

DÁIL ÉIREANN

AN COMHCHOISTE UM IOMPAR, TURASÓIREACHT AGUS SPÓRT

JOINT COMMITTEE ON TRANSPORT, TOURISM AND SPORT

Dé Céadaoin, 17 Iúil 2019

Wednesday, 17 July 2019

The Joint Committee met at 11 a.m.

Comhaltaí a bhí i láthair/Members present:

Pat Buckley,*	Mark Daly,
Ruth Coppinger,	Frank Feighan,
Marc MacSharry,	John O'Mahony,
Catherine Murphy,	Pádraig Ó Céidigh.
Kevin O'Keeffe,	
Noel Rock.	

* In éagmais/In the absence of Deputy Jonathan O'Brien.

I láthair/In attendance: Deputies Aindrias Moynihan, Eamon Ryan and Robert Troy and Senators Gerry Horkan and Kevin Humphreys.

Teachta/Deputy Fergus O'Dowd sa Chathaoir/in the Chair.

Business of Joint Committee

Chairman: Apologies have been received from Deputy Jonathan O'Brien. Deputy Pat Buckley will substitute on his behalf. We will continue in private session.

The joint committee went into private session at 11 a.m. and resumed in public session at 11.05 a.m.

Business of Joint Committee (Resumed)

Chairman: Before we commence the main business of today's proceedings I wish to turn to some housekeeping matters. The minutes of the meeting of 10 July have been circulated. Are there any matters arising? No matters arise. Are the minutes agreed? Agreed?

The correspondence will be recorded as read into the minutes. Correspondence 2019/504 is an email from Mary Daly, Department of Transport, Tourism and Sport concerning the future reappointment of Ms Rose Hynes as chairperson designate of the Shannon Group. It is proposed to schedule this meeting after the summer recess. Is that agreed? Agreed.

Correspondence 2019/505 is correspondence from me. I forwarded the correspondence I received last night from Mr. Donal Conway, president of the Football Association of Ireland. It provides an update on the current position regarding the governance of the FAI. In the interests of transparency I wish to note that I received a telephone call last Sunday from the FAI asking whether I would be prepared to receive a private briefing from Mr. Conway about the issues in respect of the FAI view on the reports. My answer was that would be unacceptable and there was no way in which any communication could, should or would happen without the full knowledge of the committee in full public meeting. That is what we have today. I offered him the opportunity to come before the committee, either today, tomorrow, Friday or any day next week before the annual general meeting to clarify the issue. Subsequently a letter arrived in which Mr. Conway said that, provided he is still president, which is the issue, the FAI will come in after the AGM. That is what that correspondence says and that is the origin of it. If anyone has any comment on it that is fine, otherwise I can move onto the next item. If committee members wish to comment on any of these issues the best place to do it may be when they make contributions. I trust committee members are happy with that.

Correspondence 2019/506 is correspondence sent to Donal Conway from the Minister for Transport, Tourism and Sport, Deputy Shane Ross. That is the Minister's letter. All committee members have a copy of it. It was sent yesterday.

I received the next item of correspondence yesterday. It is on behalf of the Soccer Writers Association of Ireland and the Association of Sports Journalists in Ireland. They have written to the FAI to seek admission for their members to its Saturday EGM. They asked me to raise this here and with Sport Ireland as an issue of concern. I ask the delegates to carry the message strongly to the FAI that it is wrong not to admit those concerned. The only reason we are meeting in the first place is because of the efforts of journalists who exposed all the issues regarding the moneys and other matters. In the interest of transparency and the accountability of the FAI, it is right and proper that sports journalists be able to attend the EGM and report verbatim on its due process.

Deputy Catherine Murphy: In addition to asking Sport Ireland to do that, the Chairman should, on behalf of this committee, write to the FAI stating it is a requirement. The lack of permission to ask questions and have them answered at AGMs is a long-standing problem that must be addressed if we are to have confidence in the governance of the FAI. It is not down to Oireachtas scrutiny but a matter of allowing people to do their job. Journalists have a job to do. Would we have come to this precipice had they been allowed to do their job over the years? It would be utterly unacceptable for them not to be included and allowed to do their job.

Chairman: With the Deputy's consent, I will ask the clerk to write formally to the FAI setting out our views very clearly.

Scrutiny of EU Legislative Proposals

Chairman: On EU scrutiny, there is just one proposal. It is proposed that there are no subsidiarity concerns with COM (2018) 208. Is that agreed?

Deputy Catherine Murphy: I believe that is about squaring things for Volkswagen. I have no issue with competency being left with the European Union but I do not believe what is proposed in respect of emissions from diesel engines will necessarily improve air quality. It is more of a technical, housekeeping matter than a profound change to improve environmental standards.

Chairman: It is proposed that the proposal does not warrant further scrutiny. Is that agreed? Agreed.

Governance Review Group Report for the FAI Board and Sport Ireland: Sport Ireland

Chairman: I welcome to our meeting Mr. John Treacy, CEO of Sport Ireland, Mr. Kieran Mulvey, chairman of Sport Ireland, Mr. Aidan Horan, chairman of the governance review group and director of the Institute of Public Administration, and Mr. Paul McDermott, from Sport Ireland.

By virtue of section 17(2)(l) of the Defamation Act 2009, witnesses are protected by absolute privilege in respect of their evidence to the committee. However, if they are directed by the committee to cease giving evidence on a particular matter and they continue to so do, they are entitled thereafter only to qualified privilege in respect of their evidence. They are directed that evidence connected only 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 any person, persons or entity by name or in such a way as to make him, her or it identifiable.

Members are reminded of the long-standing parliamentary practice to the effect that they should not comment on, criticise or make charges against a person outside the Houses or an official, either by name or in such a way as to make him or her identifiable.

I invite Mr. Treacy to make his opening statement. He is to be followed by the chairman of the review group, Mr. Horan.

Mr. John Treacy: I thank the Chairman. I am joined by Mr. Kieran Mulvey, Mr. Aidan Horan and Mr. Paul McDermott, as the Chairman said. Mr. Horan will make an opening statement on the work of the governance review group and its report, which was furnished to members of the committee on 21 June, in advance of its publication.

Sport Ireland has attended meetings of this committee on two occasions in recent months. Matters pertaining to governance in the FAI were discussed at length. Today I will give Sport Ireland's perspective on the recent developments towards reform and examine the next steps in regard to the adoption of the reform proposals and, ultimately, the conditions by which restoration of Sport Ireland funding may take place.

The board of Sport Ireland welcomes the report of the governance review group. The report provides a clear and comprehensive pathway for the fundamental reform of governance within the FAI, and a pathway for the FAI to emerge from its current difficulties. The report is a significant piece of work and draws on the expertise and experience of the various group members, particularly in the areas of corporate governance, financial management, change management and football administration.

The report is detailed and explicit in its recommendations. It gives serious consideration to the input of many stakeholders, as well the outputs from the football stakeholders' forum, hosted by the Minister, Deputy Ross, and the Minister of State, Deputy Griffin, and attended by the Chairman of this committee and some of its members.

What is clear from the discussion at that forum and the large number of submissions received from members of the public and the football community is that a palpable appetite for change exists. Indeed, the recommendations in the report have been widely welcomed and the commentary following publication has been overwhelmingly positive.

While Sport Ireland is a key funder of the FAI, it is important to acknowledge the significant roles played by international partners UEFA and FIFA from a governance and funding perspective. It is therefore welcome that the group consulted both UEFA and FIFA as part of this process and benchmarked its proposals against the principles and regulations of both, as well as those of other international football federations. In this regard, Sport Ireland was pleased to hear that the outcome of the group's work has been endorsed by UEFA and FIFA. This is an important development and sends a clear message to stakeholders at all levels of the game, from grassroots to professional, that these recommendation need to be implemented in the best interest of the game.

The report clearly and appropriately identifies the collective responsibility of the new board of the FAI in leading and directing the organisation's activities. It will be up to the new board of the FAI to show leadership in the implementation of these critical, yet achievable, recommendations. It is the view of the Sport Ireland that the timely implementation of these reforms is essential to the restoration of public trust and confidence in the FAI.

A new outlook is necessary if real change and reform are to be realised. We now have a timely opportunity to commence the process of change. The urgency arises from the need to provide the public, football community and stakeholders with assurance that there is determination in the FAI to enact necessary reforms. The adoption and implementation of the recommendations of the review is only a starting point; the actions and steps that will follow will take time.

While the report has been widely welcomed, one challenge facing the board of the FAI is reassuring all its constituents that the 78 recommendations included in the report of the governance review group are in the best interests of the organisation and the game of football in Ireland.

There have been media reports in recent weeks on some reservations expressed by some affiliates of the FAI regarding the proposed composition of the new board. It is natural for reluctance to change and reform to exist among some groups in any change process. We respect the autonomy of such groups but it is vital that they reflect on the current situation, as well as the implications and practicalities of the recommended committee structure and where their respective inputs and expertise are best suited. One aspect worth highlighting is the establishment of the new football management committee. This is essentially the new football board for the FAI and will oversee the business of football. The football management committee will be the forum where all matters pertaining the game of football at all levels will be discussed.

It is also important to note that the governance review group report recommends appointing an interim board for a period of one year. The board must show leadership. Its role in this regard is clearly outlined in the report and the skill sets required by members of the board to carry out its role and ensure the future successful governance and management of the FAI are detailed. These include, among others, skill sets in the areas of law, governance, finance, and risk management. The report further states: “The necessity for the presence of these skills and experience on the Board is reflective of the requirement on the part of the Board to oversee the management and strategic development of a significant organisation.”

Sport Ireland notes that the FAI has been conducting roadshows around the country to discuss the recommendations with key constituents. This is welcomed. It is hoped that these discussions will lead to a better understanding of the proposals and the reason these changes need to happen.

The board of Sport Ireland views the adoption of the recommendations of the report by the FAI as absolutely essential. As part of the implementation of the governance review group report recommendations, the FAI will establish an implementation oversight group which will review the recommendations in conjunction with the FAI’s rulebook and constitution. The first task for this group will be to draw up an action plan, with associated timelines. The FAI has invited Sport Ireland to appoint two representatives to the oversight group. Sport Ireland has nominated Mr. Joe O’Leary, who was a member of the governance review group and who is an experienced consultant, business psychologist and facilitator; and Mr. Angelo McNeive. Both representatives will bring substantial expertise to the table and have the range of skills required for the group. The FAI has welcomed these additions.

As a joint commissioner of the governance review group report and as the statutory agency with responsibility for the development of sport, Sport Ireland will pay close attention to the work of the implementation group and will seek periodic updates on its progress as part of an ongoing liaison process with the audit and risk committee of the board of Sport Ireland.

As the committee will be aware, in May of this year, Sport Ireland appointed KOSI Corporation Limited to carry out an extensive independent audit of the FAI. The KOSI audit, which commenced in late May, is an exercise commissioned entirely independently of the association and will address the key issues Sport Ireland requires to be examined. The KOSI team comprises senior auditors, including a forensic accountant. The audit is independently assessing the expenditure of Sport Ireland grant funding in accordance with the FAI’s approved submissions.

It is also examining in detail the FAI's wider financial administration and internal control environment, which includes assessing the FAI's fitness to handle public funds.

This audit will include, but is not limited to, assessment of the compliance of the FAI with the terms and conditions set out by Sport Ireland in respect of the award of grants between 2015 and 2018; a consideration of good practice requirements and expected financial controls and of how the FAI matches up against these requirements; an assessment of the financial control framework within the FAI and the FAI's fitness to handle public funds; an assessment on the FAI's overall financial and cash position and its overdraft facilities to meet its financial obligations; an assessment of the existence and effectiveness of the FAI's financial policies and procedures pertaining to current practices within the FAI; and the undertaking of reviews, to include sample testing. It is anticipated that KOSI will deliver its report in September, in accordance with the original timeline. As the committee has requested, the audit will be detailed and extremely well done. It is essential.

At its meeting on 9 April of this year, the board of Sport Ireland decided to suspend and withhold future funding to the FAI in accordance with clause 1.1 of its terms and conditions of grant approval. This suspension and withholding of funding remains in place, and the board of Sport Ireland continues to review this decision at each of its meetings. The board feels a number of factors are of particular relevance to the restoration of public funding. These include, but are not limited to: the adoption of the recommendations of the governance review group, the establishment of new governance structures, and the completion of the KOSI audit and adoption of recommendations.

As in previous years, the FAI financial statements for 2018 will also be presented to Sport Ireland. Sport Ireland's financial controller will analyse the financial statements submitted by the FAI and highlight any concerns, potential risks or questions that may arise. We expect the FAI to address any queries or concerns arising from that analysis. Sport Ireland is aware of an ongoing investigation into matters relating to the association by the Office of the Director of Corporate Enforcement, ODCE. Sport Ireland understands that the ODCE investigation is serious and will be very substantial.

The board of Sport Ireland will continue to monitor these matters as they develop and progress. A decision to restore funding will only be considered when the structures, controls and governance arrangements are in place within the FAI. The board must also be satisfied that the FAI is equipped to ensure ongoing compliance with the terms and conditions of grant approval.

Sport Ireland places a high premium on good governance and encourages high standards in governance from all funded bodies. As a development agency, it is our aim to provide leadership in this area while empowering sport organisations to take responsibility for their own governance and to meet the challenges they face. Sport Ireland has reflected on the FAI issues, listened to the comments of members of this committee, and discussed matters with the Department of Transport, Tourism and Sport. Since Sport Ireland's attendance at this committee on 3 April, there have been a number of significant and pertinent changes in our oversight relationship with funded bodies and the supports provided to those bodies. At its meetings on 28 May and 4 July, the board of Sport Ireland approved revised terms and conditions of grant approval for all Sport Ireland-funded organisations to come into effect for 2020 funding.

A key amendment to the terms and conditions is the strengthening of the audit clause to explicitly confer full audit, inspection and investigative rights on Sport Ireland for every funded body. The right to audit, inspect, and investigate may also extend to any matter of concern to

Sport Ireland in respect of the organisation rather than just the use an organisation makes of Sport Ireland grant funding. Other key amendments include making it an explicit condition of funding that Sport Ireland appointed auditors are entitled to request and receive all the information and explanations they require for the proper performance of their job; making it a condition of funding for all national governing bodies of sport and local sports partnerships that they must provide details of the full remuneration packages for their chief executives to Sport Ireland; and requiring that Sport Ireland be provided with independent verification that each organisation is fully compliant with the code of practice for good governance of community, voluntary and charitable organisations in Ireland by the end of 2021. Failure to co-operate fully with any audit, inspection, or investigation on a timely basis will entitle Sport Ireland to suspend or withhold grant funding or to claim repayment of any grants previously advanced.

The board of Sport Ireland is satisfied that these measures are appropriate and necessary in light of the recent learnings from the FAI situation. We are confident that the additions will further strengthen Sport Ireland's authority in respect of overseeing public funds. Good governance does not just live on paper; it is mutually dependent on behaviours and attitudes. While formal terms and conditions play an important role in safeguarding public funding, they have a limited role in promoting and embedding good governance within organisations. This is why Sport Ireland takes a multifaceted approach to ensuring that good governance is prevalent throughout the sector. This includes encouragement and training and education to complement the outlined terms and conditions.

The Government's national sports policy, published in July 2018, tasks Sport Ireland with overseeing a process whereby all national governing bodies for sport and local sports partnerships adopt the code by the end of 2021. Since we last attended a meeting of this committee, Sport Ireland has adopted the governance code for the community and voluntary sector as a governance code for sport. This follows the decision of the governance code working group to retire the code. Based on previous meetings, the committee will be aware of the numerous training and development opportunities and interventions available to funded organisations through Sport Ireland's organisational development and change unit. This unit has been tasked with stepping up its output in building the capacity and enhancing the volunteer leadership capability of the sporting sector through strengthening governance, enhanced training and development of boards. The FAI will hold an extraordinary general meeting, EGM, on 20 July to facilitate the implementation of the first phase of the governance review group report's recommendations prior to the annual general meeting, AGM, which will take place on Saturday, 27 July. The recommendations in the report of the governance review group outline a pathway, which will secure the sustainable future of Irish football.

Sport Ireland respects the independence and autonomy of all funded organisations, including the FAI, and the right of their membership to make decisions on leadership and governance structures. What is required now is reflection and determined action for the betterment of football across Ireland.

That is the FAI piece. Will I continue with the other matter?

Chairman: Mr. Treacy should put it on the record anyway, even though it is separate.

Mr. John Treacy: I will deal briefly with international recognition for Irish athletics. We are aware that a delegation appeared before the committee in recent weeks under the banner of "Friends of Irish Athletics". I would have been aware of this group some years ago. However neither Sport Ireland nor the then Irish Sports Council has received correspondence from this

group in many years.

Sport Ireland recognises Athletics Ireland as the independent, autonomous national governing body, NGB, for the sport of athletics in Ireland. Athletics Ireland is affiliated to the IAAF, which is the world governing body for the sport. Sport Ireland provides funding to Athletics Ireland to support its programme of activity across the pillars of participation, performance and high performance. The IAAF constitution states that “the jurisdiction of members shall be limited to the political boundaries of the Country they represent”. This ruling was passed by the members at the IAAF Congress in 1934. That rule has remained unchanged in the intervening years. Of more than 60 national governing bodies of sport, 47 exist on an all-island basis. Sport Ireland works closely with all national governing bodies of sport on an all-island basis and we work very closely with Sport Northern Ireland as well.

Member federations of the IAAF must abide by the constitution of the IAAF. The rules of the IAAF supersede all other federation rules. Member federations must clearly state this in their constitutions. Under international relationships, an article of the Athletics Ireland constitution states, “The association recognises, accepts, applies, observes and abides by the current Constitution, rules and regulations of the IAAF as well as by any future amendments.”

Since the establishment of Athletics Ireland in 1999, extraordinary progress has been made in the day-to-day organisation of the sport on the island of Ireland. It can be unequivocally stated that the current relationships between Athletics Ireland-Athletics Northern Ireland, ANI, and the Ulster Athletic Council, UAC, are the best in the history of the sport. These relationships are enshrined in a memorandum of understanding, MOU, between the three bodies. There is also a separate operational document between Athletics Northern Ireland and the Ulster Athletic Council. A liaison committee of equal representation from the three bodies reviews the MOU regularly. This MOU has also been formally approved by the IAAF. The primary objective of optimising all the athletic resources on the island is working with considerable success.

As evidenced by athletics teams comprising athletes from North and South, a pathway exists whereby athletes may represent Ireland in international events, including European, world and Olympic games. Sport Ireland and Athletics Ireland are not aware of any current or recent athletes who have expressed dissatisfaction with the current arrangements in relation to the international recognition of Irish athletes.

Chairman: I thank Mr. Treacy. I now ask Mr. Horan, director of the Institute of Public Administration, IPA, and chairman of the governance review group, to make his opening statement.

While Mr. Horan is getting ready, I propose to the members that we adopt the process we used at the previous meeting where we went round in the order of Deputy Catherine Murphy, because she raised the issue first, then Fine Gael, Fianna Fáil, Sinn Féin, Independents and then those who are not members of the committee. On the previous occasion, each speaker got ten minutes. I note there may be parties here with more than one representative, and if the members get back to me after Mr. Horan’s contribution, we will reach agreement on the best way to do that, or the parties may nominate somebody. I am conscious of Senator Feighan’s important contribution that he probably felt he was not allowed to make on the previous occasion. I understand the Senator’s concerns, and congratulate the Senator on his election nomination.

Mr. Aidan Horan: On behalf of the governance review group, I thank the committee for the invitation to meet and discuss the governance review group report for the FAI board and

Sport Ireland, which was published on 21 June last. Within this opening statement, I propose to provide details on the group and the work undertaken to deliver the report, our agreed definition of governance, an overview of the main sections of the report, and our overall conclusion.

In terms of the group and work programme, the group comprised five members, three of whom were external members nominated by Sport Ireland and two of whom were nominated by the FAI board. The FAI nominees were Ms Rea Walshe and Ms Niamh O'Donoghue. The Sport Ireland nominees were Mr. Joe O'Leary, Dr. Moling Ryan and, as independent chair, myself.

The group met on a total of 11 occasions over a busy eight-week period and, following the agreement to the terms of reference, we finalised a work programme to ensure completion and delivery of the final report by 21 June where we had committed to have a draft report by 14 June. We were well aware of the seriousness, importance and urgency in delivering on a very detailed terms of reference so that any of the governance reforms we were recommending and those that were accepted could be adopted by the FAI as part of the July 2019 AGM process.

