

# Annual Report **2017**



Coimisiún um Chaighdeán in Oifigí Poiblí  
Standards in Public Office Commission



**Independent.  
Impartial.  
Integrity.**

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## Annual Report 2017

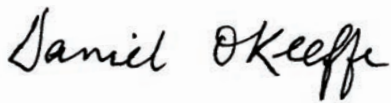
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## Foreword

In accordance with the provisions of section 27(2)(a) of the *Ethics in Public Office Act 1995*, I am pleased to furnish the 2017 annual report of the Standards in Public Office Commission to the Minister for Public Expenditure and Reform.



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**Justice Daniel O'Keefe**  
Chairperson  
Standards in Public Office Commission  
June 2018

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## The Standards in Public Office Commission

The Standards in Public Office Commission is an independent body established in December 2001 by the *Standards in Public Office Act 2001*. The Commission has six members and is chaired by a former judge of the High Court. In 2017 its members were:

- Justice Daniel O’Keeffe, Chairperson;
- Seamus McCarthy, Comptroller and Auditor General;
- Peter Tyndall, Ombudsman;
- Peter Finnegan, Clerk of Dáil Éireann;
- Martin Groves, Clerk of Seanad Éireann; and
- Jim O’Keeffe, Former Member of Dáil Éireann.

The Commission has supervisory roles under four separate pieces of legislation:

- The *Ethics in Public Office Act 1995*, as amended by the *Standards in Public Office Act 2001*, (the Ethics Acts);
- The *Electoral Act 1997*, as amended, (the Electoral Acts);
- The *Oireachtas (Ministerial and Parliamentary Offices) (Amendment) Act 2014*, (the Parliamentary Activities Allowance Act); and
- The *Regulation of Lobbying Act 2015*.

The Commission issues a separate annual report covering its activities in administering the *Regulation of Lobbying Act 2015*.

The Secretariat to the Standards in Public Office Commission is provided by the Office of the Ombudsman.

Further information about the functions of the Commission may be accessed online on our website under Our Functions.

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## Introduction by the Chairperson

The Standards in Public Office Commission has a broad legislative mandate, with oversight of legislation governing ethics in public office, electoral and political financing, and the regulation of lobbying. The legislative provisions are extensive and are applicable to a wide range of individuals and entities. These provisions relate to disclosure of interests, evidence of tax compliance, and obligations to declare a conflict of interest which may arise in the performance of functions.

There is also a variety of operational functions involved and the number of individuals subject to these Acts' provisions is substantial. There are differences in the nature and scope of enforcement powers at the Commission's disposal, and differences in the level of engagement of other organisations who have a role in ensuring compliance.

Given the diversity of persons and bodies subject to the Commission's remit, it is imperative that the Commission takes a consistent approach across its various functions. Public bodies must also be consistent in their approach.

The Commission has noted that, where a public body is inconsistent or does not provide comprehensive information or advice, this may result in non-compliance on the part of the person, who may then be the subject of an investigation. The Commission has during the year 2017 applied considerable resources in addressing this. The Commission conducts specific outreach to public bodies charged with overseeing the compliance of their employees. This is with a view to improving knowledge and awareness of the Acts, and to encourage consistency in their communication, application and oversight.

In some instances, public bodies have not provided the Commission with timely information about appointments to public office that would facilitate the compliance of the office holder with the requirement to demonstrate evidence of tax compliance within a set period of time upon appointment. There is no obligation set out in the legislation for public bodies to inform the Commission of appointments. While some public bodies are more proactive than others at making such notifications, in some cases the bodies have actually refused to provide the information, citing data protection legislation. The Commission has recommended that the Act be amended to require such notification to the Commission, which will go some way toward assisting individuals in complying with the Act's obligations.



**Justice Daniel O'Keeffe**  
Chairperson

The Commission continues to be busy with investigative activities under the ethics legislation. In 2017 alone, the Commission closed 38 complaints. It also completed a preliminary inquiry and issued a report into a completed investigation. It continued its investigations into three other cases of possible non-compliance which were launched in 2016 and are now nearly concluded. And it launched a further 41 investigations into non-compliance with the Act's provisions regarding tax compliance.

The Commission has previously commented on the *Public Sector Standards Bill 2015*, which, in April 2017, commenced committee stage. The bill, if enacted, would replace the existing legislative framework regarding ethics. It would provide for standards of integrity and a model code of conduct for all public officials, along with consolidated provisions for disclosure of interests and a streamlined system for the investigation of possible contraventions by public officials. As of writing, the bill remains at committee stage.

The *Electoral Act 1997* (as amended) provides for, *inter alia*, reporting obligations for members of the Oireachtas, political parties, third parties, accounting units and election candidates; limits and disclosure thresholds for election expenditures and political donations, prohibitions on certain political donations, and requirements for the registration of third parties and corporate donors. In previous annual reports, the Commission has commented on challenges with the Act's provisions vis-à-vis third parties. To reiterate one of the Commission's priority recommendations, it is the Commission's view that the obligation for third parties to register should be triggered by expenditure on political activities over a certain threshold, and not by the receipt of donations for political purposes.

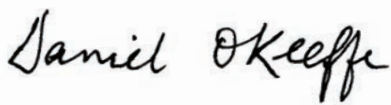
Also important given the likelihood of several referendums in the coming months is the regulation of expenditure in referendums, and the related issue of foreign influence in the Irish political process. The *Electoral Act 1997* is silent on expenditure on referendums, with neither expenditure limits nor disclosures contemplated by the Act. Moreover, the landscape of political engagement has changed in the years since the Act was passed, with the internet and social media now featuring heavily in any campaign. While there are prohibitions on foreign political donations other than in specific circumstances, the Commission notes with concern that individuals and organisations based outside of Ireland may fund political advertising or launch digital campaigns financed outside the State. As no legislative framework currently exists to address these matters, it would appear that an important and continually evolving tool in modern Irish political discourse (i.e. the internet) is unregulated. This allows for foreign actors to influence Irish elections and referendums, with potentially significant consequences. The Commission recommends that the Act be reviewed with a view to addressing this. This should preferably be done in the context of the creation of an electoral commission.

As noted above, the Commission also has oversight of the *Regulation of Lobbying Act 2015*. In accordance with that Act, the Commission has published a separate annual report on its activities relating to the regulation of lobbying. This is available on the website [www.lobbying.ie](http://www.lobbying.ie).



