



**TITHE AN OIREACHTAIS**

**An Comhchoiste um Fhormhaoirsiú ar an tSeirbhís Phoiblí agus  
Achainíocha**

**Tuarascáil maidir le Dearadh agus Leagan Amach na bPáipéar Ballóide a  
úsáideadh i Reifreann an tSeanaid, Deireadh Fómhair 2013**

**Meitheamh 2014**

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**HOUSES OF THE OIREACHTAS**

**JOINT COMMITTEE ON PUBLIC SERVICE OVERSIGHT AND PETITIONS**

**Report on the Design and Layout of Ballot Papers used  
in the Seanad Referendum October 2013**

**June 2014**

**No. PSOP001**



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## **Chairman's Foreword**

Deputy Charles Flanagan, following the Seanad Referendum expressed concern in regard to voter confusion with the Seanad Ballot paper. The Joint sub-Committee on Petitions considered this matter at its meeting of 16 October 2013 and noted that the Department of Environment Community and Local Government is responsible for the various legislative codes dealing with the conduct of elections and referenda. It was agreed to investigate the issue further. In advance of inviting the Minister, members agreed to my recommendation that we would, initially, write asking the Minister to address the issues in relation to the design, text and language of the ballot papers. On 23 October 2013 the Clerk wrote to Minister Hogan, as follows;

“Following the consideration of the issue the Committee agreed that it would be useful to examine the issues raised, as part of its oversight brief. As a preliminary step the Committee agreed to seek clarification from you on a number matters as your Department is responsible for the various legislative codes dealing with the conduct of elections and referenda. Specifically the Committee is looking for clarification as to:

1. Which organisation is responsible for the design, text and language of the ballot paper as presented at polling stations?
2. The breakdown of the roles and responsibilities of each organisation in respect of referenda viz the Department of the Environment, Community and Local Government, the Referendum Commission and the Department of an Taoiseach, and the input of the other organisations (if any) in the process.

The Committee would like to examine this issue in more detail and are requesting that they receive a reply to the queries as raised on or before Monday 25<sup>th</sup> November 2013.”

On 29 November 2013, Minister Hogan replied and included a report prepared by Franchise Section, Department of Environment Community and Local Government on the questions raised.

The matter of 14,355 people spoiling their vote in a referendum to abolish the Seanad is a matter that should cause great concern. Deputy Flanagan, as I am myself, are at loss to know why so many voters spoiled their vote but of concern has to be the fact that the 'question', was for all intents and purposes, a double negative.

In this regard I note the Parliamentary Procedure and Practice, as set out in the Standing Orders, particularly in regard to the consideration of legislation. I am sure Dáil and Seanad members can experience confusion in voting when a question for decision is to always put in the positive, but the decision required is in the negative. If a consequence of agreeing an amendment to a Bill is that the Section of the Bill to which that amendment referred has to be deleted then that question must always be put in the positive - is it agreed that the Section stand part of the Bill? - but decided in the negative. If this causes confusion to politicians who vote on an almost daily basis, then I can understand how in the Seanad Referendum many of the public were confused.

The members were advised the format of the ballot paper has remained largely unchanged since 1963 - the same year that RTÉ Television went on-air. If the same pace of change applied to RTÉ as has applied to the format of ballot papers, then the Irish public would still be looking at a test card hoping that in the future there would be a one channel national television service that broadcasts for 4-5 hours per-day, in black and white.

In this report a number of recommendations are made and, in my mind, there are two 'key' recommendations, firstly, the members have agreed to revisit this report within the next six to twelve months to invigilate and examine the progress made in the implementation of the recommendations made, and; secondly, the Joint sub-Committee recommends a permanent electoral commission be established with a mandate to conduct research.

The establishment of a permanent electoral commission with a mandate to conduct research is, I feel vital. As I mentioned above, this report relates to 14,355 people spoiling their vote in a referendum to abolish the Seanad, however, in the May 2014 European elections there were

- 17,258 spoiled votes in the Midlands-north-west constituency;
- 6,368 spoiled votes in the Dublin constituency;
- 21,798 spoiled votes in the South constituency.