Our work programme and methodology included examination and review of documents and reports, including UEFA and FIFA statutes and regulations, and legal, regulatory and governance reports, codes and guidance. We undertook research and engagement on governance arrangements and structures in peer football associations and a detailed review of all the submissions. We attended the stakeholder forum attendance and we had direct engagement and meetings and interviews with key stakeholders. We also reviewed FAI board and committee minutes as well as a range of relevant FAI governance and commercial agreements. As chair, I confirm to the committee that all requests for information and material made by myself and the external members to the FAI were responded to expeditiously and professionally and there were no instances where information, where this information and material actually existed, was refused.

The report includes 78 recommendations which focus on governance principles, governance arrangements and governance structures within the FAI and which we consider, if implemented as envisaged, will commence the process of rebuilding and restoring confidence, trust and faith in the association and in how it is governed. In a review of this nature where the focus is on good governance obligations, norms and standards, the emphasis is necessarily on what has gone wrong, on weaknesses and deficiencies, and on areas where urgent and significant improvement may be necessary. I would highlight and acknowledge that during the review we were provided with much evidence and commentary by many people of the great and unsung work done by so many volunteers, mentors, coaches, FAI staff and others throughout the country. It is quite clear that people care passionately about football and are invested in the game at so many levels, and they, like us all, want to see a much more successful, vibrant and well-governed FAI. This report is our contribution to that aim. In my chairman's statement in the report I included what I see as a critical issue, in that the report calls for serious reflection and determined action by those who have the authority and power to support and endorse these recommendations. We also call for a serious reflection by those who see themselves as taking on a governance position in the FAI to acknowledge the profound duties, responsibilities and expectations that go with these roles.

Initial work was to come up with a so-called working definition of governance to direct the work programme. I include the definition as follows. Governance comprises the arrangements put in place to ensure that the Football Association of Ireland fulfils its overall purpose and achieves its intended outcomes for all its stakeholders. It is concerned with leadership

and direction, structures and authority levels, processes for decision-making, accountability arrangements, risk management, internal controls, and culture and related behaviours within the organisation. At many of the events I have attended, I have tried to emphasise governance is a means to an end, not an end in itself. The end in itself is the betterment and promotion of the game. Governance as a means to an end has been an important theme that we have tried to address.

The report includes sections on submissions. To clarify for the committee, as part of the review, we gave opportunities to people to engage with the group on governance related matters. We received a total of 127 submissions, and all of these submissions were individually reviewed by each member of the group so that we were all in a position to have a wide discussion on the views and perspectives provided in the submissions. Stakeholders also had an opportunity to make an input at the Department of Transport, Tourism and Sport Irish football stakeholder forum, which was convened on 31 May. The output was collated and given to us by the Department on 5 June 2019 so that it also informed our deliberations. The nature, quality and insightfulness of many of the submissions were of the highest standard and I am pleased to have the opportunity to publicly thank all those who made submissions. We also met many stakeholder groups, which are listed in appendix 3 of the final report. We held constructive meetings with UEFA and FIFA, as well as with clubs, players, referees, supporters, Sport Ireland, departmental officials and FAI board members, management and staff.

A section of the report focuses on principles and rules within the FAI. In examining these, we relied heavily on the governance principles, regulations, statutes, reports and guidance from UEFA and FIFA, as key authoritative sources in this area. We also looked at the code of practice for good governance of community, voluntary and charitable organisations in Ireland, the UK corporate governance code, the charities governance code, and the code of practice for the governance of State bodies, among other documents. The group recommended that six principles, which we consider the most appropriate principles, hallmarks and standards for the association, should be adopted by the FAI. These principles should underpin the ethos, approach and philosophy of all those involved in the association, from clubs all the way up to the FAI board. The proposed principles, as listed in the statement, are good governance, effective leadership, accountability and transparency, ethical behaviour and integrity, stakeholder engagement, and professionalism. As part of our work programme, we undertook an analysis of the extent to which FAI rules are aligned with UEFA good governance principles. This analysis is interesting, as it reaffirms the contention that formal rules play an important but limited role in promoting and embedding good governance. Most of our recommendations focus on how governance should operate in the FAI, as well as related cultural and behavioural considerations. These do not require rule changes as such but we advocate a better way of doing business, which revolves around culture and behaviour.

In the corporate governance section of the report, we focused on norms and standards across 16 key governance areas, which are of direct relevance and import to the FAI as a large enterprise with a high national and international profile, and as the national governing body for a sport with the highest level of participation in the country. The 16 areas are roles and responsibilities; leadership; strategy planning and implementation; performance monitoring and reporting; risk management systems; performance accountability arrangements; internal control; board and sub-committee structure effectiveness; transparency and disclosure; capacity and capability of governance and leadership team; compliance with legal, regulatory and governance obligations; stakeholder relationships; engagement and management; ethics, conduct and behaviour; financial governance; management controls and reporting; and audit and assurance

arrangements. We also examined governance obligations in relation to joint ventures, third party arrangements and funding agreements, which were covered in section 5 of the report.

Our recommendations in the section on the board's role and composition are framed so as to better position the FAI to deliver on its governance agenda and to reflect the modern structures which are necessary for the successful governance and management of a football association. It is widely accepted that the requirements of football administration and the associated governance demands have changed significantly in recent years. The FAI now has a staff of 206 and an annual budget of approximately €50 million. Its operations impact on almost every community in Ireland and thus have a resonance at local, regional and national level. The structures in Ireland have changed little to reflect these realities and there is now an imperative to put structures in place which reflect the reality of modern-day football administration and governance obligations. In order to ensure delivery of this multifaceted role, the group has recommended that the FAI board be supported by a number of committees which will relate to either the business or football elements of its role. The football committees, while maintaining a direct reporting line to the board, will also have a separate reporting line to a newly established football management committee, as will the business committees. The football management committee will play a key role in the future governance of the FAI, and its remit will include oversight and advice on the development, promotion and regulation of football at all levels. I am enthusiastic about what the football management committee can achieve for Irish football into the future. This report has set out clear recommendations on the composition, memberships, skills and attributes for the new board, as well as clear proposals on the composition of board committees on both business and football matters. These recommendations herald a serious and radical overhaul of current board and committee governance arrangements, with immediate follow-on implications for the council and the AGM. Given the nature and extent of the challenge facing the organisation, and the issues that will arise and need to be addressed over the coming weeks and months, we believe it would be appropriate to have an interim board for a period of 12 months, given the current circumstances. The recommendations in this section, which include new governance arrangements and practices, a new board, new committees and greater stakeholder representation, will allow for more effective and better functioning governance arrangements.

The group was conscious from the outset of the urgency of and necessity for change as well as the timelines for resolutions and changes to the rules on future governance arrangements and structures. As I indicated earlier, many of the recommendations on corporate governance, third parties and the board's role can be implemented speedily and do not require formal rule changes. What is required, however, is a fundamental change in approach, culture and attitude to how good governance operates within the association. This change must be led by those who exercise and are entrusted with governance and leadership roles across the FAI, at council, board and committee levels, as well as across executive management. We identified 16 immediate implementation priorities to be endorsed, sponsored and progressed in the coming weeks by the board of the FAI, which include the acceptance and endorsement of this report, the appointment of an implementation oversight group and an internal implementation team within the FAI as well. Detailed preparatory work for the AGM must also be undertaken and rule changes and comprehensive terms of reference for the new board and committees must be put together. This work has already commenced and significant detailed terms of reference for the committees have been prepared and circulated. Comprehensive terms of reference for the new board have also been drafted. This is further evidence of the importance, urgency and seriousness of the work which is under way to embed good governance in the FAI by clarifying the roles, responsibilities and accountabilities of those with governance and leadership roles

within the organisation.

I will make some final observations. In the report, we identified several important areas and initiatives which merit consideration, including the quality, range and diversity of FAI programmes and projects across the country; the recent staff forum initiative within the organisation; the establishment of a supporters' forum; having executive leads to support the governance structures and harnessing the knowledge, skills and expertise of staff and others; and examining FAI strategy and priorities for the future. There is much goodwill from people who want the FAI to be successful and everyone acknowledges that urgent change is necessary and needs to be expedited. There is a genuine and strong hope that these reforms will herald a new beginning. We also identified additional areas which require more detailed analysis and consideration, with a view to tabling further proposals and recommendations at the July 2020 AGM. These include membership, the AGM, review of the rules and the constitution, and the composition and role of the council.

On my behalf and on behalf of the group, I again acknowledge the valuable input, assistance and genuine constructive challenge from the individuals and groups we met. In particular, I thank all those who made submissions and contributed to the stakeholder forum. Discussions from the meetings and submissions were carefully considered and reflected upon and informed our deliberations and recommendations. The report's findings and recommendations highlight the need for fundamental change and reform to facilitate better governance practices at all levels in the FAI. This will necessitate greater clarity of roles and responsibilities at all levels, in addition to better planning, reporting, oversight and accountability, in order that those who are tasked with governance and leadership are in a position to carry out their duties more effectively, whether at board, committee, council or other levels. This may require a further realignment of senior executive and management roles within the organisation to support the new arrangements. The report's findings and recommendations, when considered in their totality, propose a new governance framework including principles, arrangements and structures which will support the board and the organisation in achieving and observing good governance practices. This was the governance review group's key task, as outlined in our terms of reference. It is important to emphasise that better governance is a means to an end to ensure the FAI continues to deliver, and can deliver, on its most important mandate, namely, the promotion and development of the game for all. Our report is hopefully a positive contribution in this regard.

Before I conclude, I would like to make one final comment. Since publication on 21 June, there have been some misunderstandings and misinterpretations about areas within the report. An example relates to the six football nominees to the new board and the fact that they will come from the newly expanded council and not from the old council. Those nominees will be asked to benchmark themselves against knowledge, skills and competencies required under a new constituency model. If the recommendations are accepted by the FAI at its AGM and EGM, eight of the new 12 board members will be appointed on 27 July or very close to the 27 July, at which stage the task then becomes the search for, sourcing and recruiting of the four independent directors who will go onto the board. Today is an opportunity to clarify some of those matters.

I attached to my submission a copy of appendix No. 10 of the report around governance structures. This might be helpful to the committee. I thank the Chairman. It was my pleasure and privilege to chair the group. I publicly acknowledge the work that my colleagues have put into the report. I am very happy to answer any questions or provide clarification for the Chairman or the committee members.

Chairman: I thank Mr. Horan. If it is acceptable we will first take Deputy Murphy, then Fine Gael representatives for ten minutes, Sinn Féin representatives for ten minutes and then on to the Independent members. We will then go back to the members of the committee who have not spoken and then Oireachtas Members who are entitled to be here, if this is fair to everyone.

Before we move on, I am aware that Mr. Mulvey has no statement but I want to be fair to everyone here and I am happy to ask Mr. Mulvey to give his comments if he wishes. There are some questions that need to be cleared up before we open up the discussion to the floor, one of which is the question raised by the Minister about the number of two people who may be given certain positions where they could run the organisation without the consent or knowledge of others. Perhaps one of the witnesses could respond to that issue. It is critical to one of the points being made.

Mr. Kieran Mulvey: I will answer that Chairman, but first I will summarise. Since the last meeting of the committee we took on board the voice of the committee as expressed to us very trenchantly at those hearings. We undertook the governance review, which Mr. Horan has outlined in detail, and I do not intend to go through that. An enormous amount of work has been done in a short period. We also undertook to appoint forensic auditor accountants. We had considerable difficulty in that as there was no response to our procurement. I personally contacted a number of firms after that. While they engaged in conversation, they were reluctant to get involved. This was largely related to reputational risk on behalf of some of these accountancy firms given that the Office of the Director of Corporate Enforcement was involved and Deloitte had put up a notice regarding it. There was a reluctance. We got a firm from Northern Ireland to undertake this forensic audit for us and we expect it to report by the end of September.

We have put an emphasis on the fact that there is a grant funding round to consider after the budget and we need the report in. The FAI is our biggest grant recipient in terms of national governing bodies. The committee had asked us to explore our options around the terms of grant funding and our possible stretch with regard to the legal powers Sport Ireland might have. We have done that and have now imposed, as we have submitted to this committee, new and onerous terms on governing bodies for their funding that go beyond the audit of funds given by Sport Ireland. Of importance is that these terms are obligatory on them and include the remuneration packages of chief executives on which there was pushback previously because of commercial sensitivity etc., as enunciated to us. Now we have cleared with our own auditors and legal advisers that this is quite within our remit to do in the context of new developments in corporate governance and so on. Those terms will be in place for all the submissions made for grant funding for 2020. We have met those specific concerns of the committee.

The Chairman asked about the board members. Sport Ireland is *ad idem* with the Minister with regard to the issue he has raised with the president of the FAI.

Chairman: I am sorry, I did not hear Mr. Mulvey properly.

Mr. Kieran Mulvey: We agree with the Minister. The president of the FAI wrote a letter to the Minister, which he read at this Oireachtas committee, that indicated the FAI was standing down new officers. We understood that very clearly and unequivocally to mean that they would not be standing again. We have no difficulty around the statement made by the Minister. It is the view of the board and the office of Sport Ireland that the Minister's wish in this regard would be listened to very strongly and adhered to.

Chairman: Will Mr. Mulvey explain the question the Minister brought up in his letter about

the two people-----

Mr. Kieran Mulvey: Yes, there are two people who were and are currently officers and they indicated they would be standing down.

Chairman: I understand that. I believe it was unanimous that there should be nobody-----

Mr. Kieran Mulvey: I apologise, the Chairman is referring to the quorum. I have answered another question that the Chairman might have asked anyway. There is a confusion around the quorum. The issue is that the rules of the FAI require six board members. To have a quorum of two from a body of 12 is absolutely nonsensical. It would not pass muster in any challenge. The quorum is six members under the rules of the FAI, and we will insist on this through the report. I believe this is also Mr. Horan's position.

Chairman: Will the witnesses explain why the Minister thought the quorum was two?

Mr. Aidan Horan: The FAI constitution mentions two but the constitution says also that the rulebook takes precedence. The revised rulebook that has gone out has the quorum as six. This is where the confusion lay. The legal constitution said two but the rulebook takes precedence, which is six of the body of 12.

Chairman: Is it the case that there is no proposal for two afterwards if this is accepted?

Mr. Aidan Horan: No. The rulebook is six.

Mr. Kieran Mulvey: I apologise for the confusion.

Chairman: We all agree with the fact that anyone currently on the board should no longer hold office.

Deputy Catherine Murphy: I thank the witnesses for being here and for their opening statements. I want to put on the record that it is very positive that some of the changes put in place by Sport Ireland will also apply to all of the other organisations it funds. It is evident that there has been good learning out of this process. It may well stop us from having situations such as this in the future.

Sport Ireland has made the point that this should be a new beginning for the FAI and this is what we all hoped for. One of the key issues will be the interim board. Mr. Mulvey referred to the nomination for the post of president and that he was not expecting that it would be one of the outgoing people, such as someone who had spent 14 years on the board, was the president for a number of years, and was there during 2017 when all of the difficulties with the accounts arose, as discussed here. Has Mr. Mulvey spoken to the FAI about that, and if so, what response has he received? If not, what does Mr. Mulvey intend to do about it?

Mr. Kieran Mulvey: The Sport Ireland chief executive has been in direct contact with the FAI president.

Mr. John Treacy: Sport Ireland's view is on the record that no one from the board should go forward for the new board. We met the FAI on Friday and we articulated very clearly to it that it would be best if no one from that board went forward. It is very important, as we have said, that all of the proposed board positions would run for election and that there should be a process around every position. This was also articulated. The response is one of disappointment but it is up to the membership of the organisation to emerge. This is not the first time

this has happened within sporting organisations. The membership need to take responsibility and someone needs to step forward around the governance review group. Donal Conway has shown leadership in all the work that was undertaken and that needs to be acknowledged. Another thing that should be acknowledged is that he did steady the ship within the FAI. He has delivered a very good report and our view is that it is time to hand it over and get on with it with new people and the entire board.

Mr. Aidan Horan: Can I come in, because it is directly relevant? The governance review group, which was composed of three external persons and two internal persons, was independent. We put in the report in terms of managed transition and managed handover. In terms of the loss of knowledge, competencies, skills, insights and relationships, we suggested that some consideration should be given to one and possibly a maximum of two members of the existing board being still involved to smooth over that handover. That is covered at the end of section 7 or 6 in our report. We thought everybody walking away posed a more serious risk. In terms of the transition and handover, which we call handing over the baton, we independently considered two to 12 was the most appropriate thing to do so that this knowledge and insight would be there. In respect of the letter that has been provided, we were conscious of resignation and stepping down, but that is what we put in our report as our considered view about managing the transition and handover. I wanted to clarify that because I know it has been mentioned here.

Deputy Catherine Murphy: That may well have given cover for this. I agree with Sport Ireland with regard to this. The witnesses have just told us how difficult it was to get a forensic accountant because of the risk of reputational risk. We know its own report is due in September and that a serious review by the Office of the Director of Corporate Enforcement is under way. That brings with it reputational risk, particularly if it involves somebody who is the subject of that, because that person was on the board, potentially being in front of the courts. How will that help the FAI to re-establish trust and calm an organisation towards focusing on a more solid governance arrangement?

Mr. John Treacy: The Deputy is right. The Office of the Director of Corporate Enforcement is producing a serious report. It would be our view that it would be better if the entire board had gone. It will come out with its findings. We will be watching very carefully. Our own Compliance Oversight Solutions Ideal audit will be carried out as well. Any plan around implementation must be implemented straight away. These are very serious issues. If someone is a member of the former board, it will reflect back on the FAI, but there will be a piece where the FAI will have to take on board all these recommendations. They are very important steps because, as the Deputy outlined, there is a piece here around public trust. When Sport Ireland looks at restoring funding, that public trust piece needs to be in place. This is what we will be looking for in terms of implementing the reform agenda, putting the proper committee structure in place, and ensuring there is good internal auditing and good financial oversight, along with all the pieces that were not there before. This is the type of thing we need to see happen. If one presided over a regime that was not robust, and it is fair to say that it was not robust, it would reflect badly on the organisation.

Deputy Catherine Murphy: As we are aware, the nominations have closed. I must question whether these people have been validly nominated. It will be up to the AGM to consider and I think it needs to do so. I presume it will be open to it to convene an AGM and then possibly adjourn it because Sport Ireland's review is due in September. That will be available to those in attendance. It will convene without a set of accounts, which seems extraordinary given what has happened. What concerns would Sport Ireland have about the AGM convening

without a set of accounts being available to the members, because that is central to where the concerns are?

Mr. John Treacy: There is a parallel piece around the governance review group in terms of starting to change the rule book, implementing change, putting proper structures in place and getting independent people on the board. It is very important that this happens. Sport Ireland would regard financial accounts going to a board as per normal business. We would get them normally after they go to the AGM and would then review them. It is highly unusual for the accounts not to be at the AGM. We want the other work to proceed as well, and that is an important piece. Obviously, the auditors are carrying out their audit. I think it took a while to bed everything down for the auditors to get started, but things are progressing. There were delays. Obviously, there are issues that will arise during the financial statements and there might be revelations in them that we had not seen before.

Deputy Catherine Murphy: Again, there is further potential for reputational risk in this. It is so disappointing that we are here going into an EGM and then an AGM and instead of the new future that was hoped for, there is a real sense of “here we go again”. That it is a great disappointment. With regard to those-----

Chairman: I will give the Deputy two more minutes. I appreciate that her question is very important.

Deputy Catherine Murphy: I have one more question. The people who are eligible to go forward for officer positions need two years’ service on the council. Only one of the 58 members, or one out of 206 people with votes, is entitled, which is a very narrow focus. To run for election, a person must be one of 58 council members. This excludes the vast majority of people, including some very good people who have put themselves out there and said that they are interested in this reform programme. Is this not a significant impediment to bringing in new people? It is also very male dominated, which is a problem in its own right. Is this not an impediment?

Mr. Aidan Horan: There are two pieces here. One involves the people who will be entitled to be nominated to the board of the FAI. Those six nominees to the board of the FAI will be drawn from the larger expanded 78 member council, not the 58 member one. The fourth constituency model will allow for six potentially new people from those constituencies to come forward to go on to the board. The issue relating to the nominee for president may be part of what the Deputy mentioned. That comes from somebody who has had two years’ council membership experience. The point I made at the end of my statement was that the six new nominees to the board of the FAI will come from a much wider and more representative council, not the narrow 58 member one.

Deputy Catherine Murphy: However, it will take some time for that to be put in place.

Mr. Aidan Horan: What I have been led to believe is that the resolutions are out there regarding who will be nominated for the council. The hope is that on or very close to 27 July, the new 79 members will be available so that eight members of the new board will be in place - the president, vice president and the six nominees. This is the process of speed. That is what they are trying to do to get these nominees in place in the broader council, not the narrower older council model.

Regarding the AGM, I was invited to go to all the governance review group roadshows that

are taking place throughout the country. On the AGM and the non-availability of accounts, the AGM will convene, make decisions that are important in the context of governance and will adjourn until the accounts are ready and available at some future date. That is what is being presented at the moment.

