

DÁIL ÉIREANN

AN COISTE UM CHUNTAIS PHOIBLÍ

COMMITTEE OF PUBLIC ACCOUNTS

Déardaoín, 18 Aibreán 2013

Thursday, 18 April 2013

The Committee met at 10 a.m.

MEMBERS PRESENT:

Deputy Paul J. Connaughton,	Deputy Mary Lou McDonald,
Deputy Paschal Donohoe,	Deputy Eoghan Murphy,
Deputy Robert Dowds,	Deputy Kieran O'Donnell,
Deputy Sean Fleming,	Deputy Shane Ross.
Deputy Simon Harris,	

DEPUTY JOHN MCGUINNESS IN THE CHAIR.

Mr. Seamus McCarthy (*An tArd Reachtaire Cuntas agus Ciste*) called and examined.

Business of Committee

Chairman: The first item on our agenda is the minutes of our meeting on 27 March 2013. Are these minutes agreed to? Agreed.

Item No. 2 is matters arising. Our last meeting was with the director of the Local Government Audit Service who gave an outline of the work of his office. A common thread appeared in our examination of bodies that receive Exchequer funding which is not subsequently audited by the Comptroller and Auditor General. That common thread relates to the need for greater accountability for this funding, whether it is given to the CIE for school transport, a voluntary hospital or to local authorities for the provision of specific services. It may be appropriate that we draw up a short report on these issues and report to the Dáil with recommendations. I ask the clerk to examine the issue with a view to drawing up an outline of a report that the committee can work on. Is that agreed? Agreed.

No. 3 is correspondence from Accounting Officers received since our meeting on 21 March 2013. Correspondence dated 22 March 2013 from Mr. Robert Watt, Secretary General of the Department of Public Expenditure and Reform, providing information requested at the meeting of 7 March 2013. This is to be noted and published.

No. 3A.2 is correspondence dated 28 March 2013 from Ms Niamh O'Donoghue, Secretary General, Department of Social Protection, providing information requested at the meeting of 14 March 2013. This is to be noted and published. There is one issue where data have not been supplied that relates to the number of people in receipt of a welfare payment who do not attend for interview as part of the work activation process. The committee will examine the issue of labour market activation measures when it examines Chapter 17 of the Comptroller and Auditor General's report with the Department of Education and Skills. We will also bring in FÁS to discuss the issue and it may be appropriate if the Department of Social Protection was already represented at the meeting.

No. 3A.3 is correspondence dated 8 April 2013 from Mr. John Moran, Secretary General, Department of Finance, regarding the provision of information requested at the meeting of 21 February 2013. This is to be noted and published. The correspondence relates to the level of cash retained in bank accounts by public bodies. We will follow up on the issue with the Accounting Office at the Department of Public Expenditure and Reform. The matter was specifically raised by Deputy Harris.

No. 3A.4 is correspondence dated 12 April 2013 from Mr. Brian Purcell, Secretary General, Department of Justice and Equality, regarding the provision of information requested at the meeting of 21 March 2013. This is to be noted and published.

Deputy Eoghan Murphy: It was after we had that meeting, or that information was requested, that we received a chunk of very detailed information and I wish to acknowledge that his reply was gold standard. When we talk about receiving correspondence from people who appear in front of the committee it is that standard that we seek.

Chairman: No. 3A.5 is correspondence dated 15 April 2013 from Mr. John Moran, Sec-

retary General, Department of Finance regarding the provision of information requested at the meeting of 21 February 2013. This is to be noted and published.

No. 3A.6 is correspondence dated 12 April 2013 from Mr. John Moran, Secretary General, Department of Finance regarding the provision of information requested at the meeting of 7 March 2013. This is to be noted and published. As we are drafting a report on the work of the Committee of Public Accounts on bank stabilisation that we hope to publish in May, the information contained in the correspondence will feed into the report. I ask the clerk to go back to the Department in respect of the redacted information that was supplied to the previous Committee of Public Accounts on the guarantee as this is directly relevant to bank stabilisation. It is important that we return to Mr. Moran on the basis that we have requested that the documents provided to the last committee meeting that was heavily redacted and request same to be provided to us with perhaps less redaction because we want the information which may not be as commercially, or otherwise sensitive, now as it was then. The information would be relevant for the report that we are concluding and it is important that it is provided to us.

We also asked Mr. Moran on the day if there was a note taken of those who attended meetings over the period in the Department. He was asked to check that out. I ask again that we remind Mr. Moran of the need to provide the information because it is helpful to the report that we are currently undertaking and will provide to the Dáil in May or June.

Deputy Sean Fleming: I ask the Chairman to clarify to which report he is referring.

Chairman: We agreed to carry out a report to complete the circle, as it were, on bank stabilisation. It is part of the Comptroller and Auditor General's report to us. We are simply finalising all of the details on that matter and concluding the report that I think was started by the previous Committee of Public Accounts. The report will bring all of that information full circle and to a conclusion.

Deputy Sean Fleming: Thank you.

Chairman: No. 3B refers to individual correspondence. No. 3B.1 is correspondence dated 19 March 2013 from Mr. Pat Brady, Dunboyne, County Meath regarding the apprentice programme allocation and is to be noted. Mr. Brady raised an issue about the further use of equipment installed in Institute of Technology Blanchardstown at a high cost and we should ask the Department of Education and Skills for a note on the matter.

No. 3B.2 is correspondence dated 20 March 2013 from Mr. William Treacy, Ballybrophy, County Laois regarding previous correspondence with the committee regarding welfare of horses and is to be noted. Mr. Treacy has engaged in considerable correspondence. He has supplied documentation that he received under FOI that shows how the Department handled the issue. The issues he raises, including the welfare of his horses who were with a trainer, are issues over which the Department of Agriculture, Food and the Marine states it does not have a remit. As the issues have not formed part of a Comptroller and Auditor General report to the committee so the matters raised are outside its remit.

Deputy Sean Fleming: I think that we referred the correspondence to the Garda for investigation because there was an allegation of fraud in previous correspondence.

Chairman: We did.

Deputy Sean Fleming: Did we do that?

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Chairman: Yes.

Deputy Sean Fleming: Can the committee do anything further, given that the matter is with the Garda?

Chairman: It was referred to the Garda but they have not responded to the information or the request that we made.

Deputy Sean Fleming: Would they normally come back to us about it?

Chairman: They may not want to. It is a matter for the Garda.

Deputy Sean Fleming: It is a matter for the Garda now that we have passed on the file. Did the committee receive correspondence from the Garda on the matter?

Chairman: No. It is matter for the Garda. We just passed on further information.

Deputy Sean Fleming: I thank the Chairman.

Chairman: No. 3B.3 is correspondence dated 9 April 2013 from Mr. Edward Stevenson, Lusk, County Dublin regarding accounting for the cost and effectiveness of the Hepatitis C Compensation Tribunal. This is to be noted and a more detailed breakdown on legal costs to be sought from the Department of Health in respect of each of the years from 2010 to 2012.

No. 3B.4 is correspondence dated 9 April 2013 from Mr. Sean ÓFoghlú, Secretary General, Department of Education and Skills regarding the provision of a note on issues previously raised by Mr. Bev Cotton regarding Macroom Youthreach Centre. This is to be noted and a copy forwarded to Mr. Cotton.

No. 3C refers to documents relating to the committee meeting 21 March 2013. No. 3C.1 is correspondence dated 11 April 2013 from Mr. Michael O'Keeffe, chief executive, Broadcasting Authority of Ireland re briefing paper on matters to be considered at the meeting of 18 April 2013. This is to be noted and published. No. 3C.2 is correspondence received 16 April 2013 from the Department of Communications, Energy and Natural Resources regarding a briefing paper on matters to be considered at the meeting of 18 April 2013. This is to be noted and published. No. 3C.3 is correspondence received 16 April 2013 from the Department of Communications, Energy and Natural Resources regarding an opening statement, to be noted and published. No. 3C.4 is correspondence received 16 April 2013 from the Broadcasting Authority of Ireland re an opening statement and is to be noted and published.

No. 4 refers to reports, statements and accounts received since the meeting of 21 March 2013. No. 4.1 is the Institutions Redress Board, 4.2 is the Children Acts Advisory Board, and 4.3 is the Broadcasting Authority of Ireland. Do members wish to raise any issues?

Deputy Kieran O'Donnell: Once again we have received accounts nearly 14 months after the end of the year. In terms of the Children Acts Advisory Board it was almost 18 months afterwards. Can the Comptroller and Auditor General indicate why these reports take so long to reach us?

Mr. Seamus McCarthy: All of these were certified in 2012 at various dates. When we complete the audit the certificate goes back to the body concerned, they submit it to their parent Department and then the Minister has responsibility for presenting it. In general, there is no strict statutory limit and sometimes the requirement to submit it may be overlooked. That is

probably what happened with the Broadcasting Authority of Ireland.

Deputy Sean Fleming: This is the fourth time it has happened in the past few months. The week before the Broadcasting Authority of Ireland comes in to meet us, at the end of April 2013, we receive the 2011 accounts. The 2012 financial year has long since passed and the accounts have been prepared. The accounts may not have been signed off by the auditor and the audit may not have been commenced or completed. I find this most unhelpful to the committee. It has happened previously that one hour after visitors left the meeting, they published their accounts for the 12 months prior to the year we were discussing. I refer to the idea of an organisation lodging accounts with the Oireachtas immediately before appearing before the committee, when the accounts are 16 months old. We need to see the accounts for 2012, even if they are not audited. They should have been presented to us in draft form so we can have a meaningful discussion. We are continually given the runaround by State agencies and this is the fourth time I have raised this exact point. It is clear that the financial year has come and gone since the accounts were lodged in the Oireachtas but we do not have the accounts. What is the point in discussing something such as this? The accounts cover a period between 28 and 16 months ago. We are discussing information that is 28 months old, from January 2011.

We should deal with it as part of the work programme. Organisations have a vested interest in not providing us with up-to-date information. Perhaps it is carelessness or the way the public service works to give people information that is 28 months old. As part of our work programme, when inviting any State agency to appear before the committee, we should know the last accounts available to us, whether the subsequent year-end has been completed and where the accounts are for that year, even in draft format. Normally, accounts produced by large reputable organisations produced or prepared for audit should be very close to the final figures at the end of the audit. We should log this in our programme from now on. We are chasing history at this stage.

Deputy Kieran O'Donnell: The Broadcasting Authority of Ireland accounts of 2011 had a clean audit opinion. When were the accounts signed off?

Mr. Seamus McCarthy: On 29 June 2012.

Deputy Kieran O'Donnell: Does the Broadcasting Authority of Ireland then go to the Department of Communications, Energy and Natural Resources.?

Mr. Seamus McCarthy: We give the certificate to the Broadcasting Authority of Ireland. I do not know offhand when the Broadcasting Authority of Ireland gave it to the Minister and when the Minister sent it on. There are two parties to it.

Deputy Kieran O'Donnell: Are the accounts received from the Department or from the Broadcasting Authority of Ireland?

Mr. Seamus McCarthy: The Minister, or the Department, lodges the accounts in the Oireachtas Library.

Deputy Kieran O'Donnell: The route involves the Comptroller and Auditor General conducting an audit, signing off and sending a certificate to the body itself and the body sends the accounts to the Department, before the Department, or the Minister, lays the accounts before the Oireachtas.

Mr. Seamus McCarthy: Yes, but sometimes there is a bit of a gap. We generally sign off

on a Word document version of the financial statement, which is then typeset with the annual report.

Deputy Kieran O'Donnell: When does the Comptroller and Auditor General receive the draft accounts for audit?

Mr. Seamus McCarthy: The end of March and earlier for some entities.

Deputy Kieran O'Donnell: Is the Comptroller and Auditor General conducting the audit of the Broadcasting Authority of Ireland accounts for 2012 as we speak?

Mr. Seamus McCarthy: Yes.

Chairman: Bearing in mind the question raised by Deputy Sean Fleming at this meeting and at previous meetings, we should write to the Department of Public Expenditure and Reform to ensure the type of information we seek can be provided in a timely fashion prior to meetings. As we schedule meetings with various Accounting Officers, the clerk should take note of what we say so that the information sought is available to us at an earlier date.

Mr. Seamus McCarthy: There was correspondence a couple of weeks ago where a journalist suggested financial statements be published by the Oireachtas. They are in the Library but no one has access to them unless they are put on the Oireachtas website. The Clerk of the Dáil was to talk to the Oireachtas Library about doing so. The point made by the journalist was that the accounts are there but they cannot be accessed. Perhaps it is possible to build a listing of who has submitted and who has not.

Chairman: That is a matter that came up in correspondence with the *Irish Examiner*. We agreed it is a good idea and that it should be undertaken.

Clerk to the Committee: They are going to do it.

Deputy Sean Fleming: There is nothing preventing the Broadcasting Authority of Ireland putting its annual report on its website and creating a link to its accounts. I have been at meetings where annual reports have been completed but the organisation in question has not placed the reports on the website for journalists and the public to see. They have been hidden.

Mr. Seamus McCarthy: All of the larger bodies we audit publish their financial statements.

Deputy Sean Fleming: Eventually.

Mr. Seamus McCarthy: Yes, eventually. Where they are published with an annual report, the financial statements tend to be promoted and made available on the website. Certainly, there are gaps as not everyone is doing it.

Deputy Shane Ross: What are the penalties for companies so consistently late?

Mr. Seamus McCarthy: There are no penalties.

Deputy Shane Ross: Are there no penalties?

Mr. Seamus McCarthy: No. Generally, we are not talking about companies.

Deputy Shane Ross: Semi-State bodies are sometimes the worst offenders.

Mr. Seamus McCarthy: I cannot comment on the commercial semi-State bodies but for

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statutory bodies there are no penalties for late presentation or publication of reports.

Deputy Shane Ross: Is there no incentive for them to deliver on time?

Mr. Seamus McCarthy: No, other than an expectation or perhaps if the body is appearing before the Committee of Public Accounts. It may then check all the detail and ensure the accounts are presented.

Deputy Kieran O'Donnell: In terms of carrying out an audit, is the timeframe under which audits are to be conducted set down in law? The Broadcasting Authority of Ireland generally has its audit signed off by the end of June. Is that set down in legislation? Statutory accounts must be audited and filed with the companies office within a certain period of time? Is there anything similar in law in this case? The Broadcasting Authority of Ireland accounts could be left run until the year. Is there a requirement that they must be audited by a certain time?

Mr. Seamus McCarthy: There is an expectation under the code of practice for the governance of State bodies that they be done within six months. Generally, we have a peak of certification at that stage. In legislation, there may be a date specified by which the body should provide us with a set of financial statements but there is no date by which we must complete the statements. We cannot complete everything at the same time. We certainly prioritise the bigger State bodies.

Deputy Kieran O'Donnell: Is it a code of conduct as distinct from a legislative basis?

Mr. Seamus McCarthy: Yes, exactly.

Deputy Paschal Donohoe: I refer to a related point on correspondence. The Chairman touched on this earlier but I missed the opportunity to comment on it. I refer to correspondence item No. 3A.2 from the Department of Social Protection. Question No. 4 follows from an issue I raised about providing more up-to-date information regarding the number of people in receipt of social welfare payments who turned up when they were asked to turn up. At the meeting, we discussed this and the Department suggested between 70% and 80% of those who had been asked to turn up to an interview did so. This was a gigantic improvement on previous figures. The change that happened is that there was more sanction introduced because people would lose a portion of payments if they did not turn up. I asked for more up-to-date information on that because my recollection is that the figures it gave us were for last summer when the scheme was introduced and it has not supplied that information to us yet and it is after Easter. I would appreciate if we could contact it to reiterate the need for that to be supplied to us because it is now April and we should have more up-to-date information on how that is working.

Chairman: We will return to that issue anyway but we will write to it.

Deputy Paschal Donohoe: Thank you.

Chairman: No. 5 is the work programme. Our meeting next week will be with the HSE to deal with the 2011 accounts. We raised a number of issues in our recent report and we will seek updates on these as well as on the broad range of expenditure by the HSE.

The following week we will examine departmental oversight of the Dublin Docklands Development Authority DDDA. The new chairman of that authority, Mr. John Tierney, has been in contact with the clerk and he will attend the meeting. Mr. Tierney has only recently taken over the chair of this body and his input into the central issue of the acquisition of the Irish Glass

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Bottle site will be very limited, but we may use the meeting so that he may bring the committee up to date on the current financial position of the DDDA and the plans in place to wind up this body.

The DDDA has supplied the committee with some papers arising from its limited examination of the executive of the DDDA and I have asked the clerk to circulate a note with these so that members are familiar with the agreed approach being taken to the examination of the Comptroller and Auditor General's report on the DDDA. The DDDA correspondence will be circulated to committee members tomorrow and it might be helpful if we met in private session at the start of our meeting next week to discuss the resumed examination of the report of the Comptroller and Auditor General on the DDDA.

Deputy Eoghan Murphy: Is there anything impeding a proper discussion of the matter when the DDDA appears before us?

Chairman: The reason I asked the clerk to prepare a note on this and to deal with it in the context of the work programme is that on the last day Ms Lambkin of the DDDA was with us, she gave certain information and she was a key figure during the period of time all of this operated. She is no longer available and has taken up employment elsewhere. We are now resuming that inquiry with the new chairman of the DDDA, Mr. John Tierney. It depends on what members want to do in regard to this but I can see that Mr. Tierney will have no information on the past, bar maybe minutes if he has read them. It is really up to members to decide who should appear before us and how we should proceed with this.

Deputy Eoghan Murphy: I thought we were not allowed to proceed with this because of ongoing legal matters.

Chairman: They are over.

Deputy Eoghan Murphy: Does that mean the Minister has lifted his-----

Chairman: All of that was dealt with.

Deputy Eoghan Murphy: Has the Minister lifted his order that we cannot discuss this or how does it work?

Chairman: Once the court dealt with it, the committee could resume its work. We are not waiting on anyone to lift an order to deal with it. What we will be short of is information because the witness who will appear before us, Mr. Tierney, is a new chairman. The question is how members want to proceed and what other witnesses they might want to invite.

Deputy Paschal Donohoe: Will representatives from the Department of the Environment, Community and Local Government be at the meeting? My recollection is that the main area on which we wanted to move forward was to understand the governance relationships between the Department and the DDDA at the time. We could not do that because of what subsequently happened. Even if Mr. Tierney is not in a position to comment, will representatives of the Department, who were involved in the oversight of the DDDA at the time all of this happened, attend?

Chairman: I asked the clerk the same question yesterday. We should emphasise this by asking the clerk to go back to the Department and to say we require those witnesses to attend in order to continue our investigation into the oversight by the Department of the DDDA.

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Deputy Paschal Donohoe: That is the crucial area for me because my understanding is that Mr. Tierney is leaving Dublin City Council quite soon. I do not know if he will play a further role in regard to chairing the DDDA.

Clerk to the Committee: I think he will.

Deputy Paschal Donohoe: Okay.

Chairman: In the same week he is to appear before us, he is taking up his position as CEO of Irish Water.

Deputy Paschal Donohoe: Will he play a future role in the DDDA?

Clerk to the Committee: As far as I am aware, he will.

Deputy Paschal Donohoe: The most important thing for me at that meeting will be that people from the Department, who can answer questions on the oversight mechanisms in place at that time, appear. I recollect that at the last meeting we put questions on the operation of the board at that time. Representatives of the Department were involved in those meetings, or were involved in what happened after the meetings in order for action to be taken and money to be spent. We must be able to question them directly on what happened.

