learn lessons. Systems need to be changed. Perhaps legislation itself needs to be changed. We all have a role to play.

I contend we cannot properly establish what changes need to be made, what systems need to change and what legislation may be required or required to be amended without getting to the bottom of what went so horribly wrong. We need to establish why Shane is not with his family today. The only way to establish the facts and the steps now to be taken is through the setting up of a full public inquiry. I do not use the word "implore" frequently in this Chamber or in committees but I implore the Minister to put an inquiry in place, not just for the sake of Lucia O'Farrell and the rest of the O'Farrell family but in order to prevent any other family going through what Shane O'Farrell's family has experienced.

**Deputy Sean Sherlock:** We have discussed this matter at length already. I do not want to repeat the points I made the last evening we discussed this issue except to say I believe the overwhelming majority of Members of this House wish to see a commission of investigation, a public inquiry or some mechanism that will allow for these matters to be investigated such that the memory of Shane O'Farrell can be honoured and that his family can seek to have justice done on foot of the failures and omissions that are so glaringly obvious. These failures and omissions have been well articulated in the GSOC report, notwithstanding the critiques of that report. It states it is absolutely necessary to ensure some sort of public intervention that seeks to consider everything inherent within this case and the litany of failures and to learn from them. The public demands it. The majority in this House demand it. I seek some assurances in the Minister's speech that the Government is moving towards that position.

The last night we were here, the Minister stated that while the criminal investigation is now concluded, there is still an investigation under way that could result in a recommendation for disciplinary action against one or more gardaí. He stated more or less the same thing tonight. I hope I am not reading too much into that. He said: "I assure the House that if such further action can best be advanced by a commission of investigation, the Government will take steps to do that." I hope there is some advance in the language the Minister uses in seeking to move towards a position to ensure the ultimate price Shane O'Farrell paid will not be for nothing and that we, the public, will have due process to ensure a full public hearing to make sure his family get justice.

I am not the only Member of the House in receipt of information from Mrs. O'Farrell. She outlines to us in some documentation she has furnished to us that there are some inherent contradictions between correspondence she has received from An Garda Síochána and other correspondence. For instance, a letter dated 25 June 2013, from an individual I will not name, implies the judge cancelled the application and did not estreat the bail. There appears to be a *prima facie* contradiction between what is in that correspondence and what is in the GSOC re-

port. I refer to the judge ordering the forfeiture of €500 on the date in question. This is a small but very significant example.

Nobody here is seeking to take GSOC down. We all want to believe in the work it does. It is a statutory body but it must also be subject to scrutiny. Some of us are more rhetorical than others in terms of how we proceed but we are fully entitled to question reports of this nature if we believe there are questions that need to be answered. We all fully believe at this stage that there has to be some public hearing, mechanism, public inquiry, or commission of investigation. I am hoping the Government will move towards that position but I still do not understand what test needs to be passed to arrive at that. Is it necessary that the investigations that are under way, which may result in disciplinary action against one or more gardaí, as mentioned by the Minister, be expedited before there is a public inquiry? I argue it is absolutely not. There may be wiser heads than mine thinking about that point, however. It could take a considerable time. I do not believe we have time on our side. One could still move towards a mechanism for some form of public inquiry. I feel it is necessary. The Minister might wish to address that point in his reply. What is the test that will ultimately satisfy the Government that a public inquiry is necessary?

I note the language the Minister uses: “I assure the House that if such further action can best be advanced by a commission of investigation, the Government will take steps to do that.” I hope that language becomes stronger as time passes. I hope that in response to this debate the Minister will outline to us why such a public inquiry cannot take place at this point. Why is he saying the investigation regarding disciplinary action needs to conclude?

The litany of failures is well articulated and has been articulated by GSOC itself. The family has been very reasonable in the face of absolutely insurmountable odds. I am not sure that the best of us could cope with them. The family has done a stellar job in maintaining its dignity throughout this. I hope it can get justice. I ask the Government to listen to what the majority of the Members of this House are saying regarding the need for some sort of public inquiry to do right by the young man in question and to do right by his memory.

As I said the last night, Shane O’Farrell was on his bike, the most honest means of travel. He was travelling by his own steam, going about his business. If we are to do right by our citizens, we owe it to Shane to do right by him on this matter.

**Deputy Gino Kenny:** I want to address what the Minister said earlier about withdrawing the remark about the GSOC report. I will not be withdrawing any remark. I will reiterate what I said earlier. It was a complete whitewash. I would like the Minister to withdraw his remark that I was jumping on some bandwagon because this report was a whitewash. It was an insult to the O’Farrell family. Shane would be still here now if it were not for the failings of the police and the State. Shane should be living his life but on the night of 2 August 2011, everything changed because this was an accident waiting to happen. There was a systemic failure on the part of the powers that are supposed to protect every citizen in this county - the police, the legal system and the State. They failed not only Shane but the O’Farrell family. What the O’Farrell family are looking for is very simple. They cannot bring Shane back but they can get justice and truth. That is the simple narrative of what the family is looking for today.