Deputy Fergus O'Dowd: Why has a draft set of accounts not been presented?

Mr. Aidan Horan: I do not know.

Deputy Fergus O'Dowd: Why does Sport Ireland not insist on that in the interests of setting the tone. This is about setting the tone for the future. It can present a draft set of accounts if it wishes. The FAI has a turnover of €50 million per annum. It is not a corner shop but a business with corporate responsibilities under the Companies Act. By the way, it is disappointing to note that the Act is only mentioned once in the governance review group report. More work needs to be done on that. We want to see more vigilance from Sport Ireland on what is going on, notwithstanding that we all want the old regime gone. I do not see why these people could not be consulted without having them in the association. That goes to the heart of all this. We need to stand up to this carry-on and ensure that Sport Ireland shows its teeth in this regard.

Deputy Noel Rock: I thank the witnesses for the presentation. I thank the governance review group for its report and all the work it has done on this to date.

To pick up on a point made by Mr. Horan on the flow of events, he expects the AGM to be convened and the governance structures to be voted upon, after which the AGM will be adjourned pending the presentation of the accounts. To use Mr. Horan's words, this is what is being presented at the moment. Given that we know from the letter from the Minister for Transport, Tourism and Sport, Deputy Ross, that what has been presented at the moment can often change at short notice as to the board standing down and not standing up again, to use Mr. Treacy's words, does Mr. Horan believe that is what will transpire or does he believe we are being given the runaround here?

Mr. Aidan Horan: To try to clarify what is being presented at the moment, the governance reforms that are advocated in this report are critical and fundamental to establishing better governance within the FAI. On the issue of the accounts not being available, that was not my jurisdiction and I had no role in that.

Chairman: Mr. Horan can have a professional view on it.

Mr. Aidan Horan: If the association is to move forward seriously to implement the recommendations as soon as is possible - I do not know what that date will be - the accounts will have to be brought before the membership in a formal structure. The governance roadshows that are taking place are an attempt to go out to the membership around the country. I was invited to explain the report and that is all I am doing. It was an attempt to explain the necessity and reasons for reform and the timelines around the EGM and AGM, albeit that the issue of the accounts not being available has been well addressed here.

I have to look at this positively. The reforms have been endorsed and accepted by the FAI board and UEFA and FIFA have endorsed them as well. Much work has been done in the three or four weeks since the report was produced. I have seen evidence of this in the terms of reference of the committees, the starting of the nomination process and so on. This shows an intent to make these reforms happen as expeditiously and professionally as possible.

Deputy Rock asked me directly if we were being given the runaround. I do not consider it to be a runaround.

Deputy Noel Rock: Sure.

Mr. Aidan Horan: The fact is that the accounts will not be available for the meeting of 27 July.

Chairman: The fact is that the association could have a draft set of accounts. Is that not the case?

Mr. Aidan Horan: I had no jurisdiction or role in that.

Chairman: I appreciate that Mr. Horan is not answering on behalf of anybody and I respect his independence and professional input. However, the fact is that key decisions are being made and people are being elected to office without even draft accounts being presented. Key corporate decisions are being made without the facts.

Deputy Noel Rock: If I may intervene, once these decisions are made, for example, a decision on the new president of the FAI, they tend to last. I am not sure if it is right or proper for this to be done in a vacuum and in the absence of vital information that is pertinent to the good governance of an organisation. I do not know if Mr. Treacy has a view on this but it seems to me that draft accounts should be presented before any board member is reappointed to the FAI, particularly one who is running unopposed, having given a commitment on more than one occasion to stand down, as per the Minister's letter.

Mr. John Treacy: From what I gather, the accounts are not ready. I am not sure if they are in draft form. I believe there was an issue with Deloitte getting in there and doing the work. Those issues have been overcome and Deloitte is now in the process of doing its work. When those reports are available the full picture will be on the table as to the possible liabilities the association may have. This may show up pieces that are embarrassing to the former board. It is our articulated view that we would prefer if no one from the board would stand and there would be a new beginning.

There is a big piece here around restoring public trust. I go back to that because it is really important. We are on a journey. Very good work has been done on the reform agenda on corporate governance and I do not want to lose sight of that. The past is also being dealt with and a number of investigations are under way. For example, KOSI is doing an internal audit and Mazars is doing its piece. The full picture will not emerge for a number of months. I do not believe it will reflect very well on the association. It would be better if we had a new beginning and a new face for the FAI. One has to depend on the membership of the association to step forward. We are not seeing that leadership emerge, which is disappointing. That definitely needs to happen.

Mr. Kieran Mulvey: If I may return to a question asked by Deputy Catherine Murphy and the Chairman, we will not restore funding until we have an audited set of accounts. It is as simple as that. The imperative is upon the FAI to meet its obligations, either under company law, the code of governance or its grant funding. I want to make that clear.

It would be enormously helpful to Sport Ireland, in moving this forward, to know when the investigation by the Office of the Director Corporate Enforcement has been completed. That is essential. It is the primary investigative element that has been undertaken. We can have all the

forensic audits but unless the ODCE can give the FAI a clean bill of health, we will continue to wait. I urge it here to move that forward as expeditiously and rapidly as possible. We cannot do anything until we have that report.

On the governance review and Mr. Horan's contribution, the most salient point about the governance review report is everything the FAI did not have in place. All of this must now be put in place. It did not exist or where an element of it existed, it was never observed. The governance report is changing the FAI, its culture, structure and operational arrangements. It is separating the management of football from the management of business, both of which got conjoined in the past and created problems with the League of Ireland, the international team and funding. As Mr. Treacy said, these are pieces that are coming together over a period of time. This is enormous, earthquake-type change within the FAI. It knows what it needs to do to have Government confidence and funding and Sport Ireland funding restored and it has to do it.

Deputy Noel Rock: Mr. Mulvey is on fire today in pre-empting questions before they are asked.

Mr. Kieran Mulvey: I am learning.

Deputy Noel Rock: Does Sport Ireland have any communications with the ODCE or any insight into the progress it is making?

Mr. John Treacy: I have some communications with it. Sport Ireland has made some statements with it. Its investigation is continuing and I cannot comment much further other than to say that it is making progress.

Deputy Noel Rock: That is fine.

Chairman: I understand that.

Deputy Noel Rock: One thing is troubling me and I am coming back to it again. This resembles a movie sequel in some ways, where some of the cast members change but some of them do not. Mr. Noel Mooney has resurrected into the position of interim chief executive officer. Mr. Donal Conway is now running unopposed for president. There are two vital dates ahead for the adaptation of the report, namely, 20 July and 27 July. Those are vital dates because otherwise, all the hard work that has been done and the progress made will fall by the wayside. How can our guests simultaneously reconcile the ideas of the report being adopted and the desires of the Minister being abided by, whereby Mr. Conway is not elected president? Is a process set down whereby the president, being the sole nominee, can somehow not be elected the annual general meeting?

Mr. Aidan Horan: I will respond to part of that because some of it is outside my knowledge. There are 78 recommendations, which probably tells one the journey of travel that the FAI must take. Since the report was produced on 21 June, I have been providing clarifications and updates to the FAI and a significant body of work has been done about process, procedures, work programmes and terms of reference in order that the implementation oversight group, when it is established and provided the recommendations are approved, can go forward. Our review outlined what the organisation prospectively needs for the future. The 78 recommendations are prospective in nature, rather than retrospective, which is what many of the current investigations are. They are retrospectively looking back at transactions and so on.

I do not know the legalities of the question the Deputy asked. I just know that, from the

point of view of the governance review report, this is being presented as a necessary, priority package of reform that needs to be done and, although other reviews are in place, nothing in this report will invalidate or be inconsistent with the norms and standards which are going to come from these subsequent investigations. We are trying to adhere to best practice standards for the organisation in the future.

I cannot answer the dichotomy or dilemma that the Deputy outlined, other than to say that the reason I am happy to try to promote and explain the report is that this is a necessary package of reform that must happen if the structures and arrangements are to be better than they have been. That is as much as I can say.

Deputy Noel Rock: I appreciate where Mr. Horan is coming from. It is worth reading a sentence from the Minister's letter to Mr. Conway. It says: "Together with your decision to appoint former FAI employee and loyalist Noel Mooney to the post of general manager, this development means that the new regime has a very old look about it." My concern is that some reforms will be implemented and others will not. A set of accounts might be presented at some stage. I understand, from talking to members within the FAI, that this vote on 27 July is very much in the balance and may not pass. What will happen then? What if the accounts are presented, the reforms are not passed and some old people are still at the helm? Will funding be restored in those circumstances? What are the boxes that must be ticked in order for funding to be restored?

Mr. John Treacy: As I outlined in my statement, the tick boxes are very clear. The financial accounts will have to be presented to the annual general meeting, and to ourselves, when they are ready. That must be in place for any national governing body of a sport we are funding before it gets its second moiety of funding. That is a really important piece. We want to see the adoption of the governance review group recommendations, which are essential to the corporate oversight of the organisation and the funding that we give. That is an essential piece that we need to see.

The third piece we need to see is a complete audit with an action plan for any recommendations made in that audit. That is a big piece of work and we expect to have that report in September. If one is funding an organisation, one obviously needs to know the liabilities of that organisation, what outstanding things are coming down the road, if the organisation is fit for purpose, has it the right structures in place and are there any legal risks associated with it. All these things are issues that must be taken into consideration. When the Minister gives Sport Ireland funding, we need to be assured that all those pieces are in place. There needs to be an element of public trust.

The Deputy referred to the appointment of the general manager. I articulated to the FAI before that appointment that what was needed was a public face that the public could say was a good appointment, someone with experience in change management and leading an organisation. That decision was not made.

Deputy Noel Rock: Mr. Treacy does not feel the appointment made fulfilled those criteria?

Mr. John Treacy: It did not fulfil those criteria in terms of the public's trust. Noel Mooney, the general manager, has assets that he will deliver for the FAI but, for the sake of public trust, the FAI needed someone with profile, independence and experience, someone about whom people would say that is a good move, that he or she will take the organisation through the necessary change management, be able to talk to the media and this committee with authority.

Those are the types of things the FAI needed to put in place and it was a missed opportunity.

People are now emerging for the post of vice president. We are glad there will be an election but we are really disappointed there is no election for president. That is happening in the vacuum of the independent chair, which is a critical piece. The appointment of an independent chair is going to happen as part of this governance review and that person will be directing the board and leading the organisation. The role of president will be different; it will be a step back. The president will not be leading the organisation or its commercial aspect. The independent chair will take the organisation forward and that will be an important piece in the future.

We know there are good, independent people out there and we will engage with a commercial organisation to help us appoint such people. Sport Ireland will have a strong say in those appointments, as will UEFA and FIFA. We must ensure we get the right people because we are trying to restore public trust in this organisation. It needs to go forward. There is evidence that there has been some change but sometimes one takes two steps forward and one step back and that has happened this week.

Deputy Coppinger said at our most recent meeting that this is like a marathon and I agree. We are probably at the three or four mile mark at present.

Chairman: Fianna Fáil will be next but I am not sure who the primary speaker will be. Is it Deputy MacSharry? Okay.

Mr. Aidan Horan: I will try to help the Deputy about the commentary that is coming back. Roadshows have happened and will continue to. It is a clarification of the report. There is genuine, constructive and open dialogue at those events. Some 50 or 60 people attended last night's meeting. The message is clarifying the necessity for change and a conscious effort is being made to take note of what is happening. I discern that people understand that the implementation of the report is absolutely required. They understand it is a journey, not a destination, and this is a reform journey they are on. Any concerns they have are being noted, taken back and will feed into the implementation oversight group. There is a reality check about where the organisation is and what needs to be done on 20 and 27 July.

Deputy Noel Rock: Good.

Mr. Aidan Horan: That is important because one sometimes hears mixed messages but the roadshows have been constructive, open and challenging and people have been leaving meetings with a sense of understanding what is in front of them.

Deputy Noel Rock: I thank Mr. Horan.

Deputy Marc MacSharry: I thank the witnesses for their presentations. I thank Mr. Horan in particular for the excellent work he has done with the governance report. It is difficult, however, to define a governance report. Mr. Horan described it as a means to an end, but I suggest it is a bit more than that; it is an essential prerequisite for any body in receipt of State funds. It is not a journey in that sense; it is either right or it is not right. I have no doubt Mr. Horan's report will feed into great reforms. From a professional perspective, how can Mr. Horan authoritatively say that this is a template that is assured to win when there are five other reports and investigations into the unknowns?

Mr. Aidan Horan: We started out with detailed terms of reference. I said earlier that we went to look prospectively, in the sense of working out what should be in place for a business

worth €50 million a year with 200 staff.

Deputy Marc MacSharry: I agree.

Mr. Aidan Horan: If we start from that premise-----

Deputy Marc MacSharry: I do not doubt that. I agree that the headline issues are very good things but in real terms, would Mr. Horan prefer not to have been starting from there at all? Let us say, in an ideal world if Mr. Horan was dealing not only with his terms of reference but the Mazars report reviewing the issues of concern, the Grant Thornton report to conduct an internal review of the association's books, records and ledgers, the ODCE investigation - Mr. Mulvey said he would very much like a date for the end of that - KOSI consultants work to examine in detail the wider financial administration and then the KPMG investigation of hacking of FAI computers. In an ideal world, would Mr. Horan like to be charged with that task, with all of those reports, to have the most credible opportunity to provide a bespoke governance reform programme for an organisation?

Mr. Aidan Horan: Yes. That would be great in an ideal world, but it is not ideal.

Deputy Marc MacSharry: Of course, that is okay.

Mr. Aidan Horan: Perhaps I will just respond.

Deputy Marc MacSharry: Mr. Horan has answered the question. I have very limited time. I do not mean to be rude.

Mr. Aidan Horan: I will only pick on one. We put a section in on financial governance, control and reporting. Irrespective of the reports that come out, I do not see anything we have in here that would be in any way inconsistent with what any of the reports will say. They are doing detailed forensic controls, audits and reviews.

Deputy Marc MacSharry: Yes.

Mr. Aidan Horan: What we have outlined in the report is what I call good practice, benchmarking and good standards. There will be nothing inconsistent with what the reports will contain.

Deputy Marc MacSharry: I am sure that is the case but, equally, the answer to the question I asked is that in an ideal world Mr. Horan would have preferred to do the report with all of the information.

Mr. Aidan Horan: Yes.

Deputy Marc MacSharry: By definition, he was doing it without all of the information. I will come back to that in a moment.

I must ask some questions of Mr. Treacy and Mr. Mulvey because I am new to the committee. Did alarm bells not go off each January in Sport Ireland when the phone rang and an organisation with a turnover of €50 million doing such good work in all our communities throughout the country and with our national team was looking for an advance on its allocation of €3.2 million?

Mr. Kieran Mulvey: Not really, in the sense that the FAI has a particular funding arrangement that is not the case with the IRFU, the GAA or other bodies. We were very conscious

that the FAI depended for a substantial amount of its income on the success of the international team. It was very highly dependent on that. Unfortunately, as members are aware, in recent years the success of the team has varied. When funding requests came in from the FAI over the years - the FAI is not the only body to make such requests-----

Deputy Marc MacSharry: I have no doubt about that.

Mr. Kieran Mulvey: -----we made an evaluation and assessment and we gave it the tranche of funding earlier than we would normally have given it. For example, we gave it probably at the end of January or in early February rather than in late March or early April. The FAI has an extensive development programme, largely in working class areas and in rural areas.

Deputy Marc MacSharry: We are going a bit off the question of reservations.

Mr. Kieran Mulvey: No, I am giving a rationale as to why we felt in those particular-----

Deputy Marc MacSharry: It would be basic maths.

Mr. Kieran Mulvey: Yes, naturally we were concerned every time the FAI was looking for it, but it was explained to us-----

Deputy Marc MacSharry: A call would come in to say it is January, we turn over €50 million but we are a bit tight; it was an expensive Christmas period.

Mr. Kieran Mulvey: The FAI would write to us and request that the money would be forwarded to it earlier than the funding was due. Mr. Treacy would be more familiar with the detail.

Deputy Marc MacSharry: Would Sport Ireland require a business case?

Chairman: It might be helpful to say, as Deputy MacSharry is new to the committee, that we went through that matter previously.

Mr. John Treacy: We went through that in a lot of detail.

Deputy Marc MacSharry: I know that.

Mr. John Treacy: Could I clarify?

Chairman: I am not trying to stop Deputy MacSharry's line of questioning.

Deputy Marc MacSharry: There is a logic to the line of questioning.

Chairman: The line of questioning is perfectly reasonable. I am not interfering with it, but we went through it all before and we were satisfied that Sport Ireland acted appropriately at all times.

Mr. Kieran Mulvey: The funding was largely for development officers for underage teams throughout the country and then programmes needed to be put in place.

Deputy Marc MacSharry: How then could we be assured that was the case? I respect and accept that is what Sport Ireland was told, and that it accepted that, but in terms of follow-up, how could Mr. Mulvey be sure the money was spent in that way and that it was not used for twine, for want of a better expression, to keep the lights on?

Mr. John Treacy: I will repeat some of the points I made previously at the committee. We normally give out the funding for the national governing bodies, NGBs, in January. The three main field sports are a bit later. It is not unusual to start giving out money in January to the NGBs.

Every year, we received a letter from the FAI's auditor to say the funds were expended for the purposes for which they were given. We sent in our own auditors and the audits came back clean as well. We did follow up on the public funding and every time we got a letter back to say the funding was expended for the purposes for which it was given.

Deputy Marc MacSharry: Yes, but there was an incident concerning €47,000 for women's football.

Mr. John Treacy: There was, but we clarified that.

Deputy Marc MacSharry: Could that have been replicated in other cases?

Mr. John Treacy: No. We picked that up ourselves and we went back and asked the FAI about the €47,000 and it clarified the issue. The money did go into women's football.

Deputy Marc MacSharry: Yes, but that was not part of the original allocation. Is that correct?

Mr. John Treacy: Yes, that is right; but it was spent on underage football.

Deputy Marc MacSharry: Did the funding allocation have to be retrofitted?

Mr. John Treacy: Yes.

Deputy Marc MacSharry: Could Sport Ireland assure the committee that the association is solvent?

Mr. John Treacy: We cannot. We understand that UEFA is funding the FAI at the moment.

Deputy Marc MacSharry: Mr. Treacy alluded in a letter to Deputy O'Keeffe and I on some of these matters, much of which was covered in the opening statement as well, that FIFA and UEFA are broadly happy with the proposals for rule changes. Is there written correspondence confirming their approval?

Mr. Aidan Horan: The report as presented was given to all of the stakeholders, including UEFA and FIFA.

Deputy Marc MacSharry: I appreciate that.

Mr. Aidan Horan: It was endorsed back in terms of any acceptance of the report.

Deputy Marc MacSharry: There was an acceptance of the report. Could the committee have copies of that correspondence?

Mr. Aidan Horan: I do not have copies. I can look to get copies if they are available.

Mr. John Treacy: During the period this unfolded, we did meet with UEFA and FIFA as well as the FAI and they came into our office. They were on board in terms of the governance review piece that was going on. They were hugely supportive of what was happening and they were glad to see the FAI and Sport Ireland taking a very active role to make sure that the re-

forms come in as soon as possible. There was a piece around that as well.

Mr. Aidan Horan: They would have provided us with information and material as well. I met the organisations face to face as well and we discussed the material that was there.

Deputy Marc MacSharry: Will there be an opportunity to come in a second time, Chairman?

Chairman: Of course.

Deputy Marc MacSharry: What is the position regarding my time?

Chairman: I am not calling time yet. The Deputy should not worry. He has another few minutes. I am a very good Chairman.

Deputy Marc MacSharry: Mr. Treacy said in his letter and in his opening statement that the urgency of moving forward arises from the need to provide the public football community and stakeholders with assurance that there is a determination in the FAI to enact the necessary reforms. He mentioned rebuilding public trust and confidence as quickly as possible and that in some way is driving the urgency. I put it to him that if we look at the Genesis report from 17 years ago, which took more than a year in terms of implementation and to'ing and fro'ing with Sport Ireland and yet here we are doing this so quickly. We have ascertained from Mr. Horan that in an ideal world we would have the results of all of the reports before setting out the pathway for the future. He himself said the full picture will not emerge for a number of months. It will undermine public confidence and trust if we proceed as hastily as we are in a financial vacuum. As Deputy Rock has said, we have queries around the legality. I know the letter around the holding of the AGM states Sport Ireland has assurances from the FAI that the holding of the AGM without the accounts is not a problem. I query that and have concerns that there is a problem. Certainly, to be pressing ahead with such a level of rule change is madness in the extreme without having the detail that is about to come to us. Mr. Mulvey rightly said the ODCE is hugely important.