Chairman: Taking that as a position, the witnesses who will be required to attend will be asked to do so.

Deputy Simon Harris: I agree with Deputy Donohoe but we must bear in mind that the last time the DDDA appeared before the committee, it was somewhat farcical because it felt constrained in regard to the questions it could answer because of ongoing legal action. Now the DDDA will be back in but some of the key people who we want to answer questions have left it. We will have new people in who will answer every question beginning with: "I was not there at time, I have been told this or I have read these notes". This is yet another example of people being involved in major economic and financial decisions which blew up in the taxpayer's face walking off to other employment and never having to face public scrutiny. Can we seek some people who were involved to appear before us, even if they are no longer in the employment of the DDDA? I am sure Mr. Tierney will co-operate but having somebody appear before us who will tell us he was not around at the time will not get to the bottom of the issues to which we want answers.

Chairman: Mr. Tierney will come in but I take it members are insisting a Department representative comes in and that the person who served on the board comes in, that is, to deal with the oversight of the DDDA. Arising from that meeting next week, it may be decided by members that others who are not now involved in the DDDA should come before us. If that is the case, members can name them and invite them to a further meeting. I presume our meeting next week will not deal with all of the issues and that we will have a further meeting on the matter.

Deputy Robert Dowds: Is there an obligation on those who are no longer directly involved to come before the committee if requested or does it depend entirely on their goodwill?

Chairman: I think it would be hard for them to ignore an initial request from the Committee of Public Accounts. It would depend then on what role we see them having played or how significant their contribution to the hearing might be as to what we might do to get them to attend.

Deputy Robert Dowds: It is not an absolute that they must attend.

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Chairman: Not the first time, or not when one initially requests them to attend. One can decide thereafter what one needs to do in terms of compellability.

Deputy Robert Dowds: Is there compellability if we require it?

Clerk to the Committee: Let us not go to there until one absolutely has to. The first thing one does is-----

Deputy Robert Dowds: I appreciate people may willingly come in.

Clerk to the Committee: We may be in that territory.

Deputy Robert Dowds: It could arise if people want to avoid answering questions.

Clerk to the Committee: Absolutely.

Chairman: If it does arise, there is that way to deal with it.

Clerk to the Committee: The other issue in terms of what we had agreed last year is that we would invite Professor Brennan, who took over as chairman of the DDDA after the acquisition of the Irish Glass Bottle site had been completed. She took over as chairman and gave some evidence to the committee of the changes she had made. We are in correspondence with Professor Brennan in that regard.

Deputy Paschal Donohoe: Has she agreed to come in?

Clerk to the Committee: She has discussed it with me. I think she wants to be sure about what she is coming in to discuss. I am working on a note which I will give to members so that they can agree next week on what areas she should be required to come in to discuss.

Deputy Paschal Donohoe: On receipt of the information that the Chairman will be supplying to us tomorrow, will we have a further meeting on this issue next week, prior to the public session, to agree how we move it forward?

Clerk to the Committee: Yes.

Deputy Paschal Donohoe: We are all agreed that the meeting on 2 May will not be the end of the matter. We will be getting the Department of Environment, Community and Local Government's insight into what happened in that period and we will do our best to progress it with the new management that is now in place. After that, we will determine what the next steps should be.

Clerk to the Committee: Yes.

Deputy Kieran O'Donnell: Have the legal proceedings relating to this particular case concluded?

Chairman: Yes.

Deputy Kieran O'Donnell: What would be the normal procedure in terms of how far in advance the committee would send a request to witnesses to appear before it? For instance, for the meeting on 2 May, have the requests been issued already?

Clerk to the Committee: Yes; the request went out to the Accounting Officer of the Department and to the Department of Public Expenditure and Reform. They were put on notice

after-----

Deputy Kieran O'Donnell: Has the current chairman of the Dublin Docklands Development Authority been invited?

Clerk to the Committee: Yes; Mr. John Tierney has been in touch with us and confirmed that he will attend the meeting.

Deputy Kieran O'Donnell: There is acceptance of the need to appear before this committee. Is that right?

Clerk to the Committee: Yes. There are no issues in that regard.

Deputy Kieran O'Donnell: I am only posing the question in order to ascertain what witnesses that will be there, as currently confirmed. The Clerk is awaiting a response from Professor Brennan; is that correct?

Clerk to the Committee: Yes, but the parameters and so forth should be discussed by the committee at next week's private meeting.

Deputy Kieran O'Donnell: That is fine. Thank you.

Chairman: Is that agreed? Agreed.

Deputy Sean Fleming: On the work programme, the HSE is listed to appear before the committee next week and the exact same issue arises that was discussed some minutes ago, namely, the fact that we will be discussing the 2011 financial statements. Has the Comptroller and Auditor General commenced the audit of the 2012 financial statements?

Mr. Seamus McCarthy: Yes; that is well under way.

Deputy Sean Fleming: Here we go again. I have just raised this issue as it pertains to today's meeting and it also pertains to next week's meeting, where the HSE will be discussing its accounts for a period that is between 16 and 28 months ago.

Chairman: We do not generally confine ourselves to the-----

Deputy Sean Fleming: I know that, but lots of organisations have come before this committee voluntarily, including NAMA and the NTMA, and given us an opening statement on the current, up-to-date position on their accounts. As a result, discussions about those accounts tend to be a bit more current and relevant. Some organisations choose to be helpful while others just stick to the accounts that are listed, which are between 16 and 28 months old. From the perspective of our work programme, we will have to do something about changing the protocols or procedures of this committee so that when an organisation is coming in to discuss its 2011 accounts in 2013, it is put on notice that it will be required to discuss account information that is more current.

Chairman: I agree, Deputy Fleming, and we have put the accounting officers on notice that we will not confine ourselves to the accounts listed - in this case, those of 2011. We have informed them that we will also be dealing with accounts for 2012 and into 2013.

Deputy Sean Fleming: That is good.

Chairman: The other issue concerning the HSE is that it was reported that there was an is-

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sue concerning its internal accounts, about which a report was prepared. As I understand it, we have asked for copies of that internal report to assist us with our work and hopefully it will also be available to us at the meeting next week.

Deputy Simon Harris: Can we ask the HSE to have responses ready to the findings of our own report, rather than telling us that it will come back with further information at a later date? I ask that the executive be ready to respond to questions arising from our public report.

Chairman: I will put it on notice, in writing, after today's meeting. I will also forward a transcript of today's meeting to the HSE so that it clearly understands the feelings of the members of the committee. Is that agreed? Agreed.

We will now move on to item No. 6 on our agenda, which is any other business. While I do not want to delay these proceedings any further, I wish to respond to articles published recently in one of the daily newspapers and, in the interests of protecting the independence of the Committee of Public Accounts and of transparency and accountability, to deal with the issues raised therein in a non-political way. There is a political content to the reports, which I will deal with outside of this forum. I wish to deal now with the facts relating to the freedom of information request referred to in the articles. I am sure members have all seen the six articles in question.

I wish to say that I was a Minister of State in the Department in question at the time. When the first report was released to the newspapers, it concerned me greatly and was news to me in terms of the figures. My only comment at the time and up to now was that it was, at that time, not a matter for me and that I was not aware of the figures. The construction of the office went on and the office was provided.

I wrote on 4 April to the Comptroller and Auditor General asking him to investigate the matter. He duly responded and I will ask Mr. McCarthy to deal with that response later. In order to deal with the other aspects of the issue which were reported, I wrote to the Standards in Public Office Commission on 4 April and asked that it investigate the matter to determine whether any regulation was breached. I have received a reply from the commission to the effect that it does not have a role in this matter. I received a reply from the Comptroller and Auditor General and he can explain that reply himself. I wrote to him as a Member of the House rather than as Chairman of this committee. The general content of the reply was that the accounts, dating back to 2007, were signed off and he did not see how he could investigate this matter fully.

If any other body or agency had spent that kind of money on an office for a Minister - a Department or the Comptroller and Auditor General - I am sure I would be the first one to say we need to inquire into that. Notwithstanding the fact that the Standards in Public Office Commission and the Comptroller and Auditor General do not see a role for themselves in investigating the matter, I believe this committee must request all the details and paperwork relating to the decisions, costs and any other relevant information concerning that undertaking from the two Departments. The Department of Enterprise, Trade and Employment, as it was then, does not own the building in question. It is owned, on behalf of the State, by the Office of Public Works, which at that time was under the aegis of the Department of Finance. It was the Department of Finance, through the OPW, that actually agreed the costings and spent the money. It is only right that we ask both Departments for all and every single piece of information they have on this matter. When that information is properly compiled, it should be made available to the members of this committee, along with the response given to the newspaper on foot of the freedom of information request. I have a copy of that response and can make it available to the committee if it is not readily available elsewhere. Then the members of this committee

can decide what they wish to do. They can ask both Secretaries General to appear before the committee to discuss the details of that project. I believe members would want to be armed with all information relevant to this matter, including the information on the decision makers from each Department. That is what I would ask for if it was any other matter I read about or that came before us.

Deputy Kieran O'Donnell: Could we ask the Comptroller and Auditor General to comment on the matter? A figure of €250,000 is of concern to the PAC; this is our work. Could the Comptroller and Auditor General comment on the 2007 accounts and the procedures he would go through in looking at this matter? The Chairman has spoken about the available information so perhaps we could hear about the approach the Comptroller and Auditor General would take.

Mr. Seamus McCarthy: As the Chairman said, he wrote to me on 4 April and requested that I consider investigating the expenditure to determine if all guidelines relative to procurement and value for money were observed on that specific expenditure. My understanding is that the expenditure in question was charged mainly to the 2007 appropriation accounts for the Office of Public Works and some for the Vote for the Department of Enterprise, Trade and Employment. Those audits were completed in 2008 and subsequently disposed of by the committee. The option of reopening and audit that has already been closed is not available to me.

Compliance with procurement guidelines and good procurement practice, including if there was competitive tendering and the achievement of good value, are matters that are routinely tested on a sample basis in the course of audit. The sort of risks suggested by the expenditure in 2007, in terms of whether there was extravagance or perhaps non-compliance with procurement, would be routinely tested by us but on a sample basis. I cannot therefore give assurances now about every procurement event in 2007; that is not possible for specific procurement. Generally, however, in the findings for 2007 there were no particular concerns.

One option available to me is to carry out a value for money examination but given the materiality of the expenditure in this case and the lapse of time since then, I do not think it would be the best use of resources available to me. All I can really say is that I do not see anything here that would warrant me carrying out a value for money examination. That was how I responded to the Chairman.

The Chairman wrote to me not as Chairman of the Public Accounts Committee, and I responded to him in what would otherwise have been confidential correspondence from my office. I would not discuss this with anyone else other than that the Chairman has raised it.

Chairman: I want to make it clear that I do not want to politicise this, this must be kept separate from the political cut and thrust of the argument around it. It is something I would not draw the Comptroller and Auditor General into but I feel, having examined the figures for the first time under that FOI request, that the information as outlined by me should be requested from both Departments.

Deputy Kieran O'Donnell: In terms of the work of the PAC, wearing its non-political hat, is it possible that the information that is forthcoming could be examined by the Comptroller and Auditor General in the normal way? That would allow this to be looked at outside of the political process. The normal examination would have taken place on a random basis. This is one item that has arisen and it must be addressed in the interests of the PAC. We would address any item of expenditure at that level in the normal way and this is no different. Could that be looked at in that way?

Mr. Seamus McCarthy: The difficulty is for me to approach a Department or the OPW to ask for information on a specific expenditure.

Deputy Kieran O'Donnell: If the information was provided to the Comptroller and Auditor General, could he do it in the normal way?

Mr. Seamus McCarthy: There is a question about me doing any further investigation. I would have to do that within the powers available to me. Also, I can only report on a matter and opine on the value for money achieved or whether procurement was adhered to if I do it on the basis of having done some formal work. I have looked at the information about this in the public domain and I do not want to be drawn into giving an opinion on it. If there are risks identified related to this, or an indication of non-compliance with procurement guidelines, I would want to look at that as it currently applies in the OPW or the Department, rather than looking at what happened historically. I do not see any great value in using resources to carry out a formal examination and I do not want to stray into reporting in other guises or giving a layman's opinion. If I give an opinion on expenditure, I want to give it as Comptroller and Auditor General, based on work I would have carried out.

Deputy Simon Harris: The process the Chairman has outlined sounds thorough and satisfactory. He is quite right to deal with this in this manner because it is an issue of public concern. The sum of money, €250,000, is the cost of a house for many people who are looking to buy one today, and the Chairman has been honest enough to admit that he would be the first to be hopping mad if people came before the committee in similar situations, be they university presidents ordering flowers or anything else we have seen here. It is essential we apply the same guidelines and level of scrutiny to this issue as we would to another issue.

There is, however, a broader issue. Is this an isolated incident? What was the cost of a ministerial office back in that period? Was it only the Chairman's office that cost €250,000? Was this an average cost? There is work that must be done on the protocols in place for ministerial offices. I will reserve my judgment until I review the correspondence, because I have only seen the media reports but those reports clearly suggest the Minister must sign off or approve the expenditure and we must establish the protocol there. Does a Minister actually sign off line by line and should he do so? What is the protocol now?

This is also relative, it must be compared to other ministerial offices at the time. This committee has scrutinised political expenses and public sector allowances and there is a body of work that should be done on ministerial offices on a broader level. When the Comptroller and Auditor General talks about things like value for money, it can only be established by making comparisons with similar situations. We should see if it is possible to establish the protocols and the process for other ministerial offices. Also, is it just that someone has submitted a freedom of information request about the Chairman of the Public Accounts Committee? If the FOI had been about a different Minister of State at that time in that Government, would there have been a similar level of expense? We do not know the answer to that question now but the process outlined sounds satisfactory and those are the two questions we should encompass in that process.

Deputy Robert Dowds: The Chairman is wise to raise this himself because it brings it out into the open. I agree with Deputy Harris.

Deputy Eoghan Murphy: Would this detail have come up in 2007 in the Committee of Public Accounts at the time?

Mr. Seamus McCarthy: For this specific procurement?

Deputy Eoghan Murphy: That level of detail of expenditure in a Department. If we were sitting as the PAC in 2007 going through the accounts, would it have been obvious to us that such an amount was being spent on that sort of work?

Mr. Seamus McCarthy: If people were looking at the OPW accounts, I do not think they would see the detail down to that level. They would probably see a line in one of the notes about the level of expenditure on works for Departments, but it would be for the whole Department rather than drilling down a level.

Deputy Eoghan Murphy: Would it be for the whole Department or for all Departments?

Mr. Seamus McCarthy: It would be set out on the basis of Department by Department.

Deputy Eoghan Murphy: Would it detail what was spent in that particular line?

Mr. Seamus McCarthy: Generally not, but I think the nature of the works would probably be an indication. For instance, on the OPW Vote there would be a line relating to expenditure for the Garda Síochána which would typically be renovation, decoration, maintenance of Garda stations and so on.

Deputy Eoghan Murphy: The committee would discover that through questioning the line in the accounts, a member would then be able to get the level of detail. It would be up to the members-----

Mr. Seamus McCarthy: One can pursue a line of questioning with the Accounting Officer for the Office of Public Works in relation to what was purchased or procured for that line of expenditure. Deputy Harris raised some very good points and are examples of the systemic issue that an individual procurement will point to. If I were to do a piece of work I would have to look at the issue in a broader way because things can go with an individual procurement but it may not be indicative of a systemic problem. When I see a systemic problem or if I believe there are grounds, if I see a repeated pattern, as the Deputy states, back in 2007 there was an expectation that a standard of a particular level would apply for Ministers or Minister of State. We certainly question routinely and look for evidence of extravagance. Difficulties arise in cases of decoration or style. The Deputy mentioned flowers and in those cases it is difficult to call it and say that value has been achieved. There may be subjective views as to what style is appropriate and delivers value for money.

Deputy Eoghan Murphy: That level of detail would only stand out if the expenditure was abnormal and then the Comptroller and Auditor General would bring it to the attention of members. Is that the case?

Mr. Seamus McCarthy: Yes. Sometimes if we find there has been extravagance or waste on a small scale, we will ask the Department to disclose it. In cases where there is a complete loss of value for money, in cases of nugatory expenditure, in cases where money was spent but no value was achieved, or expenditure on credit cards or hospitality being out of the norm, we will ask a client body to disclose it in the financial statements. If it is quite significant and a systemic problem is identified, we will draw it to their attention that they are in breach of procurement guidelines or in breach of value for money expectations. We would suggest to them that they might discuss it in their statement of internal financial control but also outlining there has been a problem and the steps they have taken to address it. If there has been a loss of money,

as was the case in the building for the Probation Service in Wolfe Tone Street, we will present a report on cases from which lessons can be learned and lessons that have a wider application than the client organisation.

Deputy Paul J. Connaughton: I wish to develop a point that Deputy Harris raised. If there was a need to do something that had wider repercussions, is Mr. McCarthy saying this can be looked at only from today's guidelines on procurement?

Mr. Seamus McCarthy: No. If there was a situation that had persisted for a particular length of time, let us say for instance that we are talking about a capital project, the initial spend was in 2010 and when we look at the case again in 2011, we have concerns, we can then look back at the history of the project. We would do that and as a matter of routine we would report on the overall evolution of a project. A comparable example might be the look back at the Dublin waste treatment facility, in which one is looking back at the full history of the project to see what actually happened, what happened at the point of specification and so on.

Deputy Paul J. Connaughton: On that basis, one would have to look at what happened across all Departments in the years from 2005 to 2009 to get a full picture of this issue.

Mr. Seamus McCarthy: If I thought it was warranted, but I must be practical about the matter. One does not look back if there is nothing to be learned. One might look at a programme and say there has been expenditure of a similar nature on a housing programme or a grant scheme and one would look back over two or three years to see how money was spent. One might test. Normally the sample testing would be done on a current basis in a situation like that. One would not look for a sample going back to 2006-2007, unless there was a very particular reason for doing it.

Deputy Paschal Donohoe: I wish to acknowledge the way the Chairman raised this issue. The members of the Committee of Public Accounts only ever reach conclusions on matters when we have the facts in front of us and have the evidence. It behoves us not to do so until we see these things ourselves and see the documents in relation to it. With that in mind, I think it is important that the points the Chairman has identified and the action steps he has suggested happen in a timely manner. Could he indicate when he made that request and when he believed the information could be forthcoming? I want to support the point made by Deputy Harris as I think it is important to look at the issue in the context of relative spend at that time for other similar pieces of work so that we can gain an understanding of what was happening in relation to how these things were being addressed in the past and how this can be evaluated against it. The action steps that have been identified are appropriate but I want to see them done in a timely way.

Deputy Kieran O'Donnell: It is important that when the committee writes to individual Departments it shows it has a timeframe.

Was this reported in the Comptroller and Auditor General's report in 2007? If not, why not? What was the reason that expenditure of the level of €250,000 was not picked up and reported on at that time?

Mr. Seamus McCarthy: Most of the expenditure would have been borne on the Vote of the OPW. One is looking at hundreds of millions of euro being spent at that stage. If we did not pick it up in the sampling at that stage we could give no opinion on that specific line of expenditure, but if we tested a sample and found there was no systemic problem with it, that we could

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see compliance with procurement guidelines and with competitive tendering expectations and so on, then we would not have necessarily reported anything.

Deputy Kieran O'Donnell: What are the typical materiality levels set when the Office of the Comptroller and Auditor General conducts an audit in the OPW?