I watched the documentary last night on the terrible Grenfell Tower fire that claimed so many lives in London. The narrative of that documentary was that the fire was completely pre-

ventable and the relatives of those who died want justice. In terms of all the tragedies that happened in Britain and Ireland, the families and the public want justice. That is what the O'Farrell family are looking for today.

Many comments were made in this Chamber tonight and also in the debate ten days ago. Again, the family are asking for a public inquiry. The GSOC report was empty of anything substantial. It took six years to come up with that report. That is an insult to anybody's intelligence. It is an insult to the family that after six years, GSOC could not come up with something such as a criminal investigation against certain members of the police in Cavan and Monaghan. There is no doubt that Shane O'Farrell would be alive today if it were not for the litany of complete failures by the police force. On that matter and in Shane's memory, the family deserve truth, justice and a public inquiry. That should be the case not only for that family but for every citizen in this country. If the Minister does not provide for that, it will be a stain on his time here as Minister for Justice and Equality. I ask him to give the family a public inquiry.

**Deputy Bríd Smith:** I want to come back to what Deputy Gino Kenny said at the outset about the Minister's accusation that he and others jumped on some kind of a bandwagon and that the accusations of a whitewash etc. should be withdrawn. I was not here for his statement but I note he is asking Deputies McDonald, Ó Laoghaire, Gino Kenny, McGrath and other Deputies to withdraw their statements. It has been a peculiar day because the Taoiseach asked us earlier not to ask questions about inquiries that are taking a long time and with which Members in this House are not happy. The Minister is now criticising Deputies for making a criticism of a very important oversight body looking into the so-called guardians of the peace in this country.

It has not come out of the blue that people are critical of GSOC. He does not talk about himself but Deputy Gino Kenny was complaint No. 1 to GSOC when it opened. I queued with him outside the building on Abbey Street. His complaint was about the behaviour of gardaí in Bellanaboy when four of them picked him up and threw him over Bellanaboy bridge down a 30 ft drop. It was captured by an RTÉ cameraman. We gave GSOC the DVD. We still have it. We will probably put it out on social media again to show what we mean. Having waited a very long time, GSOC came back and said the gardaí have no case to answer.

At some point this State will have to examine seriously the record of GSOC and the numbers of cases where it has said that gardaí have no case to answer. I understand why the Minister, as Minister for Justice and Equality, tried to defend this report from GSOC and its reputation, but in doing so he should appreciate the concerns raised for legitimate reasons by other legitimately elected Deputies in this House. I ask him to withdraw his remarks about jumping on bandwagons and the behaviour of Deputies being inappropriate.

I want to return to an issue I spoke about when we last discussed this matter. It is about the way the catastrophic failures of gardaí from the same division were glossed over in the report from GSOC as if they did not really happen. The other aspect that needs to be investigated, and it is something the family and any sensible Member in the House wants examined, is that the Garda was not the only agency that failed in this case. It was also the Director of Public Prosecutions' office, the prosecution services and others. For example, every time the family asked why the investigation was taking so long, and many of us here represented them on the floor of the Dáil over recent years, they were told repeatedly that it was with GSOC. GSOC was also told that the independent review mechanism looked at the case and found there was no case to answer. The independent review mechanism did not look at the case because they said it was with GSOC so there was no need to look at it. There are quite a number of questions to

be answered in terms of all the agencies involved, and it is fair that the family is asking for that.

Our original amendment to the motion that we submitted this morning stated: “To insert the following after “orders made on persons previously convicted of offences”: any enquiry should extend into an investigation of how the case was prosecuted and the process to determine the case; any enquiry should extend to the courts, probation services and other agencies of the state. Errors and failings are spread across several agencies and cannot be dealt with satisfactorily by any established procedure that is designed to focus only on one agency, that is, the Garda Síochána; and any enquiry should be held in public to restore confidence in the Department of Justice and to ensure in the public interest they should be investigated thoroughly, comprehensively and transparently.” Interestingly, after much debate with the Bills Office, our amendment was ruled out of order and reduced to what can be seen on the supplementary Order Paper, which states:

To insert the following after “orders made on persons previously convicted of offences.”:

- ensure that any inquiry should extend to the information-sharing systems between the Gardaí, the Director of Public Prosecutions and the courts;
- ensure that any inquiry should extend to the information-sharing systems within the judicial system; and
- ensure that any inquiry should be held in public to restore [public] confidence.