Mr. Aidan Horan: The vast majority of these recommendations are not about rule change at all, as I said in my opening statement. This is about how it does its business as an organisation, as an entity. If the better governance arrangements are what we are trying to embed, the rule changes are about putting in place structures to allow those arrangements to breathe and to happen. It is interesting that, at the start, people were saying this was all about rule change but the vast majority is cultural and behavioural change, as distinct from rule change. The appendix I sent to the committee outlines how we would put an infrastructure in place that would allow better governance to flourish within the organisation, and that is why it is there, and nothing more.

Deputy Marc MacSharry: I hear Mr. Horan on that. However, he has had to do that on the blind. There is nothing to say these five other reports will produce outcomes that will determine that that structure needs to be different.

Mr. Aidan Horan: We agreed a work programme at the start. I disagree with the Deputy. We got all the information we required for our review. What was recognisable, however, was there was stuff we needed for our review that was not available. That is not because we were prevented but it just was not available. We need to look at the 78 recommendations in the round. Were there any internal audits? No. Is there a risk management register? No. When we look at it, we were not operating on the blind, as the Deputy suggests. We were not.

Deputy Marc MacSharry: Mr. Horan could take that report as a template and apply it to any agency, and I respect that. What I am saying is that we have the biggest crisis ever in the FAI and we are taking key decisions without having fully identified the problems.

Mr. Aidan Horan: We were tasked with looking at better governance. This is a template and a pathway to better governance, irrespective of what comes down the line from the other reviews. That is my contention for the Deputy.

Chairman: I want to make a couple of points. One of the issues is that if a new chief executive is not put in under a proper, comprehensive and internationally benchmarked process, the drift could very well continue. That is a huge point. Whatever changes happen, the new CEO, whoever he or she is, is going to be the kingmaker for Irish soccer.

Mr. Aidan Horan: Absolutely, and the independent chair.

Chairman: That is what I am holding onto in this. If that is done, then everything should change. However, I accept Deputy MacSharry's point about what is happening. It is not good enough and we know that.

Mr. Kieran Mulvey: From the perspective of Sport Ireland, we were at two very long meetings of the committee previously where a very robust debate took place and there was questioning around what needed to be done. What we wanted to do was to have no dilatory action on our part. We needed the review of the governance to go ahead. That had to be done as, otherwise, there would have been a drift.

Parallel with that, we have the investigations. There is a bit of *realpolitik* around this. There are two parallel processes, over one of which we have control, namely, to provide the governance pathway for the FAI and then for the FAI members to vote on that freely and deliberately, with all the information available. As to the other process, I accept the point the Deputy is making in regard to the accounts of the FAI, which, understandably, I would say, Deloitte is still working through because of other issues it had with previous accounts, and the notice it put in, which led to the corporate enforcement investigation. We have our forensic audit going on and they have Mazars. I do not mean any disrespect to any profession, although sometimes I might say things, but in trying to push them to move with the alacrity we all would wish, and I have done myself in the past in getting disputes resolved, they do not seem to have the same deadlines. We are trying to put deadlines on our report, which we have, but we have no control over the corporate enforcement. To me, and I have said it, that is critical to the future. Whatever they come up with may lead to certain changes being necessary in the way in which the FAI reports its financial and corporate affairs, either under the Companies Act, the code of governance or otherwise. There will be an implementation period in which that will be addressed.

The other issue around that parallel process is the implementation. We are central to that. We are central to the appointment of independent directors in the sense that that will be an independent process conducted with full public transparency. On the timeline involved in this regard, this time next year, I would expect that all of these processes will be in place so that, when the next AGM of the FAI comes up in 2020, it will amend whatever needs to be amended in the light of the reports that will then emerge.

One of the reasons I do not go into this is because, when I hear the words "corporate enforcement", and I hear other things, alarm bells ring in my head. As Mr. Treacy said earlier, he understands these to be serious and substantial in the engagement with the Office of the Direc-

tor of Corporate Enforcement. All my hope is that if they are that serious and that substantial, we need traction on this, we need early deliberation and we need early report. I know it is the anniversary of the Apollo mission but this is not rocket science, is it?

Chairman: It might require a degree in science.

Mr. Kieran Mulvey: I do not know. We need that report. The committee needs that report. The Minister needs it.

Senator Pádraig Ó Céidigh: Talking about rockets, I think it was a journalist called Mark Tighe who actually started putting a rocket some places, and fair play to him because that is where the whole lot came from and initially drove everything.

I am delighted that Mr. Treacy and Mr. Mulvey are supporting the Minister, Deputy Ross' letter of yesterday evening. I presume that is also the Government's stand and his Department's stand. I am delighted to see that Sport Ireland, the Department, the Minister and the Government are together on that, which is a very important message.

In regard to the EGM next Saturday, 20 July, and the AGM on 27 July, at this stage, surely, they need to be postponed, particularly in light of this letter. Would the witnesses agree with that? I suggest it be postponed for three to six months. I will not go through all of the details as to why it should be postponed because that has been extrapolated here but I would value the opinion of the witnesses.

Mr. John Treacy: A lot of these changes need to happen. The pieces the review group came up with are sensible solutions that need to be put in within any sporting organisation or any other organisation. Some of these are urgent. If we are talking about getting independent people on the board, they need to get independent people on the board and they need to agree terms of reference for various committees. These are essential pieces that need to happen. I would not want a vacuum as that would only create more confusion and more delays. We need to get people into the organisation who can add value and can lead the organisation. That is critical. We need to get an independent chair in and we need to get a chief executive in.

Senator Pádraig Ó Céidigh: Excuse me. I am short on time. I accept the point that there is an urgency. However, if we go in with urgency, we could miss a whole lot of points, as Deputy MacSharry said. We are waiting for a whole lot of reports that, in my view, will significantly affect the structure and corporate governance. I laud and applaud, as everyone here has, the document that has been prepared. There are audits by KOSI, which is an unfortunate name, Mazars, Grant Thornton and the Office of the Director of Corporate Enforcement. KPMG is investigating hacking in the FAI computer system. There are so many potential train crashes that we should take stock and reflect to get it right first time. We should measure twice and cut once rather than urgently saying we will go and do something.

I believe that 80% of Mr. Horan's report could have been written about any business. It is good, proper corporate governance strategy. About 20% of it is directly related to FAI issues. One or two areas should be considered in greater detail, including the role and job specification of the CEO. It is mentioned in recommendation 7, but in this issue it is far more important and relevant.

The other FAI-specific part of it is the engagement and interaction between the board and the management. Mr. Treacy and Mr. Mulvey know well that that is a critical relationship and that there is no overlap between the two of them one way or the other. There is concern that

there has been significant overlap regarding the FAI.

I believe the witnesses may have partly answered this question. How is the FAI currently funded without the €2.8 million or €3 million grant it gets? When did Sport Ireland last give funding to the FAI?

Mr. John Treacy: We gave the FAI the first tranche in, I believe, February or March.

Senator Pádraig Ó Céidigh: Is that this year?

Mr. John Treacy: This year. It would be due again in September. It is being funded by UEFA, as we understand. It is not knocking down our door, but it knows it has some big jumps to get over before there is a restoration.

Senator Pádraig Ó Céidigh: On the UEFA funding, is it digging into future funding to keep going?

Mr. John Treacy: I imagine it is digging into future funding.

Senator Pádraig Ó Céidigh: Therefore, it is borrowing money, in effect, from UEFA that it will have to pay back. That could cause going concern questions.

Mr. John Treacy: It could. That is a really important question that KOSI will consider as part of its audit.

Senator Pádraig Ó Céidigh: There could, therefore, be significant cashflow issues coming down the road. If Sport Ireland gave the FAI some funding in February or March, it would have got auditors' reports and accounts in respect of that, as Mr. Treacy said earlier. I believe there is a big issue with going concern if the FAI needed €100,000 from its CEO.

Mr. John Treacy: It is probably trying to assess what the going concerns are and what likely liabilities or risks the organisation will have in the next six or 12 months.

Senator Pádraig Ó Céidigh: Historically, Sport Ireland got considerably more access to accounts than any of us would have. Does Mr. Treacy believe there is a serious concern that the FAI could go into liquidation or receivership?

Mr. John Treacy: I would hope that UEFA or FIFA would-----

Senator Pádraig Ó Céidigh: Would bail it out.

Mr. John Treacy: -----bail it out. I would hope that would be the case. It is not in the interest of any international body that a national body would go under.

Senator Pádraig Ó Céidigh: Absolutely. None of us wants that to happen. There is a serious concern that that might be the case and Mr. Treacy is saying that UEFA or FIFA - UEFA in particular - would probably have to bail it out.

Mr. John Treacy: Yes, and that is why-----

Senator Pádraig Ó Céidigh: A bailout is, therefore, required.

Mr. John Treacy: I know the FAI has been talking to UEFA about a financial package - I do not believe it is finalised yet - to see it through the next year or so.

Senator Pádraig Ó Céidigh: There is significant concern that the articles of association state that two people can make a quorum. This was mentioned by Deputy Catherine Murphy. What are Mr. Horan's views on that? Will that change? We are talking about an EGM coming up with these rules in place. We will end up with the same old, same old. I am sure everyone here supports Sport Ireland and the Minister, Deputy Ross, on the matter. It is difficult to get change. It is the Titanic model again.

Mr. Aidan Horan: My understanding is that, based on the legal advice the FAI got, the quorum as per the articles was two, whereas it states that the rule book takes precedence where that exists.

Senator Pádraig Ó Céidigh: Exactly.

Mr. Aidan Horan: The rule book currently in place states the quorum should be six from a board of 12, although the articles state two.

Senator Pádraig Ó Céidigh: That can be changed quickly and easily within seven days' notice of an EGM. Therefore, it is not that relevant.

Mr. Aidan Horan: That is a clarification, which I know the FAI has issued regarding why it is-----

Senator Pádraig Ó Céidigh: I did not see much reference to this in Mr. Horan's extremely good document. In any business with €50 million in turnover, which makes the FAI one of the largest businesses in Ireland, a key component is the skill sets of the people on the board. Recommendation 62 is generally referred to. That is absolutely essential here. For me that should be up in red lights, particularly with the FAI experience.

Mr. Aidan Horan: Section 6 of the report covers skills and competencies of board members. We listed eight areas, including finance, legal, governance, risk, board experience, business management, and human resource management. In terms of expressions of interest, the new incoming board members will effectively benchmark the skills they are bringing against these. When it actually goes to appoint the independent directors, it will be cognisant of the skill sets that are there in order to get complementary skills around the board table. The issue is about trying to disaggregate the corporate business piece from the football business piece. Recommendation 51 has a list of skills and competencies and the preceding section outlines how essential they will be, not just for the board but also for the five business committees that will need audit, risk and compliance, finance-----

Senator Pádraig Ó Céidigh: They will need to know what they are talking about rather than just being passionate about football.

Mr. Aidan Horan: I would have seen the expressions of interest coming forward as being people not just independents coming on the board but potential co-options on to the various business and other committees to bring that skill set that I would agree needs to be reflected in a big business such as this.

Senator Pádraig Ó Céidigh: I do not like asking this question, but I feel I must. Has this process caused any concern or public trust issue in respect of Sport Ireland and how it deals with grants to sporting authorities?

Mr. John Treacy: I do not think it has caused public trust issues. This committee asked us

to review our terms and conditions and strengthen them. I think we have done that substantially without going into the regulatory role. We work in collaboration with organisations. We have so much power over these organisations. At the same time, they are autonomous organisations. If we give funding to an organisation and auditors come back confirming that funding was expended for the purposes for which we gave it, I am not sure we can do much more.

We have taken more steps regarding our terms and conditions of funding. The last time we appeared before this committee, we heard about the complete audit of organisations. We have taken that on board and put it into our terms and conditions of funding. I think it is okay because if taxpayers' money is going into any organisation, it needs to stand over its financial procedures. We took that advice from this committee on board and the board implemented it straightaway. We have acted in the best interests of the taxpayer, the Minister and this committee in the recommendations. We take these committee hearings very seriously. We go away and think about how we will react. As we demonstrated today, we have come up with a clear action plan from the previous committee meeting we attended. We have been very proactive.

Senator Pádraig Ó Céidigh: I recall asking Mr. Treacy if any lessons had been learned from that meeting. I felt I had to ask the question because people had mentioned it and it gives Mr. Treacy the opportunity to come back.

Chairman: Forgetting everything else, the FAI is not a charity, it is a company. Many of the reforms are processes within committees and so on, which I fully support. What is happening in the context of making the association fully accountable under the Companies Acts? What would happen if there was an insolvency? What role would Sport Ireland have in that regard? This is a serious issue. There is the possibility of a hugely adverse event.

Mr. Kieran Mulvey: On fiscal responsibility and as Mr. Treacy noted, we have expanded our terms of reference in terms of the obligatory and extensive nature of grant reporting obligations. We have been informed, legally and corporately, that this is okay. It arises from the controversies that arose not only in the FAI but also in other sporting and charitable organisations. We are heavily reliant on other State agencies, particularly the Office of the Director of Corporate Enforcement, which has a regulatory function under the Companies Act. On my last appearance before the committee, I may have posed the question as to who audits the auditors, but we also rely on auditors to do absolute due diligence. It came as a surprise to everyone that Deloitte placed in a H4 notice on previous accounts of the FAI. We do not have the competence or skill to undertake those audits. We have our own audit unit but, ultimately, when it comes to the law, there are bodies in place for regulatory purposes.

Deputy Catherine Murphy and Senator Ó Céidigh asked about the risks into the future. In the terms of reference relating to its audit, we have asked KOSI to evaluate those risks. We are aware, as Mr. Treacy indicated, that the FAI received either a letter of comfort or forward grant funding from UEFA-FIFA in the context of other moneys that may be due to the association from broadcasting rights relating to our international team, which is such a big focus of its activity. We will have to wait and see what they come back with in the context of identifying the external risks. I expect they are: first, loans the FAI must repay; second, potential income over the next season that it may achieve from broadcasting, transmission and attendances; third, the FAI's commercial arrangements with its sponsors, including the period for which the latter will continue to sponsor the association; and, fifth, the grant funding available from Sport Ireland, which is €2.78 million annually, as well as capital funding from the Department's regional programme and that for the individual clubs under the sports capital programme. There are myriad risks to current and future funding in that regard. The Minister has made it clear, as has Sport

Ireland in the context of the funding we provide, that unless the Augean stables are cleared, there will be no forward funding.

We are holding the last tranche of the Sport Ireland grant until we are reassured that the FAI is governed appropriately and properly, that these reforms are accepted in their entirety and that it is given a clean bill of health. We await Deloitte's finding on that, what comes out of the Office of the Director of Corporate Enforcement and the KOSI audit, which I would like to see go coterminous in the autumn because our funding round for 2020 begins once we know what we are getting in the budget. Then our board will meet, look at the applications from our NGBs, local sports partnerships and others and we will make decisions as a board in December for the payout of funds, if we can, before the end of December so that NGBs can forward fund their own programmes, or in January. Many things need to come together in the audits, some of which we have control over and some key issues we do not.

Deputy Ruth Coppinger: In the key amendments Sport Ireland has made to its revised conditions for grant approval - which basically relate to full audit and inspection - making it a condition to provide details of full remuneration packages of CEOs, etc. and independent verification of good practice both represent major improvements. Was it not all very simple in the end? At the first meeting Sport Ireland representatives attended in March or February, they informed us that their hands were tied. We were told that sporting NGOs have their own agency and that no level of compliance could be imposed by Sport Ireland. Today, it seems that conditions can be imposed on sporting bodies.

Mr. John Treacy: We would have done a complete audit on any organisation that we had funded by over 50%. If we provided funding of less than 50%, the main organisations being the three main field sports, we just audited the money we gave them. We would have received some push back in the past from the field sports, one in particular, around audits and going in there. When we attended the committee last time, we listened carefully to what it said to us. We spoke to the Department and the Minister, to our auditors and to legal people, and we are now pushing out the boat in terms of our powers. We also made an assessment and spoke to some of the NGBs which would be impacted upon. The board reached a-----

Deputy Ruth Coppinger: Would Mr. Treacy agree that Sport Ireland could have pushed the boat out a bit earlier, meaning that the level of bad practice might not have continued for so long?

Mr. John Treacy: We probably pushed out the boat more than many organisations which give money to bodies. In fact, we were way ahead of the posse in auditing these organisations. Other sectors do not carry out audits or go into that area. We review the financial statements of all the organisations on an ongoing basis. Not only do we do that, but we also go back to the organisations with feedback. We have a good regime. Of course, Sport Ireland is audited by the Comptroller and Auditor General. Our regime is robust. The committee asked us to take a step further. We listened carefully, consulted with the Department and NGBs and we have taken the extra step.

Deputy Ruth Coppinger: That is to be welcomed. However, at the first meeting, I recall asking whether Sport Ireland would withhold funding as a deterrent and Mr. Treacy was very reluctant to do so. Now there are very stringent conditions.

Mr. John Treacy: We have been accused in the past of being a bit heavy-handed with some of these organisations. No one likes for us to be in a situation where we withdraw funding

from any organisation. That is not great. We are always trying to balance this. The FAI has changed everything and has moved things on with audit and the impact will be felt by everyone in sport. Mr. Horan will verify that the systems in place, even prior to this, were fairly robust and we probably went further than many organisations. As an example, remuneration packages for CEOs would have been a significant source of unhappiness throughout society, especially in the football community. I am glad that Mr. Mulvey has included it as a condition, but I wonder why it was not included before.

Mr. Kieran Mulvey: We anticipate that there may be a pushback from some sports organisations on the new terms and conditions we will apply in the provision of grant funding. I have heard noises in the wind, asking if Sport Ireland is now trying to run every sports organisation in the country. There is a little of that in the undergrowth. It was an issue in the past, too. As Mr. Treacy indicated, when we went in in a way some people may have said was heavy-handed, we were rebuked for it, including by Ministers. The second issue is balancing it with governing bodies. In the past there was a pushback on remuneration packages for CEOs, not just from the FAI. There was the issue of commercial sensitivity in the case of some contracts which was related to the ability of CEOs to realise commercial value of the sport for the organisation. They said the matter was entirely private and did not relate to the grant or remuneration, as the CEO's salary did not come out of any public funding provided. One had to watch that. We are trying to be as positive and adventurous as we can without incurring legal action against us such as judicial reviews in exerting an authority for which we do not have a foundation. As Mr. Treacy indicated, the FAI has changed that, as have the investigations of Oireachtas committees into charities and such. The remit of the State may extend further than people realised in the past.

Deputy Ruth Coppinger: How has the discrepancy arisen between the clean sweep of the board for which the Minister is arguing and which we all thought would happen and the insistence in the report on maintaining two board members? When we last discussed this issue at the committee, I asked why would we wait until July. I am not pointing at anyone personally, but it is a fact that it is now July and we have found out that Mr. Conway is being nominated for the position of president. He sat in this room when we tried to get answers from the former CEO and was happy to lead the FAI in a merry dance around the committee. He will be the president because there is no other competition. There is already a significant problem with the report.

Mr. Aidan Horan: The group is independent. There were three external nominees who were nominated by Sport Ireland. From the point of view of a transition in governance and a hand-over, when we looked at this issue and put it in the report, given that we are talking about a new board, independent directors and an independent chair, we considered that it would be a more serious risk to allow everybody with knowledge, an insight, relationships, corporate memory, etc. to walk away, rather than allow more than one or a maximum of two of the 12 to hand on the baton in a reasonable way.

Deputy Ruth Coppinger: Fair enough. Did Mr. Horan not-----

Mr. Aidan Horan: We were not leaned on by any individual anywhere. The three external members of the review group were very strong that it needed to be a managed transition and a prudent, astute, hand-over and changeover.

Deputy Ruth Coppinger: Did Mr. Horan not see the potential for it to happen with that recommendation? The nominee for president is somebody who has a long track record of facilitating whatever went on in the FAI and allowing the former CEO to sit there gagged and not to answer questions from elected persons, journalists or anybody else. Considering how small

and monocultural the board was, could Mr. Horan not have had a stipulation that that would happen? He is putting continuity above a clean sweep.

Mr. Aidan Horan: We were not commissioned to do this work until after it had happened, but I take the Deputy's point. It was a suggestion, rather than a recommendation, that it could happen. We put the onus back on the board at that stage following the resignations of seven people to reflect on the hand-over and transition and make the decision. It was not to leave an avenue, but we considered that it should be a suggestion. However, I take the point the Deputy is making. We have held the line on the issue which has come up in a number of guises. The recommendation is robust, although it has facilitated the situation about which the Deputy is talking. Even allowing for the exceptional circumstances, having a transition and hand-over is a safer way to do it than not having one at all. If one goes for a full sweep, one relies completely on the executive of the organisation, on which there was commentary. We viewed having some transition as a better outcome.