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Finally, this annual report provides a welcome opportunity to thank my fellow members of the Commission for their contributions throughout the year. I also wish to express my appreciation to the Head of Ethics and Lobbying Regulation, Sherry Perreault, for her continued commitment and dedication, and to the staff of the Commission Secretariat for their hard work during 2017. I also wish to thank the staff of the shared services units in the Office of the Ombudsman for their support over the past year. We look ahead to a new year with a renewed commitment to enhancing integrity in Irish public life.



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**Justice Daniel O'Keefe**  
Chairperson



# Chapter One: Ethics

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## Chapter One: Ethics

This chapter provides information on the Commission's activities in 2017 under the Ethics Acts, as well as an overview of key developments in priority areas.

### Disclosure of Interests – Oversight by Public Bodies

Public bodies and, in particular, the 'relevant authority' within those bodies to whom statements of interest are furnished, have a duty to oversee compliance with the disclosure of interests provisions of the Ethics Acts by designated directors and employees. Persons to whom statements of interests must be furnished have a statutory right to complain to the Commission about an alleged contravention of the disclosure provisions. In support of that right, such persons may request the person who is required to furnish a statement to provide information in relation to a statement of interests or any matter arising in connection with it. Accordingly, a 'relevant authority' has a duty to oversee compliance with the disclosure of interest provisions of the Ethics Acts and to take appropriate action in the case of possible non-compliance.

Issues arose during 2017 regarding the oversight by public bodies of compliance with the disclosure of interest provisions by persons within those bodies.

On foot of its report regarding the Garda College, Templemore, the Committee of Public Accounts wrote to the Commission regarding its finding that some members of An Garda Síochána failed to understand or meet their obligations under the *Ethics in Public Office Acts 1995 and 2001*. It decided to bring the matter to the attention of the Commission for whatever action the Commission might see fit.

Statements of interest for designated employees within An Garda Síochána are provided to the 'relevant authority' within the organisation, and not to the Commission. The Commission wrote to the Acting Garda Commissioner outlining his responsibilities as the 'relevant authority' to whom persons who occupy 'designated positions of employment' in An Garda Síochána furnish statements of interests. The Commission was subsequently informed by An Garda Síochána that the designated employees within the organisation had been asked to review their interests and confirm their compliance with the requirements of the Act. Correspondence with the organisation is ongoing.

The Commission Secretariat also liaised with An Garda Síochána and with other public bodies with a view to improving the communications which issue to employees in those bodies concerning their obligations under the Ethics Acts. The Commission also raised concerns with another body that did not appear to have the appropriate communications or procedures in place to ensure that employees were fully aware of their Ethics Acts obligations. The Commission proposed improvements to its communications to employees, which were adopted.

In order to assist public bodies in supporting the compliance of their employees, in the coming year the Commission intends to develop standards of best practice for public bodies in communicating and overseeing the compliance of employees with obligations under the Ethics Acts.

## **Tax Clearance Provisions – Appointees to Senior Office**

Under the *Standards in Public Office Act 2001* (2001 Act), appointees to senior positions of employment in, or to directorships of, public bodies are required to provide a statutory declaration and a tax clearance certificate (or evidence that a certificate has been applied for) to the Commission within nine months from the date of appointment.

In its annual reports for 2015 and 2016, the Commission stated that it has experienced certain difficulties in overseeing these provisions in recent years. Notwithstanding that all public bodies have been asked to inform the Commission of the details of all relevant appointments made in order that the Commission can pursue any contraventions which may arise, it is clear that this has not been done in all cases, giving rise to difficulties in identifying individuals subject to the Act's provisions.

The legislation does not provide for an explicit duty on public bodies to notify the Commission. In addition, data protection legislation has been cited by some as a reason not to provide information on appointments.

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The position as currently provided for in the law is dysfunctional. The Commission cannot know who is or is not compliant with the Act's obligations without accurate information about persons appointed. The failure by public bodies to provide the necessary information to the Commission has the effect of obstructing the effective implementation of these provisions of the Act. Furthermore, it places the employees in a position of non-compliance, for which they could be subject to investigation.

As the Commission could not be confident it had comprehensive and accurate information on compliance of individuals subject to these provisions of the Act, it commenced a survey of all public bodies in 2017. The survey sought to gather information as to which positions within the body are at senior office level, and the identity of the incumbents, in order to address this gap.

While many public bodies provided comprehensive responses to the survey, the Commission is disappointed to note that responses remain outstanding from a number of bodies, despite attempts to follow up. Therefore the Commission is still not in a position to fully administer the Act's provisions and monitor compliance in those bodies. The Commission continues to pursue the outstanding information from those bodies with a view to bringing any outstanding individuals into compliance.

In response to the survey, the public bodies who responded provided details of 132 appointees to 'senior office' not previously notified to the Commission, and whose appointment dates were at least nine months before the date on which the Commission was notified. The appointments notified were in some cases a number of years old and in one case dated back to 2002.

As the 2001 Act provides that the relevant documents be furnished to the Commission within nine months of appointment, each of these individuals were non-compliant.

The Commission wrote to each appointee, stating that it had recently been notified of the details of their appointment and informing the person that, while the deadline has clearly passed, the obligations remained and must be complied with immediately. The Commission gave each such person 30 days within which to bring themselves into compliance.

As stated in its annual report for 2016, the Commission is taking a more robust approach to non-compliance and will investigate and report where appointees to senior office fail to comply with their obligations, after being given sufficient opportunity to comply. Any such report is required to be forwarded to the public body concerned and to be laid before each House of the Oireachtas. A public body may take action against the person, including suspension without payment of remuneration, until the person is in compliance.

As a result of continued non-compliance by persons who were given 30 days to bring themselves into compliance and did not do so, the Commission launched 41 investigations in 2017. These are ongoing.

The Commission will continue to pursue non-compliance by individual appointees and will also continue to seek timely information from public bodies about appointments to senior office. However, the Commission recommends that the legislation be amended to provide a statutory obligation on public bodies to inform the Commission of appointments to senior office.

## Complaints

During 2017, the Commission received 42 complaints under the Ethics Acts. The Commission closed 38 complaints during the year and commenced 1 preliminary inquiry. Three complaints remain under consideration.