It is clear the Department is taking a careful monitoring approach to make sure that no agency is insulted or compromised in this regard. We are not accusing the DPP or the prosecution services of any wrongdoing but we are asking that the processes by which they reached their conclusions and intervened in the case should be investigated. What were those processes? Why did they go wrong, and why are there such grave question marks over the entire prosecution case around the killer of Shane O’Farrell? That is the very least the family deserves and we would be doing justice to the State and the system of justice to investigate the processes thoroughly from beginning to end. If we fail to do that, it is a whitewash. It is being glossed over and ignored. I understand the sensitivities in terms of the reason the Minister should look to protect and endorse the systems around his Department, but sometimes people get it wrong, systems fail and they are inadequate. That could be a series of incidents that are coincidental. I doubt that but it warrants investigation and we owe that to the family.

Whatever the Opposition does with the various amendments, I hope we have a unified approach and that the very least we get out of this is an open public inquiry into the events that led to the killing of Shane O’Farrell.

**Deputy Catherine Connolly:** I welcome the Minister’s statement that he is open to an inquiry and to further steps being taken. I have a son who is celebrating his results from Trinity College today. I mentioned him on the previous occasion. He will not be too happy with me but he has a similar background to the young boy who died, so it is particularly painful.

I have taken the trouble to read the Garda Síochána Ombudsman Commission report in full. I am reluctantly here to criticise GSOC. I do not wish to, as we want the mechanisms to work. That is the reason they were set up. We do not wish to have independent inquiries or more commissions of investigation if we can avoid them. They should be a last resort, and the mechanisms were established to ensure they would be a last resort and that questions would

be answered. I have looked at some of the comments made by the chairperson of GSOC, Justice Mary Ellen Ring, for whom I have great respect and whom I knew in a former life. She has gone out on a limb repeatedly, with courage, to point out that GSOC needs more staff and many other resources. On the last occasion that she appeared before the Oireachtas committee she said only two of the 12 staff that were requested were provided, that GSOC would not be able to conduct its investigation into financial concerns regarding an EU funded programme in Templemore because of a lack of resources and that there were continuing problems in accessing documentation from the Garda due to a distrust in GSOC's work, a lack of guidance from management, pressure of work and so forth.

GSOC has sought more legal powers, including the power to investigate members of the Garda after they retire and the power to seek a deferral of retirements requested pending investigations. It said quite clearly it was time to cut the umbilical cord between GSOC and the Department of Justice and Equality and become fully independent. Given my limited amount of time, I will not go into all the other things Justice Mary Ellen Ring has said repeatedly in public fora, on the radio and television and in newspapers. Why a Government would leave a judge out on a limb like that, having to make public statements, beggars belief. More importantly, it seriously undermines my belief in the Government's commitment to giving resources to an independent body.

Tonight we are again looking at a report from GSOC. People have referred to six years. I have read the report in detail and it appears that the former Minister for Justice and Equality referred the matter on 29 April 2014, which is just over four years ago. Prior to that there were six complaints from the family. GSOC decided to examine all of them. Four years later neither the Minister nor this report has explained why it has taken over four years to come this far. Surely the most basic thing to instill confidence in Members would be to tell us why we discussed this report for the first time two weeks ago, over four years later. The report is dated 29 March 2017 and it is now June 2018. If it was ready from March last year why are we discussing it now? What reasons were given? Did GSOC come forward and tell the Minister it did not have enough staff and is stuck?

Looking at the report, GSOC has done us a service in one sense. It has looked at the various allegations, teased them out and upheld quite a number saying that they require further investigation. It said no further investigation was required with regard to others. However, why is it still examining it in June 2018? Why has it not been completed? Perhaps the Minister would clarify that. That is just basic information.

Deputy Sherlock referred to an inconsistency. It might seem minor but it makes me question the report, and I really do not wish to do that. Given my background I want to accept the report but I simply cannot do so having gone through it forensically. Deputy Sherlock referred to a letter from the Garda Síochána; I will not mention the name. There is a date on the letter. Importantly, it states that Judge McBride cancelled the application to forfeit the bail and did not estreat the bail. I refer the Minister to paragraph 38 in GSOC's report which states the opposite, that Judge Seán McBride ordered the forfeiture of €500 on 6 March. One completely contradicts the other. I do not know if there is an explanation for that, but when it is pointed out and we are given a letter that highlights it, it is difficult to have confidence in the report.