Mr. Seamus McCarthy: The normal materiality level would be 1% except in cases in which we see - - - -

Deputy Kieran O'Donnell: That is 1% of spending of a particular Department?

Mr. Seamus McCarthy: Yes, but I should say that we consider and report on a much lower threshold of materiality, a figure of €100,000 is normally taken as the point at which a reference would be made in the certificate or would trigger a report.

Deputy Kieran O'Donnell: Will Mr. McCarthy then explain - - - -

Mr. Seamus McCarthy: Materiality by its nature - - - - -

Deputy Kieran O'Donnell: The point I am trying to make refers to points made by all the other members, the procedures that are used in the audit of Departments. We had a combined item of expenditure and once again it is reported. I take Deputy Donohoe's point that it must be based on evidence but I think the Committee of Public Accounts needs to be seen to follow up on public spending. This case relates to spending in the order of €250,000 and yet from Mr. McCarthy's comments, I do not know whether he was not aware of or did not have an opportunity to look at the files to see if it came up in the deliberations of the Comptroller and Auditor General back in 2007.

Mr. Seamus McCarthy: No, we did not examine it in 2007. We did not examine this specific expenditure in 2007.

Deputy Kieran O'Donnell: It was not done.

Mr. Seamus McCarthy: No.

Deputy Kieran O'Donnell: It did not come to be reported.

Mr. Seamus McCarthy: No.

Deputy Kieran O'Donnell: I have been told that items of expenditure of €100,000 or more are looked at. This one was worth €250,000.

Mr. Seamus McCarthy: No. I think the materiality threshold is what one would report upon. If we were to look at every procurement of €100,000 or more, we would never get to report anything.

Deputy Kieran O'Donnell: Okay.

Mr. Seamus McCarthy: We simply cannot look at every expenditure.

Deputy Kieran O'Donnell: I suggest that we should set a time limit and provide that if the information has not been requested by that time, we will work with the Comptroller and Auditor General to find the best way of bringing clarity to the workings of this committee as it deals with this matter.

Deputy Robert Dowds: I would like to make a slightly more general point. I was the mayor of South Dublin County Council shortly before the Celtic tiger collapsed. When certain buildings were being constructed at that time, I was absolutely horrified with the actual expenditure involved. It would be useful if, as a result of this discussion, we could see a comparison between the amounts of money that were spent on projects such as the one under discussion and the equivalent amounts that would be spent nowadays. That would allow us to see whether we are getting better value for money now than we were then. My impression is that when public buildings were being constructed during that period, the costs went through the roof. It would be interesting to see the situation now, to learn about the extent to which have we improved the situation and to compare what the equivalent costs would be if these projects were being done by the private sector. I suspect that the charges seem to go up across the public sector. Maybe I am wrong in that regard. That is my suspicion.

Mr. Seamus McCarthy: I would like to make an observation in the context of other projects. The trend in construction costs over the span of the 2000s involved an enormous and rapid increase up to 2006 or 2007, followed by a complete collapse. I think there is a general awareness in society that this happened. One would expect every project, considering them on a like-for-like basis, to be procured now at a much better price than would have been the case in 2007. That would be one's expectation purely on the basis of the price indicators. If one were to carry out a piece of audit work based on the hypothesis that this is what one expects to find, one would seek accountability if one found a current project that is not cheaper, on a like-for-like basis, than a 2007 project. An Accounting Officer would have something to answer for, at a current date, in such circumstances.

Deputy Simon Harris: We will learn very little if we look in isolation at the situation that was reported about the Chairman in a newspaper. People can decide whether the sum of money was large and they can arrive at their own conclusions. It would be helpful if details of the cost of refurbishing and renovating the offices of Ministers and Ministers of State around the same period of time were made available to this committee in order that we could form educated views. We should not have to rely on national newspapers making freedom of information requests to get such details. The expenditure of the Chairman has been subjected to freedom of information requests because he happens to hold a high profile position at this forum. We should know what the position is with regard to similar officeholders at that time. I am calling for that to happen. I do not think it is helpful that the freedom of information system has to be used if such information is to be obtained. That process tends to go on and on for weeks. The information in question should be made available to the Committee of Public Accounts by the Accounting Officers of the various Departments. We should be able to look at the different circumstances and situations. That is how one gets the whole picture. If we do not approach the matter in that way, it will be very difficult for us to come to any sort of judgment or conclusion on this isolated case.

Mr. Seamus McCarthy: According to the committee's schedule, representatives of the Office of Public Works are scheduled to come in to discuss the office's appropriation account on 25 May next. When one looks at the appropriation account, one can see there has been expenditure on capital projects, etc. It would be appropriate in that context to ask systemic questions about how things are done.

Deputy Kieran O'Donnell: Is it the norm for any refurbishment to be paid for by the OPW, as distinct from the individual Department?

Mr. Seamus McCarthy: It is certainly the norm for certain buildings. In the case of a listed

building, for instance, the occupant would not be allowed to make any alterations. Decoration and routine maintenance, etc. would probably fall, or can fall, to an appropriation account of a Department. I suppose many Accounting Officers would seek to have the OPW pay for significant works or alterations to take such works off their own budgets.

Deputy Kieran O'Donnell: Okay.

Deputy Sean Fleming: Was the expenditure we are talking about incurred by the OPW, by and large?

Mr. Seamus McCarthy: Yes.

Deputy Sean Fleming: The OPW specified the job, tendered the job, checked the tenders, looked at value for money, oversaw the job, authorised payment and approved payment. That was all done in the OPW.

Mr. Seamus McCarthy: My understanding-----

Deputy Sean Fleming: The bill was then sent to the Department.

Mr. Seamus McCarthy: Yes, my understanding-----

Deputy Sean Fleming: Was the Department-----

Mr. Seamus McCarthy: No, actually, I think the bill was actually borne on the OPW Vote. The payment was actually made from the Vote of the OPW.

Deputy Sean Fleming: It was not recouped from the line Department at all.

Mr. Seamus McCarthy: It was not recouped.

Deputy Sean Fleming: So this is an OPW issue.

Mr. Seamus McCarthy: Yes, the making of this particular payment is generally regarded as being a circular transfer.

Deputy Sean Fleming: We have often seen the OPW not being paid by various Departments after doing work in those Departments. Is Mr. McCarthy saying that the amount would not even have been charged to the Department?

Mr. Seamus McCarthy: It would not have been. The cost of extensive works of this nature would not generally be charged to the Department. It would be more likely to be charged for minor maintenance works, such as the repair of light fittings, minor carpentry work, handyman work or some element of craft work. As I understand it, the specification would normally be done by the OPW. I would make a distinction in this regard. While the specification would normally be done by the OPW, as I understand it, there would be a listing of requirements.

Deputy Sean Fleming: Would that be done by the Department?

Mr. Seamus McCarthy: The Department would say that a certain number of people need to be accommodated.

Deputy Sean Fleming: Staff, Ministers and other people.

Mr. Seamus McCarthy: It would say that it needs certain sorts of facilities. Special wiring

might be needed for ICT equipment, or storage space might be required. That would normally be specified by the Department on behalf of which the work is being done. As I understand it, the detailed specification and design work would typically be done by the OPW.

Deputy Sean Fleming: I want to be helpful and make sure we understand. By and large, all of this work was done in the OPW. I am bringing us up to date so we understand. If a project like this was being done in any Government office or building today or next year, I assume the OPW would keep a file on it from the beginning to the end. The file would record where all the procedures went up and details of any arguments about payments and quality of delivery. A file should be kept in the OPW by the project manager.

Mr. Seamus McCarthy: I would expect that to be done. If we were selecting a particular project for examination, we would expect a file to be presented to us with all the relevant papers.

Deputy Sean Fleming: When the committee is wording its letter, it should seek the full file from the OPW specifically and also from the Department itself, which may have had a role in outlining its requirements.

Chairman: I want to clarify one or two things before we move on. We have witnesses to invite into the room. The building occupied by the Department of Jobs, Enterprise and Innovation is not owned by the Department. It is actually owned by the State and the OPW looks after it. My understanding is that it is a listed building. I wish to inform Deputy Harris that it was not my expenditure. The total expenditure came from the OPW. The OPW designed it, laid it out, specified it and did whatever else it did regarding this project. The OPW paid for it. The cost, with the exception of the cost of the furniture, was not recouped from the Department. There was a reimbursement from the Department to the OPW in relation to the furniture aspect of the project. At no stage - this is a political point - did I have an involvement in designing or asking for particular furniture or whatever. I understand there is a protocol or arrangement in place whereby a particular office is designed in a particular way. For example, an office for the use of a Secretary General, assistant secretary, junior Minister or senior Minister will be designed in a certain way. In this case, the Office of Public Works assumed responsibility for the expenditure on and design of the project. The request to both Departments should take into account the view expressed by members that the investigation should cover the period from 2007 to date and examine the protocols that are in place. The other points of interest raised by members should also be included in the request.

I may have omitted to state that I submitted a freedom of information request to the Office of Public Works seeking a copy of all the material Deputies have sought. I will submit a similar request to the Department, as I have nothing to hide in this matter, which I would like investigated. If the planned meeting with representatives of the Office of Public Works on 25 April does not suit the office in terms of producing the information the committee has requested, we will arrange a separate meeting to deal with the matter.

On the timeframe, I raise this matter today because I am also concerned. I would have stopped the works if I had known they would cost so much money. There is not a political animal in this House who would not have stalled at the cost of an office of that size. I was the first occupant of the office in question, which was subsequently occupied by two other Ministers of State, including the incumbent. It may be no harm for the Deputy to visit the office and ask where the €250,000 - the final cost was €290,000 - was spent.

To respond to Deputy Harris, if we are asking about Ministers and junior Ministers, we

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should also seek information on Secretaries General and assistant secretaries to ascertain

how we are all treated in respect of this matter. I will supply the plans that were provided under the freedom of information request I submitted. They were certainly different from the plans I saw in today's newspaper. Members need to have the facts.

From the point of view of a timeframe, I have asked for the investigation, and members support the thrust of this investigation and have added their voice to different aspects of it. I presume the committee will write to both Departments concerned today. Given that I wrote to the Office of Public Works on 9 April, I presume it is in the process of compiling the relevant information. There should not be any delay or kicking to touch of an examination of this issue.

Are members satisfied that we have concluded with this matter? As that appears to be the case, we will proceed to the agenda proper. On any other business, is the agenda for the meeting scheduled for 10 a.m. on Thursday, 25 April agreed? Agreed. We will meet the Health Service Executive to deal with Vote 40 - HSE annual financial statements 2011.

Deputy Shane Ross: I wish to raise one further matter under any other business. I am aware that the committee is restricted in terms of calling in representatives of the Central Bank. May we ask representatives of the Central Bank to come before us to discuss the specific issue of the value for money the bank provides to the taxpayer?

Mr. Seamus McCarthy: There would have to be a specific report on the issue.

Deputy Shane Ross: Would it have to be a report done by the Comptroller and Auditor General?

Mr. Seamus McCarthy: That is my understanding, yes.

Deputy Shane Ross: Why?

Mr. Seamus McCarthy: The reason is that the Central Bank is a listed entity in the second Schedule of the Comptroller and Auditor General (Amendment) Act of 1993. As a result, it is excluded generally from examination by the Committee of Public Accounts. There is, however, under the 1997 or 1998 Act, provision for me to carry out a value for money examination of the Central Bank's activities. Previously, the only time we did this was when we reported on the Financial Regulator. We have done a report on three occasions and the Financial Regulator of the day has appeared before the committee.

Deputy Shane Ross: Could we ask the Comptroller and Auditor General to do a specific value for money report on the Central Bank?

Mr. Seamus McCarthy: It is certainly something I would consider. We have shown that where we believed there was an issue to be looked at, we have gone and done that. There is provision for the committee to correspond with me and outline in correspondence issues of concern and so on. I can certainly consider that.

Deputy Shane Ross: What would Mr. McCarthy require for that purpose? Does he only need a direction from the committee? Could members ask the clerk to the committee to write a letter to the Comptroller and Auditor General asking for such a report to be done?

Chairman: Perhaps the clerk will liaise with Deputy Ross on the issue.

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Deputy Shane Ross: I will raise the issues I believe to be important and revert to the committee next week.

Deputy Kieran O'Donnell: What is the role of the Comptroller and Auditor General in respect of the Central Bank?

Mr. Seamus McCarthy: I am the auditor of the Central Bank.

Deputy Kieran O'Donnell: In terms of the audit of the Central Bank, one would expect that the committee would be able to request representatives of the Central Bank to come before us on specific aspects of the audit and a special investigation would not be necessary. Is it Mr. McCarthy's view that, notwithstanding the Comptroller and Auditor General's function of auditing the Central Bank, committees of the House may not engage formally with the Central Bank?

Mr. Seamus McCarthy: I can only speak in relation to the Committee of Public Accounts. I believe there is also a reporting line from the Central Bank to the Committee on Finance, Public Expenditure and Reform. In that context, I do not know whether that committee may raise issues.

Deputy Kieran O'Donnell: The law specifically precludes the committee from bringing representatives of the Central Bank before it-----

Mr. Seamus McCarthy: Before this committee.

Deputy Kieran O'Donnell: -----in any form unless the Comptroller and Auditor General carries out a special investigation?

Deputy Shane Ross: Could we not bring in representatives of the Central Bank on the basis of the Comptroller and General's audit report?

Clerk to the Committee: The Central Bank is excluded. The law specifically states-----

Deputy Sean Fleming: I ask the clerk to circulate to members a copy of the relevant Schedule. What other bodies are excluded?

Clerk to the Committee: They are mainly commercial State-sponsored bodies.

Deputy Sean Fleming: Could we have a note on which bodies are excluded? This is news to me.

Deputy Kieran O'Donnell: Does the committee have any capacity to bring in representatives of the Central Bank other than by means of a special report? Has this been examined legally?

Clerk to the Committee: We have obtained legal advice on the matter. I can write to members setting out the legal advice on the position in respect of the Central Bank. I do not have any difficulty doing that. The issue has arisen previously.

Deputy Eoghan Murphy: How old is the relevant legislation?

Mr. Seamus McCarthy: It is the Comptroller and Auditor General (Amendment) Act of 1993. I should point out, however, that when the Act was originally passed the Central Bank was not included in the second Schedule. It was placed on the Schedule by a statutory order the

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following year. I believe it was 1994 but I can get the specific reference.

Deputy Kieran O'Donnell: In that case, the Committee of Public Accounts was able to bring representatives of the Central Bank before it for one year.

Mr. Seamus McCarthy: Yes.

Deputy Kieran O'Donnell: One year?

Mr. Seamus McCarthy: Yes, one year on its accounts.

Deputy Kieran O'Donnell: An exclusion was subsequently introduced.

Mr. Seamus McCarthy: The exclusion lasted for four years until subsequent legislation, either the 1997 or 1998 Act, made provision for the Comptroller and Auditor General to carry out a value for money examination. My office carried out our first piece of work in relation to the Central Bank the following year, which specifically examined banking supervision.

Deputy Kieran O'Donnell: Were any changes made in the raft of legislation introduced in the years since 2008 in respect of the role of the Comptroller and Auditor General? The office is mentioned in many of the Finance Acts and other legislation introduced since 2008. I am trying to ascertain whether there is some provision that would allow the Committee of Public Accounts to request the Central Bank to come before it.

Mr. Seamus McCarthy: As the clerk to the committee noted, there is legal advice.

Deputy Kieran O'Donnell: How recent is the legal advice?

Clerk to the Committee: As far as I am aware, the legal advice was given to the previous committee. The law has not changed in the meantime.

Chairman: We will proceed with the request made by Deputy Ross, which I presume is supported by members. The Deputy will assist the clerk to the committee with the issues he wishes to raise. The Comptroller and Auditor General will then consider the request and if that is accepted, representatives of the Central Bank could then come before the committee. The proposal made by Deputy Ross is supported and we will deal with that business. I ask the clerk to write the letter as soon as possible.

2011 Annual Report of the Comptroller and Auditor General and Appropriation Accounts

Vote 30 - Communications, Energy and Natural Resources

Chapter 20: Broadcasting Fund

Broadcasting Fund Financial Statements 2011

Broadcasting Authority of Ireland Financial Statements 2011

Mr. Aidan Dunning (*Secretary General, Department of Communications, Energy and Natural Resources*) and **Mr. Michael O’Keeffe** (*Chief Executive, Broadcasting Authority of Ireland*) called and examined.

Chairman: Before we begin I apologise to the witnesses for the delay in starting this part of the meeting but there were matters that had to be dealt with by members. I remind members, witnesses and those in the Gallery to turn off their mobile telephones because they interfere with the quality of the transmission of the meeting.

I advise witnesses that they are protected by absolute privilege in respect of their evidence to the committee. If witnesses are directed by the committee to cease giving evidence on a particular matter and they continue to do so, they are entitled thereafter only to a qualified privilege in respect of their evidence. Witnesses are directed that only evidence connected with the subject matter of these proceedings is to be given and they are asked to respect the parliamentary practice to the effect that, where possible, they should not criticise or make charges against a Member of either House, a person outside the House nor an official by name or in such a way as to make him or her identifiable. I remind members of the provision within Standing Order 163 that the committee should also refrain from inquiring into the merits of a policies or policy of the Government or a Minister of the Government, or the merits or the objectives of such policies.

I welcome Mr. Aidan Dunning, Secretary General at the Department of Communications, Energy and Natural Resources and invite him to introduce his officials.

Mr. Aidan Dunning: I am accompanied by Mr. Martin Finucane, principal officer, Mr. Éanna Ó Conghaile, principal officer, Mr. Ciarán Ó hObáin, principal officer, Mr. Brian Carroll, principal officer, Ms Finola Rossi, principal officer, and Mr. Eamonn Confrey, assistant principal officer, from my own Department and Ms Stephanie O’Donnell, principal officer, from the Department of Public Expenditure and Reform.

Chairman: I invite Mr. Michael O’Keeffe, chief executive of the Broadcasting Authority of Ireland to introduce his colleagues.

Mr. Michael O’Keeffe: Good morning, Chairman. I am accompanied by Ms Celene Craig, deputy chief executive, Mr. Ciarán Kissane, senior manager with responsibility for the broadcast fund, and Ms Margaret Tumelty, senior manager with responsibility for corporate governance matters.

Chairman: I invite Mr. McCarthy, Comptroller and Auditor General, to introduce the accounts.

Mr. Seamus McCarthy: The Department of Communications, Energy and Natural Resources had gross expenditure of €446 million in 2011, down almost 11% on the previous year. More than half of the gross expenditure was on broadcasting related grants and functions, a total spend of €246 million. Almost a quarter of the spending was on energy related programmes. Expenditure on communications programmes in 2011 was €17 million. This included spending of just under €9 million on ICT programmes compared to an estimate provision of €29.6 million. The reduced spending was as a result of a later than anticipated roll-out of the schools broadband programme. Broadcasting licence fee receipts of €218 million account for the bulk

of the Vote's appropriations-in-aid.