This is a total of 45,424 spoiled votes in an election to the European Parliament. In the Local Elections held on the same day there were over 19,400 spoiled votes and both I and the members have concerns at such a level of spoiled votes. Research is necessary and it is within the establishment of a permanent electoral commission with a mandate to conduct research and that such research must be undertaken and reported on to Dáil Éireann.

In conclusion I would like to express my appreciation to the Members of the Joint sub-Committee, and the Clerk, Mr. Ronan Lenihan; the Committee Secretariat Staff, Ms. Orla Scott and Ms. Anita Gibbons, Ms. Pauline O'Neill and Mrs. Margaret O'Donnell for their commitment and dedication.



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Pádraig MacLochlainn T.D.

Chairman

12 June 2014



## 1. Background to the Committees' concerns

On 10 October 2013, Deputy Charles Flanagan, following feedback from constituents after the Seanad Referendum where a number of people were very confused on what to fill out on the ballot paper and what they were actually voting for, contacted, by e-mail, the Chairman Deputy Pádraigh MacLochlainn, and raised the matter of the design, text and language of the ballot papers used at the referendum on the abolition of the Seanad which was held on the same day as the referendum to establish a Court of Appeals.

The Joint sub-Committee on Petitions considered this matter at its meeting of 16 October 2013 and noted that the Department of Environment Community and Local Government is responsible for the various legislative codes dealing with the conduct of elections and referenda. Deputy Flanagan requested that the Joint Committee invite the responsible body to appear before the Committee to address the issues raised. On the proposal of the Chairman it was agreed that the Joint Committee would, initially, write to the Minister asking him to address the issues.

On 29 November 2013, a reply was received from the Office of Minister Hogan which included a report [prepared by Franchise Section, Department of Environment Community and Local Government] on the questions raised. The report is on the Oireachtas website [see link below]

<http://www.oireachtas.ie/parliament/media/committees/psop/Report-from-Franchise-Section-Department-of-Environment-on-Ballot-Papers.pdf>

At the Joint sub-Committee meeting of 11 December consideration of correspondence received (including the letter from the Ministers office) was deferred to the next Joint sub-Committee meeting on 22 January 2014

As part of the report prepared by the Franchise Section, Department of Environment Community and Local Government, the Joint sub-Committee noted that the "*Once a Constitutional Amendment Bill has been initiated in the Dáil, a Referendum Commission may be established*" and within that context the Referendum Commission must submit a report to the Minister in relation to its

performance of the functions assigned to it not later than 6 months after the completion of the those functions [Section 14 of the referendum Act 1998].

For access to the Referendum Commission Report in relation to the referendum on the abolition of the Seanad please go to

<http://www.refcom.ie/en/Past-Referendums/Abolition-of-Seanad-Éireann/Report/Report-on-the-Referendums-on-the-Thirty-second-Amendment-of-the-Constitution-Abolition-of-Seanad-Éireann-Bill-2013-and-Thirty-third-Amendment-of-the-Constitution-Court-of-Appeal-Bill-2013.pdf>

In relation to the Ballot Papers, the Referendum Commission report sets out

*"The format of the ballot papers is set out in law – in the Referendum Act 1994 – and the Referendum Commission has no role in relation to either the content or appearance of the ballot papers. The Act provides that the subject of a referendum must be stated on the ballot paper by citing the short title of the Bill containing the proposal as passed by both Houses of the Oireachtas. The Commission's post-campaign research showed evidence of confusion among voters in relation to the ballot papers. There was significant confusion in relation to the Seanad Referendum ballot paper; a Yes vote on this meant the voter approved the proposal to abolish the Seanad. However, the research has shown that 13% of those surveyed and who said they voted Yes actually wanted to retain the Seanad.*

*6% of those surveyed who said they voted No wanted to abolish the Seanad. 55% of the sample reported that it was quite difficult or very difficult to tell from the Seanad ballot paper what they were being asked to vote for. 47% said this was the case in relation to the Court of Appeal ballot paper.*

*Consideration should be given to a review of the format of the ballot paper. International standards require that the question being put to voters must be clear. Clearer identification of each ballot paper is also essential where there is more than one referendum proposal on the same day."*

At the Joint sub-Committee meeting of 22 January the members agreed that further briefing on the issue was required and an invitation issued to Officials from the Franchise Section in the Department.