If GSOC had come forward and said that it is unacceptable that it has taken GSOC over four years to get this far and that it is now going to look further without giving a time limit or saying it will have it concluded at the end of the year, I would have some confidence in it. However, it

has not done that. The Minister has not referred to it either. Now I find I must support the call for a public inquiry even though I really do not wish to because we have had so many inquiries. However, we have been forced into this situation for the family. More importantly, the family has been forced into this situation. It has provided all of us with a detailed brief. I did not receive such a detailed brief in my former life. The brief outlines everything. The family already had much of the work done for GSOC and they have continued to do that.

A 22 year old boy lost his life. There was a string of convictions before and afterwards. At one stage afterwards the number of convictions was 53, 17 outside the jurisdiction, including in Lithuania and Northern Ireland. I do not wish to personalise it but if GSOC cannot perform we are in serious trouble as a society and a democracy. Most importantly, the Minister has a responsibility. Judge Mary Ellen Ring has repeatedly highlighted that GSOC needs to be more independent and to have more resources. That simply has not happened. More worryingly, it appears that the Department of Justice and Equality decided that GSOC's application for extra staff and resources was over the top and that its business case was too expansive and unnecessary. That is the reason I have read the report in detail. I find myself supporting a public inquiry when this should have been sorted out within a year. We should have received an interim report back then highlighting the problems and what was necessary. Justice must be seen to be done.

**Deputy Michael Fitzmaurice:** First, I welcome the debate. This has been an ongoing saga. Everybody has known about this for the last number of years. In fairness, it was before the Minister took office, but it must be dealt with and resolved. A mother has constantly sought justice and "Prime Time" has reported on it. What has happened in the last number of years is a travesty. A young person has lost his life and the system has failed his family. Unfortunately, the system could fail more families. It must be resolved.

Perhaps a public inquiry is the way forward, but in the public inquiries I have seen since I was young nobody seems to be accountable at the end of them. I hope it is the way forward. This family needs answers as to how a person has continually slipped through the system. It is as if the person knew everybody the way he was able to get off the hook. Then when one follows the line one sees people on the State's side getting promotion, despite an open eye on what has happened not only in that county but also in another county. The Minister is new in the job and I am not having a go at him. However, at the end of the day, as Minister for Justice and Equality, he needs to show leadership in this and I believe he will. This family needs justice. It is not alone for this family; it is to ensure this failure in the system does not happen again with someone losing their life and someone else basically getting off scot-free and leaving the country. There was a litany of failures involving warrants, fines, etc., in different regions, including Northern Ireland. While in fairness there is some good work between the police in the North and the police here, one wonders what linking up took place. This needs to be taken seriously.

I commend Deputy O'Callaghan. I have spoken to Deputy McGuinness about this. Shane O'Farrell's mother has spoken to many politicians. It took the "Prime Time" programme to kick it into gear to ensure it was brought to the floor of the Dáil once more so that finally the family can get justice. Not alone does the family need justice, but we need to fix the system. There is a duty on us, as legislators, to correct that system when it has failures in it.

**Deputy Mattie McGrath:** I cannot say I am happy to speak on this motion this evening because it involves the setting up of a statutory inquiry into the death of a young man who should be alive today. I welcome Lucia O'Farrell, her husband, Jim, and Shane's sisters to the House again. I compliment Lucia on her painstaking and forensic work. As the now Acting Cathao-

irleach, an Teachta Connolly, said a few minutes ago, she seldom got such a detailed brief in her previous incarnation. I salute Lucia's tenacity. No mother should have to do that. What she already had to go through was agonising enough.

I sympathise with the family of a woman in her 50s who was knocked down on the road and killed in my area yesterday. That is horrific enough, but it is made worse when, as in the case of the driver in the Shane O'Farrell case, there is such an inept investigation into a man with such a litany of previous convictions. It beggars belief that this should have happened. Shane went out for his cycle that evening when he came home from his studies. He had all his life ahead of him and then this happened. Shane O'Farrell should be alive. His death at just 23 years of age while cycling in County Monaghan in 2011 was completely avoidable. Before the recess we briefly covered the main facts of his death. Today we debate the need for an inquiry. I compliment Deputy O'Callaghan and his colleagues on tabling this motion.

It is vital that the family receive this inquiry given the entirely inadequate report that has been furnished to them following seven exhaustive years in which Lucia and her family have tried to obtain justice and accountability for Shane.

I was surprised at what the Minister said in an earlier debate. I know he was not in government at the time but he made ridiculous comments about the Garda Síochána Ombudsman Commission, GSOC, and the inquiry. We want to support GSOC, but as I said it is toothless, useless and fruitless. That is what it is proving to be for the O'Farrell family and for many others. I appeared before its forerunner, which was useless, toothless and fruitless. It is just scratching at the surface with no proper powers. It is fine setting it up and appointing a new member, as was done this evening. However, it needs to have the powers and it must have engagement.