The main application of the broadcasting licence fee receipts is in the form of grants-in-aid to RTE and TG4. Some 7% of the licence fee income is allocated to the broadcasting fund which is administered by the Broadcasting Authority of Ireland. The statutory financial statements for the fund are audited by me and the 2011 statements are for consideration by the committee today. I have also presented a report on a special audit of the administration and management of the broadcasting fund. The fund was established in 2003 to support the production of new television and radio programmes on certain subjects. These include programmes relating to Irish culture and heritage as well as programmes aimed at improving adult or media literacy or raising public awareness and understanding of global issues. There have been two successive multiannual grant schemes since the fund was established. These are known as the sound and vision schemes. Given that the grants are paid to commercial operators, European Commission approval for the schemes was required under state aid rules and grants must comply with the conditions set. The total income of the fund from its establishment up to the end of 2011 was just over €100 million. Of this, €86 million had been allocated to support the production of more than 1,200 programmes. Close to 90% of the funding was allocated to television programmes with approximately 10% allocated to radio productions. At an operational level, funding applications are assessed against specific specified scheme criteria. On completion of the assessment process, a schedule of recommendations is presented to the authority for formal ratification. The examination noted that over 60% of the 2011 applications for funding were rejected at the assessment stage. Given that processing of deficient applications is wasteful of resources, the report recommended that the Broadcasting Authority of Ireland identify the reasons for the high rate of rejections and engage with stakeholders to improve the quality of applications.

The report also recommends that a greater level of transparency be brought to the assessment process. In particular, assessment reports should clearly demonstrate the manner in which applications for funding satisfy or fail to meet the scheme criteria. The report makes a number of recommendations in relation to the management of grant funding agreements. These include actively seeking to recover funds where delivery schedules are not met or contract terms are not adhered to and considering past contractual performance when reviewing further applications for funding. We also recommended that the management of requests to draw down funding be done on a contractor basis rather than on an individual project basis. As an example, this could mean the withholding of payments on one project if applicants were not in compliance with agreement on earlier projects. The report also identified a need for the authority to ensure that all sources of State funding were taken into account when determining whether EU regulations on state aid were being complied with.

The examination found that funded programmes are not monitored by the Broadcasting Authority of Ireland to ensure they are broadcast. The report recommends that formal verification procedures be introduced, including the possible retention of final grant instalments until confirmation of broadcast has been received. The contracts for some programmes provide for recoupment of funding where the production generates profits. The Broadcasting Authority of Ireland was unable to definitively state the number of contracts which contained a recoupment clause and there has been no recoupment of funding to date from any profits generated by funded productions. Some grant-funded programmes also availed of tax-based financing and are, therefore, more likely to have profit potential. The report recommended that the authority should maintain a register of contracts with recoupment provisions and actively monitor the profitability of those projects.

Ultimately, the purpose of the grants scheme is to achieve the stated objectives. It is difficult to determine the fund's effectiveness because the authority did not set targets in relation to those objectives. The report recommends that the Broadcasting Authority of Ireland consider setting output targets and capturing more objective impact data so that the benefits and contribution of the fund can be more fully assessed. The Broadcasting Authority of Ireland undertook to consider this recommendation in the planned statutory review of the fund which was scheduled to commence in the latter part of 2012. The CEO should be able to update the committee in that regard. The authority produces separate financial statements in regard to its other operations. In the main, these relate to regulatory functions regarding the broadcasting sector. The main source of income for this activity is a levy imposed on broadcasters, based on full cost recovery from the regulated bodies. In practice, since the introduction of the levy in 2010, the authority has collected fees in excess of its actual expenditure. As a result, the financial statements indicate an amount of €2.9 million was due to broadcasters at end 2011.

Mr. Aidan Dunning: I will confine this brief statement to the Vote, as Mr. O'Keeffe will deal with the Chapter on the broadcasting fund in his opening statement.

As requested by the committee, I have also provided a briefing note updating the position as regards end-2012 expenditure on the Vote. The total gross spend under the Vote in 2011 was €446 million. This was some €49 million below the 2011 budget allocation of €495 million. The gross spend was divided between €323 million, current, and €123 million, capital.

Turning to the sectoral areas, there was expenditure in 2011 of some €17 million on communications, multimedia developments and the information society. This expenditure was primarily on broadband schemes operated by the Department. Some €117 million was spent in the energy sector in 2011. The bulk of this was in respect of the Sustainable Energy Authority of Ireland, SEAI, and was mainly for the implementation of energy efficiency schemes, on which some €98 million was expended in 2011. The schemes funded supported energy efficiency in homes, including for low income families, businesses and the public sector.

In the broadcasting area, expenditure in 2011 was some €246 million. Of this, €182 million was paid in grant aid to RTE in respect of the revenue from the sale of television licences. In addition, grants of €36 million and €14.4 million were provided for TG4 and for the broadcasting fund respectively. Under the natural resources heading, almost €28 million was paid to meet the administration and operational costs of Inland Fisheries Ireland and the Loughs Agency. Also under this heading, some €7.5 million was expended by way of grant in aid to Ordnance Survey Ireland. In addition, €1.4 million was spent on various geoscience initiatives, €2.9 million on a national seabed survey and over €1.9 million on mine rehabilitation.

With regard to the Department's administrative budget, this has been almost halved since 2007. The total spend in this area was €40 million in 2007 and it is now €22.2 million. This is a reduction of 44% over a five-year period. It partly reflects the transfer of some minimal functions, but mostly arises from a reduction in staffing resources in the Department, from 339 at the end of 2007 to 248 at the end of last year, representing a reduction of 91 or 27%. Notwithstanding this, the Department has continued to oversee and implement a wide range of new and existing programmes, undertake certain regulatory functions and provide quality advice across its wide brief.

As indicated previously, I have provided the committee with the Vote outturn figures for 2012 separately. These indicate gross expenditure of €405 million in 2012 or €41 million below the 2011 outturn. The outturn for 2012 also represents a saving of €48 million on the 2012

budget estimate of €453 million. A breakdown by subhead has also been provided.

A key outcome in 2011 was the successful switch-off of the analog TV system on which the Department expended some €2.3 million on an information and advertising campaign. The spectrum released by the analog switch-off was part of the multiband auction conducted by the telecommunications regulator in November 2012. This realised some €855 million for the Exchequer, of which €450 million was paid in 2012, which was some €270 million in excess of the budget provision.

I confirm my Department has an internal audit unit which operates in accordance with a written charter. Its annual plans are approved by me and an independent audit committee. These audits may cover any area of activity involving public funds within the remit of the Department. Internal audit reports are circulated to the Comptroller and Auditor General and representatives of that office meet the committee annually.-

Chairman: Thank you. May we publish Mr. Dunning's statement?

Mr. Aidan Dunning: Yes.

Mr. Michael O'Keeffe: The Broadcasting Authority of Ireland, BAI, welcomes the opportunity to attend this meeting of the committee to assist it in its examination of the matters identified. We have submitted detailed briefing documents to the committee on the matters under examination and I will now summarise some of the key elements.

The sound and vision scheme has been in operation since early 2006 and has supported the production or "in production at present" of over 500 television programmes and just under 1,300 radio programmes. These have been broadcast on public, commercial and community broadcasting services in the State, a total of 58 radio and television services. We have provided funding of over €108 million from the licence fee allocated to the BAI to support the making of these programmes. Over 90% of that funding has gone to the independent production sector. Many of the programmes have received critical and audience acclaim, for example, the animation project "The Secret of Kells" which received an Oscar. In the current week, a number of programmes we funded are showing on television, including "The Estate" on TV3, "Scúp" on TG4 and "John Lonergan's Circus" on RTE.

With regard to reviews of the scheme, we undertook a formal review in 2008 and we are currently in the process of a review. There is strong endorsement from all stakeholders for its existence and continuance. It is viewed as having a positive economic and cultural impact on the broadcasting and independent production sectors, particularly in the independent production sector, which has highlighted employment in the sector as being supported by the scheme. We also have an arrangement with the Irish Film Institute on archiving of programmes made, which allows access to the public for all of the programmes through the scheme.

As committee members are aware, the Comptroller and Auditor General conducted a review of the scheme during 2012. This was a thorough process which produced a fair report and no significant issues for the BAI arose. The report made a series of recommendations with regard to administration and management and outputs and performance of the scheme. The BAI co-operated fully with the Comptroller and Auditor General and agreed to implement all of the recommendations, either in full or in part. Significant progress has been made in regard to some of the recommendations and progress has been made on all of them since the report was completed in 2012. We detailed progress in respect of the recommendations in appendix 1 of the briefing

document. I will be happy to answer any questions members may have on those matters today.

With regard to the financial statements for 2011, the BAI has continued its policy of operating tight financial controls on expenditure. As a result, the levy invoiced on broadcasters was reduced from €5.6 million in 2011 to just under €5 million in 2012. Recently, we sent out invoices to broadcasters in respect of 2013 and these have been based on a further drop in the amount liable for levy. The estimates we have submitted in respect of the following years, 2014 and 2015, show this pattern continuing. The finance audit and risk committee of the BAI operates as a sub-committee of the authority. It met on eight occasions in 2012 and it oversees all finance, investment and audit matters. It also meets with the Comptroller and Auditor General, considers a series of internal audit reports and reviews and updates the risk register.

The sound and vision scheme paid out grants and awards of just under €14.4 million in 2012, up from €11.8 million in 2011. There was no recommendation within the report of the Comptroller and Auditor General with regard to the surpluses we held, but they were noted. In keeping with the principle of the review, we have sought to reduce surpluses and in doing that the scheme made awards of over €19 million in 2012. Administrations costs, which include staffing, legal and audit fees and assessment and consultancy costs, have been kept at less than 8% of the total income to ensure that the majority of funds are allocated to the making of programmes.

Chairman: May we publish Mr. O’Keeffe’s statement?

Mr. Michael O’Keeffe: Yes.

Deputy Eoghan Murphy: I thank the witnesses for attending today and apologise for the delay they experienced. I will go through the accounts for the BAI and Deputy Dowds will go through the issue of the fund. Other colleagues will also have questions.

We got an update of the figures for 2012 last week. However, there is more detail in the 2011 accounts so I might stick to going through them, but where I or Mr. O’Keeffe believe it is relevant, I will jump to the 2012 figures.

I will begin with the breakdown of income of the authority. Can Mr. O’Keeffe briefly give me a description of the levy for broadcasters and how it is calculated for each of those who must pay it?

Mr. Michael O’Keeffe: The levy is calculated based on what we term qualifying income. Generally it relates to all income received from broadcasting related matters. The actual amount payable is based on that qualifying income or the total broadcaster’s pay. It is a percentage of the qualifying income in the previous year. They submit the previous year’s audited accounts to us and the qualifying income is based on that. We produce an estimate for the following year. An invoice is sent out, say on 1 March of the current year, based on the estimate and the income submitted by the broadcasters before the end of the year.

Deputy Eoghan Murphy: Is the percentage the same for each broadcaster or does it vary between them depending on their role or output?

Mr. Michael O’Keeffe: It varies. I will ask my colleague, Celene Craig, to explain it.

Ms Celene Craig: We take the amount that we estimate our expenditure will be and it is divided out between the broadcasters. There is a percentage applied but it is relative to their

estimates of qualifying income as well. There are three figures in the mix. Then, the figures are reconciled at the year end.

Deputy Eoghan Murphy: Hence we see the transfer coming back if it has been over-estimated. The money must then be returned. Is that the case?

Mr. Michael O’Keeffe: There are a couple of factors. One of the points is that the refund of the levy in 2011 highlighted by the Comptroller and Auditor General was rather high. That was the first year of operation of the levy and the procedure for the certification of qualifying income was a rather complex process. We involved Chartered Accountants Ireland in devising it. This meant that a rebate that could have occurred in 2010 did not occur until the first part of 2011. Effectively, they got two rebates during 2011. That has now been regularised. Effectively, each year after that it will appear probably in either the June or September invoice. I believe last year it was in the September invoice. We aim for the June invoice if the information comes in from the stations, but from here on they should get one rebate for the full year.

Deputy Eoghan Murphy: Is it a case of a new process working itself out in the initial years?

Mr. Michael O’Keeffe: In the initial years it was a new process and we are fairly satisfied that has now been well established. The industry players have worked well with us on that too. They were very co-operative in putting this in place.

Deputy Eoghan Murphy: There are other income streams, including licensing fees and other income, which in 2011 amounted to €506,000. This is broken down between deposit interest income, rental income and other income, which was the third figure. What was the other income?

Ms Celene Craig: There is an apportionment of costs between the broadcast fund and the BAI’s costs. These staff costs are recovered from the fund and there is a charge out. The committee will see in the submission we made that what might look like a significant increase in staff costs was actually a grossing up of the staff costs. This was done at the request of the Comptroller and Auditor General. There is also a balancing figure which comes through in terms of other income. That is included.

Deputy Eoghan Murphy: That occurred in 2012. Let us consider other income only. There was a jump from €506,000 to €952,000. Does that relate to the fund recharge?

Ms Celene Craig: That is right.

Deputy Eoghan Murphy: In the statement of accounts provided for 2011 there is a figure of €506,000 broken down between deposit interest income, rental income at €51,000 and other income at €445,000. Was that before accounting for the fund recharge figures in 2012?

Ms Celene Craig: Yes. The grossing up of that would have occurred in the 2012 figures we submitted to the committee.

Deputy Eoghan Murphy: It was not in 2011?

Ms Celene Craig: It was not in the 2011 figures.

Deputy Eoghan Murphy: What of the other income amounting to €445,000?

Ms Celene Craig: We probably need to come back to the committee with the detail on that.

Deputy Eoghan Murphy: It is on page 11 of the document I have.

Ms Celene Craig: I see the figure. I have the break-out of the figure but I do not have the details to hand. We can come back to the committee on that.

Deputy Eoghan Murphy: I will move on to expenditure on staff costs. There are 17 management and 21 administrative people in the BAI. Is that correct?

Mr. Michael O'Keeffe: That is correct. Some of the administrative people are part-time, but that figure is correct.

Deputy Eoghan Murphy: The more accurate figure for those salary costs is the 2012 figure because it takes into account the staff working on the fund and the money appropriated for that. What does that come in at?

Mr. Michael O'Keeffe: It was a little over €2 million.

Deputy Eoghan Murphy: What is the size of the fund that those people manage when we take into account the fund, the licensing and the sound and vision fund?

Mr. Michael O'Keeffe: The sound and vision fund is approximately €14 million per annum. That is the total amount. Our budget is just under €5 million.

Deputy Eoghan Murphy: There is another fund the authority manages, is there not? Is there not a broadcasting fund of €100 million?

Mr. Michael O'Keeffe: No. The €100 million figure relates to the total of the broadcast fund since it began. It is €14 million per annum but it has been in place since 2006.

Deputy Eoghan Murphy: A total of 38 people are managing a fund of approximately €14 million each year. Is that the case?

Mr. Michael O'Keeffe: Yes. Obviously, they are doing all the other activities of the BAI as well, but that is one key part of it.

Deputy Eoghan Murphy: Has there been an increase in staff?

Mr. Michael O'Keeffe: No. Actually, there has been a reduction in staff. The BAI was previously the Broadcasting Commission of Ireland. We had a full-time equivalent staff of 36 as the BCI and we now have a full-time equivalent of approximately 32. We were caught by the moratorium on public service recruitment. When the Broadcasting Act 2009 was introduced, we were not given any additional staffing to support our activities under the legislation.

Deputy Eoghan Murphy: What about the balance between management and administrators? Does Mr. O'Keeffe see it as a normal arrangement to have that?

Mr. Michael O'Keeffe: Yes, given the nature of what we do. There is a lot of policy development work. There is a high level of it given what we do. For example, last year and in the current year, we have been doing the review of public funding for public service broadcasters and the introduction of codes on advertising and programming. There is quite a degree of policy work involved. I believe the balance is about right.

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Deputy Eoghan Murphy: Would it be fair to say the administrative staff are not acting up given the nature of the work they are doing?

Mr. Michael O’Keeffe: We have structured the organisation in terms of how we operate. Given the nature of the numbers we have, we operate a matrix structure where effectively people work across different aspects of the organisation. I will offer one straightforward example. The director of engineering is also the head of compliance and supports the work of the compliance committee. My colleague, Margaret Tumelty, is dealing with the development of the statement of strategy and she will shortly consider the development of the code of programme standards. The staff work right across the organisation depending on the priorities within the work plan in a given year.

Deputy Eoghan Murphy: What is the position with regard to Mr. O’Keeffe’s fees? It was referred to in the note. Has there been agreement in terms of a contract?

Mr. Michael O’Keeffe: It is in negotiation. I hope to have it resolved shortly.

Deputy Eoghan Murphy: There is another note on one person, one salary and how the authority is dealing with that.

Mr. Michael O’Keeffe: We are in discussion with the Department on that issue. An issue has been raised by one of the members concerned and we have been holding discussions with the Department about resolving that particular issue.

Deputy Eoghan Murphy: Is the authority having a difficulty in complying with it?

Mr. Michael O’Keeffe: We are in discussion on clarification on the nature of the appointment of the authority members and the requirement with regard to this direction.

Deputy Eoghan Murphy: Does this relate to board members or to staff as well?

Mr. Michael O’Keeffe: It relates to board members.

Deputy Eoghan Murphy: Is it the case that some board members are receiving several fees for wearing different hats in the structure of the organisation?

Mr. Michael O’Keeffe: No. It relates to the principle of the implementation of the one person, one salary provision.

Deputy Eoghan Murphy: Can Mr. O’Keeffe explain that further?

Mr. Michael O’Keeffe: It relates to the applicability with regard to the terms and conditions of employment of members of the authority. We have sought clarity on that from the Department and we are in discussions with the Department on it.

Deputy Eoghan Murphy: What are the discussions on?

Mr. Michael O’Keeffe: The question is whether it should apply.

Deputy Eoghan Murphy: Is the question whether it should apply to board members or to a particular board member?

Mr. Michael O’Keeffe: It is based on the terms and conditions of their appointment.

Deputy Eoghan Murphy: Is the question whether the authority could pay the person more

than one salary?

Mr. Michael O’Keeffe: The question is whether we should pay the person a fee as a member of the authority.

Deputy Eoghan Murphy: Is it correct that every board member is in receipt of a fee but some do not get expenses?

Mr. Michael O’Keeffe: That is correct. The ones who get expenses are primarily based in different parts of the country. There are no expenses provided for those based in Dublin.

Deputy Eoghan Murphy: Are the expenses only for travel and accommodation?

Mr. Michael O’Keeffe: Exactly.

Deputy Eoghan Murphy: Is there anything else that can be put down as an expense?

Mr. Michael O’Keeffe: No.

Deputy Eoghan Murphy: Just travel and accommodation?

Mr. Michael O’Keeffe: Yes, that is it.

Deputy Eoghan Murphy: In 2011 the consultancy fee was €545,000. What was that for?

Mr. Michael O’Keeffe: The nature of our activities is such that we do not have the expertise within the organisation for instance to do the annual public funding reviews for public service broadcasters, or the development of codes. We use outside consultancy firms to support some of that work.

Deputy Eoghan Murphy: What work do they support?

Ms Margaret Tumelty: I can give details of that. In 2011 there was work to support the annual review of the public service broadcaster, the annual review of public funding. There was financial advice for the investment of the moneys relating to the broadcasting funding scheme. There was significant investment in IT in that year. There was work to support the development of the children’s code. That consultancy heading also includes research. Those are some of the top-line projects: the treasury management, children’s code, RTE and IT. Much of the research is focused on economics, for example, the public service broadcasting work involves quite significant economic analysis of a market place, building to a review of public funding on which significant decisions are being made. We do not have that focused economic skill-set internally and if one outsources it one is able to bring concerted economic expertise to it over a short period.

Deputy Eoghan Murphy: How often does that review of broadcasting happen?