Following the examination of a complaint by the Commission, information came to light indicating that there may have been a contravention of the Ethics Acts by a former member of the Dáil. The Commission has no authority in relation to the actions or conduct of a sitting TD who is not an office holder. All such complaints are a matter for the Dáil Committee on Members' Interests.

However, the legislation provides that a complaint may not be made to the Dáil Committee on Members' Interests in respect of a person who has ceased to be a member.

This lacuna means that there is no mechanism for examining possible contraventions by a member of the Oireachtas (other than a Minister or Minister of State) in circumstances where the matter only comes to light after the member has left office. The Commission recommends that the legislation be amended to expressly deal with situations where a member of the Oireachtas may have contravened their obligations under the Ethics Acts and the matter only comes to light after the member has left office.

## Investigation into Mr Richard Hickey

In April 2017, the Commission published its investigation report about alleged contraventions of the Ethics Acts by Mr Richard Hickey, formerly a member of the Board of the former Family Support Agency. The report follows an investigation hearing held on 30 January 2017.

The Commission found that Mr Hickey contravened the ethics legislation when, as a member of the Board of the Family Support Agency, he submitted duplicate claims for travelling and subsistence expenses from the Family Support Agency and St Brigid's Family Resource Centre for attendance at the same events.

It was alleged that Mr Hickey did a 'specified act' within the meaning of the Ethics Acts, relating to the double claiming of expenses, which was inconsistent with the proper performance of his functions as a member of the Family Support Agency. The Commission determined, having regard to the nature and extent of double claiming of expenses, that the 'specified act' was committed intentionally by Mr Hickey and was, in all the circumstances, a serious matter. The Commission referred this matter to the Director of Public Prosecutions for consideration.

The investigation report, together with full details of the Commission's findings and determinations, is available on its website.

## **Investigation into Mr Tim Caffrey, Longford County Council**

In its annual report for 2015, the Commission reported on an investigation it had carried out into a complaint concerning Mr Tim Caffrey, (then) Chief Executive of Longford County Council. It further stated that in the course of its consideration of the complaint, the Commission became aware of other possible contraventions by Mr Caffrey arising out of the same circumstances, but which did not form part of the complaint made. The Commission had determined that it should, on its own initiative, investigate this matter.

It was not possible to hold an investigation hearing into the matter during 2017 for reasons outside the Commission's control. The matter is still under consideration by the Commission.

## **Investigation into Senator Brian Ó Domhnaill**

In earlier annual reports, the Commission reported on a complaint received in May 2012 relating to travel and subsistence claims made by Senator Brian Ó Domhnaill in his former capacity as a member of Donegal County Council and of Údarás na Gaeltachta. The Commission published its investigation report on this matter on 15 December 2016.

During the course of the investigation, Senator Ó Domhnaill initiated High Court proceedings against the Commission, following which the Commission was awarded costs. During 2017, the Commission continued to pursue these costs from the Senator.

## **Investigation into Councillor Frank Durcan, Councillor Cyril Burke and Mr Peter Hynes, Mayo County Council**

The Commission commenced an investigation hearing into the alleged contraventions of the Ethical Frameworks for the Local Government Service by Councillor Frank Durcan, Councillor Cyril Burke and Mr Peter Hynes, Chief Executive, all of Mayo County Council. Following an application made to the Commission, it was determined that the hearing would be heard in private.

The hearing was held on dates in October and December 2017, and February 2018. The Commission expects to issue a report on the matter in 2018.

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## Costs of Investigative Activities

The costs associated with holding an investigation hearing into alleged contraventions of the Ethics Acts can vary considerably depending on the complexity and duration of the investigation, and the number of witnesses or documents involved.

Costs of conducting a preliminary inquiry, if applicable, are generally low, as these inquiries are undertaken internally by staff and external resources are rarely required. Increasingly, the Commission undertakes a substantial amount of legal work in-house, availing of its own legal personnel which ensures that overall costs are kept to a minimum.

Where a matter proceeds to an investigation hearing, there are generally costs associated with obtaining legal advice and representation during the hearing, as well as costs relating to logistical supports where required (for example, stenography, sound, or translation).

All parties at the hearing may be represented by junior and/or senior counsel, depending on the complexity of the issues to be examined. Rarely, the Commission has had legal challenges in the courts relating to its investigative activities, but which do not form part of the formal investigation. Where such challenges arise, the Commission must respond, and will seek to recoup costs where appropriate.

While the Commission is mindful of the costs associated with the conduct of its investigative activities, it has a statutory obligation to investigate possible contraventions of the legislation. Court costs associated with procedural matters or legal challenges would not form part of standard investigative costs. The Commission allocates resources as needed to ensure the effective implementation and enforcement of its statutory functions.