Deputy Ruth Coppinger: I have read the report and many of the recommendations made in it are very good.

Mr. Aidan Horan: I thank the Deputy.

Deputy Ruth Coppinger: There is a danger that an impression is being given that we are entering a new era of reform and that the problems of the past will never be investigated or uncovered. I do not think that is acceptable. That is something for the Chairman of the committee to consider. The last time we were all at this committee we were in a farcical situation, with the Kerins judgment hanging over our heads, which the former CEO of the FAI used to say nothing, except whatever he wanted to say. In the light of the clarity provided on the Kerins judgment, we should consider inviting the former CEO of the FAI back to the committee.

Chairman: We received a letter earlier, although I appreciate that the Deputy may not have been here, in which FAI offered to come after its annual general meeting.

Deputy Ruth Coppinger: Including the former CEO.

Chairman: The letter is from the president, but I hear the Deputy. I will have no problem in making that request.

Deputy Ruth Coppinger: We all wanted to hear from the person who did not speak at the last meeting.

Chairman: I understand.

Deputy Ruth Coppinger: We heard from the president but not from the person from whom we all wanted to hear. In the light of the clarity provided on sending an invitation with clear information in advance, we should re-invite the former CEO to answer these questions.

Chairman: That is something we can discuss in the autumn. While there is a process ongoing, it is appropriate that any citizen involved in it should have his or her right to decide whether to come or not, as he or she so wishes.

Mr. Aidan Horan: One of the biggest issues which bedevils governance is the lack of clarity on roles and responsibilities, about which there is confusion. Much of our report tries to nail down that there is not a cross-over or a hand-over between the executive and the non-executive. We tried to implement committee terms of reference, on which work is ongoing in order that

nobody would be under any illusion about what his or her job was in terms of oversight or the accountability of the executive or the board. That is why there will be independent directors and an independent element on various committees. There is a process for holding people to account. Building in structures to allow that to happen is a recurring theme in the report. We are acutely conscious that it is a requirement in the roll-forward of governance in the FAI.

Deputy Ruth Coppinger: In the delegates' recommendations on the make-up of the new governance boards they draw attention to the gender imbalance in the FAI, but it would not be the only sinner in the country in that regard. It is not too much better in the Dáil. There are two women to represent women's football out of a council membership of 58. One looks back and asks whether it is any wonder that the women's team received the treatment they did, not least in light of the Women's World Cup, which engaged people's attention, enjoyed a high viewership and included some very good football. That a chant that rang around the stadium was for equal pay cannot be lost on the people who will run the FAI. Nevertheless, I wonder how it will be achieved. Our guests recommend a 33% female-----

Chairman: Before that question is answered, I note that it is Fine Gael's turn next. Two members are in attendance and I do not wish to fall out with either of them if they decide who wants to go first.

Deputy Ruth Coppinger: I will finish the sentence, if the Chairman does not mind.

Chairman: For the record, we have been fair with everybody-----

Deputy Ruth Coppinger: I know. I was almost finished.

Chairman: -----and the Deputy has been asking questions for 16 minutes. While I acknowledge that it may upset her, I am trying to be fair to everybody.

Deputy Ruth Coppinger: If the Chairman lets me finish the sentence, I will be finished.

Chairman: I have no problem with the Deputy finishing the sentence but I am trying to say her time is almost up.

Deputy Ruth Coppinger: It seems difficult to go from 3.5% to 33% in 24 months.

Mr. Aidan Horan: The group acknowledged the challenge and hill to be climbed to achieve a gender balance. FIFA and UEFA talk about representative democracy in society, gender balance on state boards and so on. In a way, we are saying that within one year, we will attempt to achieve 33.3% on the board and that within three years, there will be a gender balance on the councils and at AGMs. There is much effort being done throughout the structures of UEFA and FIFA to build female leadership capacity and to get people to step into the roles. A programme of work will be required to get people to come forward for the roles. Throughout the country, the governance roadshows are predominantly male, which is not surprising.

The timeline is a target, although it is probably more than that because change is required. In view of the success of the women's team, the Women's World Cup and so on, it is clear that for representative democracy in the sport, it has to move towards a greater gender balance. While I concede that, currently, only two of the 58 members are female, the addition to the council of eight representatives of the women's league team, as per the recommendations, should give an injection to the council membership above the two who are in place. The target has to be supported by initiatives at FAI level to grow people and embrace a greater gender balance.

Senator John O'Mahony: I thank our guests for their presentations and for their ongoing work on the issue. I return to a point made by Mr. Treacy about Sport Ireland's meeting with the FAI last Friday, at which Sport Ireland outlined its concerns about a completely new board. Did I read that correctly?

Mr. John Treacy: We met the FAI and Mr. Donal Conway. We were aware that two members of the existing board intended to run for election. One was going to be opposed, whereas the other was not. We had previously articulated the view that the entire board should stand down, and at the meeting, we articulated that, at a minimum, there should be an election.

Senator John O'Mahony: What response did the FAI give Sport Ireland at the meeting?

Mr. John Treacy: The response was that Mr. Conway had led many meetings throughout the country. He is seen as having a reform agenda and had done a great deal to drive that agenda forward in recent months, with which I believe everyone would concur. As I said previously, he stepped in, calmed the waters within the FAI headquarters and added some value. We are firmly of the view, however, that everyone should resign and a new broom should be brought in. New faces are needed.

Senator John O'Mahony: I agree and I am glad those points of clarification were made. I prepared questions based on our guests' opening statements, which suggested they all were happy with the progress, but then the Minister's letter was published yesterday evening. I was surprised that the clarifications were much stronger than what they was contained in their opening statements.

Mr. John Treacy: We do not enter that area. It is up to every organisation to choose its president; it is not up to us. We do not have a say. While it is in our power to make a suggestion, the members elect the president. The Minister wrote a letter yesterday that changed an awful lot in respect of the issue. We endorsed it-----

Senator John O'Mahony: I am glad to hear that. When Sport Ireland previously appeared before the committee, I made a comparison with the Olympic Council of Ireland and our guests very much agreed on the way that process was started. In that case, although the president who was appointed, Sarah Keane, had been on the board for a couple of years, she had been an open critic of what had been going on. She has done a wonderful job and she was elected.

The optics of this issue, however, are in contrast to that. As has been noted, at Mr. Conway's appearance before the committee, he was given an unfair job by his own CEO to protect him. From that point of view, Mr. Conway did the job quite well. This is a start, as Mr. Treacy indicated, but it is not a good start as a straw in the wind of what might happen down the road. That is the danger. The impression I get is that the reforms have a 50:50 chance of being voted down. It appears that the crisis thus far might look like a tea party compared with the crisis that is to come.

While I can see the argument for some continuity, the continuity in this case will be provided by someone who has been a member of the board for 14 years. While he may have steadied the waters, he was in place throughout the period when incorrect and questionable decisions were made. The Institute of Public Administration's report is independent but I detect a difference of opinion from that of Sport Ireland. The latter wanted a clear-out whereas the former's report made a different point.

Mr. Aidan Horan: I might make an independent observation. The report was issued on 21

June. We had briefed the board of the FAI with the draft report on 13 June. The board received the final report late on 20 June and it was published on the website on 21 June. At the first press conference, which was the first briefing, the president acknowledged that the culpability for what was identified in the report, namely, the trouble that had been visited on the association, rested with the board. I have been invited to explain the report at the governance roadshow workshops that are taking place. The president takes the lead on them and acknowledges, in a public and open way, where the board was wrong and the deficiencies that existed. He has been challenged in respect of that and has indicated strongly that this reform package needs to be delivered for the FAI. Throughout the country, the members understand the challenge but it appears that they have vested trust in the man in question to lead the reform package. He has stated publicly that this is an interim board, which will sit for one year. I do not think he envisages being there for more than a year. I will let him speak to that but that is definitely my understanding. The report and the package represent a recognition that this is the organisation's plan A. This must be the way forward. The question is who can lead that. I wish to emphasise that we were not leaned upon by anybody. No influence whatsoever was used to induce the committee to create an opportunity for someone to sit. That did not happen. We saw it as an important and prudent way to manage transition and renewal. I wish to underline that to people. The outcome is what we have at the moment.

Senator John O'Mahony: I find this difficult. With all the issues, it beggars belief that there is an unopposed election.

Chairman: I wish to go back to the point about the Companies Act. I accept the issues concerning the committees and clubs, but this is a commercial operation. That is the question. Its governance is completely and absolutely inadequate. The question of continuity does not arise in my view. They should all go. I understand the emphasis on Mr. Horan's work, which I respect and acknowledge. I do not think there is enough work in the report regarding obligations under the Companies Acts, the duties of the board of directors and how those directors will be monitored in future. If that is a respectful and fair point to make I would be delighted if the witnesses would come back to us with more work on the issues in the organisation which are absent from the report at the moment, even if that will take until the autumn.

Deputy Ruth Coppinger: This seems to be the issue that us bugging all of us. Is this just a *fait accompli*? Can this be altered?

Chairman: It is of concern to everybody. In fairness to the committee, that is what it has recommended. It was accepted by other parties. That is the compromise as I see it, though obviously I do not agree with it and neither does anybody here. We have to listen. If that is what the committee recommended we cannot change it. However, the organisation can change to make sure that the changes happen. One way of not doing that is electing the president. That is the problem. That is why there has been no change.

Deputy Ruth Coppinger: The witnesses were asked if they anticipated that this could happen. The person who asked no questions at all about financial goings-on in the FAI, including the extravagant expenses and the so-called loan, is now going to lead the reform movement in the FAI. It just does not stand up.

Chairman: In fairness, other members here have not spoken-----

Deputy Ruth Coppinger: Mr. Horan seem to be arguing a stronger case for Mr. Conway.

Mr. Aidan Horan: I am simply making an observation, that is all. It is a member association.

Chairman: The last point I want to make is that this organisation could in theory be heading into insolvency, as we were saying. How can a body rescue that when it is just an outsider, in one sense, with some legal or statutory duty of care for a certain amount of the organisation's budget? It is a very serious question. Has additional professional help been offered or asked for by the FAI to deal with these very serious issues? In other words, is the capacity to deal with them available?

Mr. John Treacy: The association is dealing with them. Grant Thornton is providing support in the various investigations. That firm has brought in its own people to help.

Chairman: Grant Thornton is also managing day-to-day affairs, is that right? I am not trying to put words in Mr. Treacy's mouth.

Mr. John Treacy: My understanding is that Grant Thornton is supporting the financial people within the FAI in providing all the information for the various investigations ongoing at the moment.

Chairman: Regarding the running of the organisation-----

Mr. John Treacy: Grant Thornton is helping the financial people within the FAI to put some of those systems in place.

Chairman: What are those systems?

Mr. John Treacy: They are financial procedures, processes and that type of thing.

Chairman: Mr. Treacy raised questions about managing the different activities. He mentioned quite a number of them. Who is managing those? What is going on?

Mr. John Treacy: The football side is being managed by the general manager, Mr. Noel Mooney.

Chairman: What about the financial issues?

Mr. Aidan Horan: We recommended the development of a governance manual of policies, procedures and protocols. I understand Grant Thornton is helping with a lot of these procedures and the documents that need to be prepared. That is our understanding. It is a recommendation in the report.

Chairman: Can Mr. Treacy enumerate the resources Grant Thornton is providing? How many people have been assigned?

Mr. John Treacy: That is a matter for the FAI.

Chairman: Is that not a part of the due diligence Sport Ireland has to undertake?

Mr. John Treacy: If the FAI is paying some people to come in and work with it, that is its business.

Chairman: I am not being rude but Sport Ireland has a hugely important role here. It has brought about huge change, thankfully. However, Sport Ireland's management should be fully

acquainted with what is actually going on now, given the additional duties it has imposed on the FAI in its new regulation. Is that right? In other words, Sport Ireland should be-----

Mr. John Treacy: We are already doing that through our KOSI audit. In fairness to the FAI, before we had changed our terms and conditions we asked if we could carry out a full audit. We met with the people in the FAI. Mr. Donal Conway was one of those people. They said “Yes”.

Chairman: There is one last point. It is implicit in the letter from the Minister, in the third last paragraph on the second page. He states that the query concerns the supply of information that has been requested.

Mr. John Treacy: I am hearing that the information is forthcoming from the KOSI audit. It was a bit slow at the start but the information is now flowing. It may take time, but Sport Ireland will definitely get all the information we have requested. Otherwise we will not be able to complete the audit, and that is a very major step to restoring the funding. It is as simple as that.

Chairman: The Minister writes that he is anxious to know if the FAI is responding in a full and timely manner to requests from Sport Ireland. Was Sport Ireland kept up to date with the details of the internal election for president and vice president? That is the nature of the second point. Is Mr. Treacy happy that Sport Ireland was kept up to date? That letter was written yesterday.

Mr. John Treacy: A lot of that happened very quickly. Sending out a notice about an extraordinary general meeting, EGM, on a Sunday night is not a great idea. Asking for nominations on a Friday is not a great idea either. That was a very short timeframe. We met the FAI and we raised those issues. Its officials’ argument was that if people had put forward names for elections, there would be a longer time for people to campaign. We thought that was too tight. We articulated that view to them.

Deputy Kevin O’Keeffe: I welcome Sport Ireland and Mr. Aidan Horan here today. Reading this report initially when it was first published, my first fear was that it would have a knock-on impact on other associations in regard to getting their house in order. Mr. Treacy has already acknowledged that there will be repercussions. I welcome the report and I am delighted that the response from everyone was positive. However, we have returned to a personality clash issue. I wish to put on the record that on 9 July the Minister for Transport, Tourism and Sport, Deputy Ross, on foot of a parliamentary question from my colleague, Deputy MacSharry, stated:

I welcome the recent publication of the Report of the Governance Review Group... The Review Group has presented a detailed set of proposals covering a wide range of issues including the association’s Board, commercial partnerships as well as audit and risk management.

Had the Minister, Deputy Ross, not read the report by 9 July? It has been referred to umpteen times at this committee, but everybody seems to be passing over this point. I refer to page 74 of Mr. Horan’s report.

Its deliberations should be included the record:

In acknowledging the exceptional circumstances that exist, and the many calls for a complete change at the top, the Group considers that, for handover and transition purposes and to manage the serious risks where everyone leaves at once, at least one or possibly a maximum of two members might consider putting themselves forward for positions on the

interim Board. This will require the current Board, as a collective, to consider their individual and personal interests but more importantly at this stage consider the interests of the Association and decide what they, as a collective, consider is the best course of action.

I was led to believe that this was all to cover the board on an interim basis for 12 months to 2020. I assume that everyone found that acceptable. In fairness, Mr. Horan acknowledges at the top of the page that the board offered its resignation in full, but the proviso was put into the report that it should reconsider one or two of the members. Do my committee colleagues have the other names that should have been put forward? Two names have been put forward for the position of vice president, one uncontested and the second contested. Is this not going well? In fairness, it is only for an interim board for 12 months. A lot is hanging on this decision and this deliberation because it will create more uncertainty.

My big concern as a member of the public, and in the context of accountability for taxpayers' money, is that the spin is that it is down to the clubs, which were not getting it, although we were led to believe they were. I refer to the development clubs, the sports partnerships and so on. Is this just a last-minute intervention on the part of the Minister, Deputy Ross? This report outlines matters clearly. Had they some other name in mind? I cited at a previous committee meeting the case of a company in my own back yard, namely Dairygold, where changes were made. However, one does not just make a clean sweep of management; one keeps some of the old guard and then moves forward. Many Governments have resigned but then sought re-election, have they not?

Chairman: The Taoiseach never-----

Deputy Kevin O'Keefe: I will try to keep outside of this jurisdiction. The point is that there seems to be a feeling now that we should just clean the board. I understand where people are coming from-----

Deputy Ruth Coppinger: Chairman-----

Deputy Kevin O'Keefe: -----but we need a transition period.

Chairman: In fairness, Deputy Coppinger-----

Deputy Kevin O'Keefe: I support Deputy Coppinger's comment that not all boardrooms need to comprise top-class lawyers and so on. Tradespeople can be put in place for directors to become board members. I am concerned that we are going off track as far as the report is concerned. Is the report worth the paper it is written on? I assume that when it comes before the AGM or whatever it will be written into the articles and memorandums of the FAI. Am I correct?

Mr. Aidan Horan: Yes. The new rulebook, which is out now, incorporates the changes to the structures and the committees which are envisaged.

Deputy Kevin O'Keefe: Will it be possible to amend that rulebook in future to deal with the issue of the quorum, which is a big topic at present?

Mr. Aidan Horan: Yes. The rulebook will be amended as the association sees fit. That is my understanding.

Deputy Kevin O'Keefe: That is what I am saying. The proposal that the quorum be reduced to two members can be reversed at a proper AGM in-----

Mr. Aidan Horan: We had this discussion a little earlier. The rulebook that has been sent out states that the quorum is six members.

Deputy Kevin O’Keeffe: Mr. Horan said Sport Ireland had deliberations with FIFA and UEFA. Did it have any proposals that created a red line for them and made them tell it to pull back? Did Sport Ireland have issues with them?

Mr. Aidan Horan: No, they provided us with information that they thought would be helpful to the review. We gave them an overview of the terms of reference and the background we were using, we talked about the codes and the guidance and we looked at their statutes and the regulations. They were very happy to take on board our independent recommendations as to what the future should be. That is the context within which we worked with them. We got back comments on the draft report from both Sport Ireland and the FAI, both reflecting generally broad acceptance of the draft report, which ultimately became the final report issued on 21 June. This is very much based on UEFA and FIFA regulations, principles and practices, but they took no excess influence on us regarding any of the material here.

Deputy Kevin O’Keeffe: Were there not any reversals, though? In the draft report, for example, there were no recommendations or-----

Mr. Aidan Horan: No. This final report changed very little. These were just some editorial changes and other small modifications and adjustments. The draft report was substantively the final report the committee has.

Deputy Kevin O’Keeffe: Were staff structures discussed at all?

Mr. Aidan Horan: No, we took presentations and received submissions from staff. Our acknowledgement concerned the staff forum initiative, which is now happening; the presence of human resource management, HRM, skills on the board; and a new executive performance and remuneration committee with a staff role. Ultimately, with the new structures, there will have to be an alignment within the FAI into those committees from the staff. If the committees are working, the work programmes will have to feed into the work of the day-to-day staff. That has been presented back to the staff as well. FAI staff were presented with a report on the morning of 21 June at 9 a.m. The first people to get the report were the staff. We met them again last week to talk through any issues they wanted to explore. That has been part of the process with them. It is not an organisational review, but we flagged the alignment of the organisations, executive staff and management with the future structures of the FAI.

Deputy Kevin O’Keeffe: Did they come back with any further requests or suggested changes to staff?

Mr. Aidan Horan: No, we just commented on and put some detail around the recommendation, explaining what it would mean, but it was very much back to their leadership and their own executive to take that forward.

Deputy Kevin O’Keeffe: It is on the record that Sport Ireland was to come on board this year and that it was the turn of the FAI to be audited this year. If Sport Ireland only had its pre-March account audit skills in all this, do the witnesses think it would still be in a position to unearth what has now arisen? The officials say they have upped the ante regarding the auditing and the forensic accounting techniques for the audit going forward, unlike perhaps some other organisations. If they were still using the same pre-March audit techniques, do they think that if they went into the FAI headquarters tomorrow morning those techniques would be good

enough to discover those discrepancies?

Mr. John Treacy: As I said, up to March of this year we were, for the three main fields of funding, relying on the organisation's auditors to give us a letter stating that the funding we gave them was expended for the purposes for which it was given. *The Sunday Times* through Mark Tighe changed an awful lot in a very short period. It was a string that probably needed to be pulled, and things unravelled very quickly. Since then, we have highlighted how we have changed our terms and conditions of funding and how in future we will do in-depth audits of all the organisations we have funded. As I have said previously, this has changed things for a lot of sporting organisations. It has moved the goalposts significantly, to use a sporting term. All this work continues, but I said previously that we were well ahead of a lot of organisations that are giving State funding to the community, charitable and sporting sectors, so we are well ahead of the posse in terms of the audits we do.

Deputy Kevin O'Keeffe: To clarify, I acknowledge that Sport Ireland has not visited the FAI headquarters in the past three years because it cannot get around to every organisation every year. The witnesses themselves acknowledge that every few years Sport Ireland does visit the organisations' headquarters. It will visit the FAI headquarters this year. That was agreed, and we have been aware of that. If Sport Ireland had come in with the previous audit methodology, pre-March, do the witnesses think that would be good enough to unearth all these difficulties or problems?

Mr. John Treacy: That is up to the auditors when they go in, if they find something. It is, again, a matter of looking for a trail or something unusual.

Mr. Kieran Mulvey: Its own auditors did not uncover any of it. That is why they put in their notice; they said it did not have proper books of account.