At the Joint Committee meeting of 16 April 2014 Officials from the Franchise Section in the Department briefed the Joint sub-Committee. The transcript of the meeting is available at

[http://oireachtasdebates.oireachtas.ie/Debates%20Authoring//WebAttachments.nsf/\(\\$vLookupByConstructedKey\)/committees~20140416~NVJ/\\$File/Daily%20Book%20Unrevised.pdf?openelement](http://oireachtasdebates.oireachtas.ie/Debates%20Authoring//WebAttachments.nsf/($vLookupByConstructedKey)/committees~20140416~NVJ/$File/Daily%20Book%20Unrevised.pdf?openelement)

The presentation made to the Joint sub-Committee can be accessed at

<http://www.oireachtas.ie/parliament/media/committees/psop/Opening-Statement-by-Department-of-Environment,-Community-and-Local-Government-Franchise-Section-.pdf>



## 2. Issues considered

Deputy Charles Flanagan in raising the issue of the design, text and language of the ballot papers used at the referendum on the abolition of the Seanad was concerned that 14,355 people spoiled their vote. Members, from first-hand experience of being out and about on the day, indicated that they have never had so many people complain about the structure and format of the ballot paper. Deputy Flanagan noted that the same format was used on other occasions but the double negative was an issue and anytime one is asked a double negative there will be confusion. Therefore, the concern was deliver a ballot paper that is more voter or user-friendly without interfering with the gravity of the questions

Over the course of the Committee's consideration the following issues were identified and raised at the Joint Committee meeting of 16 April 2014 with officials from the Franchise Section in the Department of Environment Community and Local Government

- A. The format of the ballot paper has remained largely unchanged since 1963;
- B. Acceptance that the research by the Referendum Commissions is significant and warrants action;
- C. The type of comparisons used in the research work relating to this referendum and previous referenda regarding the confusion issue;
- D. The issue of holding multi-referenda on the one day;
- E. The possibility of 'proofing the wording formula' by the Supreme Court in advance of it being put on a ballot paper;
- F. Will the Government's proposal always be signified by a "Yes"? When a question is put is it always the Government's proposal that one is asked to vote "Yes" on?



### 3. Report of the Joint sub-Committee

*A. The format of the ballot paper has remained largely unchanged since 1963;*

In evidence to the Joint sub-Committee, the Department officials advised that;

“The format of the ballot papers in the autumn 2013 referendums was in accordance with the law, as set out in section 24 of the Referendum Act 1994. The two key requirements in the context of the present considerations are compliance with the form of ballot paper set out in Part 1 of the Second Schedule to the 1994 Act, and that the referendum proposal is stated on the ballot paper by citing the short title of the Bill as passed by both Houses of the Oireachtas. Section 24 of the Act provides that the Minister may by order, following a resolution of the Houses of the Oireachtas approving that order, provide for the inclusion on the ballot paper of a heading indicative of the referendum proposal. This was done on a number of occasions for referendums. For example “British-Irish Agreement” and “Treaty of Amsterdam” were on ballot papers for two referendums held together in 1998. In these cases the titles of the respective Bills did not include any reference to the referendum proposal. The format of the ballot paper for the autumn 2013 referendum on the Seanad complied with these requirements. The need for a heading, indicative of the referendum proposal, did not arise as the Short Title of the Bill included a clear reference to the referendum proposal, “Abolition of Seanad Éireann”.

It is worth noting the format of the ballot paper has remained largely unchanged since 1963. Since then the text of every referendum proposal has been prefaced with the question “Do you approve of the proposal to amend the Constitution contained in the under-mentioned Bill?”, followed by an instruction to mark either the “Yes” box or the “No” box. We have had 35 referendums since 1963.”

In considering that the format of the ballot paper has remained largely unchanged since 1963 Senator O’Keeffe expressed concern that

“...we can move on and acknowledge the importance of this research and state it needs to be changed. ... I hope the witnesses will tell us this is what will happen and that the Department is seeking a positive way to change it so we do not have to come back after the next referendum and have another conversation in which somebody states we have been doing it this way for 50 years so there is no way we can change it”.