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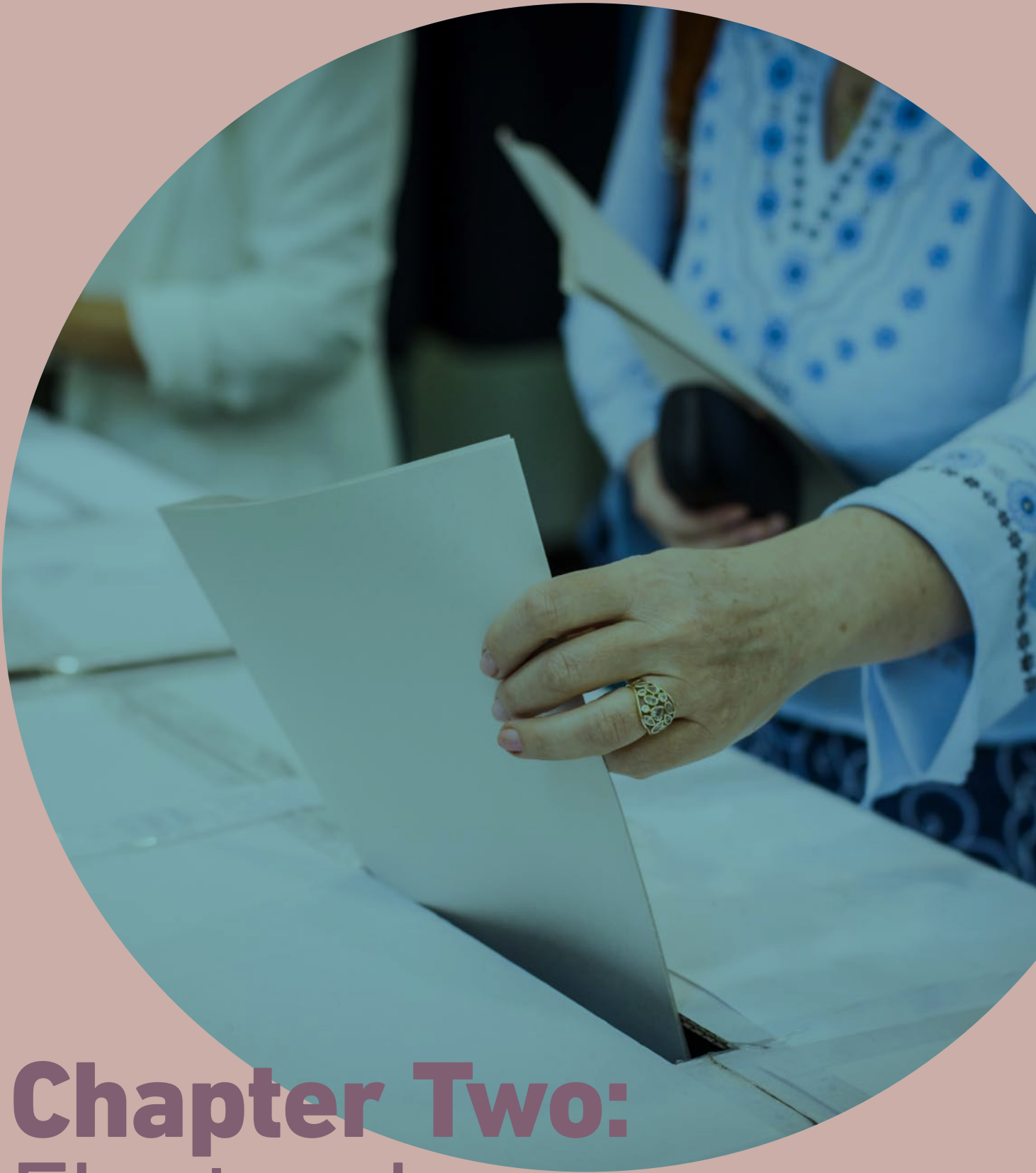
## Public Sector Standards Bill 2015

The Commission reported in previous annual reports that the *Public Sector Standards Bill 2015*, which will provide a consolidated legislative framework for ethics, had been published in December 2015. It passed Second Stage in Dáil Éireann in January 2016, lapsed on the dissolution of Dáil Éireann on 3 February 2016 and was restored to the Dáil Order Paper on 1 June 2016.

The Commission supports the proposed reforms set out in the bill, as the current statutory arrangements for investigation hearings are neither practicable nor efficient. The bill proposes streamlined investigation procedures, which, it is hoped, will result in more timely outcomes while still maintaining fair procedure. These are in the interests of complainants and the subjects of complaints and, ultimately, the public interest.

At the time of writing, the bill remains under consideration at committee stage by the Select Committee on Finance, Public Expenditure and Reform, and Taoiseach.

The Commission continues to liaise with the Department of Public Expenditure and Reform, as requested, on the provisions of the bill.



# Chapter Two: Electoral

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## Chapter Two: Electoral

This chapter provides information on the Commission's activities in 2017 under the *Electoral Act 1997* (as amended), as well as an overview of key developments in priority areas.

### Political Party Accounts

Political parties are required to submit their statements of accounts for the previous calendar year to the Commission by 30 June of each year.

In January 2017, the Commission published the first report on political parties' statements of accounts, for the 2015 reporting period. Based on practical experience of the first compliance cycle, the Commission determined that the guidelines should be revised in certain respects. The Commission accordingly undertook a consultative process to revise the guidelines, which were submitted in due course to the Minister for Housing, Planning, Community and Local Government for approval. The new guidelines were published in *Iris Oifigiúil* in July 2017.

In November 2017, the Commission published the second annual report of statements of accounts provided to it by political parties registered in Ireland in 2016. The report contains an overview of the parties' obligations, and provides information on the compliance status of all parties subject to the Act.

The Commission report, entitled *Political Parties' Statements of Accounts 2016*, is available on its website.

### Political Donations

The Electoral Act regulates, *inter alia*, political donations, including disclosure thresholds, donation limits and prohibitions on certain donations.

In 2017, the Commission received a number of queries relating to the permissibility of foreign participation, including funding, in campaigns related to particular political issues.

The Act prohibits donations in any amount from anyone outside the island of Ireland, other than from an Irish citizen or a body corporate or unincorporated body of persons which keeps an office on the island of Ireland from which at least one of its principal activities is directed. Other than prohibiting foreign donations, itself a challenge to enforce, the Commission notes with concern that the Act is silent on other possible avenues by which organisations and individuals from outside Ireland may seek to influence the outcome of elections or referendums. These avenues may include foreign-funded advertising and use of social media campaigns. Such interventions may be tailored to seek to influence political discourse in Ireland. Currently there are no legislative provisions in place to regulate such interventions.

The Commission further notes that it is only donations received that are regulated with respect to referendums, and not expenditure. Only those organisations that accept donations over a specified threshold are required to register as third parties. Expenditure is neither controlled nor disclosed.

With a number of referendums set to take place over the coming months in Ireland, the Commission again expresses its concerns regarding the weaknesses in the current legislative framework, and offers further recommendations.

While the Commission does not dispute the need for third parties to register, it is the view of the Commission that this requirement should be based on expenditure for political purposes, rather than on the acceptance of donations given for political purposes.

The Commission also recommends that a comprehensive review of the Electoral Act take place, preferably in the context of the creation of an electoral commission. It is recommended that provisions be included in a revised Act for the regulation of digital means of influence in an electoral or referendum campaign.

Finally, the Commission has previously recommended that expenditures at referendums be made transparent. It further recommends that expenditure limits apply at referendums as well as at elections.

## **Donations Disclosed by Political Parties**

During 2017, there were 19 political parties registered to contest Dáil or European elections that were accordingly obliged to furnish a donation statement to the Commission by the 31 March 2018 deadline.

Details of the donations disclosed by political parties in respect of 2017 will be published in a report on the Commission's website in due course.