When the chair of the Policing Authority, Ms Josephine Feehily, appeared before the Joint Committee on Justice and Equality she pleaded for more resources, more responsibility and more line management, and not to be answerable to two different bodies. We do not say that lightly. Some good people work in GSOC, but they need to be effective. Above all, the public needs to have confidence. I spoke about the poll that was carried out. People do not know about GSOC and do not have confidence in it. That is a serious deficit that the Minister needs to deal with.

The Minister pointed out that in 2014 the former Minister, Mr. Alan Shatter, referred the matter to GSOC, which in May 2014 referred the case to the independent review mechanism, IRM. It is all bodies with little action and no satisfaction. As I said the last day, this particular individual slaughtered Shane O'Farrell - it was not in an accident. He had so many previous convictions.

We talk about this every day of the week in our courts and the revolving doors and free legal aid. It is a monstrosity, a perversion of justice and a disgrace. We have an abysmal track record in this regard. Apparently no matter how many times it happens and how many tears are shed, we keep doing it to innocent families who deserve better. We must have these people made accountable and brought to justice. Despite the litany of court cases, the driver in the case of Shane O'Farrell was given bail. Having been pulled in, how could the sentence not have been carried out if he was caught again in the jurisdiction? The legacy of this case is unbelievable. It took Lucia O'Farrell to painstakingly pull all this together to try to get this House to act.



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We are being dragged kicking and screaming to act. We must act because we need to have confidence in An Garda Síochána and in GSOC. However, we must root out the people who did not do their job - those who stopped that carload of people who had so many convictions with no motor tax or car insurance, but let them travel on. People - young lads or whatever - regularly contact my office because they might not have a car taxed. One lad contacted me recently. His car was taxed but he did not have the tax disk up because he only got it that day. He was three miles from his home and his car was impounded. We have a law for ordinary people, but these mobsters - they are foreign nationals on our shore here and we like to welcome them - can carry out crime after crime in a cavalier fashion and probably get free legal aid time after time. Then somebody can be slaughtered on the road by the same person.

Our system is unable to engage with these cases. It is a downright disgrace. The system is toothless, useless and fruitless. I am not directing that remark to the Minister at a personal level. He is the Minister of the time. Somebody has to rectify the problem because it is just not acceptable. I support An Garda Síochána 100%, but I do not support cover-ups or denials of the truth. I do not support burying cases such as this. It is a human tragedy and there are many more of them as well. I will stick to this one tonight. I again salute the family and I hope this inquiry will not be long and drawn out.

I note the Minister has tabled an amendment to the motion, as have other parties. We cannot pussyfoot around on this. Justice must be done and must be seen to be done.

**Deputy Mary Butler:** I will share time with Deputy Brendan Smith.

Shane O'Farrell died following a fatal road traffic accident in County Monaghan in August 2011. Shane, who was 23 years old, was cycling on the N2 when he was hit by a driver who subsequently left the scene. Shane O'Farrell's death was a tragedy. As a mother, I cannot even begin to imagine the effect that his loss has had and its catastrophic impact on his family, including his sisters. He was taken from his family at a time when he held so much promise for the life he might have lived.

Shane was cycling home when he was struck by a car driven by a person who had previous convictions for offences, including aggravated burglary, road traffic offences and handling stolen property. It was only in recent weeks, from speaking to colleagues, that I became aware of the details of Shane's case. I have a 25-year old son who spends a lot of time cycling. I felt it was very important to come in here tonight and show empathy with the family.

I was amazed when I started to read some of the information. Shane was killed in a hit and run by a man who had 53 previous convictions. At the time he killed Shane, Mr. Gridziuska was on bail in respect of a number of offences and had breached the conditions of the bail bonds. He had been given suspended sentences which should have been activated had the courts been informed of his convictions. In short, if the criminal justice system had been functioning properly, Mr. Gridziuska would not have been at liberty on the day he killed Mr. O'Farrell.

Shane's death is a personal tragedy for the O'Farrell family. It is also a tragedy because it has shown that many elements of our criminal justice system are dysfunctional. There is a systemic problem in the way breaches of bail and breaches of conditions attached to suspended sentences are dealt with.

The O'Farrell family has worked tirelessly in seeking justice for their only son and brother. The family is to be commended on the courageous and dignified manner in which they are pur-

suing justice for Shane. They have been unrelenting in their quest for justice, and in doing so, they are doing their utmost to honour Shane's life.

I was struck by the following remarks, which were made by Mrs. O'Farrell.