Deputy Kevin O'Keeffe: Why did they wait two years to run to the ODCE?

Mr. Kieran Mulvey: I think there was a bit of retrospective coverage of one's rear.

Senator Frank Feighan: It is nice to be here after four months. I was also put on the ticket today to contest the next general election. I hope to be back here as a Deputy but if I am not elected, I hope I will get a Taoiseach's nomination to the Seanad.

Chairman: We will be delighted to have the Senator back as a Deputy.

Senator Frank Feighan: I thank Mr. Horan and the review group for their report. I thank Sport Ireland, which has been in a difficult situation for the past few years. It has dealt with this quite well, so far so good. It is a situation it does not like to find itself in. We are very fortunate to have such a competent organisation to deal with a situation none of us wants to deal with. The FAI has form here, going back 17 or 18 years. When the Genesis report was done, it was dragged kicking and screaming. We hear nothing about the Olympic Council of Ireland, OCI, now. It has got its house in order, fair play to it. People must be falling over themselves at FAI headquarters because I have never heard of so many different investigations going on.

Mr. Treacy said Donal Conway calmed the waters. There was talk at the previous meeting of an appetite for change but how can we be sure about that? I understand that Donal Conway has been president of the FAI for the past 14 years and has been nominated unopposed for the presidency again. That is not exactly the appetite for change we were told about. I am trying to be a devil's advocate here. We have asked that all the board members step down uncondi-

tionally. Am I right in saying that if Donal Conway was the president he would be there only for an interim term of a year? Nobody has asked me about this but Deputy O’Keeffe referred to continuity. Is there anything in place to ensure that he would be gone after a year? It seems reasonable, not from a political point of view but from a business point of view, to have continuity for a year with somebody who has the knowledge and who, as Mr. Treacy rightly said, has calmed the waters for 14 years?

Mr. Aidan Horan: He has been on the board for 14 years but he has been president for only one year. The board of the FAI will have an independent chairperson. We have written in the report that we are advocating a more detailed job description for the president and vice president and we are asking them to support the chairperson who is to be independent. The future president of the FAI, after these reforms, will not be the current president in terms of position and status surrounding the governance of the FAI because of the independent chair. The president will chair the football management committee but not the board. It is important for us to remember that.

This is an interim board; it is like a reform board, task and finish, get involved, take forward the implementation recommendations and come to the July 2020 AGM having read the 78 recommendations and focused on the areas we have mentioned for future work. This will be a very busy programme of work for whoever takes on this key governance role or those who are entrusted with the role. I view this as putting people in a position of trust. It is important to recognise that there will be an independent chair of the board and there will be three other independents on the board.

Senator Frank Feighan: We know the 78 recommendations will be put to the FAI members. What happens if they do not all go through?

Mr. Aidan Horan: These are presented as a package. If we say there are governance principles for the FAI, these are the governance arrangements it requires. We have tried to fashion a structure, board, business committees, a football management committee and new committees that will help the arrangements to embed and to work. The 78 recommendations are not a menu. I gather what is coming from the EGMs and AGMs is that this is a package of reform. Of course it can be tweaked as the organisation goes forward but as of now this is what the membership has to vote on to change. The rule changes are there to take those parts of the report that require rule change. Many of the recommendations are not rule changes; they are behavioural and cultural and how it does its work.

Mr. John Treacy: Sport Ireland supports the Minister’s letter to the effect that the board should step down. The Senator mentioned the role Donal Conway has played over the past three or four months. He is the one who filled the vacuum and calmed the waters within FAI headquarters, and led the reform agenda, which was very important. If there was a vacuum we would have made no progress on the report or on any of these audits. I acknowledge his work and his commitment on a voluntary basis over the past three months. That said, we in Sport Ireland believe it is time for everyone to stand down.

Mr. Kieran Mulvey: That was the statement made by Sport Ireland to this committee, and then to the Minister who conveyed it to the committee. We expected that would happen. Something has happened in the past ten days that has changed that narrative. We have not had a sufficient explanation as to why that occurred.

The time period for nominations is dramatically short - one week. I do not think there is an

organisation in the country, trade union, political party or company that would have that truncated period of reflection on who would be nominated for a post.

We want to separate the personality and the individual from the office. We want a new start, a new era for the FAI. That means new people at leadership level and the report reflects that. This is unfortunate. Nobody desired this.

Senator Frank Feighan: I am interested in the international recognition of Irish athletes. The Friends of Irish Athletics appeared before the committee. The Chairman made a statement. What happened? Why did they come in here?

Chairman: They came at the request of a member of the committee.

Senator Frank Feighan: Why would somebody say that somebody in Armagh could not compete for Ireland?

Mr. John Treacy: They can and do regularly compete. One of our top athletes is from Portaferry. The athletes who come from Northern Ireland have a choice between competing for Ireland or Great Britain. That is in keeping with the Good Friday Agreement. It works well for everyone. There is real harmony among the various bodies and they all work together. It is also in keeping with the IAAF constitution. This is something that does work. The athletes have choice and this is what is important. They can wear the green and white shirt or the Union Jack. It works for everyone and it is in keeping with the traditions of both communities in Northern Ireland.

Chairman: We will try to finish if we can.

Senator John O'Mahony: To return to a point made by Senator Feighan, the presentation made to us by the athletes made it sound as if there is a loophole. I agree with what Mr. Treacy stated. Perhaps it is a technicality. One can argue that it is not a sporting issue, but it is a big issue for those involved. In the Olympics, there is no issue with people opting for the UK or Ireland. In the case of the IAAF, however, if people choose to represent Ireland, they are representing the 26 counties. We could have somebody from Armagh who technically would not be representing all of Ireland and that is the issue.

Mr. John Treacy: Yes, I understand that.

Senator John O'Mahony: It is an issue of minutiae but not for the very genuine people it affects. The report states that there has been no correspondence on this. Would it be possible for Sport Ireland to meet the athletes at some stage?

Mr. John Treacy: Absolutely.

Senator John O'Mahony: This was one of the requests they made to the committee. Sport Ireland could meet them and tease out the issue and perhaps find a solution.

Mr. John Treacy: I read the transcript of their appearance before the committee. I made an inquiry of Athletics Ireland on whether any athlete has complained about representing Ireland or if it had heard about any issue regarding an athlete from Northern Ireland representing Ireland or the UK. It replied that it had not. I read the transcript, I understood what was being asked and I posed the question.

Senator John O'Mahony: Will Mr. Treacy meet them?

Mr. John Treacy: I will be happy to meet them.

Deputy Ruth Coppinger: There is an issue-----

Chairman: There are two issues.

Deputy Ruth Coppinger: -----that has not been clarified.

Chairman: I just want to get this right. We have had an excellent meeting and we are discussing the matter properly before us. The problem is we must finish by 2.15 p.m. We can come back to it afterwards if people want. We will be coming back at 3 p.m. or 3.15 p.m. because representatives from Transport Infrastructure Ireland will be coming before us. I do not want to curtail anybody but I am conscious of our time.

Deputy Ruth Coppinger: While Mr. Treacy is here, I want to make this point. I do perceive one problem for a Protestant living in Northern Ireland-----

Mr. John Treacy: I see that as well.

Deputy Ruth Coppinger: -----who may identify as being from Northern Ireland but may not want to compete for the Republic of Ireland. Potentially, this excludes us from having a wider pool of people who are probably very talented. The athletes have raised an issue and it is something that should be looked at.

Mr. John Treacy: I understand the issue raised by the Deputy and what the athletes put to the committee. This is why I asked whether any athlete who has competed for Ireland has raised it as an issue but no one has done so. I would be very happy to meet them.

Deputy Catherine Murphy: With regard to the forthcoming AGM, no FAI rule underpins the election of the president and vice president. A lot will be decided at the EGM. Given this is all about governance, have the candidates for president and vice president been validly nominated? Does Sport Ireland have a function in this? The FAI's constitution specifies what should be transacted at an AGM. It specifies financial statements and the nomination of auditors. How can any of this be complied with? How can Sport Ireland possibly stand over an AGM that does not even comply with its own rules? I accept it will take a very long time to get the association properly constituted but this is its first opportunity to have an AGM and it will be in breach of its own rules. The tight timeframe seems to exclude deliberately other people. This is not the type of voter confidence that will stand up publicly. Does Mr. Treacy accept this is how it will be read?

Chairman: The short timeline means we do not know whether it is in order. I do not mean to be rude but I ask Deputy MacSharry to be brief.

Deputy Marc MacSharry: I will be quick. I do not mind coming back but I do not want to disenfranchise others. It is a matter for the Chairman.

Chairman: I do not know about other people.

Deputy Marc MacSharry: Somebody mentioned we will have new council members but they must be approved at the AGM.

Mr. Aidan Horan: The nominees will go forward.

Deputy Marc MacSharry: That is grand. They will be approved at the AGM. Is it correct

that none of them will be eligible to be on the new board because nominations close on 24 July?

Mr. Aidan Horan: They are looking to get nominations through so people can go on to the council, whether at the EGM or AGM. My understanding is they will be in a position to go forward to be nominated for the board of the FAI, if that is the question the Deputy is asking.

Deputy Marc MacSharry: At the next AGM.

Mr. Aidan Horan: No, at this AGM.

Deputy Marc MacSharry: Given that nominations close on 24 July, how can they be nominated three days before they are eligible?

Mr. Aidan Horan: I do not have the rule book in front of me. My understanding, for what it is worth, is that new nominees will be brought forward to the council and those nominees, as a group of 79, can decide to put forward people to go onto the board of the FAI on 27 July or after it.

Deputy Marc MacSharry: The nominations close on 24 July.

Mr. Aidan Horan: I do not have the detail.

Mr. John Treacy: Deputy MacSharry is asking a very fair question.

Deputy Marc MacSharry: I have no doubt about that.

Mr. John Treacy: We will ask the FAI to clarify this for everyone.

Chairman: It is a very good point.

Deputy Marc MacSharry: It is another example. We established that we do not know whether it is solvent. We established that in an ideal world we would like all of the report's results before we move forward with substantive change. Now we have confusion over the new people. Theoretically, from my reading of the rules, they will not even be eligible to be on the board until the next AGM so it is a bit on the never-never.

Another point is that the corporate governance report clearly provides for a list to be drawn up by an external recruitment firm but this is not reflected in the rules. This is what the report says but it is not reflected in the rules. Instead, a nominations committee, comprising mainly of members of the board, will select the independent directors, including the chairperson. In effect, this gives complete control to the board for the selection of the independent directors. It is a derivative of Einstein's comment that to keep doing the same thing expecting a different outcome is insanity.

Chairman: Before our guests-----

Deputy Catherine Murphy: I would like the answers to my questions. Will they be put to the FAI?

Chairman: I am trying to get everybody to ask their questions.

Deputy Marc MacSharry: I have one more point to make.

Chairman: We will take all of the answers together.

Deputy Marc MacSharry: For what it is worth at this late stage, and bear in mind that I am new to this but I have read and considered the information that is available to us, I urge Sport Ireland to appeal to the FAI - to the extent that it has influence over the association, which is one of its member organisations - to postpone its EGM and AGM until November. Let us get all of these reports, including that of the Office of the Director of Corporate Enforcement if it is available. We will then have a much more holistic view to be able to use Mr. Horan's template, with adjustments as may be required, so we can put in place a bespoke system that best suits it.

Senator Pádraig Ó Céidigh: I thank our guests for coming before us and I thank Mr. Horan for a very good report. I am very appreciative of the work our guests are doing and the due diligence they are carrying out. Well done. They have explained matters very well.

I return to a question I asked earlier, which was followed up by Deputy MacSharry. It is critically important for our guests to use their influence to ensure that the EGM and the AGM are postponed. In light of what Mr. Treacy stated in response to my question about the potential for the FAI to go into liquidation - not in theory but in practical terms - I suggest that consideration could be given to Grant Thornton, which has a great deal of experience in this area, taking over the management of the FAI in the short term. I do not doubt that Donal Conway has the best of intentions for football. I do not know the man, although I met him once. I have no doubts about his passion. At this time, the FAI needs people with strong professional experience at this level. I am asking our guests to support what I am asking them to consider and to give the committee some feedback on it.

Chairman: The Senator has made an important point. If the people from Grant Thornton have such a significant knowledge base, the first thing they should do is produce a draft set of accounts.

Senator Pádraig Ó Céidigh: Grant Thornton has done this in the past. Its managing partner, Mick McAteer, is a first cousin of the soccer player Jason McAteer. Grant Thornton has vast experience in this space.

Chairman: We will leave it at that. Do our guests have anything else they would like to say in response to the questions that have been asked?

Mr. Aidan Horan: I would like to say in response to Deputy Catherine Murphy that I understand the FAI intends to convene the AGM and try to operate in accordance with and in advocacy of the rules, before adjourning to take the accounts at a subsequent stage. That is my understanding. I did not give any advice on that. I understand that is what the FAI wants to do.

Deputy Catherine Murphy: What about the election of the president and vice president? Is that in accordance with the rules?

Mr. Aidan Horan: The only recommendation in the report was that the president and vice president should be elected by the AGM rather than by the council. That is a departure from previous practice.

Deputy Catherine Murphy: Are they validly nominated according to their own rules? Are those rules going to be decided on at the EGM? Has this approach excluded people from running validly? These matters are critical to good corporate governance.

Mr. Aidan Horan: My understanding is that they are validly nominated under the FAI's rules and processes. We recommended that the president and vice president should be elected

by the AGM rather than by the council. That was the only departure from previous practice that we recommended.

Chairman: I will bring in Deputy Troy - a great former member of the committee - for a couple of minutes before we suspend.

Deputy Robert Troy: I thank the Chair. I thought the meeting was starting at 1.30 p.m. I got my times wrong. When the board of the FAI originally came before the committee, I posed a question that remains unanswered. From my perspective, this was an indication that more than one person was at fault for the corporate governance problems in the FAI. A press release was issued when it was originally identified that there was-----

Chairman: They were to respond to us on that.

Deputy Robert Troy: They were to respond to us on that, but they have not done so. The person who gave the guarantee that he would respond is now the sole nominee for the position of president of the FAI. When I asked him what actions he would take if it were deemed appropriate that all members of the board should stand down as a means of instilling confidence in the board, he replied by saying that whatever actions were deemed to be appropriate would be taken. At the time, there was unanimity across members of the committee of all political parties and none on the need for the existing board to step down in full. We now realise that is no longer the case. Given that the person in question is not giving positive replies to the Minister, who is the funding master, I do not expect him to give positive replies to this committee. I would be interested to hear the views of Sport Ireland on this matter. Quite frankly, I am gravely concerned that despite the need for continuity on any board, there is no need for continuity when bad practices have been put in place by people in the past.

Chairman: It might be better if the Deputy could be given a reply in writing.

Deputy Robert Troy: I would rather a verbal reply.

Chairman: The problem is that I have a meeting with a Minister.

Deputy Robert Troy: The Vice Chairman is here.

Mr. Kieran Mulvey: As I stated earlier, in anticipation of similar questions from members of the committee, Sport Ireland is in full concurrence with the Minister's statement regarding the presidency of the FAI. We took at face value and on trust the statement made on behalf of the FAI by Donal Conway to the effect that the board of the FAI would step down at the AGM. Our view was that this would transpire. As also stated, there was no suggestion that some of them would step up again. That is not acceptable to us.

Deputy Ruth Coppinger: The problem is being created by this recommendation.

Chairman: We have been going since 11 a.m. I thank our guests for attending. Representatives from Transport Infrastructure Ireland will be in attendance when we resume.

Sitting suspended at 2.15 p.m. and resumed at 3.05 p.m.

Deputy Kevin O'Keeffe took the Chair.

Upgrade of the Dunkettle Interchange in Cork: Transport Infrastructure Ireland

Vice Chairman: We will move now to our second session today. We will discuss the current position regarding the upgrade of the Dunkettle interchange in Cork. I welcome Mr. Michael Nolan, chief executive, Mr. Peter Walsh, Ms Geraldine Fitzpatrick and Mr. Paul Moran from Transport Infrastructure Ireland, TII

Before we continue, in accordance with procedure I am required to read the following note. By virtue of section 17(2)(I) of the Defamation Act 2009, witnesses are protected by absolute privilege in respect of the evidence they give to the committee. However, if you are directed by the committee to cease giving evidence on a particular matter and you continue to do so, you are entitled thereafter only to a qualified privilege in respect of your evidence. You are directed that only evidence connected with the subject matter of these proceedings is to be given and you are asked to respect the parliamentary practice to the effect that, where possible, you should not criticise or make charges against any person, persons or entity by name or in such a way as to make him, her or it identifiable. Members are reminded of the long-standing parliamentary practice to the effect that they should not comment on, criticise or make charges against a person outside the House or an official either by name or in such a way as to make him or her identifiable. I invite Mr. Michael Nolan, CEO of Transport Infrastructure Ireland, TII, to make his opening statement.

Mr. Michael Nolan: I thank the committee for the invitation to attend. I am joined by my colleagues, Mr. Peter Walsh, director of capital programme, Ms Geraldine Fitzpatrick, head of roads capital programme, and Mr. Paul Moran, regional manager. I understand the committee wishes to receive an update on the current position regarding the upgrade of the Dunkettle interchange, County Cork. I am happy to provide this update insofar as is appropriate at this time and to provide context about the overall scheme and its procurement. However, I must emphasise the need to avoid straying into specific areas which might prejudice the outcome of the deliberations concerning the contract. I am sure the committee will understand and appreciate the position in this regard. In recent weeks, there has been speculation in the media on the cost of the Dunkettle interchange project. As we are in an ongoing process, TII cannot offer any more clarity relating to cost or budgets until the process has concluded.

The Dunkettle interchange is the most complex interchange project in our roads programme. More than 100,000 vehicles, including cars, buses and HGVs, daily wind their way through the junction. It is located next to the Jack Lynch Tunnel, intersects with one of Irish Rail's main corridors and provides access to areas of high employment activity, such as Little Island. It also borders a sensitive marsh habitat adjacent to a tidal zone. In addition, there are major utilities traversing the site, including gas, water, power and telecom networks. In recent years, incidents at the Dunkettle junction have caused significant traffic congestion throughout the city. Delays at the junction regularly feature on national traffic reports. The primary objective of the Dunkettle interchange project is to provide safer and more efficient movements through the junction by maximising free-flow traffic movements and reducing the potential for traffic incidents.

On procurement strategy, due to the scale and complexity of this project, TII decided that the risk profile warranted an alternative approach to the standard design and build form of contract used on less complex projects. This decision accords with the recommendation of the Department of Public Expenditure and Reform that consideration should be given to developing forms of contract or adopting standard forms published by bodies such as the Institution of Civil Engineers in the UK or the International Federation of Consulting Engineers for projects

where risks cannot be accurately quantified. The contract type selected to de-risk the project is the new engineering contract, NEC, with early contractor involvement. This is a standard form of contract used internationally. Following a review by the Government construction contracts committee, approval was given by the Office of Government Procurement for the use of a non-public works contract. This decision was consistent with the findings of the Department of Public Expenditure and Reform into the use of alternative contract forms for complex and high-risk projects.

This form of contract breaks the project implementation process into two stages. The objective of the first stage is to de-risk the project in advance of the stage 2 mains works construction. At stage 1, TII works with and pays the contractor to develop the detailed design and seek clarity on costs associated with stage 2 construction. Utilising the contractor's expertise, construction methodologies are developed, including the design of complex traffic management arrangements. The design is developed in detail to assist with reducing risks. Quantities of materials are produced, as well as calculations of labour and machinery requirements. Using these quantities and the tendered rates, the contractor's forecast of the cost to construct the project is produced. The contractor's forecast of costs is referred to as the target cost.

On the history of the Dunkettle process, in May 2018, following a competition, stage 1 of the contract was awarded to John Sisk and Son Limited. On the basis of the award for stage 1, the contractor has undertaken additional ground investigations, engaged with utility owners, undertaken environmental surveys, constructed a compound and developed traffic management plans and a construction methodology. The design of the project has also been developed in detail. The contractor commenced the submission of cost details to make up the final target cost in June. These submissions continued into last week.

On the next steps, TII is now assessing these submissions to decide whether the target cost set by the contractor is acceptable. This can only be determined when the submissions have been fully and carefully assessed. It is anticipated that the decision will be made before the end of this month. If TII and the contractor agree the target cost, the business case for the project is updated to reflect the agreed target cost. As required by public spending rules, the updated business case is submitted to the Department of Transport, Tourism and Sport for approval by Government. If TII and the contractor do not agree the target cost, stage 2 will be removed from the contract. TII will then return to the marketplace to seek to achieve better value for the taxpayer. I wish to stress that this decision has not been made. If the target cost is agreed, the process will remain on schedule. However, if TII and the contractor do not agree the target cost, stage 2 will be removed from the contract and TII will return to the marketplace. The construction of the project will then be the subject of a new procurement process. However, I emphasise that the site investigation, planning and design work that has been undertaken by the contractor in stage 1 will be used as TII has retained ownership of this information. A new tender process has the potential to delay project completion by some 12 to 18 months.