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## **Disclosure of Donations in Respect of 2017 by TDs, Senators and MEPs**

In 2017, 158 TDs, 60 Senators and 11 MEPs were required to submit disclosures of donations received in 2017 by the deadline of 31 January 2018. The total value of donations disclosed by members for the reporting period was €6,360.

Since the commencement of the *Political and Electoral Funding Act 2012*, it is prohibited for a member of the Oireachtas or MEP to accept a donation in excess of €200 from a company unless that company, considered a 'corporate donor' for the purposes of the Act, is registered with the Commission. If an unacceptable donation is received, it must be returned and evidence of this provided to the Commission.

The Commission continues to experience difficulty with the implementation of this legislation given the lack of understanding among both corporations and recipients of the Act's provisions in this regard. The Commission has enhanced outreach to elected members to increase awareness of the obligations of the Electoral Act, and will review its guidelines for, and outreach to, corporations who may be subject to these provisions of the Act.

A report on donations disclosed by TDs, Senators and MEPs in respect of 2017 was published in April 2018 and is available on the Commission's website.

## **Donation Statements by Individual Donors**

Under section 24(1A)(a) of the Electoral Act, any donor who, in a particular year, makes donations exceeding €1,500 in aggregate value to two or more persons who were members of the same political party when the donations were made, or to a political party, and to one or more of its members, must furnish a donation statement/statutory declaration to the Commission.

Two donation statements from individual donors were received in respect of 2017 with a total value of €4,245.

Details of the donations disclosed by individual donors in respect of 2017 have been published as part of the report on Donations to TDs, Senators and MEPs for 2017, which is available on the Commission's website.

## Accounting Units

There are currently 157 political party accounting units in Ireland with reporting obligations under the Electoral Act.

Under the Act, it is an offence for the responsible person of an accounting unit to fail to comply with the Act's reporting requirements.

The deadline for receipt of accounting unit returns in respect of 2017 was 31 March 2018.

A report on donation statements by political parties for 2017, containing details of the returns made by accounting units, will be published and made available on the Commission's website in due course.

## Third Parties and Corporate Donors

### Register of Third Parties

In 2017, four third parties registered with the Commission. In total, 27 third parties were obliged to provide returns for 2017 no later than 31 March 2018. These returns are not publicly disclosed, in accordance with the provisions of the Act. However, a list of registered third parties is maintained and published on the Commission's website. A list of third parties that were registered in 2017 is included in appendix two of this report.

### Register of Corporate Donors

There are currently 31 corporate donors registered with the Commission. A list of organisations registered as corporate donors is maintained and published on the Commission's website. A list of corporate donors that were registered in 2017 is included in appendix two of this report.

## Exchequer Funding of Political Parties

### The Electoral Act 1997, as amended

Exchequer funding was paid to eight qualified parties (Fianna Fáil, Fine Gael, the Green Party, the Labour Party, Renua Ireland, Sinn Féin, Social Democrats and Solidarity/People Before Profit) on the basis of the results of the 26 February 2016 general election.

The fund stood at €4,948,202 at 31 December 2017. The share of the fund payable to a qualified political party is determined by expressing the first preference votes of the qualified party as a percentage of the total first preference votes received by all qualified political parties. The funding may not be used for electoral or referendum purposes.

Parties are expected to submit their 2017 statements of expenditure of Exchequer funding by 31 March 2018. The report concerning the statements of expenditure of Exchequer funding in respect of 2017 will be published and made available on the Commission's website in due course.

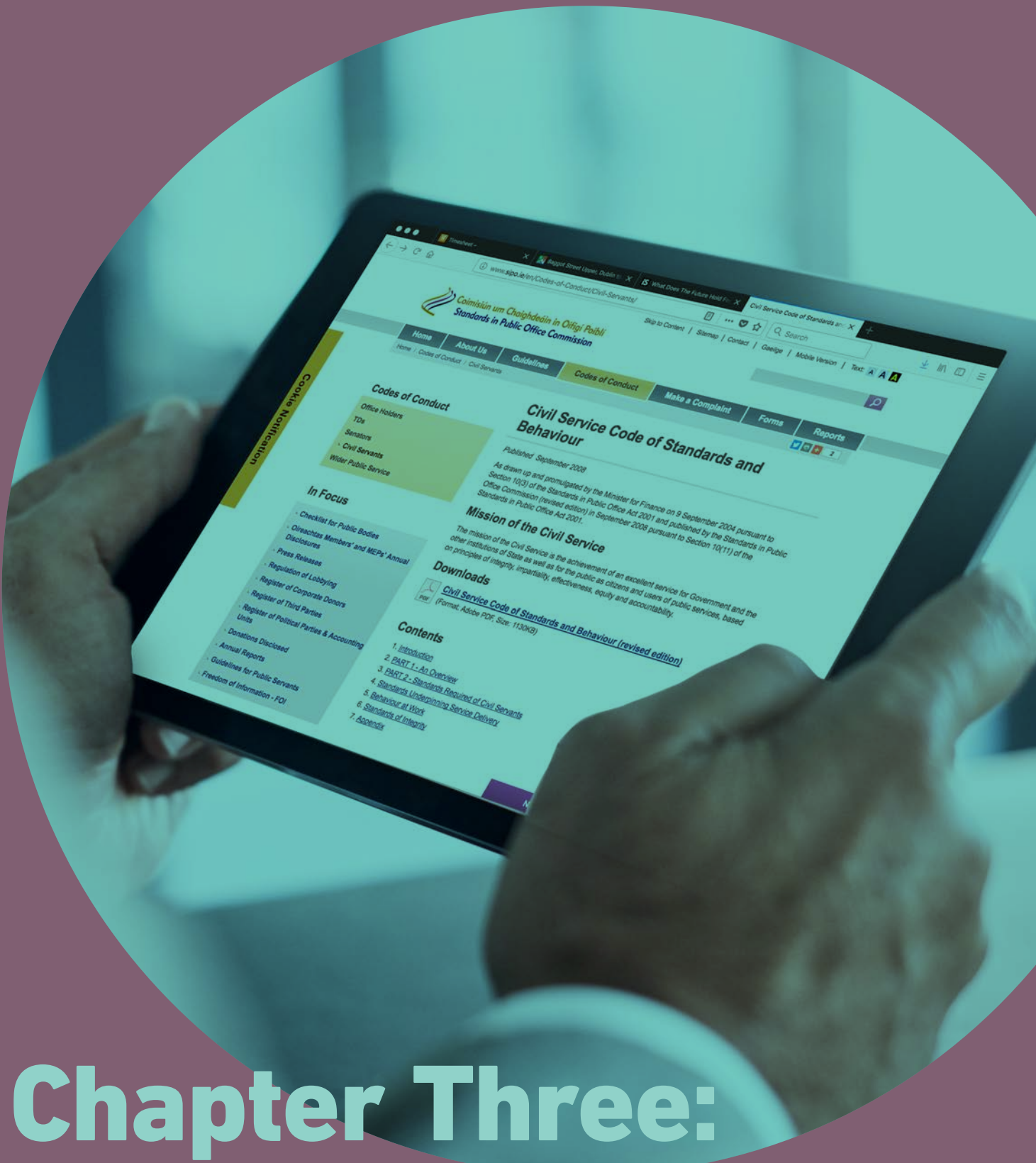
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## **The Oireachtas (Ministerial and Parliamentary Offices) (Amendment) Act 2014 (Parliamentary Activities Allowance)**