Mr. Michael O’Keeffe: There is an annual review of the public service broadcasters and this year we are continuing the five year review that we started last year. It is a major piece of work.

Deputy Eoghan Murphy: If there is an annual review of broadcasting would it not make sense to have someone with that skill set in-house?

Mr. Michael O’Keeffe: It is an independent assessment and we consider a range of things

so there is a value in having that undertaken by people with expertise in a range of areas.

Deputy Eoghan Murphy: Does the Broadcasting Authority do the initial work and then bring in a consultant?

Mr. Michael O’Keeffe: We set the framework and identify the areas that we require to be evaluated and then hand that work over to the consultants. We liaise with them. Two or three senior managers such as Ms Craig and another of our colleagues would be very involved in overseeing that work. In the current year Ms Tumelty is overseeing the annual review of funding and is very much involved in that work.

Deputy Eoghan Murphy: Does the authority have a breakdown of how those consultancy fees were charged?

Mr. Michael O’Keeffe: That is within the accounts.

Deputy Eoghan Murphy: In the note the authority provided for the accounts of 2012 there was a bit of a jump between 2011 and 2012. In 2011 it was €83,000 and 2012 it is closer to €250,000. Can Mr. O’Keeffe explain the increase?

Mr. Michael O’Keeffe: There was significant legal work in 2012. The highlight pieces would have been the legal work on the section 53 investigation on ‘Mission to Prey’ which was in the first half of the year. There was also significant legal work on the other investigative piece, the “Frontline” programme on the presidential election. There would have been legal support for that. We also developed the new contract for sound and vision which is referred to in the Comptroller and Auditor General’s report. In 2012 we were about to enter the re-licensing of the existing local commercial network. We introduced a new contract for that. There have been a couple of new codes which require legal oversight. The committee probably saw in the past week that the register of interest was the subject of intense legal review prior to the introduction of the code of fairness that came in last week. The children’s code on diet and nutrition raised several legal issues.

The nature of what we do potentially invites some of our stakeholders to challenge some of the issues that we intend to deal with. We consider it important that there is a strong legal basis for our actions. I always touch wood when I say something like this but we have not been subject to a judicial review since 2005. They can be very costly, time and resource-consuming exercises. The fact that we have a good legal basis for our work and the policies we introduce assists us greatly in that respect. The nature of what we do will require significant legal outlays at different stages and in 2012 the outlay was due to the major pieces of work about which I spoke.

Deputy Eoghan Murphy: Mr. O’Keeffe mentioned the “Frontline” programme. Was that the presidential debate programme? What is the authority’s legal role in that instance?

Mr. Michael O’Keeffe: The authority first considered a complaint and addressed that in the first half of the year. Then RTE produced an internal report and we reviewed that and its outcomes. There was some legal support provided to the committee on that matter.

Deputy Eoghan Murphy: What committee received the legal advice?

Mr. Michael O’Keeffe: The authority comprises the main board which deals with policy and two operational statutory committees, the compliance committee which makes decisions

on complaints and matters of that nature and the contract awards committee which oversees licensing.

Deputy Eoghan Murphy: Does the authority have any mechanism whereby if it has to incur legal fees because of an act of a body such as RTE it can award those costs to RTE on the basis that it had to spend the money investigating something that happened on RTE's watch, years ago in its station?

Mr. Michael O'Keeffe: It depends on the outcome. In the case of 'Mission to Prey' there was a fine of €200,000 imposed on RTE. We had the cheque in our hands for one day before it went to the Minister for Finance.

Deputy Eoghan Murphy: The authority might have earned a bit of interest for that day.

Mr. Michael O'Keeffe: One other important point on the legal fees is that last year, or the year before, we introduced a legal framework arrangement whereby instead of having one company act for the BAI in all matters we now have five or six and any time we have a piece of work we tender for that. That will help us to bring down costs over time, allowing for the fact that the costs in 2012 were probably greater than the norm.

Deputy Eoghan Murphy: It is good to hear that the BAI has brought in that framework.

Moving down the list of expenditure to premises and related expenses, and lease arrangements, is the BAI currently in Warrington Place?

Mr. Michael O'Keeffe: That is correct.

Deputy Eoghan Murphy: Are all the staff housed there?

Mr. Michael O'Keeffe: We have two premises. One is the original IRTC premises in Marine House. We had a sub-let on that for several years which came to an end. We were very fortunate, given the amount of vacant premises around our area to sub-let that in the past six months but at a reduced cost. We are still liable for the rent on the premises but at least we are getting something for it.

Deputy Eoghan Murphy: There was a five year rent review in Warrington Place in 2006. Is that correct?

Mr. Michael O'Keeffe: Yes.

Deputy Eoghan Murphy: Has there been a review since then?

Mr. Michael O'Keeffe: It is every five years.

Deputy Eoghan Murphy: What was the outcome of the review in 2011?

Mr. Michael O'Keeffe: I do not think it reduced the rent. It stayed as it was.

Deputy Eoghan Murphy: What is the current rent?

Ms Margaret Tumelty: The current rent is €476,000.

Deputy Eoghan Murphy: Is that lease in place until 2021?

Mr. Michael O'Keeffe: Yes.

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Deputy Eoghan Murphy: What was the need to take the lease on Warrington Place in 2003?

Mr. Michael O’Keeffe: It was the practice at the time that leases were long leases. I refer to the Marine House-----

Deputy Eoghan Murphy: I asked what was the reason for the move to Warrington Place.

Mr. Michael O’Keeffe: I apologise. The original IRTC was the predecessor of the BCI and had a staff of about ten people. Marine House was simply not large enough to accommodate the full complement of staff who arrived between 2002 and 2003. We had to move to a larger premises and that is why we moved to Warrington Place. Again, that would have been the practice in that rentals were taken for a certain period of time. The current premises are very satisfactory for our needs. Obviously it would have been ideal to have been able to dispose completely of the original Marine House premises. That has not been possible but we have been successful in subletting it.

Deputy Eoghan Murphy: The lease for Marine House was taken for 35 years and the commission moved to Warrington Place in 2003.

Mr. Michael O’Keeffe: Yes.

Deputy Eoghan Murphy: Marine House was sublet initially in 2006. Is that a three-year period when Marine House was empty?

Ms Margaret Tumelty: We had a sublet from May 2006 to December 2010. The person who took the lease was responsible for all costs. From December 2010 to March 2011 and again on to March 2012 we had somebody in place for the latter part of that period who took it at a reduced rent.

Deputy Eoghan Murphy: In the period 2003 to 2006 was Marine House empty when the commission had moved to Warrington Place?

Ms Celene Craig: As I recall it was let at that time. I would need to check with regard to the 2003 to 2006 period but my recollection is that it was sublet during that period. We can confirm that for the committee.

Deputy Eoghan Murphy: The notes to the financial statements for year end of 2011 do not mention anyone being in Marine House until 2006, if I am correct.

Mr. Michael O’Keeffe: We need to check that.

Ms Celene Craig: May we come back to the committee on the detail? There were different parties renting over the period from 2003 and under different arrangements. We certainly attempted at all times not to dispose of the lease and to sublet when, as it transpires, we were unable to dispose of the lease in full.

Deputy Eoghan Murphy: If I am correct, there is a three-year gap then in the notes to the financial statements because I could not see it there. It would be helpful if that could be clarified. A rent review on the premises in Marine House was conducted in 2010. What was the outcome of that rent review?

Mr. Michael O’Keeffe: There would have been no increase in the rent; it would have re-

mained at the same level.

Deputy Eoghan Murphy: A new arrangement was set up for the subletting of Marine House at that time. What I understand from the accounts is that from 2006 to 2010, the BAI was not bearing any costs for Marine House.

Mr. Michael O’Keeffe: Exactly.

Deputy Eoghan Murphy: That changed in 2010.

Mr. Michael O’Keeffe: It was the fact of the economic environment and a case of just getting a deal with someone to use the premises.

Deputy Eoghan Murphy: Was there a change in tenant in 2010?

Ms Celene Craig: There was not a change in tenant. There may have been a change in the arrangements under which the tenant agreed to stay on. I think the tenant agreed to stay on for a short period of time on the basis of a reduced rent. Rather than having the premises completely unoccupied we chose to enter into an arrangement. There was a series of very short leases which were extended and renegotiated from time to time. We have a new tenant in place since 2012.

Deputy Eoghan Murphy: Is the current tenant a wholly separate entity from the previous occupant?

Ms Celene Craig: Yes.

Deputy Eoghan Murphy: There is no company crossover?

Ms Celene Craig: No.

Deputy Eoghan Murphy: The BAI was bearing no costs for the premises and then, all of a sudden, it was responsible for the operational costs, half the rental costs and half the rates costs.

Mr. Michael O’Keeffe: Yes.

Ms Celene Craig: That arose because of the economic environment. The tenants at the time had put us on notice that they were going to leave. They then proceeded to renegotiate. We took advice from Lisney. We chose to renegotiate with the tenants to get them to stay on and to extend their tenancy on a reduced rate. There was a real fear that we would have nobody occupying the premises. We were attempting to offset some of the costs rather than having to bear all of the costs ourselves for a premises that was not being utilised.

Deputy Eoghan Murphy: What is the increase in costs to the BAI as a result of that new arrangement that came into effect in 2010?

Ms Margaret Tumelty: The rent is €137,000 per annum and we are now liable for 50% of the rent and rates.

Deputy Eoghan Murphy: Are the new tenants getting the same deal as the previous tenants? Is the BAI paying all the operational costs, half the rent and half the rates?

Ms Margaret Tumelty: It is a five-year arrangement with regard to the rent and the rates.

Deputy Eoghan Murphy: Is there any relationship at all between the tenants from 2010

to 2012?

Mr. Michael O’Keeffe: No. They are completely separate.

Deputy Eoghan Murphy: There is no connection.

Ms Margaret Tumelty: The previous tenant was an advertising company and the current tenant is an engineering company.

Deputy Eoghan Murphy: There has been a change in the type of company from advertising to engineering.

I refer to the column titled Depreciation. I refer to note No. 5, page 12, equipment for 2010. There are separate headings for computer equipment and technical equipment in this section.

Ms Celene Craig: That technical equipment is for our engineering use.

Mr. Michael O’Keeffe: We have engineering equipment which is used when we are reviewing and inspecting the transmission facilities of radio and television stations. Computer equipment is largely in-house use.

Deputy Eoghan Murphy: Under the column for motor vehicles, I presume the figures refer to vans used by the BAI.

Ms Celene Craig: It is a single vehicle.

Mr. Michael O’Keeffe: It is a jeep used for the technical equipment. It is used for driving up mountains, basically.

Deputy Eoghan Murphy: It is not for personal use.

Mr. Michael O’Keeffe: No.

Deputy Eoghan Murphy: I refer to the column titled Debtors and a figure of €1.3 million.

Ms Celene Craig: Does the Deputy wish to have details of that figure? We can come back with some of those details on the debtors. The levy debtors are included in that figure.

Deputy Eoghan Murphy: I note under debtors the amounts are listed as prepayments, broadcasting fund and others.

Ms Celene Craig: The broadcasting fund would be regarded as a debt. The broadcasting fund debtor means the costs owing from the broadcasting fund into the BAI-----

Deputy Eoghan Murphy: They have not yet been paid?

Ms Celene Craig: They would be any amounts outstanding at the end of the year.

Deputy Eoghan Murphy: Debtors are shown as €676,000.

Ms Celene Craig: I will forward the breakdown of that €676,000 to the committee. I expect the bulk of that figure is composed of advertising levy debtors. I will confirm the exact breakdown.

Mr. Michael O’Keeffe: I expect that advertising levy debtors would be the largest bulk of

that amount.

Deputy Eoghan Murphy: What is meant by advertising debtors?

Mr. Michael O'Keeffe: Those who did not pay us.

Deputy Eoghan Murphy: The figure for 2010 was €888,000. Is it a case that a lot of people are not paying this levy?

Mr. Michael O'Keeffe: It is not a case that they are not paying us. There would have been challenges for some broadcasters. The payment rate would be good but we continue to work on it.

Deputy Eoghan Murphy: Has the BAI a plan in place?

Mr. Michael O'Keeffe: They must pay within 30 days. Some of this figure is made up of where broadcasters may not have paid within 30 days.

Deputy Eoghan Murphy: Or longer than 30 days?

Mr. Michael O'Keeffe: In some cases longer than 30 days. We review these payments on a monthly basis.

Deputy Eoghan Murphy: If a fee is outstanding is the debtor still allowed to contract new services or to advertise?

Mr. Michael O'Keeffe: We have arrangements in place with every single contractor. If money is outstanding we have an agreement with them as to how that would be paid.

Deputy Eoghan Murphy: If there is money outstanding would that preclude them from pursuing further contracts?

Mr. Michael O'Keeffe: That would be the case if there was not an agreement in place. There must be an agreement in place. I am referring to broadcasting contractors as opposed to the sound and vision people and there would have to be an agreement in place for payment to be made.

Deputy Eoghan Murphy: Who is responsible for overseeing whether the terms of those agreements are being met?

Mr. Michael O'Keeffe: Operationally, the senior management would meet on a fortnightly basis and we would review, probably on a monthly basis, the position in respect of debtors.

Ms Celene Craig: It might also be borne in mind that as the levy scheme was becoming operational during those early years, arrangements, etc. were being put in place. As a result, there was some accommodation to be had. That is why we began to see a decrease in the number of debtors from 2010 and into 2011. However, the figure increased again towards the end of 2012. I do not have the list of stations to hand but we can certainly provide the Deputy with some detail on that matter.

Deputy Eoghan Murphy: If Ms Craig could do that, I would appreciate it.

Mr. Michael O'Keeffe: The newer stations within the sector are finding it tough. There is an element of our looking to agree payment plans with them. It is a challenging environment

for broadcasters.

Deputy Eoghan Murphy: I appreciate that but if bands are going to be put in place, one would want to ensure they are going to be-----

Mr. Michael O’Keeffe: Absolutely. We would do that.

Deputy Eoghan Murphy: What is the figure in respect of debtors for 2012?

Ms Celene Craig: The draft figure was €1.386 million at the end of 2012.

Deputy Eoghan Murphy: So it has increased again.

Ms Celene Craig: Yes.

Deputy Eoghan Murphy: And the position in that regard is kept under review by board members.

Mr. Michael O’Keeffe: I should have added that the finance, audit and risk committee, which meets on quite a regular basis - it met eight times last year - would keep an eye on that. We would be obliged to report to the finance, audit and risk committee and this would be one of the items on the agenda.

Ms Celene Craig: The end-of-year figure would include the amounts invoiced in December and its not necessarily representative of the figure relating to debtors throughout the year. That fact should also be borne in mind.

Mr. Michael O’Keeffe: That is an important point. The last invoice of the year goes out on 1 December. They are obliged to pay by 31 December and if they do not, then they go into that. An awful lot of it may come in the first week in January, for example, but it would not be reflected there.

Deputy Eoghan Murphy: It is very good to hear how regularly the finance, audit and risk committee meets. From other boards with which I have been involved or on foot of evidence presented by the members of boards which have come before the committee, I am aware that similar committees elsewhere do not meet as regularly. Obviously, therefore, this is a matter which the authority is monitoring closely.

Mr. Michael O’Keeffe: They are a very conscientious group. They are a sub-committee of the board and they treat the issue very-----

Deputy Eoghan Murphy: It is important that Mr. O’Keeffe inform the committee that I highlighted this aspect of its work.

Mr. Michael O’Keeffe: They will be very positive about that.

Deputy Eoghan Murphy: The authority has had a cashflow problem, which is not unrelated to this situation, for the past year or two.

Mr. Michael O’Keeffe: We will probably have an ongoing cash situation and this happens at a particular point. For example, it happened at the end of February before we issued the invoices for March. It was resolved by the end of March. We have an arrangement in place with the NTMA to cover that. It is linked historically to the fact that we are funded by the levy. Due to the fact that the levy scheme was established on the basis of a quarterly payment in arrears,

we, in effect, had no funding until April 2010.

Deputy Eoghan Murphy: The authority is constantly playing catch-up.

Mr. Michael O’Keeffe: Exactly. The arrangement we have with the NTMA is very satisfactory in that it is a short-term loan facility designed to tide us over.

Deputy Eoghan Murphy: How much can be obtained under that facility?

Ms Celene Craig: Typically, the amounts we have drawn down have been no more than €300,000. However, the loan facility is for up to €1 million.

Mr. Michael O’Keeffe: The amount involved is generally in the region of €300,000. To date, that is the most we have been obliged to seek.

Deputy Eoghan Murphy: Was the authority obliged to obtain permission from the NTMA to avail of that facility?

Mr. Michael O’Keeffe: We had to get permission from the Department and from the Department of Public Expenditure and Reform.

Deputy Eoghan Murphy: I wish to focus on cashflow, short-term deposits and cash at bank and on hand. The figures indicate that in 2011, the authority had short-term deposits of €1.5 million. Does the authority not have the facility to meet the cashflow from its own reserves?

Mr. Michael O’Keeffe: We will need to come back to the Deputy on that matter.

Deputy Eoghan Murphy: I am referring to the figures listed on page 20, which indicate that short-term deposits at the end of 2011 stood at €1.508 million.

Ms Celene Craig: Some of the broadcast funding scheme moneys would be kept on short-term deposit to enable liquidity for draw-down by the various grantees.

Deputy Eoghan Murphy: That is to be drawn down by them.

Ms Celene Craig: Yes, that we would be allocating. The bulk of the moneys for the broadcast funding scheme would be kept in higher interest deposit accounts. However, we would have to keep a certain amount on short-term deposit to enable cashflow for the grantees of the scheme.

Deputy Eoghan Murphy: What is the position regarding the cash at bank and on hand figure of €1.573 million?

Ms Margaret Tumelty: To which figure is the Deputy referring?

Deputy Eoghan Murphy: It is on the screen now.

Ms Margaret Tumelty: Will the Deputy repeat the figure?

Deputy Eoghan Murphy: It is the first figure. It comes under the heading “14. Cashflow Statement: (a) Analysis of Changes in Net Funds” and the amount listed is €1.573 million. It is listed as cash at bank and on hand and appears just above the figure for short-term deposits of €1.508 million. The total of the two is €3.081 million.

Ms Celene Craig: The cash at bank and on hand would relate to typical current accounts.

The other moneys relate to shorter-term deposits.

Deputy Eoghan Murphy: Ms Craig indicated that the amount required in respect of the cashflow issue is typically €300,000. Could this not be met from the funds to which I refer?

Ms Celene Craig: Our cashflow requirements cannot be met from any funds relating to the broadcasting fund. It is ring-fenced under the statute. That is the first point to make. At times our own cash position can be quite good. As Mr. O’Keeffe indicated, it occurs at the point before the levy. As a result of the fact that the levy is operated on a quarterly basis, our cashflow difficulties tend to arise at the end of the second month of the quarter. Our cash position can be quite good at times but it can also become quite critical in that third month. When we draw down moneys, we have been able to repay them pretty quickly. The profile can be quite good at particular points. That is what the Deputy is seeing here.

Deputy Eoghan Murphy: There is a pinch in that third period.

Ms Celene Craig: Yes, and that is what causes the difficulty. Our cash problems tend to be quite short-term in nature.

Deputy Eoghan Murphy: So rather than seeking some form of discretion where the authority can dip into that fund, it felt it was better to have an actual standing-----

Ms Celene Craig: It is not that we felt it was better. We are actually prevented under statute from using the broadcasting fund for cashflow purposes. That is why we have been obliged to draw down the money in question for our own needs. The cash we had on hand and at bank in terms of our current account would have been €621,000 at the end of 2012. That would be a little more than one month’s cashflow. It is quite tight at that point in time.