Notwithstanding the strategic local and national importance of this project, it is certainly not a question of awarding the contract at any cost. Rather, it is a question of achieving the goal of constructing a fit-for-purpose interchange scheme with the maximum value for taxpayers' money. TII is committed to ensuring that this goal is achieved. As I stated, we cannot stray into areas which might prejudice the outcome of this stage 1 process. It was for this reason that TII sought to defer this appearance before the committee until such time as the stage 1 process is completed. We did not seek to refuse to appear. As our appearance before the committee comes during an ongoing commercially sensitive and confidential process, answers to certain

questions may be perceived to be prejudicial to decisions which TII has yet to make and, for that reason, we must proceed with caution.

Vice Chairman: I will now open the discussion to the floor. I thank the representatives for appearing before the committee. Mr. Nolan referred to the sensitivity of negotiations with the on-site contractor. As the delegates are aware, this issue has received much coverage in recent weeks, notably in the Dáil Chamber a couple of weeks ago when it was discussed by the Taoiseach and by the leader of my party, Deputy Micheál Martin. Answers were not given. Taxpayers are concerned about the cost of the project and the people of County Cork and the southern region are concerned about when it will be completed.

Mr. Nolan stated that a new engineering contract has been selected for usage because of the risks involved on the site. If TII was aware of the risks and so forth, why were its figures wrong? The project went to public approval in 2015. TII estimated a cost of €100 million for the contract within the past four years. How did it get its figures wrong before the contractor was brought on site? How did it get its figures wrong if it was aware of the impact of risk assessment matters on the budget? Why was the cost underestimated to such a degree before the contractor came on site?

Mr. Nolan referred to the problems with the site, including the rail line, the river to the south, utilities going through the site and trying to operate while maintaining traffic flow. The interchange is on a main arterial route, the M8 to Dublin and the East Cork Parkway of N25 which leads to Waterford and Rosslare. How did TII get its figures wrong before a contractor went on site?

Mr. Michael Nolan: I will defer to my colleagues who will answer some of the Vice Chairman's questions. I do not understand the Vice Chairman's comments that we got the figures wrong. We are not at the point yet where we have concluded a process and come to a final determination on the cost of delivering the scheme so to say we got our figures wrong is highly premature. Changes have been made since 2015. As he is aware, inflation is a major factor in any increases. In de-risking the project in the past 18 months we have uncovered some additional risks that we would not have known about if we had not gone through this first stage. The Vice Chairman described the regular design and build, D and B, type contract as the old type of contract but it is the new type of contract. The public works contract, PWC, has been around since 2008. It is reasonably new. Before that it was re-measurement contracts. If we got into a design and build contract we would have found those risks during the currency of the contracts and would have paid a heavy price for describing those risks during the currency of the works. It would have involved additional moneys, additional time, significant delay and disruption, not only for the contractor but also for the community and all the motorists going through the site. One of the benefits of investing in de-risking the project through stage 1 using the new engineering contract, NEC, was that we would reveal those risks which normally would not be revealed until later during any sub-engineering contract. That was the benefit of stage 1.

What we learned in stage 1 can be mapped into stage 2 if we go to stage 2. If we do not go to stage 2, those learnings and what we uncovered during the first year and a half with the contractor and all the development of the traffic management plans, which has a high value, will be used in any new procurement. Either way, that work would pay dividends, shorten a re-procurement and de-risk the project significantly. That investment was highly valuable.

With regard to the reason we opted for the new engineering type of contract rather than the old type of contract, I will defer to my colleague, Mr. Paul Moran, who is the division manager

from the area. He has come from Cork today for the meeting. He has been living with this scheme for the past four or five years and I ask him to address that point.

Mr. Paul Moran: It is worth mentioning how crucial the Dunkettle location is to Cork because it is the key crossing point for everything coming from the north and the east. We were aware from flooding events and so on of the disruption the project would have on the scheme. We deliberately choose the NEC type contract, which is a two-stage contract, because stage 1 allows us get a contractor developed design. It is about traffic management. The way we manage the traffic on a daily basis, with 115,000 cars a day coming through the site, without shutting down Cork city and county for business is crucial. The two-stage process allowed us get that very valuable view from a contractor and de-risk certain aspects. If we did not do that and went out with a conventional type of tender, it could have resulted in significant additional cost. The two-stage process is primarily to take cognisance of the difficulty of the site, which has many constraints. It has major pharmaceutical employers in the area. There is a railway line and many environmental constraints and, as I said, it is a key node into the city.

In terms of the earlier work we had done on that interchange, we have funded work on the N40 previously. We had two interchanges - Bandon Road and Sarsfield Road - upgraded to grade separated junctions with side roads and difficult ground conditions. The costs we incurred on those fed into earlier estimates and we had good experience on that but in terms of getting a contractor's view on what is required, that is where the two-stage process pays dividends.

Deputy Pat Buckley: I welcome the witnesses. I worked on the Glanmire bypass in the 1980s and subsequently went on do work in Little Island and Carrigtwohill, and tied in with LotusWorks. I am well aware of the challenges. I could almost tell the witnesses where the ESB cables come down to light up the sign heading down to the tunnel.

I want to touch on a few points although much of this is case sensitive. I welcome the two-stage process with a type of safety net. It is thinking outside the box and doing something different in terms of options available to prevent running into a pinch point, which has happened now. The Dunkettle roundabout is a pinch point and we are well aware that something must be done.

I have a number of questions. Mention was made in the opening statement of the target costs, which is an estimated cost. For people watching this meeting, the target cost is an estimated cost. Can Mr. Nolan cap that or are there certain clauses in contracts? Previously, the opposite was the case. A price was given and if a project was finished within time, or short of the time, one got a bonus. That was a very different stage.

I have one or two more questions but I said I would be brief. I welcome the fact that Transport Infrastructure Ireland, TII, has taken ownership of the site investigation and planning and design aspects, which means there will not be any duplications and money will be saved. The plan is in place but who do we get to implement that plan? As Mr. Nolan said, he is waiting for the target costs, which I understand. Has that target cost come anywhere near to being finalised yet? Can he give the public an idea on when the project will start? He also said that, in the worst case scenario, if stage 2 had to go back out for retender, it could be another 12 to 18 months before the initial project might kick off. Is there a possibility that regardless of what happens, some work will start within the next 18 months? We need to let the people know that.

In terms of the worst case scenario, is Mr. Nolan confident in saying that the Dunkettle interchange and associated works will start in 18 months?

To give credit where credit is due, we have been kept updated with what is going on at the site through emails and so on. I compliment everyone involved in that. However, the one issue, which has been mentioned by the Vice Chairman, is the perception of what is going out in the media and whether it is fake or real news. People are confused. The Vice Chairman referred to millions of euro earlier. If the cost targets have not been set yet there are no moneys costed. That is being realistic. Are any of the witnesses in a position to confirm for the public that moneys have not been costed yet and that it will depend on the TII first and then the Department of Transport, Tourism and Sport to sanction that?

The most important point is that it is accepted nationally, and Mr. Nolan said it in his opening statement, that this is the most complex interchange project in his programme. It is a massive project but it has to be done because Cork cannot grow with this pinch point. It will certainly do a great deal of damage to infrastructure. In terms of employment, we need Cork to grow. We have the plans for the future. It will also affect housing and every other area.

We have more than 12,500 km of roads in Cork and it is difficult enough to keep those resurfaced and so on. That is a different story but, realistically, can the witnesses be confident, from the position we are in today, that in 18 months we will not be back here asking the reason work has not started?

Mr. Michael Nolan: The Deputy has asked a few questions. We may share them in terms of giving answers. To go back to the story behind Dunkettle, Dunkettle is a complex area and we recognise it has been complex for some time. TII recognised a finite number of schemes we should have been pushing forward, even during the bad years in 2011 and 2012. Paul Moran can tell the story of how TII recognises the strategic importance and value of doing this work at the location. I appreciate the Deputy's compliments. We have put a great deal of effort and new thinking into communication with the chamber of commerce, the business community, the Garda, the local authority in the city, the county councils, this committee and all the representatives in Cork. We have gone way beyond what we normally do. We recognise that information is very powerful there and that we must have everybody on board. We appreciate the support of the stakeholders around Cork.

I will hand over to Paul Moran to take the members through that story. It is worth repeating it.

Mr. Paul Moran: Regarding obtaining planning approval from An Bord Pleanála, we made the application in 2012 and got approval in 2013. Getting that was a hurdle. Unfortunately, we had two lean years and we were waiting until the end of 2015 before a programme was announced in which Dunkettle was included. We got going straight away by appointing consultants and thinking about the strategy that would be necessary to deliver this with the minimum disruption. The objective here is minimum disruption to Cork, to deal with vulnerable road users such as cyclists and pedestrians and to try to get it done as efficiently as possible. In terms of developing the strategy to use the NEC, we went back to the Office of Government Procurement, OGP, and the Government contracts committee, GCC, to talk to them about a derogation because we needed that to deviate from the public works contract. We went out to the market. The first thing we did was invite in all the contractors and ask them what they thought. We told them we had this problem and asked what they thought was the best way of dealing with it. That was invaluable because we got a very good idea of what the hurdles would be as we proceeded through procurement to get stage 2 up and running.

Communications have been foremost in our minds because of the number of people who

go through it and the delays it causes. The communication groups are utilising the chambers of commerce and developing a dedicated traffic application that will give users a visual idea of the delay there and, hopefully, help users perhaps change the times they leave or go to work, if that is possible. We are also launching a traffic website to help people understand. Once we start building this, there will be three years of construction. There is all of that along with the work that has been done in the last 12 months. We should talk about that further. Stage 1 has allowed us to de-risk it, as I mentioned, and to do many enabling works. The public has seen the yellow jackets there for diversions, getting rid of the archaeology and the resolution that is needed there and dealing with some of the environmental constraints, rather than leaving it for construction. A huge amount has been done from that point of view to date.

Mr. Michael Nolan: The Deputy mentioned that people are confused. As Paul Moran said, there have been many yellow jackets on site over the last 18 months doing all the advance works and investigations. That has all finished in the last few months. That was part of stage 1 - gathering all the new information and de-risking the site. People will have seen a great deal of activity and then a lull in activity. That might have given the impression that things had stopped and the money had dried up. That is unfortunate, but that is the nature of stage 2. Usually on a major infrastructure project of this type, when people go away work is happening behind the hedgerow and nobody sees it. However, this is a highly visible location so people see the activity and then they see no activity. That, perhaps, gives rise to additional confusion and speculation in the area.

The Deputy asked about what will happen over the next 18 months and whether we can give guarantees. In the next 18 months we have a decision to make on whether to go to stage 2. If we do not go to stage 2, we are not going to spend the next 18 months going through a tendering process without doing any work. We will do as much work as we can there. We will continue with the service and utility diversions. We will do some slip lanes that help cycling and walking there and get that out of the way. It will be a benefit to have that out of the way before the main works start. We will do a great deal of work over the next 18 months. It is not as if we are just going to do paperwork and go through the tendering process, advertising and evaluating tenders. Much more than that will happen. Paul Moran can speak on that as well.

Mr. Paul Moran: In terms of de-risking the site and getting as much as possible out of the way, a number of big service diversions are needed and there are windows of opportunity available to do that. Given the pharmaceutical sector there, any disturbance must be offset. We would hope in the next number of months to start work on water and gas mains diversions. There is a large amount of work that can go ahead in the next 12 months.

Mr. Michael Nolan: That work can go ahead through a stage 2 contract or if it is not stage 2, it will go through as a series of mini-contracts.

Deputy Pat Buckley: Mr. Moran referred to when TII starts building this with an air of confidence. He gave a rough timeframe of three years. That is information for the public. Misinformation seems to swell far more than proper accurate information and there is a perception that nothing has been happening, it is another smokescreen, another election promise and so forth, so I welcome that. I am well aware of the Glashaboy water mains and I have seen them break in Little Island. It is a huge main. People can understand it as a result of us asking these questions. When TII does utility services and all these diversions they are huge undertakings, but nobody realises their importance. It is the same as replacing a footpath in a main street when all utilities and everything are replaced. It makes sense to dig once, and only once.

Mr. Michael Nolan: That is an important point. With regard to the funding, our funding profile for the next number of years has remained unchanged. There has been speculation that it is the reason the decision making is slowing down but that is not the case. The funding the Department voted for us last October remains in place and we are still getting the funding in accordance with the national development plan. We have a ten-year funding profile that remains unaltered as we speak. We went with Dunkettle as a high hot spot with regard to inefficiency and safety. We identified that after the recession. When we were finishing the major inter-urban roads Dunkettle was obviously on our radar because of the number of incidents and the cost to the local economy. It remains very high on our agenda.

I said from the outset that it is the most complex junction we have on our programme. There are huge delays there not just for cars, freight and business but also for public transport. Public transport cannot get through it. Buses are held back like everything else. We will help to unlock all that. I can give an assurance that we remain very much focused on that. We will do everything in the next 18 months, whether that is through a stage 2 contract to get it up and running with the contractor, if we proceed to stage 2 and, if not, we will go back to the market and do everything we can to procure as fast as possible. However, we will also do other works during that 18 months and use that time in a valuable way. I give an assurance that there is no change in the funding profile. People can be reassured about that.

Vice Chairman: To return to the original procurement process, when TII went to the Department to seek to go to stage 1, how much work had it done? TII had obtained the planning permission. If I sought planning permission to build a little house in the countryside and if I intended to build it where there was a rock formation, I would do some site investigation works. I would know whether I would need a raft base or if a normal foundation would do to get the structure up. TII has had planning permission for many years. Why was there not more due diligence undertaken before stage 1 was awarded? I am not going to dispute the €15 million. I am not worried about that, to be honest, but about the thought of it running to €30 million and €40 million. We could end up with it over the estimated budget. That is the issue that concerns me. Why was more due diligence not undertaken before stage 1? Transport Infrastructure Ireland put out a tender for stage 1 before moving on to stage 2. Were there many interested parties? Did many potential developers or contractors show an interest? Did many just walk away and say there was no way they would take it on? Were some tenders just not priced low enough?

Mr. Michael Nolan: I will defer to my colleagues shortly but, to start off, one of the benefits of early contractor involvement in new engineering contracts is that contractors are best placed to fill in the gaps designers miss because they are very experienced in civil engineering and de-risking projects. This is not a new form of contract. It is used all over the world. Work on most highways in England makes use of early contractor involvement. It is only when all of the site is exposed that all of the risks are seen. One cannot expose all of the site in the contract. It is not a house; these projects have a massive and very varied footprint. Much of the ground in Cork along the River Lee is made ground and is very sensitive because it is former marshland. The Vice Chairman asked why all of this work was not done before stage 1. The rationale for having this stage and the early involvement of contractors was exactly that. If contractors are involved later in the process claims of disruption can arise during the contract. This process allows us to collaborate. The project is an alliance or collaboration with the contractor. We get the benefits of their experience, expertise and foresight to ensure de-risking. All investment in stage 1 is aimed at de-risking the project. I will hand over to Mr. Walsh to expand on that.

Mr. Peter Walsh: The Vice Chairman said that we went to Government for approval to

enter into the contract, but we did not do so for stage 1. The reason we did not, and were not required to, is that stage 1 of a two-stage contract is more accurately considered the design stage. Under normal circumstances, we would bring the contract through to a higher level of detail. The Vice Chairman is quite right in that. We would figure out what risks we might meet with our design and engineering contractors. In this case, it was judged that the construction, the management of traffic and the management of the poor ground would be key. The people best placed to untangle those issues and fully assess the risks are contractors. It would be better and more helpful for everyone to view stage 1 as a continuation of the design process. It is at the end of that stage that we know what the risks are. We then have much greater confidence in assessing the likely cost to the taxpayer of delivering the project. I do not know if that is helpful but it is certainly how I have come to see it. I know we were hiring a contractor, which always gives the impression that one is starting construction, but that is not the case; it is a continuation of the design process.

A number of other questions were asked. I do not know if the Vice Chairman would like me to go back over them. They were about the number of contractors involved.

Vice Chairman: I am interested in how many contractors showed an initial interest but then walked away because they could not bring the project in at €100 million?

Mr. Paul Moran: Nine contractors showed interest in the project, whether by themselves or with joint venture partners. It was a restricted public procurement procedure so we had to make a shortlist of five. We short-listed from nine contractors to five. We then ran the tender competition, which was based on quality and price. With regard to quality, which accounted for 70% of the marks, there was a strong emphasis on getting the right people and ascertaining their approach to various aspects of the job. Finally, we put bidders through a behavioural assessment. This was new to us, but it is used overseas for collaborative new engineering contract, NEC, types of contract. The five tenderers were put through the wringer from a quality point of view. We came out with the one with which we are working on stage 1.

Deputy Noel Rock: I thank all the witnesses for coming in. I am sorry I could not be here for their opening statement, but I read their remarks with interest. The Dunkettle project will cost more than €100 million and will, in effect, require Cabinet approval. Over recent years, TII has built up a well-deserved reputation for bringing in projects, especially road projects, on budget. It has developed a sort of mechanism or strategy, which is often cited in other Departments. Will the witnesses walk me through how this was developed? The Luas cross city project undertaken with the National Transport Authority, for example, has been cited over and over as being best in class with regard to the cost of projects. What exactly has happened there? In the 2000s it was a constant that road projects ran over budget. It seems the processes have been refined quite a bit in the intervening period. I am curious about the mechanisms put in place and the lessons learned since then.

Mr. Michael Nolan: The Deputy is 100% right. Most of our schemes come in on time and either on budget or under budget. In the first ten years of the organisation's existence, when we were still called the National Roads Authority, NRA, we were coming from a standing start and a low base. We did not have a stock of learning. We did not have a throughput or a portfolio of schemes to have learned from. By the early 2000s we had turned that around. In the first ten years, from 1994 until 2003 or 2004, we were in tune with international comparators. Our schemes generally ran 15% to 25% over budget. There were many such schemes in those days. Since then we have capitalised on those lessons learned and implemented new processes and ways to do work. We now generally come in approximately 10% under budget. It must

be remembered, however, that we carry out schemes in portfolios. We do not insist that every scheme come in under budget. If budgets get too high, we have to keep them down.

We came up with this probabilistic kind of forecasting model for costs and cost ranges. We use outturn costs rather than estimated costs. We have built up a database of outturn costs. We also consider the base costs. Our engineering advisers and local authorities help us with those costs. We carry out a quantitative risk analysis of that and end up with a value of P50. This means that there is a 50% probability that a scheme will come in under budget, but also a 50% probability that it will come in over budget. We then carry out an analysis at P80. This higher figure means that there is an 80% chance of coming in under budget and a 20% chance of going over. We test those two scenarios against low growth and high growth in demand. We draw up a matrix of low growth against high cost and high growth against low cost. We do all that when developing the business case. We test it. It is very probabilistic. This is the way such things are done internationally.

We also use a hybrid type of reference task forecasting. This is used in the UK, Australia, Switzerland and Denmark. We use the structured consistent data we have accumulated from previous outcomes. That works well in most cases. We have actually developed confidence curves, again using measures of 50% and 80%. We have used a hybrid form of that process and we are now going to formalise this reference task forecasting over the coming years. This is recognised internationally as another way of looking at projects. We build up the rates from our own inside perspective and then look at it from the outside and take account of all the unknown unknowns we can apply to a project. When one has a long history of delivering projects, one accumulates a large amount of data, which is really valuable.

Bespoke schemes like Dunkettle are complex. This is the only scheme like it we have done, so we do not have a long run of examples to leverage. That results in a higher level of risk. We have had a good run. We do not desire that every scheme come in under budget. If they did, it would mean that we had too much money reserved for those schemes, money which could be used for other projects. We bring it down a bit. We are happy if eight schemes in a portfolio come in on or under budget. The two that run over will be balanced out by the eight. That is fine in a portfolio situation. That is what is used internationally and what we have been using for a long time with the National Roads Authority and TII and RPS, who all come together.

Deputy Noel Rock: Am I right in saying that because this is a bespoke scheme it does not really sit into a portfolio?

Mr. Michael Nolan: Yes, it does not fit. We see it as higher risk and we have to apply more diligence. That is why a different contract will come into play. The original point was about our system processes. We learned in the old days that we needed to deal with archaeology before the contract. We learned that we needed to deal with advanced works and services. We learned of the need to do as many investigations as possible. There are some things we cannot do because they have to be done as part of the main works. We get the services out of the way and we have a design-and-build formal contract. The contractor helps us to design. This goes back to Mr. Moran's point. The contractor is good at designing because the firm is good at managing earthworks. Office space engineers and people based in site compounds have different skill sets. If we marry the two skill sets together, we get a better result. We changed to a design-and-build formal contract in the early 2000s. That has served us well. We also standardised our standards. We standardised our bridges. Every bridge used to look different but now many bridges look the same. We now have thousands of bridges all with a design life of approximately 120 years. They are far more easily maintained and constructed. They are not

feature statements for designers.