The parliamentary leaders of eight political parties (Fianna Fáil, Fine Gael, the Green Party, Independents 4 Change, the Labour Party, Sinn Féin, Social Democrats and Solidarity/People Before Profit) qualified to receive the allowance. The parties received a total of €7,629,193 under the Parliamentary Activities Allowance Act in 2017.

Non-party members of Dáil and Seanad Éireann also receive funding under the legislation. The total amount paid during 2017 to non-party members elected to Dáil Éireann was €716,049 and the total amount paid to non-party members elected or nominated to Seanad Éireann during the same period was €308,660.

Parties are expected to submit their 2017 statements of expenditure of the Parliamentary activities allowance by 31 March 2018. The report concerning the statements of expenditure of the Parliamentary activities allowance in respect of 2017 will be published and made available on the Commission's website in due course.



# Chapter Three: Communications and Outreach



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## Chapter Three: Communications and Outreach

The Commission regularly engages with external stakeholders in regard to all areas of its legislative mandate. In addition to responding to queries and requests from various stakeholders, the Commission may proactively engage on specific matters as needed. The following provides highlights of communications activities in the ethics and electoral areas in 2017.

As part of its communications strategy, the Commission Secretariat conducted presentations and operated drop-in clinics in the Houses of the Oireachtas in January 2017, for members who wished to seek advice on their obligations under the Ethics and Electoral legislation.

The Office made two presentations to visiting delegations in 2017. In March, Secretariat staff met with a delegation from the University of Groningen, Holland, and in April, a delegation from Beijing Peoples' Court, China. The purpose of these visits was to learn more about election management and monitoring in Ireland, as well as broader Irish anti-corruption and accountability systems.

A member of the Commission Secretariat attended the UK and Ireland Parliamentary Standards Network meeting held in October 2017.

In 2014, the Council of Europe's Group of States against Corruption (GRECO) carried out a Fourth Round Evaluation on Corruption Prevention in respect of Members of Parliament, Judges and Prosecutors in Ireland (Annual Report 2014) and made a number of recommendations for improvements in the ethical framework. During 2016, the Commission assisted in the preparation of the Irish submission on a draft compliance report on the recommendations adopted by GRECO on foot of the evaluation. In June 2017, GRECO published its compliance report, Fourth Evaluation Round Report on Ireland June 2017 - Corruption Prevention in Respect of members of Parliament, Judges and Prosecutors, on corruption prevention in Ireland. It concluded that Ireland's low level of compliance with the original evaluation report (2014) is "globally unsatisfactory" and Ireland was asked to report again on progress by 31 March 2018.

The Department of Justice is leading the Government's response.

GRECO's Fifth Round Evaluation process was launched on the 20 March 2017. This evaluation focuses on "preventing corruption and promoting integrity in central governments (top executive functions) and law enforcement agencies" by monitoring the measures that States have in place with regard to:

- ethical standards and general conduct expected including codes of conduct;
- management of conflicts of interest;
- how to deal with gifts and other benefits;
- relations with lobbyists and other third parties who seek to exert influence;
- post-employment restrictions and management of "revolving doors";
- declaration of interests, income, assets and liabilities;
- mechanisms to supervise compliance and appropriate sanctions in case of non-compliance; and
- advice, training and awareness among persons subject to the rules.

A member of the Commission Secretariat, Mr. Aidan Moore, was nominated as an expert to participate in the Fifth Round Evaluation process.

The Commission continues to be a member of the Council on Governmental Ethics Laws (COGEL). COGEL is a US based non-profit organisation which has as its key objective to provide a forum for ethics practitioners from a range of disciplines (including campaign finance, elections, lobbying, conflict of interest and freedom of information) to exchange experience and best practices. In December 2017, the Head of Ethics and Lobbying Regulation attended the annual conference on behalf of the Commission.

In the coming year, the Commission intends to prepare and begin implementation of a new communications strategy, designed to improve knowledge of, and compliance with, the legislation within the Commission's remit. As part of this strategy it is envisioned that the website will be revamped to streamline content and make it more user-friendly. In the interim, the Commission continues to post newsworthy content on the home page of the website, and on social media.





# Chapter Four: Recommendations for Change

## Chapter Four: Recommendations for Change

In previous annual reports, the Commission summarised its recommendations for changes to ethics and electoral legislation. Major outstanding proposals are summarised below, along with updates on any progress which may have taken place in the meantime. Minor proposals, such as technical amendments, are referred to in previous annual reports. Proposals that have previously been actioned and reported on in last year's report have been removed.

### Recommendations applying to Ethics Acts

Recommendation	Year Made	Update
<b>Proposed procedural amendments to the Ethics Acts</b>		
The Commission should be granted the power to appoint an Inquiry Officer to conduct a preliminary inquiry into a matter in the absence of a complaint under the Ethics Acts. <i>(Chapter 1, 'Own initiative inquiries', Annual Report 2004)</i>	2004	The Public Sector Standards Bill 2015 would meet this recommendation.
Provision should be made for a quorum of not less than three members (including in all cases, the Chairperson) be provided for the hearing of an investigation under the Ethics Acts. <i>(Chapter 4, 'Proposed amendments to the Ethics Acts', Annual Report 2008)</i>	2008	The Public Sector Standards Bill 2015 would establish a Public Sector Standards Commissioner in place of the Commission.