Our quest for justice for Shane has been hampered by the Department of Justice. They appear to have forgotten the very thing they are supposed to represent, they appear to have forgotten the very thing they are supposed to fight for: truth and justice. They appear to have forgotten the very people that they are there to serve.

The time has come for an inquiry into Shane's death so that his family can finally get the answers for which they have been striving for the past seven years. The Minister stated in the Dáil that there are a number of matters surrounding the circumstances of Shane's death which are of concern. For Shane, his parents and sisters deserve this inquiry.

**Deputy Brendan Smith:** Like all other members, I again convey my sincere sympathy to the O'Farrell family on the tragic loss of Shane. I do not have the words to describe adequately the immeasurable loss to the O'Farrell family of Shane's passing. He was a much loved son and brother. The local community in Carrickmacross holds the O'Farrell family in high esteem and Shane's untimely passing and tragic death is a source of great regret locally throughout the community.

The O'Farrell family has been failed by the State. This Fianna Fáil motion calls for the establishment of a commission of investigation into Shane's death. It is a basic right that justice be done and the appropriate public inquiry process is needed. The motion refers to the litany of convictions handed down to Zigimantas Gridziuska - 42 in courts North and South. It was an appalling failure of the justice system that this person was free and driving a car, causing Shane's death in a hit-and-run accident. This individual was known to An Garda Síochána, the PSNI and Interpol, and no wonder given he had more than 40 previous convictions for a variety of serious offences. It is appalling that such a convicted person was not in prison.

I did not have the opportunity to contribute to the statements on Shane's death in this House at the end of May as I was at that time chairing a meeting of the Oireachtas Joint Committee on Foreign Affairs and Trade, and Defence. I know from reading the transcript of that debate, however, that my colleagues covered in detail all of the issues that need to be investigated and the need for the establishment of a public inquiry mechanism in this regard. Along with 19 Oireachtas colleagues, I attended the press conference convened by the O'Farrell family on the day prior to those statements. I was glad to stand in solidarity with the family outside our Parliament buildings. At that press conference, Mrs. Lucia O'Farrell again outlined in great detail the dysfunctionality of so many elements of the criminal justice system that led to her son's tragic death. The dignity of the O'Farrell family shone through again at that press conference when Lucia outlined in forensic detail all of the circumstances leading up to Shane's untimely death and the cruel failures of the justice system. It has to be so difficult maintaining that fortitude and dignity over so many years in seeking justice.

Earlier, I listened to my colleague, Deputy Breathnach, refer to our discussions on Shane's tragic death at the British-Irish Parliamentary Assembly. Some months ago, Deputies Breathnach, Carey and Fitzpatrick and I raised this issue, with particular reference to the sharing of information between the criminal justice systems North and South and the need for proper cross-Border policing strategies. These systems must be integrated if we are to avoid other

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tragedies in the future. We wrote to the Department of Justice and Equality and to the Permanent Secretary in the Department of Justice in Northern Ireland. We are always critical of the fact that there is no Executive functioning in Northern Ireland. While we received a reply from the Permanent Secretary in the Northern Ireland Department, to date we have not received a reply from the Department of Justice and Equality. Committee A of the British-Irish Parliamentary Assembly met last Sunday night in Sligo, at which time I again raised this issue and the clerk to the committee was directed to write again to the Department of Justice and Equality. As Members are aware, the assembly consists of Members of the Oireachtas, the House of Commons, the House of Lords and the devolved assemblies of Scotland, Northern Ireland and Wales. It was unanimously requested by the committee that the Department of Justice and Equality reply without further delay to the request put to it many months ago.

**Minister of State at the Department of Justice and Equality (Deputy David Stanton):** I thank all Members for their contributions. I convey my personal condolences to the family of Shane O'Farrell on their loss.

We are all of the view that there were serious failings and shortcomings in the period prior to which Shane O'Farrell lost his life. During a thorough and lengthy criminal investigation, GSOC examined each of the 56 allegations or concerns put to it.. The report on the criminal investigation, published in recent days, addresses each issue in turn. While it found no evidence of criminal behaviour by gardaí, it did identify a number of potential breaches of the Garda disciplinary code. GSOC is completing its report on the disciplinary issues identified in its examination of all the matters before it. It is important to allow GSOC, an independent statutory body established following the passage of a law in these Houses, to do its work. GSOC deserves our confidence. I remind Deputies that the outcome may require the Garda Commissioner to institute procedures that could result in disciplinary sanctions against one or more gardaí, which could be very serious for them. These gardaí deserve fair procedures and we should be mindful of this. Further, where disciplinary procedures are merited, they should be enforced and we should be careful not to undermine the Garda Commissioner's capacity to impose sanctions, where appropriate.