Deputy Eoghan Murphy: Okay.

Acting Chairman (Deputy Paschal Donohoe): As weary as I am of abusing a post I do not hold, the Deputy has used up almost twice his allocated amount of time.

Deputy Eoghan Murphy: I will conclude.

Acting Chairman (Deputy Paschal Donohoe): I would like to allow other colleagues to contribute. I am sure the Chairman, when he returns, will allow the Deputy to ask further questions towards the end of proceeding. I see that the Chairman has just arrived so I will hand over to him.

Deputy Eoghan Murphy: Does what the Acting Chairman said still stand or may I continue?

Acting Chairman (Deputy Paschal Donohoe): The ruling still stands, unfortunately.

Deputy John McGuinness resumed the Chair.

Deputy Eoghan Murphy: I would appreciate some further details on that other income figure that was not broken down and on which I was not clear.

Mr. Michael O’Keeffe: We will come back to the Deputy on that.

Deputy Eoghan Murphy: I refer to the lease on Marine House for 2003 to 2006 and who was there at that time. I would like a breakdown of the debtors.

Mr. Michael O’Keeffe: Yes.

Deputy Eoghan Murphy: I would like details on those three items.

Chairman: I call Deputy Dowds.

Deputy Robert Dowds: I thank the witnesses for attending. I apologise for the delay that occurred. I will direct most of my questions to the witnesses from the Broadcasting Authority of Ireland. The authority has an important role in the promotion of Irish culture through film, radio and so on and it would consider itself an enabler in that regard. In the sense in which it is that, does it simply respond to requests for funding or is there an element of actively trying to promote different areas of Irish culture?

Mr. Michael O’Keeffe: I would like to think that we are both. We are certainly an enabler in terms of the scheme. The types of programmes the scheme supports are very much cultural in nature. The Deputy will note that from the types of them.

Deputy Robert Dowds: I am very impressed by them.

Mr. Michael O’Keeffe: It is a competitive grant award system. One of the things we have tried to do during the past number of years - this relates to the Comptroller and Auditor General’s point about us trying to ensure that we achieve all the objectives - is to prioritise certain areas. In 2012 we would have prioritised animation, children’s programming, drama and those types of projects. The nature of the scheme means that the broadcasters are familiar with the types of programmes that are likely to be successful, and they will be in the cultural area. We are supporting culture through that.

We are looking at ways of supporting some of the objectives that are not as fulfilled as others. In the case of documentary, history, heritage and contemporary society programmes, there is a strong input from broadcasters, but there is less input from them in some of the other areas. As we review each round, we try to actively support programmes that support genres that are less popular than others, and that is something we will continue to do on an ongoing basis.

Deputy Robert Dowds: While the programmes that have been created are extensive and diverse, to what extent are they taken up by other countries, particularly those where there is an Irish diaspora, or has Mr. O’Keeffe any sense of that?

Mr. Michael O’Keeffe: There will be programmes that will travel but the nature of these programmes is that they are very focused on an Irish audience. We are bringing this type of programme, which otherwise may not be made, to an Irish audience. There is limited scope for that type of development but some of the drama and other projects such as animation projects - I mentioned “The Secret of Kells” and there are a number of other animation projects - will travel. By their nature animation and drama projects will travel, but documentaries will travel to a lesser extent because they are particularly relevant to Ireland, the jurisdiction within which they are made. The community broadcasting programmes are focused on the communities they serve and making programmes for those communities. There is a mix of that. Much of it is about making programmes that are relevant to Irish audiences that may not have been made without this kind of funding support.

Mr. Ciarán Kissane: I would add a further point. One of the key benefits is that because stories are coming from a wide variety of sources in terms of many independent producers who are getting support to make stories they have identified, they have a vested interest often in tell-

ing that story and giving it as much life as possible.

In terms of the Deputy's query, I would cite the example of "Lón sa Spéir" which we funded and TG4 broadcast, which was very successful. It was made in Irish and was about the famous picture of the men building the Rockefeller Centre. The producers of that programme were in a pub in Shanaglish in Galway and they identified there was a link between Shanaglish and the famous photograph; they followed that story all the way through and made an excellent documentary about it. As well as it doing very well here in terms of winning an IFTA, the producers entered it in festivals abroad and it has done very well because of that Irish link with an very international story. The scheme allows such a story to be told and a film on it to be made. When a person has a story like that to tell and an angle on it, there is a way to get funding to tell it which would not happen if he or she could not apply to do so under the sound and vision scheme.

Deputy Robert Dowds: I have another question on that area. Ireland has a tremendous wealth of legend. It is sad that in many ways Irish children, including those of us who have moved well beyond that stage, in many cases, have a much better knowledge of legends from other countries. To what extent are there plans to produce cartoons or other types of film on the wealth of Irish legends?

Mr. Michael O'Keeffe: "The Secret of Kells" is probably the best example of that.

Mr. Ciarán Kissane: It was an award winning film. It is a very good example of an Irish story but told in an international context. Equally, "Inis Spraoi", an animated series that will be broadcast on RTÉjr, for which we just signed a contract recently, links Irish themes and Irish stories in a way that has a resonance for children, but also draws on some of those themes. The value of the scheme is the fact that one can draw a great deal of inspiration from many areas and provide some support to get that into production.

Deputy Robert Dowds: I have a few specific questions. I understand the broadcasting fund has reserves of approximately €22 million - that is the end of 2011 figure. Where are the funds held, how do they stand and why are those level of reserves maintained?

Mr. Michael O'Keeffe: The figure on its own is striking. The most important thing to say about it is that of that €22 million, €16 million is allocated to various projects. The nature of the projects is that the money is drawn down over the course of a 12-month period in general terms. The most recent allocation was in February of this year and none of that money would have been drawn down. We have been aware that a surplus existed. We made a conscientious effort last year to reduce the surplus but we will always have a very large amount of money *in situ* at any given time because of the nature of the way projects are drawn down. In terms of our investment policy, we invest all of the BFS money. The finance audit and risk committee, to which we referred earlier, review the investment policy. We have taken independent advice on the management of those funds and the additional money we get from that investment also comes back into the scheme. There will always be a large amount in place because of the nature of the way funding is allocated on a round by round basis. We have another allocation decision of the authority on Monday week. We would hope to allocate up to possibly more than €4 million on foot of that which will help us to reduce the surplus but we must keep a certain amount in reserve as well if they are special schemes or whatever that need to be covered. The money moves all the time to the different projects and they get made but because of the nature of the scheme we will always have a surplus.

Deputy Robert Dowds: Some 61% applications have been rejected. Why are so many

rejected? Could indicators be given to people to enable them to know in advance whether their application would be likely to be rejected? To what extent is drawing money down from the authority bureaucratic or is it relatively easy for film-makers or programme-makers to draw down money if they have a worthwhile project?

Mr. Michael O’Keeffe: I will answer those questions generally and will ask Mr Ciarán Kissane to respond to them more specifically. First, on why there are so many rejections, I accept the rejection levels were higher. We had a lot of engagement with the sector on why applications were failing. That was a constant issue. We highlight that in our response in the document. It is a competitive process. One competes for the funding and, inevitably, what we have found in the past year is that a lot of qualifying applications for very good projects have been rejected because we simply do not have the funds. It is a very competitive process at this point. Independent producers and broadcasters are all putting in a lot of applications. The number of applications in the past 12 months has increased dramatically and there is no sign of it reducing in the current run. That is a factor. There is only so much money that we can give.

A second factor relates to the high level of radio applications, probably from the community sector, and we need to work with the sector a little more. We have been doing some work with it. It is a fact of life currently that there is a finite amount of money and that has reduced this year from last year. To give a concrete example, we received applications in the current round for projects worth up to €18 million but we have funding of only €4.5 million. There will be many disappointed people, many of whom have good projects that deserve funding but it is not available. That is a factor.

Mr. Ciarán Kissane: I have a couple of points to make on the overall number of rejected applications. The fact was highlighted based on the review period examined by the Comptroller and Auditor General, which was up to the end of 2011. One of the issues that is also highlighted in the chapter 20 report is the fact that people were taking more than 12 months to sign contracts. One of the reasons for that is applications were not at a sufficient stage of development. We had identified that fact in 2010 so we took a much stronger line in terms of saying that we would only award funding to projects that were at a point where they were ready to go into production so they could meet the requirement to sign a contract within 12 months. That meant a large number of projects were failing at that point. We funded all the qualifying applications in 2011. That was one of the factors that fed into our surplus. Moving into 2012 we had identified that as being an issue we needed to examine so we changed the round structure and that meant last year we got a lot more qualifying applications. As Mr. O’Keeffe said, we will still have a significant number of applications that will fail but they will not fail because they do not meet the quality threshold. They are now beginning to fail because we do not have the money to fund them. In the current round-----

Deputy Robert Dowds: Is that the case despite the reserves that are held?

Mr. Ciarán Kissane: We allocated a significant portion of the reserves. Of the €22 million to which Mr. O’Keeffe referred, we allocated €16 million of it already to projects so the sum of €22 million is not available. The reserve is probably about €5 million and that will reduce this year. Last year we allocated €19 million to projects even though our licence fee income was only approximately €14 million. We are working through our allocation because we had projects of sufficient quality to do that. In 2011 we did not have the number of quality projects available to which we could allocate funding but last year we did, so we allocated €5 million more than we got in income. We got a balance in terms of working that out based on the throughput of work for ourselves.

On the question about the level of bureaucracy, of course everyone would like things to run a lot smoother in terms of how they can access money but we are not an ATM. We work very hard to ensure we balance the compliance requirements with the requirement to allocate funding. One of our key initiatives in 2011 and in 2012, to which reference was made, was the introduction of an IT system to help us to streamline some of the administration of the scheme, which has helped us.

Deputy Robert Dowds: I have one final question for the BAI and then I have a question for the Department of Communications, Energy and Natural Resources. Could someone explain the decision to give €450,000 for a drama to be aired on BBC2 rather than by an Irish producer?

Mr. Michael O’Keeffe: Yes, taking into account the European approval of the scheme, the emphasis was on not restricting it simply to Irish broadcasters and that the themes of the programmes should be accessible to all. One of the qualifying criteria is that the channel must be available on a free-to-air basis across the Twenty-six Counties. We have applications from Northern Ireland broadcasters, as indeed the Northern Ireland Irish language broadcasting fund has applications from this jurisdiction. There are a couple of examples. The award is made to an independent producer who has made an arrangement with a particular broadcaster. In terms of a recently funded drama, the “Quirke” project will be broadcast on BBC Northern Ireland and also on RTE. The important issue in that regard is that the project is made in Ireland with the involvement of two independent production companies. The series is being made, filmed and shot in Ireland and provides employment here. We do not restrict Northern Ireland broadcasters from competing for this programming, provided that it is available across the Thirty-two Counties, as it is in the cases outlined, and provided it fits the themes of the scheme. The money does not go to the BBC. It goes to the producer.

Deputy Robert Dowds: I appreciate the fact that the money is being spent in this jurisdiction. Did the projects originate in Northern Ireland?

Mr. Michael O’Keeffe: The project to which I refer also has Irish Film Board support. The BBC itself has contributed significant funding. We contributed funding based on an application from independent producers based in this country.

Mr. Ciarán Kissane: The project will be broadcast on TV3. It is an independent production but when the application was made, the letter of support was from the BBC. One often finds that there are more broadcasters involved in picking up a project.

Mr. O’Keeffe referred at the outset to the archive initiative we operate. It is important that the programming that is made, including radio programming, is all archived through the IFI and it is available to people. It will be important over time that one has material, especially on the radio side, that would not be available to the same extent in terms of local and community broadcasting in this country in order that the material that is being funded by the scheme is not just for broadcast at this point but is available through the archive for people to access on an ongoing basis.

Deputy Robert Dowds: I have one general question for the Department of Communications, Energy and Natural Resources. Last year the Minister announced a programme to bring broadband to schools throughout the country, which is something I and everyone welcomed. From what I can see there has been an underspend of almost €21 million in the information and communications technology programme subhead. Will Mr. Dunning explain why the project was delayed and how it is being rolled out currently? Overall, how are the targets for delivery

progressing and how is the total budget for the programme? I would appreciate some information in that regard because it is clear that the sooner the project is fully rolled out, the better.

Mr. Aidan Dunning: I thank Deputy Dowds. He is correct that in 2011 we did not achieve the degree of spend we had anticipated on the project but things have moved in a good direction since then. As the Deputy might recall, we started off initially with a 78 school pilot project which worked out quite well. Since then we have added an additional 202 second level schools in 2012 which have been equipped with 100 MB. The schools are located in counties Cavan, Clare, Donegal, Galway, Laois, Leitrim, Longford, Louth, Mayo, Monaghan, Offaly, Roscommon, Sligo and Westmeath. In 2013, the next phase of the roll-out of 216 schools will be in Dublin, Meath and Kildare. The remaining post-primary schools, approximately 215, will have broadband rolled out in 2014. We expect to have the whole scheme completed by 2014.

To set it up we had to liaise with the Department of Education and Skills, which is making a contribution to the scheme on funding terms, particularly on the current side, on an ongoing basis. Also, HEAnet is pivotal in terms of the delivery of the scheme. Some preparatory work had to be done that took a little longer than we thought would be the case but the reality is that it is happening in those schools in those counties. The key is to make sure it is working and is supplied properly in the schools. We are liaising closely with our colleagues. My colleagues in the Department had a meeting with the Department of Education and Skills last week to ensure that we evaluate that the taxpayer is getting good value for money for this very important initiative because as the Deputy said, the Minister rightly attaches a great deal of importance to it. If we consider the skills the workforce of the future requires, they are in the digital area. If we do not have the infrastructure in the school to enable those skills to be imparted, we have a deficit. As a Department we are centrally involved in promotion of the digital society and we are happy to put aside from our relatively small capital resources the amount of money we have put aside to date, and will continue to do so on the basis I have set out.

Deputy Robert Dowds: I would encourage Mr. Dunning to monitor it but I am aware anecdotally from some schools, and this is not the fault of his Department, that sufficient emphasis is not placed on developing modern media skills in their students. Once the resources are put in, the fault will lie elsewhere and for that reason it is well worth it. It is primarily the job of the Department of Education and Skills to monitor how successfully it is operating once it has ensured that the technical side is put in place.

Mr. Aidan Dunning: We will not absolve ourselves of responsibility once we have put in the money. We are anxious, and I hope that came through in my opening statement, to get value for money for the expenditure we deliver from our Vote. We have set up a process and I have been talking to my colleague in the Department of Education and Skills whereby with their good offices, and they have resources to do this, we can evaluate the way the scheme is operating on the ground. It is crucial, in this current climate in particular, that every cent we spend is applied as optimally as possible, and that is certainly what we were about. In fairness, the Department of Education and Skills has been very co-operative, as has HEAnet, in rolling out this scheme. I have no doubt of their commitment to it and to getting the right outputs, outcomes and impacts from it but the Deputy can be assured that we will continue to liaise closely with them on it.

Deputy Paschal Donohoe: I thank the witnesses for attending. I apologise for the delay earlier. I will put a few questions to Mr. Dunning and will ask Mr. O'Keeffe about the status of some of the recommendations in chapter 20 of the Comptroller and Auditor General's report.

COMMITTEE OF PUBLIC ACCOUNTS

I will begin with Mr. Dunning on a point that may have been contained in the accounts earlier regarding the status of the new broadcast charge. My understanding is that a value for money review was under way and was due to be completed by the end of March. Could Mr. Dunning give the committee an update on that?

Mr. Aidan Dunning: The Deputy is correct. There is a commitment in the programme for Government to introduce a public service broadcasting charge, and the Department has been working on that matter. As the Deputy stated, we incorporated it into a type of value for money study because there are many issues that have to be bottomed out, so to speak, regarding how that would be implemented in a way that we could be sure we would get the revenue in because it would be replacing the licence fee. That is an important point. It is not additional; it is a replacement for the licence fee.

Deputy Paschal Donohoe: It would be a direct replacement-----

Mr. Aidan Dunning: Exactly.

Deputy Paschal Donohoe: -----as opposed to an additional charge.

Mr. Aidan Dunning: It is not an additional charge. One of the major issues that prompted that is the progression in technology. While what we may call the conventional television set as a way to access content is still very important there are other ways of accessing content, and they are not covered by legislation, whether through smart phones or personal computers, PCs. PCs are covered but some of the other technologies would not be covered. We have to examine that but we also must examine how we can be sure that the base we would have in place in terms of households is sufficiently adequate to ensure a commensurate amount of revenue. The work is proceeding on that and on other aspects of it also.

The value for money study is just about completed. It will be submitted to the Minister in a very short period. I hope it will go to Government within weeks. It must be borne in mind that we will require legislation to do this. It could be complex legislation, and there will also be a transitional period between the introduction of the new public service broadcasting charge and the phasing out of the licence fee. It is crucial that we do not leave a situation where the Revenue Commissioners are exposed in terms of the revenue we have at the disposal of public sector broadcasting.

Deputy Paschal Donohoe: How long would Mr. Dunning anticipate such a phase in period taking?

Mr. Aidan Dunning: Obviously, this is primarily a policy matter for the Government but there are technical issues to be dealt with and legislation to be enacted. Taking account of the phasing period as well, we are certainly looking at the latter part of 2014. That is primary for a Minister of the Government but from what I know of the study and the difficulty in bringing in a very new system and replacing an old one, and doing it in a way that does not disrupt the situation in place, my best guess would be the latter part of 2014.

Deputy Paschal Donohoe: In referring to technical issues is Mr. Dunning referring to issues like gaining an understanding of the total number of devices that may be able to access content and how people may be levied for a new charge? Is that the type of area he is examining?

Mr. Aidan Dunning: It is more to do with building up the database. The intention is that

it will be a household public broadcasting charge. We have to do that. There are data protection issues involved. We have to build up the database. There is other detailed work also. We have to take account of people, for instance, who are entitled to the free television licence, and I imagine that position would continue to operate. We have to ensure that the technical work we undertake deals with that. We know also from experience in other jurisdictions where this has been tried and brought in that it takes some time to do these practical jobs.

Deputy Paschal Donohoe: In terms of funds and initiatives that are taken, I refer to the new energy efficiency fund of €70 million instigated recently by the Government. Could Mr. Dunning give us an update on that fund?

Mr. Aidan Dunning: To give some background as to how the energy efficiency fund came about, the Deputy may recall that we had in place a carbon windfall levy, the proceeds of which were used to subsidise electricity prices for commercial users primarily. That was struck down by the courts last year but there was a residual amount left in the fund of about €44 million. Some €35 million of that has been earmarked for an energy efficiency fund and from that €35 million we intend to leverage from the private sector at least an additional €35 million, if not more, through the establishment of appropriate funding mechanisms. We are working with NewERA in that regard because it is quite a complex matter.

We also see it operating very much in the area of the commercial sector. We have very strong targets, for instance, regarding the public sector in terms of energy efficiency under our energy efficiency action plan. Effectively, we have to reduce energy bills by 33% in the public sector. Consequently, the initial work in this regard is to identify exemplar projects in both the public and private sectors, which we will be doing in co-ordination with the Sustainable Energy Authority of Ireland. We will be putting a call out for exemplar projects. They will then be able to tender, if one puts it that way, or seek funding from the energy efficiency fund. The idea behind the fund is that it will finance those works and we will get a return thereon, in that there will be a charge or a loan, so to speak, as operates with the green fund in the United Kingdom, whereby those who access the fund will pay some cost of funding. At this point, we have not completed the funding mechanism and are working with NewERA on that.