We also do more on the environmental side. We do far more balancing earthworks and use as many of the resources as we can on site. We minimise what is taken off site and minimise the material to be imported on site. That came from a long run of projects and hard lessons learned over many years. We have that now. We have a good deal of corporate memory. I worked with Mr. Walsh on a bypass 25 years ago. We shared the same desk on site. Many people in TII have been there through the bad days and good days. We cannot get everything right. If we did it would be impossible or we would not be trying hard enough. It is hard to get everything right in civil engineering. There are always new risks and things we have to figure out. Things are mapped through a site like services, for example. We try to deal with the services that we find when we do site investigation. To deal with services we have to have them mapped. When we go on site we find services that were neither mapped nor found during site investigation. It is all unseen. It is not like building a house where there is a small footprint. We have a huge linear footprint.

Another thing that is of great benefit to us - I have to acknowledge this - is our partnerships with the local authorities. That has been critical to the success of the work we have done during the past 20 years, as has the work we did with the IFA and the farming community in developing a code of practice. We developed the code of practice with the IFA and agreed it with Government and the IFA. That paid major dividends with co-operation from landowners. They allowed us to go on site to do surveys. They moved cattle when we wanted to do something on site. We got fantastic co-operation from the farming community. Without that I would say the roads programme would have lasted a further two or three years and would have cost a further €200 million or €300 million. I am sure there are other things.

This does not happen overnight. We learn and bring good stuff forward. When we start a big project or venture we start off by going over the lessons learned and how we can apply them. Dunkettle has all the hallmarks of all of these things in one location. There was one slip-up. We had rainfall in November 2015 or 2016. Half a lane got flooded in the tunnel and it brought Cork to a standstill. Public transport could not move. People could not get to the airport. People could not get home from work or schools. When 2 m of road width was removed from the equation on a dual carriageway, it caused chaos. Committee members can see how sensitive the location is. We could rush into this. We could have someone coming on site now but we would find all those problems. It is better not to put in an adversarial non-collaborative way of working. We may save money upfront and a small amount of time mar dhea, but we would pay for it in the long run.

Deputy Noel Rock: That is understood. The question was to give TII an opportunity to set out its stall with regard to institutional memory. It is a hard-fought reputation in that regard.

Mr. Michael Nolan: In our world it is hard fought. We win it over a long period and we lose it in seconds. We will keep trying. We had a discussion outside in the corridors. We have applied all our energies to this scheme for so long. We are all in it together as a team. It is about more people than those here today.

Deputy Noel Rock: Judging by the opening statement it is at a delicate time as well.

Mr. Michael Nolan: Our appearance before the committee is at a delicate time. We are limited in what we can say.

Deputy Noel Rock: There are questions I want to ask but I can understand why I am constrained absolutely from asking them with respect to TII and the process. I presume the TII representatives requested for this session to take place at a later date. Is that the case?

Mr. Michael Nolan: We respectfully suggested to the committee that it would defer the appearance until such time as we had more information.

Deputy Noel Rock: I think that is a missed opportunity and a shame but I thank the TII representatives for coming in and for their answers.

Vice Chairman: If it was in Dublin, you would not be saying that, Deputy Rock.

Deputy Noel Rock: No, Vice Chairman, with the greatest of respect, the TII representatives cannot talk in any detailed terms about this project or about where we are right now. We cannot ask detailed financial questions because the organisations are in the middle of a process. It is not about Dublin or Cork or whatever. I would say the same if TII was appearing about the metro project. TII is also at a sensitive time in that process and, accordingly, we are not having a hearing into the metro right now.

Vice Chairman: For the record, I have no regrets in asking the TII representatives to come in. I stand over my request.

Deputy Noel Rock: That is absolutely fair, Vice Chairman. I am not having a personal dig at you or at anyone. It is more that there are types of questions I would like to ask but I cannot ask them right now. They are the types of answers I imagine you would want, Vice Chairman, with the greatest of respect.

Vice Chairman: As I said earlier, the organisations are in a dilemma and a precarious situation. I have to ask one more question. Why have we gone so late into the year with the negotiations? This topic came up at a meeting of the Committee of Public Accounts on the national children's hospital last January. Some other colleagues raised the matter. Why is TII waiting until now to have the negotiations? I am led to believe that there was stalling on the project. The issues arose back at the beginning of January. Why is it only now that we are at the negotiations stage? I imagine that can be answered.

Mr. Peter Walsh: I am happy to take that question, because I know Mr. Moran is deeply invested in it. I have the opportunity for a little more objectivity.

There is one thing I am keen to clarify. There is no negotiation. It is not a negotiation that is occurring as part of the contract. It is important to point that out. A process is clearly mapped out. The contractors and designers work in collaboration with our people on site to seek to identify a design that meets the employer's requirements. We then develop the methodologies of working and traffic management and we do all the site investigations.

There were several references to statutory undertakers and moving of services. Bord Gáis, Waterways Ireland and Irish Water are involved. When they are faced with discussing with a contractor how to move a particular service, it becomes a far more real conversation. We have to go into the detail of it and what exactly is required has to be fleshed out. That all takes time. A great deal has been achieved in the past year. I would not like to give the impression that there has been any delay in that regard. There has not.

In fairness, the contractor has to get the cost projections right. I can comment without ex-

posing anything in terms of the confidential nature of the contract. Deputy Buckley asked about the target cost and how that works. I can give some explanation on that without breaching any confidentiality clause because it is down to the principle of the contract. Basically, when the target cost is set - it must be set by agreement - that becomes the figure against which the performance of the contractor is measured. The contract requires that the contractor be paid costs plus an overhead. At the original tendering, that overhead was bid. The contractor gets costs and overheads. If the costs are below the target, as agreed, then there is a sharing of the benefit. The sharing in this contract is 80% for the taxpayer and 20% for the contractor. If the costs go above the target, there is a pain element for the contractor set at 60%. There is a guaranteed maximum to the taxpayer. If we go 25% above the target, the contractor carries all the cost. Thus, the contractor must be careful. In fairness, the contractor is meticulous, as it has to work through every location. I cannot over-emphasise the detail involved. Every location on the job has to be identified, and the contractor has to get crew, materials, and plant into that location, which could then be stuck there until they can be retrieved. How does the contractor price that, or establish what its costs would be? Final figures on that have been coming in over a period of time, and we are not breaching any confidentiality in saying that. I do not know from where the impression that the project is behind time is coming. When we went to the Government contracts committee for construction originally, we were told that this was a four-year, or 210-week, contract and that the first two years were regarded as stage one. We are just over one year into it, so the impression that it is behind schedule is wrong. Granted, we thought we might get it done quicker, but when one gets into the detail, these things cannot be shortcutted.

Mr. Paul Moran: Mr. Walsh mentioned that it was a four-year contract. The idea is that the more planning is done, the quicker one gets in and out of the site in question, and the less disruption is caused. We gave the successful contractor leeway in that. If it felt it could be done in a year, and then spent three years on construction, so be it. The idea was to ensure it was properly planned in order to get in and out of the site as quickly as possible.

Mr. Michael Nolan: We try to invest upfront. If one reads the lessons learned on mega-projects in the UK, for example, a common recommendation is that more upfront planning is required, rather than barrelling into a project, and that is what we are doing by investing in it upfront. It may take a bit more time, but a stitch in time saves nine. If we invest more time at this end, we gain in both value and time in the long run. People may have expected us to get there a bit sooner but we are on target and stage one is where we should be at this point in time. There may have been some confusion as people saw us walking away, or being drawn away, from the site from the first quarter of the year until now, but that was always part of the process. I refer to Deputy Rock's point about what we do right. One of the hard lessons learned is that the more planning is done upfront, the better the outcome in the end. It also means people know what they are getting into, though they can never know everything.

Deputy Noel Rock: I acknowledge Mr. Nolan's point that it is better to have a two-stage process than a two-footed tackle. It is better to go into a process and spend adequate time mapping out every aspect of the project, rather than to start the project and then to be obliged to revise it repeatedly. That makes sense, and that is why Mr. Nolan is so successful in what he does.

I have two questions for Mr. Walsh. Based on the timelines given, TII is effectively on schedule within the four-year window, provided an agreed cost can be reached. Is that correct?

Mr. Peter Walsh: That is correct.

Deputy Noel Rock: Once the agreed cost is set, the maximum it can go over that is 25%,

in terms of the liability to the taxpayer. Is that correct?

Mr. Peter Walsh: Yes.

Deputy Noel Rock: When was that practice established?

Mr. Peter Walsh: This form of contract has been around for some time, though I could not tell the Deputy what year it was first introduced.

Deputy Noel Rock: I see Mr. Nolan has his finger on the buzzer.

Mr. Michael Nolan: There was a series of bad outcomes on several projects in the UK during the 1970s and 1980s, and the Latham and Egan reports were commissioned to look into that. The Institution of Engineers then developed a new form of contract based on those reports. It was a more collaborative form of contract, rather than the old system in which the employer designed a scheme, and the contractor got on with it and priced it, which resulted in adversarial competition and poor outcomes throughout. The new engineering contract was based on those experiences in the UK, and aimed to prevent those poor outcomes and performances on projects. That is my understanding of it.

Deputy Noel Rock: It is a sensible model, and I was curious as to the ins and outs of it.

Mr. Peter Walsh: I did not know what year it came in.

Deputy Noel Rock: We will get Mr. Walsh next time. He is the weakest link, so we will go back to Anne Robinson.

Deputy Pat Buckley: I again thank the witnesses for coming in, and thank them for their honesty. Two sayings were always being repeated during my experiences on building sites over the years. It was said that one should always measure twice and cut once. That refers to forward planning. The other thing people would say was that if one ever wanted to make a mistake, one cannot sit into a wheelbarrow and wheel themselves, so they should not even try.

Vice Chairman: I am becoming grievously worried, because if one contract falls behind, other projects will fall behind as well. In my own region, many projects are pending, including the M22 Macroom bypass and the M28, which is a motorway upgrade from Ringaskiddy to Carrigaline and to the Port of Cork. Looking at the bigger picture, there is also the planned Cork to Limerick M20 motorway, and another ring road will be needed in Cork City somewhere down the road as well. If this project falls behind, will all those other projects fall behind as well? Future Ministers for Transport, Tourism and Sport, or future taoisigh, will not roll all the money to one region in one go. I have meetings coming up in the autumn with the Cork Chamber of Commerce and IBEC, and they will be asking me what we are doing about the infrastructure in Cork. and what is the status of all these projects. The Dunkettle Interchange project will hopefully be fast-tracked again and the rest of them will fall into place but if not, will it have an impact? Could the witnesses see TII doing two projects in Cork in one year?

Mr. Michael Nolan: I will refer this question to Ms Fitzgerald, as she is in charge of the budget.

Ms Geraldine Fitzpatrick: We manage the entire programme but all projects are developed by different teams and different people. They all move independently of each other in that respect. Were a delay to occur on this project, not that it will, it would not delay the other projects. They are all moving ahead at their own pace, as quickly as they can. In fact, two of them

are going ahead quicker than we had originally planned. In short, if this project is delayed, it will not impact on the Ballyvourney to Macroom project, as that has already been tendered and the tenders are currently under assessment. They do not impact on one another in that way. We manage the funding as part of a programme and adjust it depending on what is or is not going ahead. As Mr. Nolan previously pointed out, however, we manage it as a programme. Everything is managed within that programme. I hope that answers the question.

Vice Chairman: Deputy Eamon Ryan has joined us.

Deputy Eamon Ryan: I apologise, as I had to run out to take a call. I have a few questions. My understanding is that another project is currently looking at the various potential options for the Limerick to Cork road. One option is to go along the existing N20 road, and another is to run a road to Cahir and into Cork via the N8. Is my understanding correct that, if the N20 is upgraded to an M20 motorway, it would effectively require a southern Cork orbital motorway, which I presume would link into the Dunkettle roundabout? Is that a reasonable assumption?

Mr. Paul Moran: The northern ring road was mentioned as a complementary scheme with the M20 as part of the NDP. The objective of the M20 plan is to develop the Cork to Limerick route, and options for that need to be looked at, including the M8, the N24, and any other links. Everything needs to be assessed.

Deputy Eamon Ryan: If it is decided to run along the existing N20, traffic would be coming into Blackpool, which would result in a bottleneck. All the traffic could not be directed into that part of the city or there would be gridlock.

Mr. Paul Moran: We have undertaken to look at the traffic modelling of that plan. The northern ring road is mentioned in CMATS, and that scheme needs to be assessed in its own right. CMATS is the Cork metropolitan area transport strategy.

Deputy Eamon Ryan: That is in real trouble after last Monday. Our Luas is not looking like it is in good shape.

Mr. Peter Walsh: What happened last Monday?

Deputy Eamon Ryan: There was a vote in Cork City Council against the first section of a bus corridor on the Wilton Road.

Mr. Peter Walsh: People love Luas. I am quietly confident about it.

Deputy Eamon Ryan: If that northern corridor is done, it will fit into the Dunkettle effect, or would have to.

Mr. Paul Moran: It is a complementary scheme in that they sit together. However, they are mutually exclusive. The northern ring road has a set of objectives which are completely different from the M20.

Deputy Eamon Ryan: Would Transport Infrastructure Ireland, TII, not change the design or the operation or any other characteristics of the Dunkettle roundabout?

Mr. Paul Moran: We are starting the M20 again. We have to look at alternatives and options. Everything is open for assessment. When we go in front of An Bord Pleanála, we have to be certain that what we are presenting is fit for purpose and serves all the objectives.

Deputy Eamon Ryan: If Dunkettle is freeflow and no longer a bottleneck, then the N8 option is an easier route. There would be no need for the northern corridor and the Dunkettle upgrade could be used as planned.

Mr. Paul Moran: The Dunkettle interchange is making freeflow of all of the legs which are heavily trafficked and have heavy delays. It is not just the M8 but the N25, which actually has the largest flow of traffic coming in and out of Cork.

Deputy Eamon Ryan: When I was coming out of Cork recently at 8.30 a.m., there was a three-mile tailback to those pharmaceutical plants in Little Island.

Mr. Paul Moran: That is the issue with Dunkettle. Any incident, be it a fender bender or a minor one, has major repercussions. The incident which Mr. Michael Nolan mentioned where we lost one lane of four coming into Dunkettle brought Cork to a standstill. Until 9 o'clock that night there were repercussions in terms of trying to get through it. It is an interchange that is susceptible to anything going wrong.

Deputy Eamon Ryan: Has an analysis been done as to what the increased level of traffic will be if the Dunkettle interchange goes ahead as planned? What increased volume of traffic is expected on the southern ring road coming up to the Kinsale Road roundabout and those areas?

Mr. Paul Moran: We have looked at forecasts with growth rates that TII has adopted. The N40 has issues with certain junctions. The idea of CMATS is to take people out of cars. It would be hoped that if that is successful, we should have more space on the N40 and, it is hoped, less congestion.

Deputy Eamon Ryan: How does upgrading a freeflow road system lead to fewer cars?

Mr. Paul Moran: Upgrading it leads to minimising the delays and safer passage for vulnerable road users.

Deputy Eamon Ryan: How does it lead to fewer cars?

Mr. Paul Moran: It may not.

Mr. Peter Walsh: One of the ambitions of CMATS is to introduce several park-and-ride facilities. Getting people out of cars and into public transport is impossible if the bus will just sit in stationary traffic. If there is not the space to create priority for public transport, that shift cannot be made.

Deputy Eamon Ryan: Where is the planned park-and-ride for traffic from the east on the N25?

Mr. Paul Moran: CMATS identified five locations on all of the arteries around the Cork metropolitan area. One is in the Dunkettle area, another on the N28 and another on the N71.

Deputy Eamon Ryan: I have a vested interest because we had a family farm in Glounthaune, meaning I know the area. How big an area would one need for a park-and-ride facility?

Vice Chairman: It is a bit hilly there.

Deputy Eamon Ryan: It is, and pretty too.

Mr. Paul Moran: That is something that I cannot answer. What would need to be looked

at with the National Transport Authority, NTA, is the type of park-and-ride required. For example, the rail line is going through Dunkettle. There are already several stations there that use such a facility. Bus-based park-and-ride is another.

Deputy Eamon Ryan: As part of the stage 1 plans, has the TII details of what the public transport upgrade will be to carry that park-and-ride traffic?

Mr. Paul Moran: We have seen what CMATS proposes.

Deputy Eamon Ryan: That is not in stage 1 or in the design of the Dunkettle upgrade. That is purely a road scheme.

Mr. Paul Moran: Yes, it is a road scheme but with facilities.

Deputy Eamon Ryan: How will cyclists traverse north-south and east-west? There is no cycling in the Jack Lynch tunnel.

Mr. Paul Moran: Cycling will be facilitated alongside certain links north of the interchange. They will be separated completely from the heavily trafficked areas. There will be an east-west link on the northern part of the junction. This will separate cyclists and pedestrians away from the heavy traffic. Then there is a dumbbell interchange to the east of the Dunkettle freeflow interchange that will cater for the north-south movement of pedestrians.

Deputy Eamon Ryan: How will that cross the River Lee?

Mr. Paul Moran: That does not cross the Lee. It just crosses from the Glanmire area into the Little Island area.

Deputy Eamon Ryan: Is the same mistake that happened in Dublin being made in Cork where there is no public transport happening and we are investing everything in roads? We say we want to reduce the number of cars and stop sprawl development. Even before the problems last Monday, the light rail for Cork was planned with a 20-year timeframe. This project, if it goes ahead, will have a five-year timeframe. We have a ten to 15-year gap between providing public transport and motorways. The same mistake will be made that was in Dublin, namely, that the outer orbital motorways are developed and then there is a sprawl-based development. Accordingly, Cork continues to become an unsustainable development model.

Mr. Peter Walsh: The policy for public transport is a matter for the NTA and the Department of Transport, Tourism and Sport. It is not what TII creates. We deliver policy. The element of the Dunkettle interchange which contributes greatly to the provision of public transport is the creation of a freeflow circumstance and the separation of the vulnerable road users in a number of areas. Outside of that, it is not that we are avoiding the question. It would be wrong of us to comment on policy relating to public transport in Cork.

Deputy Eamon Ryan: I just see an endpoint with the Dunkettle interchange as a freeflow. Like we made the Red Cow roundabout and other M50 roads freeflow, we thought that it would solve the problem but, lo and behold, it did not because the volume of traffic always increases to meet the available road demand. We then have to have another choice about widening the ring road. We will be widening everything until the cows come home.

Mr. Michael Nolan: I am on the record here saying that we cannot keep building out the M50. We are sweating the asset and making it more efficient but we cannot add more lanes. I cannot see that happening in my lifetime. Three lanes in both directions on a ring road for a

city of Dublin's size should be adequate. Investment should be in public transport into urban areas. We help the NTA to execute its vision with regard to public transport in the Dublin area.

Deputy Eamon Ryan: We will concentrate on Cork rather than Dublin. We have had discussions previously where we are widening all the approach roads to the M50.

Deputy Pat Buckley: We need to get into Cork.

Mr. Michael Nolan: We are widening two locations. On the N3, the extra lane is to assist with BusConnects. On the N4, it is from junction No. 7 to junction No. 5. I sit in traffic on this piece of motorway. I observe freight traffic, buses, cars and small vans stuck in traffic along that section. We hope to have a pilot, in conjunction with the NTA, to widen that to facilitate more efficient traffic, safer throughput and a bus lane from junction 7 to junction 5. That would give us a bus lane the whole way from junction 7 to the M50. It would not only provide for cars but also bus lanes. That is a driver for us on the N4. It is something we are working on for the N4. It will be a pilot bus lane with a hard shoulder. I hope in the coming years we will make progress on that. Widening the motorways is not only a car-based proposition. It is multifaceted and we are working with the NTA closely on it.

Vice Chairman: We are going to conclude. I will make two comments. The first is for Mr. Paul Moran. An Taoiseach has assured those of us in Cork that the M20 is going via Mallow, Buttevant and Charleville to Limerick rather than by the M8 and M24.

I acknowledge the good work of TII. One of the biggest engineering works undertaken without much interruption was at the Red Cow interchange and getting the Luas across it while ensuring that the traffic flowed. It seems like years ago now, but there is no doubt that this was a major engineering achievement at the time. The reason we are here today is to ensure that the Dunkettle interchange project stays on target.

I thank our guests for attending. We will adjourn until September.

The joint committee adjourned at 4.20 p.m. *sine die*.