The family of Shane O'Farrell deserve answers. In the first GSOC report, most of the complaints made to it were answered. Some remain to be answered in the context of the ongoing GSOC investigation. I have no doubt that GSOC, in its usual thorough and meticulous fashion, will provide those answers before too long. I trust that every Deputy who contributed to the debate has carefully read GSOC's first report and the statement it issued at the time of publication. I share the view of the Minister, Deputy Flanagan, that GSOC does important work and deserves the confidence of this House.

GSOC has a difficult task to perform and it does this in a way which retains the confidence of gardaí and the public. The Minister outlined the shortcomings in the motion proposed by Fianna Fáil and the reasons the Government proposed an amendment to it, which I do not propose to repeat. The net point is that the Government wants the facts to be established in this tragic case. When GSOC has completed its work, the Government has committed to examining what further action may be necessary. As the Minister promised, if this requires a commission of investigation, the Government will move to set up such a commission. From the perspective of the family of Shane O'Farrell, this has been a long process thus far and it is, of course, very frustrating that it is not yet complete. I hope that when the second part of the GSOC investigation is complete, all their questions will have been answered. If this is not the case, as guaranteed in the Government's amendment to the motion, consideration will be given to what

further action may be necessary. As the Minister promised, if this requires a commission of investigation, the Government will move to set up such a commission.

I would like to respond to some of the points raised during the debate. It is incorrect to say that the independent review mechanism did not examine the complaints referred to it by the O'Farrell family. It did examine the complaints but it recommended that no further action by the Minister was necessary because GSOC was investigating those same complaints and it is the appropriate forum to carry out that investigation. There was a reference to March "2017" in the GSOC report but my officials have clarified with GSOC that this date was a typographical error and should have read "2018". I understand that this has been corrected in the report as published on the GSOC website.

The prudent and sensible thing to do is to await the outcome of the current investigation so that we can better determine whether there are still matters which require investigation. If a commission of investigation is considered necessary at that stage, which should not be too long, it will allow the Government, and ultimately, the Oireachtas to decide with greater clarity what the terms of reference should be. I commend the amendment to the House.

**Deputy Jackie Cahill:** I was in my office earlier listening to the Minister defending the indefensible and I was disappointed with the contributions of both Ministers to the debate tonight. The O'Farrell family are in the Gallery. No words of ours can console them in their loss but, as a Parliament, we should recognise that things were not done correctly and this needs to change.

Crimes committed by people out on bail and with multiple previous convictions is a serious issue within our justice system. In Shane's case, however, the outcome was to prove tragic, and indeed, fatal. Shane died following a road traffic accident in Monaghan in August 2011, in a hit and run by a man who had 42 previous convictions. At the time he killed Shane, he was on bail in respect of a number of offences. He had breached the conditions of his bail bonds and was serving suspended sentences which would have been activated had the courts been informed of his convictions. Had the criminal justice system been functioning properly he would not have been at liberty on the day he killed Shane.

The O'Farrell family have worked tirelessly seeking to get justice for their only son and brother. The State has failed them in the manner in which the death of Shane was investigated, the State has failed them in the manner in which the death of Shane was prosecuted and the State is continuing to fail them in the manner in which their complaints around investigation and prosecution have been handled by GSOC.

Shane's death is a personal tragedy for the O'Farrell family and it is also a tragedy in terms of the light it has shone on the dysfunctionality of many elements of our criminal justice system. The courts are over-reliant on the information being provided by An Garda Síochána and it is clear that the GSOC inquiry has been a total failure. We are six years into the process and the O'Farrells have no more answers than they had when the process started. The only thing that can be gleaned from the report is that the Government needs to step in and establish a commission of investigation so that we, as a nation, can learn from this awful tragedy. The O'Farrells have to be commended on the courageous and dignified manner in which they are pursuing justice for Shane.

The facts of the matter are clear. Mr. Gridziuska should not have been at liberty at the time he killed Shane and fled the scene, abandoning his car and hiding it. He had been released on

bail on numerous offences and had breached his bail bonds, yet he had not been brought before the courts for these breaches. There was a litany of offences in the eight months before he killed Shane. He was convicted of theft in Monaghan Circuit Court and his sentencing was adjourned, with the judge saying that if he was convicted of other theft or fraud offences he would be brought back before the court and jailed. Four months later, he was convicted of theft again but not brought back before the Monaghan court. Two days later, he was in Dundalk Circuit Court, then Carrickmacross District Court, and he was then convicted of theft in Newry but still he was not brought back before the Monaghan Circuit Court. In Monaghan District Court, he was convicted of having no tax disc, which adds irony to the story. The list goes on and on. No steps were taken by the gardaí to ensure this man was put behind bars.