Recommendation	Year Made	Update
<p>The Commission should directly lay its Annual Report before each House of the Oireachtas rather than furnishing it to the Minister for Public Expenditure and Reform who then lays it.</p> <p><i>(Introduction, Annual Report 2010)</i></p>	2010	The Public Sector Standards Bill 2015 would meet this recommendation.
<b>Other proposed amendments to the Ethics Acts and related legislation</b>		
<p>There should be amendments to the time limits within which Statutory Declarations, Tax Clearance Certificates and Application Statements are to be made or issued and furnished to the Commission by elected members and by appointees to senior positions and directorships in the public service.</p> <p><i>(Chapter 1, 'Tax Clearance Provisions - observations to the Minister for Finance' Annual Report 2003)</i></p>	2003	<p>The Civil Law (Miscellaneous Provisions) Act 2008 amended the deadline for the making of a statutory declaration by a person recommended for appointment to judicial office from one month to three; a similar provision for elected members and senior public servants would be required in order to meet the recommendation.</p> <p>The Public Sector Standards Bill 2015 would meet this recommendation and would provide for annual compliance.</p>
<p>A code of conduct should be adopted for public servants and members of state boards in the wider public service.</p> <p><i>(Chapter 1, 'Codes of Conduct for Public Servants', Annual Report 2003)</i></p>	2003	<p>The Public Sector Standards Bill 2015 would introduce a model code of conduct applicable to all public officials and provide for individual codes in each public body. The Commission recommends provision be made for sectoral codes.</p> <p>An amendment passed at Committee Stage in Dáil Éireann in April 2017 would provide for sectoral codes for civil servants and special advisers and for members and employees of local authorities.</p>
<p>Motions should be initiated in the Houses of the Oireachtas to designate the Chairpersons of Oireachtas Committees as office holders for the purposes of the Ethics Acts.</p> <p><i>(Chapter 1, 'Ethics Acts' Annual Report 2005)</i></p>	2005	The Public Sector Standards Bill 2015 would remove the distinction between office holders and other Oireachtas members.
<p>There should be a comprehensive act consolidating the Ethics Acts and all other legislation providing for disclosure of interests and related provisions for public officials.</p> <p><i>(Chapter 2, 'Overlapping Ethics Frameworks' Annual Report 2009)</i></p>	2009	The Public Sector Standards Bill 2015 would meet this recommendation.

Recommendation	Year Made	Update
<p>There should be an amendment of the provisions for complaints about a 'specified act' to allow reference to a high level statement of the ethical principles to be followed by public servants and public representatives.</p> <p><i>(Chapter 2, 'High Level Statement of Ethical Principles', Annual Report 2009)</i></p>	2009	Nothing to report.
<p>There should be an amendment of the definition of 'connected person' (see definition in Appendix 3) to provide that a person is a "connected person" to a company (see definition in Appendix 3) of which he or she is a director and that the other directors of that company are also "connected persons" to that person.</p> <p><i>(Chapter 2, 'Connected Persons', Annual Report 2009)</i></p>	2009	The Public Sector Standards Bill 2015 would meet this recommendation.
<p>There should be a requirement that liabilities be disclosed as 'registrable interests'.</p> <p><i>(Chapter 2, 'Disclosure of Liabilities', Annual Report 2009)</i></p>	2009	The Public Sector Standards Bill 2015 would meet this recommendation.
<p>A whole of public service approach to preventing and detecting double claiming of travelling and subsistence expenses should be adopted.</p> <p><i>(Chapter 2, Complaints, Annual Report 2014)</i></p>	2014	The Department for Public Expenditure and Reform issued guidance on this in October 2015. The Department provided procedures to follow in the event an employee of a public service body travels for official business and has the potential to claim for the refund of travel and subsistence costs from more than one body.
<p>Explicit provision should be made to allow complaints against members of the Oireachtas in circumstances where the matter comes to light after the member has left office.</p> <p><i>(Chapter 1, Ethics, Annual Report 2017)</i></p>	2017	New recommendation for 2017.
<p>The Act should be amended to require that public bodies notify the Commission of new appointments to senior office, to facilitate the effective implementation of tax compliance requirements.</p> <p><i>(Chapter 1, Ethics, Annual Report 2017)</i></p>	2017	New recommendation for 2017.

## Recommendations applying to Electoral Acts

Recommendation	Year Made	Update
<b>Proposed review of Electoral Acts</b>		
An electoral commission should be established, and a comprehensive review of the Electoral Acts should take place. Provisions should be included to provide for regulation of digital means of influence in an electoral or referendum campaign. <i>(Chapter 2, Electoral, Annual Report 2017)</i>	2017	New recommendation for 2017.
<b>Proposed procedural amendment to the Electoral Acts</b>		
As the body with responsibility for supervising the Electoral Acts, the Commission should have a statutory basis on which to review the legislation and report on its findings. <i>(Review of the Electoral Acts 2003)</i>	2003	Nothing to report.
<b>Proposed amendment to the Electoral Acts relating to the election period</b>		
Consideration should be given to imposing some accountability, in the context of the spending limits, in respect of a specified period prior to commencement of the legally defined election period (i.e., that the election period might be extended to include a period prior to the dissolution of the Dáil or moving of the writ at an election). <i>(Review of the Electoral Acts 2003)</i>	2003	Nothing to report.
<b>Proposed amendment to the Electoral Acts relating to Third Parties</b>		
The definition of what constitutes a “third party” should not be determined on the basis of whether an individual/group has received a donation but should focus on spending by individuals/groups and to regard them as third parties if they intend to incur expenditure over a certain threshold, say €5,000, in relation to a campaign which is for political purposes as defined in the legislation. <i>(Review of the Electoral Acts 2003; and 2009 Report on third parties at the Referendum on the Treaty of Lisbon)</i>	2003 and 2009	Nothing to report.
The registration process for “third parties” and for “other persons” (who intend to incur election expenses) should be amalgamated. (There should be no need for an individual/group to register as a “third party” and to also register as an “other person”). <i>(Review of the Electoral Acts 2003)</i>	2003	Nothing to report.
Registration of third parties should be allowed for the duration of a particular campaign only, or on an on-going basis. <i>(2009 Report on third parties at the Referendum on the Treaty of Lisbon 2008)</i>	2009	Nothing to report.