Deputy Paschal Donohoe: What is the target completion date for this work? When does the Department hope to have it up and running?

Mr. Aidan Dunning: We hope to have the initial exemplar projects by the second or third quarter of this year.

Deputy Paschal Donohoe: When Mr. Dunning uses the phrase “exemplar projects”, is he referring to large public and private projects?

Mr. Aidan Dunning: Yes, exactly.

Deputy Paschal Donohoe: Would this have any applicability to a normal residential home in the future?

Mr. Aidan Dunning: No. Primarily, there is enormous potential in manufacturing, industry and SMEs, as well as in the public sector in areas, such as hospitals, in which energy efficiency can be improved. We perceive this fund as being directed towards such areas.

Deputy Paschal Donohoe: I will turn to another matter, which is a report that the Department paid a penalty to the Revenue Commissioners as a result of a technical accounting breach.

Mr. Dunning should explain to members what was involved. I should note it was a voluntary disclosure by the Department in this regard.

Mr. Aidan Dunning: Yes. That payment was actually made in February 2012 and not in 2011. It followed from an interpretation by the Revenue Commissioners that we should have applied relevant contracts tax in respect of telecommunication contracts, particularly the national broadband scheme. We had an engagement with the Revenue Commissioners on that. Initially, we did not agree with their interpretation on the matter and we took some tax advice on it. Moreover, the tax advice we received indicated we were right and we did not think the legislation applied in this instance. We had discussions with the Revenue Commissioners on the matter, but it stood its ground. It was strongly of the view that the legislation did apply to communications contracts. We then considered our options, of which there really were two. We could come to an agreement with the Revenue Commissioners - on a voluntary basis, as the Deputy noted - whereby we would admit there was a technical breach, if one wishes to put it that way, and would pay a fine, which amounted to €15,000. Alternatively, we could have gone into battle with the Revenue Commissioners and gone to litigation or to appeal commissioners. However, we took the view strongly - and in my opinion correctly - that this would be a nugatory waste of taxpayers' money because it would cost us and would cost the Revenue Commissioners. Moreover, the Government has directed, again rightly, that litigation between State agencies or anything that would involve expenditure for legal purposes or other purposes should be avoided.

Deputy Paschal Donohoe: May I interject to ask Mr. Dunning one question? One reason I bought up this matter was that the committee has been involved in other discussions regarding the applicability of Revenue Commissioners' rules and the disagreements that took place in that regard. I am interested in understanding the timeframe involved in all this, from the time when someone first raised his or her hand to indicate there was an issue to the time when the issue was resolved. Can the Secretary General explain to members how long this took?

Mr. Aidan Dunning: As I indicated, the final payment of €15,000 was made in February 2012. I think we are talking about a period of approximately 18 months.

Deputy Paschal Donohoe: Did the initial raising of the issue come from Mr. Dunning's own Department or from the Revenue Commissioners?

Mr. Aidan Dunning: From the Revenue Commissioners.

Deputy Paschal Donohoe: Thereafter, the entire process, broadly, took approximately 18 months to do, including getting advice and trying to reach agreement.

Mr. Aidan Dunning: Yes. It was approximately that time, although it might have taken a little longer.

Deputy Paschal Donohoe: I simply wished to gain an understanding of the approximate timeframe involved, and that is fine. I thank Mr. Dunning for his responses.

I will now turn to Mr. O'Keeffe. During this morning's discussion, I have found it hugely instructive to examine the list of projects the broadcasting fund is involved in supporting, which appears in appendix 2. It really brings home the diversity of broadcasting in which the authority is involved, as well as the scale of the moneys allocated to people, which is both big and small. The largest grant was for €1.5 million, three were for amounts greater than €1 million and a large number were worth approximately €100,000, followed by a long tail of awards of between

€10,000 and €12,000, which were for radio projects. However, there is a gigantic variety of different projects involved in all of this. I wish to focus on the observations the Office of the Comptroller and Auditor General in chapter 20 regarding how that fund would operate, as well as some recommendations it made in that regard, and will turn to paragraph 20.19 of the report. I will not go through everything here, because in quite a few cases the Broadcasting Authority of Ireland has accepted the findings fully. It stated it accepted the point and outlined what it was going to do about it. However, on the issue regarding delays in finalising contracts, the report makes the point that four of the 25 cases examined did not finalise their contracts within the 12-month period and for some, the finalisation point for the contracts ranged from 13 months to almost three years. What action has the Broadcasting Authority of Ireland taken as a result of this observation from the aforementioned office?

Mr. Michael O’Keeffe: We certainly have addressed that. This related to historic contracts, although that does not excuse it. We have addressed this particular issue. First, the contracts were concluded on a monthly basis. We have deadlines for offer acceptance of 12 weeks and for conclusion of contracts of 12 months.

Deputy Paschal Donohoe: May I interrupt Mr. O’Keeffe there? I wish to make sure I understand this point. Mr. O’Keeffe is telling me that when the authority makes available a grant to an organisation or body, it expects the work for which the grant is being made available to be done and dusted within 12 months. No?

Mr. Michael O’Keeffe: No; it pertains to having the contracts signed.

Mr. Ciarán Kissane: No, we do not expect them to have completed the project within 12 months. We expect them to have signed the contracts within 12 months in order that the project can proceed. In other words, we will hold the funding available to them for up to 12 months. As Mr. Michael O’Keeffe noted, they must accept the offer within 12 weeks, and they then have up to 12 months to finalise the contract and come up with-----

Deputy Paschal Donohoe: If I may, I will restate this to make sure I understand it. The authority makes available a grant to such an organisation and the objective is that within 12 months from the date of issue, it will have signed a contract with someone else to either show or broadcast the piece of work.

Mr. Michael O’Keeffe: No; allow me to clarify. First, when an organisation puts in an application, it must have a letter from the broadcaster. Consequently, an independent producer with a project must have a letter from the broadcaster, be it, in the case of television, RTE, TV3 or TG4. The first point is that one must have a commitment from the broadcaster that it will broadcast the finished product. We then make the offer and those concerned have 12 months in which to put everything in place and sign a contract with us. That is now the situation and we will go beyond that only in exceptional cases. The issue raised by the Comptroller and Auditor General was that in the earlier years of the scheme’s operation, we allowed a little more flexibility. We now are quite strict in this regard. If there is a request to go beyond 12 months, it comes to me first, as the chief executive officer, from the Sound and Vision team, and I then refer it to the authority to make a decision. There may be genuine reasons for it. Certainly in the case of large projects, there may be reasons, as the amount we give may be a small portion of a larger amount to put together a project and there may be different reasons it has taken longer. However, if something goes up to 12 months and looks as though it is going beyond that, we now have a tracking system in place to address that.

Deputy Paschal Donohoe: How often does someone come to the authority with a request to go beyond the 12 months?

Mr. Michael O’Keeffe: I will ask Mr. Kissane to respond to that question.

Mr. Ciarán Kissane: Looking at 2012, we would have granted extensions for somebody who had their 12 months in less than 5% of the cases. I do not have an exact figure for it.

Deputy Paschal Donohoe: It is a very small number.

Mr. Ciarán Kissane: It is very small. Sometimes it is linked to finalisation dates but it is very small at this stage.

Deputy Paschal Donohoe: The Comptroller and Auditor General made the point that the four he looked at ranged from 13 months to nearly three years. From what Mr. Kissane has told me, that is something the authority has acted on and it has a new-----

Mr. Michael O’Keeffe: That is not going to happen.

Deputy Paschal Donohoe: Has the authority a process in place for dealing with that?

Mr. Michael O’Keeffe: We allowed greater flexibility in the early years. We have tightened up very much on that.

Mr. Ciarán Kissane: I did address that in my earlier response. That was one of the reasons. We had an increase in the number of unsuccessful applications in 2010-11 because we were making that change. If somebody came to us and they did not have all the finance in place, we would look at it and say, “You are not going to be able to sign the contract within 12 months”, and we would not allocate them funding. We would mark the project down.

Deputy Paschal Donohoe: That then drove up the number of unsuccessful applications.

Mr. Ciarán Kissane: In that period, but that is now being addressed.

Deputy Paschal Donohoe: On the issue regarding advances of funding on which Mr. Kissane may have touched in answer to my earlier question, an observation from the report is that in three of the 25 cases examined, 90% of the grant allocation had been paid out on the signing of the contract resulting in a risk exposure for the authority and, indirectly, for the State. At present, how does the authority deal with how it allocates the grant?

Mr. Michael O’Keeffe: When the contracted is signed, there is an allocation based on different stages. The particular cases we are talking about are section 481 cases. In order to qualify for section 481 tax relief, we must allocate that level of funding, 90%, on the signing of the contract. However, the safeguard we have is the money does not go to the independent producer at that point. It goes into a defeasance account and that is protected.

Deputy Paschal Donohoe: It goes into whose account?

Mr. Ciarán Kissane: It is a particular structure. The 90% is only in the case of projects that are availing of the section 481 tax relief and the money that we allocate upfront helps them to increase the amount of money they can leverage through the tax relief. Unlike in other grants, the funding, once we pay it directly to the producer, goes into a special account where it is held until the producer comes back and draws it down after the production has been completed. In fact, it is probably safer than the normal structure whereby we would give 30% or 40% of the

funding directly to the producer for him or her to start making the programme.

Deputy Paschal Donohoe: Is that because of the presence of the special account which is drawn down at a later point?

Mr. Ciarán Kissane: Yes.

Mr. Michael O’Keeffe: The money comes back to us. If the project, for whatever reason-----

Deputy Paschal Donohoe: Collapses?

Mr. Michael O’Keeffe: -----does not proceed-----

Deputy Paschal Donohoe: The authority gets the money back.

Mr. Michael O’Keeffe: -----the money comes back.

A Member: That has never happened.

Deputy Paschal Donohoe: Is Mr. O’Keeffe’s point that the larger amount of money up-front is needed to allow them leverage larger amounts of money elsewhere?

Mr. Michael O’Keeffe: Yes. It is only for those type of projects.

Deputy Paschal Donohoe: Only section 481 accounts.

Mr. Michael O’Keeffe: Yes.

Deputy Paschal Donohoe: Another point made in the report relates to consideration of past performance of a contractor. It appears to be a reasonable observation and I am sure the authority has acted on it.

Mr. Michael O’Keeffe: We have addressed that. I would mention that in the most recent strategic assessment phase, which is the second assessment, a number of projects which would have qualified through the first assessment have been rejected because of track record issues. We have address that particular issue. We will continue to do that.

Deputy Paschal Donohoe: On the issue of monitoring, a point made is that 12 of the 25 cases experienced slippage in their contracted delivery schedules. How does the authority handle such issues?

Mr. Ciarán Kissane: That is one where, going back to the starting point in terms of whether projects are ready to go into production, we will only now fund a fully-developed project which is ready to proceed on that basis. That has helped us in terms of the slippage around delivery because one has projects that are much clearer in terms of how they are going to proceed.

On the other piece, we put in place a clearer structure whereby people can communicate with us through the new online system in terms of making us aware that things may slip. Things will slip because of the nature of production. For example, if there is rain, filming gets pushed back. I suppose the key point was if we have greater visibility of it and we are better able to manage it, and also ensuring that we are only funding projects that are ready to go into production, it is less likely to happen at the level that it was happening previously.

Deputy Paschal Donohoe: Does the authority have an understanding of what that im-

provement has been?

Mr. Ciarán Kissane: We are able to track this through the new system in terms of the number of projects where delivery has slipped, and able to communicate that back to the contractors.

Deputy Paschal Donohoe: Paragraph 20.56 of the report recommends that, “The BAI should consider setting output targets for categories of programming objectives”, and that Mr. O’Keeffe’s office only agreed with this in part. What is Mr. O’Keeffe’s view of that?

Mr. Michael O’Keeffe: There is a couple of points on it. While we agree with it in part, we do attempt - I covered this point earlier with Deputy Dowds - to give pre-eminence to certain genres. For example, it was mentioned that in 2012 we prioritised drama and animation. We are doing that.

It is an open system. It is an open competitive process. We did consider at one point having rounds devoted to particular genres exclusively and we got strong resistance from the stakeholders to that. They prefer the open rounds.

Deputy Paschal Donohoe: By open, does that mean the authority does not lay down specific criteria for applicants? Do the applicants put in the requests and the authority takes it from there?

Mr. Michael O’Keeffe: We have specific criteria in that we look at a genre and format mix. Let us say we were to get in a particular round 12 history and heritage documentaries and two science and contemporary society documentaries, inevitably, when we come to the strategic assessment phase, the science and contemporary science documentaries will do better because there is only two of them qualifying. There are 12 qualifying in the other. We are saying to the stakeholders that we want a mix of genres and formats and it is up to them as the sector to ensure that happens because they have a better chance of success if we have a broader range. That is where we have seen more drama coming in from broadcasting. We have seen more animation and children’s programming coming in in the past year. We will continue to do that.

We also committed that we would look at this issue in the review that we are undertaking at present because it links also to another point the Comptroller and Auditor General made around achievement. Certain objectives are achieved to a greater extent than others. In an open round system, it is inevitable that there are certain genres that people do not support. We are looking at this issue in the current review and I would say that the feedback from stakeholders has, by and large, been that we should continue with the open round system that we operate.

Deputy Mary Lou McDonald: I welcome the witnesses. I will start with Mr. Dunning. Returning to the public broadcasting charge, would he repeat the official title of it?

Mr. Aidan Dunning: The public broadcasting household charge. It has not been enacted yet.

Deputy Mary Lou McDonald: This is the concept. I am fascinated with the value-for-money study Mr. Dunning states is near completion. In shorthand, what was the premise of that study?

Mr. Aidan Dunning: It was to see how, in the framework in which such a scheme could be put in place, that would meet the criteria of providing sufficient funding to underpin public sector broadcasting.

Deputy Mary Lou McDonald: Is it an assessment of what it would yield potentially?

Mr. Aidan Dunning: That would be part of it, and how one would then put it together in terms of the revenue base and how one would access the household basis. It has not been completed yet. It is being done by an external team within the Department. I am sorry that I have not had a chance to go through it but I know at a high level that such are the terms of what is involved.

Deputy Mary Lou McDonald: It is an assessment of potential yield and then balancing that against the technical issues around making it happen, the administrative burden, etc.

Mr. Aidan Dunning: Efficiency and effectiveness.

Deputy Mary Lou McDonald: In the course of that process, the Department must have had a figure, notional if not final, on which it was operating as to what that charge might be. Where did the Department settle on it? Did the Department pitch it as the same?

Mr. Aidan Dunning: At this stage, we have not yet settled on a figure on that.

Deputy Mary Lou McDonald: I know it is not settled upon. For the purpose of the exercise to establish potential yield, there would have to have been a working assumption on the value or cost. Did the Department simply use the current television licence figure?

Mr. Aidan Dunning: At a very minimum, the yield from the current licence fee should be achieved. That would be the starting point. The Department would then consider certain exemptions that would apply, to which I have referred. Obviously, it would then look at the household, the base that would be in place. However, I am not privy at this stage to any particular figure that has been arrived at.

Deputy Mary Lou McDonald: I assume that, for the purpose of the exercise, Mr. Dunning used the figure pertaining to the television licence to test-----

Mr. Aidan Dunning: The revenue figure, the total figure. It amounts to €211 million per year.

Deputy Mary Lou McDonald: Mr. Dunning said that one of the big challenges that will arise if this is to come to pass is the development of the database. Obviously there have been experiences associated with the household charge and the property tax. There are several databases that could be accessed through the Department or the Revenue Commissioners. Has there been initial contact with those bodies to establish the usefulness of the current databases for the purpose of this exercise?

Mr. Aidan Dunning: All the databases referred to by the Deputy would be very valid. There is also a database within our own family, if one wants to put it that way. The ESB has a database also in regard to houses' GPRNs and electricity connections. As the household charge is built up, and when the property tax builds up, the associated data will be of assistance. There will be an amalgam of bases or areas that we can look at. An Post already has an important database in relation to the television licence fee system that it has to operate. That would obviously be a practical issue that will have to be bottomed out to ensure it is efficient, effective and capable of being administered. The question of who will administer it is a big issue also.

Deputy Mary Lou McDonald: Yes. Let me put my cards on the table. I hope this does not come to pass. However I will not argue the toss with Mr. Dunning on that as it will be a

policy matter.

We have named the Department of the Environment, Community and Local Government, the Office of the Revenue Commissioners, the ESB and An Post. At what point is the investigation or contact with those named bodies in respect of this database? I am coming back to the value-for-money survey. Obviously, Mr. Dunning needs to have a clear picture in his mind as to the viability of this. I am assuming there has been some type of contact with An Post, the ESB, the Department of the Environment, Community and Local Government, and the Office of the Revenue Commissioners even at this stage. Would I be correct?

Mr. Aidan Dunning: There certainly have been preliminary discussions.

Deputy Mary Lou McDonald: Were they part and parcel of the value-for-money discussion?

Mr. Aidan Dunning: They would have been part of the discussion, yes. I would think they would inform the outcome.

Deputy Mary Lou McDonald: When did Mr. Dunning say he expects the report?

Mr. Aidan Dunning: I would expect it very shortly. It is to go to the Minister within the next couple of weeks.

Deputy Mary Lou McDonald: Is there a notional timetable for the period thereafter? When the report goes to the Minister, the Cabinet will deliberate on it.

Mr. Aidan Dunning: The Minister will have to decide on it and the timescale.

Deputy Mary Lou McDonald: Mr. Dunning implied to my colleague Deputy Donohue that it would take until the end of 2014.

Mr. Aidan Dunning: That would be a fair assessment because of the transition, given that everything went on a pretty-----

Deputy Mary Lou McDonald: What is the start date if the full transition is to be completed by 2014?

Mr. Aidan Dunning: Certainly, one would want to be moving pretty quickly on at least having heads of legislation ready for submission to the Government towards the autumn of this year. Forgive me for not being as familiar as I should be with the detail of the value-for-money study. I would not underplay the transitional aspect. It is very important that we would get the move from one system to another right so we will not pull the floor out from underneath, so to speak. One can imagine the outcome if people are expecting another system. As I emphasised, if it replaces the licence fee system, the compliance rate could be a difficulty. Nobody wants a situation to emerge whereby public sector broadcasting revenue would be at serious risk in a transitional period. All of that will have to be very carefully worked through and nuanced. It can, I think, be done in the timeframe.

Deputy Mary Lou McDonald: Mr. Dunning will appreciate that many people who may not have televisions and who may source information from various other sources will be a lot less than impressed with the notion that they will be taxed for it. He mentioned the waivers for senior citizens in respect of the existing licence. Will this be maintained?

Mr. Aidan Dunning: That is a policy issue.

Deputy Mary Lou McDonald: I note there were no performance or merit payments made in 2011? Is that also the case for 2012?

Mr. Aidan Dunning: Yes.

Deputy Mary Lou McDonald: Can I ask about the total cost of the Moriarty tribunal to the Department? I have two figures to hand, €358,767 for 2010 and €152,264 for 2011. If my calculations are okay-----

Mr. Aidan Dunning: Does the Deputy mean the total cost from the outset of the tribunal?