An hour before Shane was killed, Mr. Gridziuska was pulled over by gardaí. The vehicle was being driven by an uninsured driver and did not have a valid NCT certificate. Rather than seize the car, the gardaí switched Mr. Gridziuska from being a passenger to being the driver. They failed to consider whether he had valid insurance and failed to use the opportunity to arrest him for his bail breaches. He was well known to An Garda Síochána, Interpol and the PSNI. He had an extensive criminal record, with more than 40 previous convictions for a variety of offences. The gardaí failed to check if he held valid insurance on the day Shane was killed and failed to charge Mr. Gridziuska with having no insurance. The gardaí failed to check in good time the validity of Mr. Gridziuska insurance following Shane's death and, as a result, the charge related to this issue became statute barred. The gardaí failed to object to bail when he was first charged with Shane's death, despite his history of breaching bail conditions. He failed to honour the bail conditions attaching to his bail for offences relating to the death of Shane but still the gardaí failed to do anything to revoke his bail and he continued to commit offences.

The O'Farrell family deserves to get proper answers and our motion today is trying to ensure that that happens.

**Deputy Jim O'Callaghan:** I thank all Members who contributed to this debate, which has been valuable. It is apparent that the majority of Members of Dáil Éireann believe there should be a statutory investigation into the circumstances surrounding the death of Shane O'Farrell. As I make my contribution and as I listen to other Members make valuable contributions, at the forefront of my mind is the family of Shane O'Farrell. One thing I want to be very clear about is that I do not want to provide the family with false hope in respect of what an investigation can or cannot provide. Unfortunately, no investigation is going to provide justice in the way we view justice, whereby the person responsible for the death of Shane is held to account before our courts. That is not going to happen in this situation for reasons we already know. Notwithstanding that, the family is entitled to be given their own level of justice in terms of accountability and they are entitled to be informed by the State why it was that this individual was not brought back before Monaghan Circuit Court, it having been directed that he should be brought back when he committed other theft offences or breached his bail bond.

Very many people come to me looking for me, and Fianna Fáil, to support investigations and inquiries. In most instances, I say "No" if I do not believe there is any justification or any benefit in having such an inquiry. In this instance, I believe there is a benefit in having an inquiry. This is not simply because I think the GSOC report has left questions that need to be answered, but because the circumstances of this case go beyond issues in respect of members of An Garda Síochána.

I listened very carefully to the Minister's speech this evening. He presented this debate as though it was between those who believe in GSOC and those who do not believe in GSOC but that is not the debate we are having. Many Members of this House, including myself, support the work of GSOC and want to see GSOC succeed. In an earlier debate this evening, I said there were concerns that confidence in GSOC within the Houses of the Oireachtas is being eroded. It is being eroded to a large extent by an absence of resources available to the organisation and for other reasons. However, simply because GSOC has done a report does not mean it is incompatible to ask that there be a further investigation. The Minister has all but admitted this by stating that, when the GSOC report is completed, he will give consideration to whether or not there should be a commission of investigation. By stating that, the Minister expressly recognises that one can have a GSOC report but it may be necessary to take a step further and have another statutory inquiry. Looking at the workload of GSOC and the limited powers it has, one can see that it is a very different animal from a commission of investigation and that is why we believe there should be an inquiry as we suggest in our motion.

The GSOC report has taken six years and has not yet been completed and that is primarily a problem with resourcing. Is the family and the public supposed to wait for another number of years before the rest of the report is completed? In the end, this is not simply about trying to blame people. The circumstances of Mr. Shane O'Farrell's death are too tragic for that. As I keep stating, however, the family is entitled to some accountability, although the justice deserved will never be achieved in respect of Mr. O'Farrell's death.

Comments have been made on whether it should be a public inquiry or a commission of investigation. Irrespective of that divergence of opinion, it is important that the Minister gets the message that the majority of Members of Dáil Éireann support there being an investigation. The circumstances of this case and the manner of the issues that need to be investigated would benefit from a commission of investigation. I ask the Minister to give consideration to that.

I welcome the contributions of everyone here. I ask the Minister to keep an open mind on this and not to view it simply as protecting GSOC. There are many important issues that need to be investigated and I ask the Minister to recognise that it not just about appeasing and trying to facilitate a family. It is also about the public interest. That is why we are here. The public interest requires that there be a further investigation of this matter.

Amendment put.

**Acting Chairman (Deputy Catherine Connolly):** De réir Bhuan-Ordaithe 70(2), cuirfear an vótáil siar go dtí an Déardaoin seo chugainn.

The Dáil adjourned at 9.52 p.m. until 10.30 a.m. on Wednesday, 13 June 2018.