Recommendation	Year Made	Update
<b>Proposed amendment to the Electoral Acts relating to spending at referendums</b>		
<p>Provision should be made for transparency in funding and expenditure on referendum campaigns, third parties and political parties should be required to disclose details of expenditure on referendum campaigns. Similarly, information should be made available on the sources of funding available to both third parties and political parties.</p> <p><i>(2009 Report on third parties at the Referendum on the Treaty of Lisbon 2008)</i></p>	2009	Nothing to report.
<p>Expenditure limits should apply at referendums as well as elections.</p> <p><i>(Chapter 2, Electoral, Annual Report 2017)</i></p>	2017	New recommendation for 2017.
<b>Other proposed amendments to the Electoral Acts</b>		
<p>To ensure a level playing field between candidates, and a degree of transparency, the use of public funds for electoral purposes should form part of the electoral code rather than other legislation which patently has quite a separate purpose. This would involve a consequential repeal of the provisions dealing with the provision of services and facilities following a dissolution of Dáil Éireann by the Houses of the Oireachtas Commission [section 4(4A) of the Houses of the Oireachtas Commission Act 2003 (as amended by section 4(c) of the Houses of the Oireachtas Commission (Amendment) Act 2009)].</p> <p><i>(Report on the Dáil general election of 2007)</i></p>	2007	Nothing to report.

## Recommendations applying to the Oireachtas (Ministerial and Parliamentary Offices) (Amendment) Act 2014, (the Parliamentary Activities Allowance Act)

Recommendation	Year Made	Update
<b>Proposed amendment to the Parliamentary Activities Allowance legislation relating to the giving of advice</b>		
<p>The Commission should be able to give advice on the appropriate use of the Parliamentary Activities Allowance and for such advice to be legally binding on the persons to whom they apply.</p> <p><i>(Annual Report 2007)</i></p>	2007	The passing of the Oireachtas (Ministerial and Parliamentary offices) (Amendment) Act 2014 does not provide for the Commission to give advice.

# Appendices

## Appendix One: Commission Publications in 2017

### January

- Report on Political Parties' Statements of Accounts 2015
- Report on Seanad General Election 2016
- Report on Dáil General Election 2016

### April

- Report on the Investigation by the Standards in Public Office Commission of alleged contraventions of the Ethics in Public Office Acts 1995 and 2001 (the Ethics Acts) by Mr Richard Hickey, formerly a member of the former Family Support Agency.

### June

- Report on Annual Disclosure of Donations received by TDs, Senators and MEPs in 2016
- Report on Political Parties Disclosure of Donations received for 2016
- Report on Annual Statements of Expenditure of Exchequer Funding and Auditors' Report to the Chairman of Dáil Éireann in respect of 2016

### July

- Report on State funding of political parties and independent members under the electoral legislation and the Parliamentary Activities Allowance legislation for 2016
- Standards in Public Office Commission Annual Report 2016

### November

- Report on Political Parties' Statements of Accounts 2016

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## Appendix Two: Third Parties and Corporate Donors Registered in 2017

### List of Registered Third Parties 2017

- ADFAM
- Alliance for Freedom and Democracy
- Atheist Ireland
- BelonG to Youth Services \*
- The Charter Group
- Cherish all The Children Equally
- Choice Ireland
- Christian Solidarity Party
- Coalition to Repeal The Eighth
- CÓIR
- Education Equality
- Family & Life
- GLEN Campaign for Marriage \*
- Immigration Control Platform
- Independent Alliance
- Iona Institute
- Irish Council for Civil Liberties \*
- LGBT Equality Ltd. \*
- LGBT Noise \*
- Mandate for Marriage \*
- Marriage Equality \*
- Mayo Reform Movement
- Mothers and Fathers Matter
- National Campaign for the Arts
- The National Party
- Peace and Neutrality Alliance
- People's Movement

- Pro Life Campaign
- Right2Water
- RISE!
- Save Navan Hospital
- Seanad Reform Group / Democracy Matters
- Socialist Worker Party
- StandUP4Marriage \*
- TFMR Ireland
- Women for Election \*
- Vote with Us \*

\* Deregistered during 2017

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## List of Registered Corporate Donors 2017

- Aegis Safety Ltd
- Blue Insurance Limited
- CE Cladwell Estates Ltd
- C&R Print Ltd
- Cill Dara Betting Ltd
- The Community Foundation for Ireland Ltd
- Disability Federation of Ireland
- E.P Lynam Properties Ltd
- Fianna Fáil
- Gaming & Leisure Association of Ireland
- GMB Trade Union
- Golden Horseshoe Ltd
- Humanist Association of Ireland
- Impact
- Irish Nurses and Midwives Organisation
- INTO
- Irish Farmers Association
- Lagan Asphalt Ltd
- Mac Interiors Ltd
- Marketo EMEA Ltd
- Millennium Communications Cellular Ltc
- Refraction Ltd
- Restaurants Association of Ireland
- SIPTU
- Stella Doradus Europe Ltd
- Study in Ireland Ltd
- Unite Trade Union
- Transport Salaried Staff's Association
- Vintners Federation of Ireland CLG

## Appendix Three: Irish Human Rights and Equality Commission Act 2014

The *Irish Human Rights and Equality Commission Act 2014* introduces a positive duty on public bodies to have due regard to human rights and equality issues. The Office of the Ombudsman, which provides secretariat support to the Standards Commission, has adopted a proactive approach to implementing this duty. It has set up a staff working group, which has held a workshop on human rights and equality and met with the Irish Human Rights and Equality Commission. The working group is in the process of identifying all of the Office's functions and assessing what human rights and equality issues arise in relation to those functions. It will also identify the policies and procedures which are in place to address those issues. It will then propose an action plan for implementing the duty, on foot of its findings.

The Office is committed to providing a service to all clients that respects their human rights and their right to equal treatment. This is equally applicable to how it interacts with its own staff as it is essential in fostering a healthy work environment that promotes engagement, openness and dignity in the workplace. The Office's approach is underlined by the core organizational values of independence, customer focus and fairness, which are evident in both the culture of the Office and its internal policies and procedures. The Office has also been proactive in providing training to staff on human rights and equality.