Deputy Mary Lou McDonald: Yes, please. I have two figures. The note says the figures mentioned were in respect of various expenses arising from the Department's involvement in the tribunal. I would like to get a global cost.

Mr. Aidan Dunning: I can give a global cost from 2002 to date. It is €3.5 million.

Deputy Mary Lou McDonald: Some 3.5 million euro in total. It is noted that there were "various expenses". What were they?

Mr. Aidan Dunning: Legal fees obviously comprised the main proportion. We were represented at the tribunal over the period in question so the legal fees would have come to over €2.8 million.

Deputy Mary Lou McDonald: What was the balance comprised of?

Mr. Aidan Dunning: There were administration costs of €435,000 and salaries within the Department of €289,000.

Deputy Mary Lou McDonald: I thank Mr. Dunning.

The petroleum infrastructure fund was established in 1997 and funded by oil companies with offshore exploration licences issued by the petroleum affairs division.

Mr. Aidan Dunning: They make a contribution to the fund.

Deputy Mary Lou McDonald: What is the current scale of that fund?

Mr. Aidan Dunning: The current figure amounts to a couple of million euro.

Deputy Mary Lou McDonald: Am I correct in saying it is €7.2 million?

Mr. Aidan Dunning: As my colleague points out, at the end of December 2011 the balance was €7.284 million. That has been run down a bit since-----

Deputy Mary Lou McDonald: Does Mr. Dunning not have a more recent figure?

Mr. Aidan Dunning: I am informed it is still around that level.

Deputy Mary Lou McDonald: What is the purpose of it?

Mr. Aidan Dunning: Its aim is to assist us with regard to hydrocarbon exploration and development activities. It is basically used to enable us to carry out seismic surveys of the Irish

offshore acreage to enable us to get very valuable geological information that would then be at the disposal of those who may be interested in exploring the offshore potential.

Deputy Mary Lou McDonald: One will note from the figures that very little of the fund has been spent.

Mr. Aidan Dunning: There is a very major seismic survey about to commence in the North Atlantic that will require up to €4 million, perhaps. That is potentially one of the most important events.

Deputy Mary Lou McDonald: Can Mr. Dunning name the oil companies that pay into the fund? The term “oil companies” is a bit of a catch-all.

Mr. Aidan Dunning: They would be the people who would have won the licences to explore offshore.

Deputy Mary Lou McDonald: Can Mr. Dunning state who they are for the committee?

Mr. Aidan Dunning: I do not have a list. They are all companies with a licence and they vary from major in size to minor. There is to be drilling very shortly in the Atlantic, off the west coast at Dún Chaoin. Exxon, ENI and people like that are part of the consortium.

Deputy Mary Lou McDonald: Would Shell pay into it?

Mr. Aidan Dunning: Shell would pay into it.

Deputy Mary Lou McDonald: Mr. Dunning has given me some examples, but is it just that he does not have a list in front of him?

Mr. Aidan Dunning: I do not have a list. We were very successful in our last licence, so one could have up to 20.

Deputy Mary Lou McDonald: How appropriate is it for commercial entities, albeit that they have secured a licence, to be paying money into this kind of fund for the purposes of further hydrocarbon exploration and development activities? Does Mr. Dunning not see that there is a bit of a clash there, to say the least? I am very surprised to see this type of an arrangement. These are potentially-----

Mr. Aidan Dunning: It is a fixed sum. It is a condition of the licence and they have to pay it or they will not get the licence. Therefore, it is the State that benefits because the money is spent to the benefit of the State in terms of us finding out more about the offshore asset.

Deputy Mary Lou McDonald: When those explorations happen, what is the feedback to the companies which contribute? They obviously have the benefit of that.

Mr. Aidan Dunning: Yes. The benefit is the data we acquire through that as part of our efforts to make the country a more attractive location for offshore exploration. Unfortunately, we have not had many successes. Subject to control in the Department, we have an open approach to share the data so that people can see and can be encouraged or discouraged. They can see the geological make-up of a particular acreage. If they think there is a prospect there, we can get interest from them, bearing in mind that they pay the full cost of any exploration activities that follow on.

Deputy Mary Lou McDonald: I thank Mr. Dunning for that explanation. Subheads E1 to

E6 include matters such as petroleum, mining and GSI services, as well as geoscience initiatives and seabed surveys. Is the money presented in this petroleum infrastructure programme fund the sum total of what is spent by the State?

Mr. Aidan Dunning: No. This would be additional money that is spent from the Vote in subheads E1 to E6. They are for different things. For instance, the Geological Survey of Ireland operates under the aegis of the Department. The GSI spends money in assisting local authorities.

Deputy Mary Lou McDonald: I want to zero in on the issue of oil and gas.

Mr. Aidan Dunning: In terms of the petroleum service in subhead E1, the spend on that is to support the regulatory effort we have to do in this area. For instance, we have to carry out strategic environmental assessments, which would have to be paid out of that particular subhead. Some of the money we spend out of the fund, which I mentioned already, comes in through this subhead. It is a path through. It comes in as appropriation-in-aid and goes out as a spend under this subhead. If we were spending on a seismic survey, that would be part of subhead E1. Subhead E2 concerns spending on mining services.

Deputy Mary Lou McDonald: Yes, I see that.

Mr. Aidan Dunning: In 2011, we had to spend on the rehabilitation of mines like Silvermines.

Deputy Mary Lou McDonald: Are the data that were gathered through this petroleum infrastructure programme fund in the public domain?

Mr. Aidan Dunning: My understanding is that, generally, they are available publicly.

Deputy Mary Lou McDonald: They are not only available to the Department and those paying into the fund. Is Mr. Dunning certain about that?

Mr. Aidan Dunning: There may be some exceptions where they would not be, but in general they are.

Deputy Mary Lou McDonald: Why would there be exceptions?

Mr. Aidan Dunning: It depends on the arrangements that we would have reached with the individual and if there were some commercial problems or issues they may have raised.

Deputy Mary Lou McDonald: That is the bit that troubles me. I understand that as part of a licence there is a requirement to pay into a fund. It strikes me that governance and ethical issues would need to be straightened out.

Mr. Aidan Dunning: In general, as I understand it, the data are openly available.

Deputy Mary Lou McDonald: Would Mr. Dunning oblige me and the committee by sending us a lot more detail on that issue, down to exactly who is paying in, what sums they have paid and what it is being used for?

Mr. Aidan Dunning: No problem.

Deputy Mary Lou McDonald: If there are exceptional situations where the information is not generally held or available, I would certainly like to know what those instances are. I would

be obliged if Mr. Dunning could do that.

I am conscious of the time, a Chathaoirleach, but I have a couple of questions for Mr. O’Keeffe if I can continue. Annex C refers to the profile of projects funded from 2006 to 2011. A couple of things jumped out at me, including funding by language. In television, the Broadcasting Authority of Ireland is not doing as well as I would have anticipated on the Gaeilge front. Some 50% of the television programmes supported is in English, while 22% is bilingual and 28% is in Irish. When one goes across the radio spectrum it is really massively unbalanced, is it not? Only 10% of the radio programmes supported are in Irish. How does Mr. O’Keeffe account for that?

Mr. Michael O’Keeffe: It is a challenge. There is undoubtedly a massive imbalance. Under the scheme, the requirement is to have 25% Irish and bilingual programming, and we achieve that annually from the entire scheme. Clearly, in television we achieve more than that. There is an issue related to the number of broadcasters. In television there are a limited number of broadcasters that apply for support from the fund. TG4 is obviously a strong applicant or a supporter of applications for the fund.

On the radio side that is not the case. We have a number of Irish language broadcasters. We have Raidió na Life in Dublin and Raidió na Gaeltachta. They have not contributed to a great extent. Some of the community services have put in projects which are either Irish or bilingual. Generally speaking, across the rest of the sector, we would not receive many applications in Irish. It is linked to the number of applications we receive, which is quite low.

Deputy Mary Lou McDonald: Does Mr. O’Keeffe have a plan? Others have asked the BAI to talk to the stakeholders and that issue was raised by the BAI itself. Is the BAI flagging that matter with them and talking to them about it?

Mr. Ciarán Kissane: This is definitely something that is coming into sharper focus. Part of that is driven by the fact that there is now greater competition for funds. People are aware that there is a 25% requirement and that we are very focused on that. Therefore, we are beginning to see people looking at that as a way to try to ensure their projects have a greater prospect of being successful. Raidió na Gaeltachta was not an applicant until about three years ago, and we have seen an increasing number of applications as funds have become tighter. We are also seeing an increasing number of Irish language applications from more mainstream broadcasters because of that 25% requirement.

Deputy Mary Lou McDonald: Looking at the funding by service type for the television figures, some 75% are public broadcasters. What does that mean?

Mr. Michael O’Keeffe: That is for RTE and TG4.

Deputy Mary Lou McDonald: Then 21% covers the independents.

Mr. Michael O’Keeffe: I apologise but that figure is across radio and television. The public broadcasters would be RTE and TG4 but RTE radio services would also be included in that.

Deputy Mary Lou McDonald: I am just looking at the television figures. Is it correct 75% went to RTE and TG4? If so, how does the Broadcasting Authority of Ireland, BAI, account for that?

Mr. Michael O’Keeffe: We take the view that in the case of television, 95% of the funding

goes to independent producers. In terms of the broadcasters that can support them, it is a narrow field in that it is TV3, TG4, RTE, Setanta and occasionally the Northern Ireland broadcasters that will support projects. The money goes to the independent producers to allow them to make the programming. I know there was some suggestion that RTE was getting a significant amount of the funding. From the 2012 figures, RTE received 38% of the total fund but in fact RTE did not receive any of that funding because the money went to the independent producers whose programmes were broadcast on RTE. Part of the situation is the television sector here is narrower than in some other jurisdictions.

Deputy Mary Lou McDonald: For instance, what did TV3 get from the fund in 2012?

Mr. Ciarán Kissane: Last year, TV3 got 17% of the overall allocation. The figures in annex C relate to 2011. Last year, we saw a greater focus in the commercial radio sector in such projects. We are getting a greater balance between the commercial and the public sector. It is a point we are trying to balance.

Deputy Mary Lou McDonald: Is this about genre, diversity and so forth?

Mr. Michael O’Keeffe: We look at it at the strategic phase. We also look at the mix of broadcasters. For example, we would have encouraged TV3 to develop drama. Its first drama series, “Deception”, was broadcast earlier this year. It was to mixed reviews, admittedly, but it was a positive indication that TV3 wants to support this type of programming. Earlier I referred to another TV3 programme, “The Estate”, a fly-on-the-wall documentary series which may not have been produced before. We are encouraging broadcasters to become more involved in the scheme.

Mr. Ciarán Kissane: We look at that in terms of diversity of audience, one of the strategic criteria. We take into account the relative audience shares of the various broadcasters supporting projects. In 2012, 65% of the fund went to public broadcasters.

Deputy Mary Lou McDonald: Regarding the BAI’s code on fairness, objectivity and impartiality in news and current affairs, anyone who has made a complaint to the BAI about news coverage has described to me the process as being utterly tortuous, cumbersome and unreasonable. Another issue which has been raised by others, most particularly the National Womens Council of Ireland, is the absolute lack of women - their virtual invisibility - in current affairs broadcasting. A study was done on this which I am sure the BAI has seen. I cannot understand why the code on fairness, objectivity and impartiality could not have included diversity. The BAI needs to have this in its sights. It must be more than just saying things. While words can be positive and worthy, something needs to be done to balance up the interests of all of the democratic values which the BAI is charged with defending and safeguarding.

Mr. Michael O’Keeffe: The point we made last week was that this particular code was specifically on fairness, impartiality and objectivity in content. Accordingly, this issue was not relevant for inclusion in this code. We have supported some work in research done by the National Womens Council of Ireland through our sectoral development policy. There is a conference which we are part-sponsoring which is addressing this issue. If we came across as flippant last week, it was not our intention to do so. We are aware of this issue and through our sectoral development policy and our engagement with broadcasters we are looking at areas where representation of women can be improved. We will continue to do that and it is one of our commitments.

Deputy Mary Lou McDonald: Will the BAI produce an action plan in that regard? Will it set down milestones?

Mr. Michael O'Keeffe: We have not gone that far. At this stage, we have engaged with the National Women's Council of Ireland and we have committed to supporting the work it is doing by sponsoring a conference it is running. For our next steps, we will look at what emerges from that.

Deputy Mary Lou McDonald: Is the BAI positively disposed towards this issue?

Mr. Michael O'Keeffe: We are positively disposed to it. Several years ago, we supported a project called Women on Air, with which Ms Margaret Tumelty was involved.

Deputy Mary Lou McDonald: This issue is not going to go away. I am zeroing in on women but there are other diversity issues which need to be addressed. However, as women are the majority of the population, this aspect of the matter needs to be straightened out.

Mr. Michael O'Keeffe: I appreciate that and I am not disagreeing with the Deputy.

Chairman: In 2010, the television licence fee revenue came to €222 million but in 2011 it dropped to €217 million, a reduction of €4 million in a year. Will Mr. Dunning clarify his statement earlier that this revenue will drop to €211 million in 2012?

Mr. Aidan Dunning: Regarding the total licence fee receipts for 2012, in recent years we have seen the revenue falling but not a lot. This is a reflection of several issues such as the recession and fewer people owning television sets. We have seen this development but it has not been substantial.

Chairman: Is Mr. Dunning satisfied enough is being done to collect the licence fee?

Mr. Aidan Dunning: Yes. Obviously RTE and the other beneficiaries of the licence fee are concerned by this development. With RTE, we have established a group with An Post which meets regularly to address the problems that are emerging in the shortfall of licence fee collection. There has been a strong advertising campaign run by An Post in that area.

Compared to earlier years, the figure for social welfare recipients was frozen at the 2010 figure of €57 million. In other words, even though additional people are getting entitlements to the TV licence fee for free, RTE and An Post are not being reimbursed any more in respect of that increment. Clearly, there is no increased increment in respect of that.

Chairman: Does Mr. Dunning have the figure for 2012? Could somebody look it up while we move on?

Mr. Aidan Dunning: It is in the region of €223 million or €224 million. I know that from memory; I do not have the figure in front of me.

Chairman: It dropped by €4 million in 2010-2011. The figure of €223 million is for 2012 and means that it went back up again. I want to establish that.

Mr. Aidan Dunning: I will get the figure for the Chairman. I apologise; I do not have the figure for 2012.

Chairman: In respect of the Moriarty tribunal, Mr. Dunning gave a figure of €3.5 million to date. Does he expect that it will cost much more than that?

Mr. Aidan Dunning: The tribunal is finished.

Chairman: Are there any other costs outstanding anywhere else? Is that it?

Mr. Aidan Dunning: There are some potential contingency legal costs that have not been invoiced to us yet but they are not of major material.

Chairman: Is it correct to say that the Department has a role with regard to Irish Water?

Mr. Aidan Dunning: We do not have a direct role in Irish Water. The responsibility for water services rests with the Department of the Environment, Community and Local Government. However, in light of the recent decision by the Government to establish Irish Water as a State body with responsibility for all matters relating to the provision of water services and the fact that Bord Gáis Éireann won the competition to implement that decision, a subsidiary of Bord Gáis called Irish Water is being established. Bord Gáis is a semi-state company that reports to our Department so we have a clear interest in that issue. In addition, the energy regulator has also been given the responsibility of regulating the water charges in the future. As the committee saw from the annual report and accounts of Bord Gáis which were issued yesterday, it is a strong company in a robust position that is delivering good dividends to the State. It does very good work in respect of its core energy functions. We and it are happy that it can take on what is a major job in terms of delivering the mandate Irish Water will be given. We will keep in close touch with this as it develops in terms of how it is being implemented, particularly in respect of any impact it may have on the finances of Bord Gáis generally. We have no reason to believe it will not be able to deliver and do what it has been requested to. I know it has put a very strong planning regime in place for the implementation of Irish Water and has already spent a significant amount of funds on setting it up.

Chairman: It is expected that the managing director or CEO will be paid around €190,000. A report in the media suggested that it was much more than that and included perks such as health insurance and pension entitlements on top of the figure of €200,000. Is that a fact?

Mr. Aidan Dunning: Is this the CEO of Irish Water?

Chairman: Yes.

Mr. Aidan Dunning: That would have been agreed between the Departments of the Environment, Community and Local Government and Public Expenditure and Reform and the CEO. Our Department was not involved in the remuneration package.

Chairman: Is that the package that was on offer?

Mr. Aidan Dunning: All I know is that he has been offered a salary of €200,000. I am not aware of the other elements of the package.

Chairman: It is a different Department anyway.

The surplus to surrender at the end of 2011 seems to have been significant. Was it significant? Is the figure €31 million?

Mr. Aidan Dunning: It is significant. There are a number of factors. The primary factor would have been the energy efficiency schemes. That was where the main savings would have arisen, because these are demand-led schemes and we have noticed a trend from 2011 onwards whereby demand for grants under these schemes has diminished slightly. The provision we in-

serted in 2011 for energy efficiency schemes included an additional €30 million that was added in the middle of the year as part of the Government's stimulus package for employment so we received additional money in the middle of 2011. We did not spend all of that and were about €10 million below that. There were also savings on the broadband side. I already mentioned the schools broadband. Expenditure did not happen as quickly as we expected on that front so we surrendered that. There were also some other savings. We had some contingency provisions in the broadband area that we did not need to use. It is an amalgamation of things.

Chairman: There are two other issues. In the notes attached to the accounts, it is stated that a figure of €231,916 was paid in settlement of a court case relating to Corrib gas. What was that for and how did it arise?

Mr. Aidan Dunning: A judicial review was taken by two sets of individuals against the ministerial consent in respect of Corrib gas. That review was also taken against the Department of the Environment, Community and Local Government and An Bord Pleanála consents. The plaintiffs sought to overturn those three consents. The court case commenced in the latter part of 2011. On legal advice, we took the view that there was an opportunity to settle the case on the basis that the judicial review and case would be stopped and that the project could continue. We made the settlement on that basis.

Chairman: That was the total settlement?

Mr. Aidan Dunning: That was our contribution.

Chairman: Where did the other contributions come from?

Mr. Aidan Dunning: The Department of the Environment, Community and Local Government would have made a contribution and because Shell was a notice party, it also would have to make a contribution.

Chairman: Did it cost the Department of the Environment, Community and Local Government as much? Was it the same?

Mr. Aidan Dunning: It was of the same order. In terms of the amount involved, we relied on the advice of the Chief State Solicitor's office and the legal people as to the adequacy or correctness of the amount involved.

Chairman: It cost the State €460,000.

Mr. Aidan Dunning: It did, but it meant we could proceed with the Corrib gas project.

Chairman: I understand that.

Mr. Aidan Dunning: One must understand how important that project is.

Chairman: The Department has some properties in the GPO Arcade that are rented. Would Mr. Dunning describe those properties and the rent?

Mr. Aidan Dunning: I will have to give the Chairman a note on that because I do not have the details of the individual properties. My understanding is that they are fairly long-term leases that were put in place many years ago. I do not have the detail in front of me in respect of all the properties.

Chairman: Could Mr. Dunning send us a note on those properties and a bit of background

to them?

Mr. Aidan Dunning: I will do that.

Chairman: That completes our hearing today. Is it agreed that the committee dispose of both Vote 30, chapter 20 - the Broadcasting Authority of Ireland Financial Statements 2011, and the Broadcasting Fund Financial Statements 2011? Agreed.

The witnesses withdrew.

The committee adjourned at 2 p.m. until 10 a.m. on Thursday, 25 April 2013.