The officials clarified that

“We are not stating we have been doing this for 50 years so it cannot be changed. We are stating it has been considered on a number of occasions over this time, but this does not mean it cannot be changed or does not need to be changed. The Referendum Commission stated what it felt was required was further research. It is important that in examining this we include the widest possible research, including the considerable research in the UK which I mentioned in my presentation. We must do our own research and examine our experience in that regard. The point I was trying to make is that when people vote “Yes” or “No” they are deciding on legislation. The Seanad Bill is a good example, as there were a number of consequential changes. Therefore, people were voting on whether they wished to change the Constitution to insert all of these other changes in it. In that case to have simply have put a question such as, “Do you wish to abolish the Seanad?”, would not have stood up legally afterwards.

We are not saying it cannot be changed but that it is important to hold onto the legal aspects and find a way of removing the confusion that exists to the greatest extent possible.

With regard to the wording used, we must be particularly careful because there are constitutional constraints that will have to be borne in mind. If one looks at the words used in Articles 46 and 47 of the Constitution, they give very little manoeuvre for changing what one

might put on a ballot paper without being subject to some type of legal action. Article 46.2° refers to "Every proposal for an amendment of this Constitution..." - note the word "amendment" - and 46.3° refers to "An Act to amend the Constitution", while 46.5° refers to "a proposal for the amendment of this Constitution". Against that background it is very difficult to come up with a question that might pass legal muster other than the one that is there, "Do you approve of the proposal to amend the Constitution?" It is quite constraining. It is part of our job to point out these difficulties to the committee, so they are taken into account in its consideration of what it believes must be done.

On the point about research and the UK research, it is quite instructive to look at them. The Senator said the UK does not have referenda, or does not have them very often. That is indeed true, but it is facing one about its membership of the EU and Scotland is also facing a referendum about its proposal to break away from the UK union. Quite extensive research has been done in both areas regarding the wording. It is interesting to see it because it reflects some of the difficulties that can arise with regard to the use of language. The European proposal started as, "Do you think that the United Kingdom should be a member of the European Union?". This was the initial question but it was found to be a bad question. It appears fairly straightforward to me, per the average Joe Soap; I do not know what the Senator thinks of it. It is asking whether one wishes to be in the European Union or not. However, they found two things wrong with that. They found that the phrase "do you think" should be changed to "should" for a number of intellectual reasons that we need not go into here. Then they encountered difficulty with the phrase "the United Kingdom should be a member of the European Union". The difficulty was that some people did not realise that the UK is already a member of the European Union, so how was that to be addressed? It had to be put into a neutral phrase, "Should the United Kingdom remain a member of the European Union?"

*B. On the question "Is there an acceptance that the research that was done is significant?" the members were advised*

In evidence to the Joint sub-Committee, the Department officials advised that;

"The answer to that is "Yes". In fact, it is part of what we hope will come out of today's meeting, and the committee's deliberations on this would be factored into wherever we move forward on this. Our opening statement was meant to be more informative than defensive. It was not meant to be defensive of the *status quo*. In fact, if one looks at how it finished, we said that if there are changes we need to be careful. I would be worried if there was a perception that there is a simple solution to this and that we can simply go into plain English. Any solution to this will not be that simple. That is the message we are giving."

*C. The type of comparisons used in the research work relating to this referendum and previous referenda regarding the confusion issue;*

In reply the officials advised members that:

"This was the first time the Referendum Commission asked the confusion question. It would have looked at a number of other issues in previous research, but that specific question was not asked previously. That is one of the reasons the commission has raised the issue and says it now requires further research".

*D. Holding multi-referenda on the same day*

Deputy Kitt advised member that the Constitutional Convention may make a proposal in regard to the holding of multi-referenda day between now and the next general election.

In reply the officials advised members that:

“With regards design, in more recent years separate and different coloured paper has been used in an attempt to eliminate confusion in cases where one has more than one referendum. We know that when there are multiple referendums the number of spoiled votes tends to rise in comparison with a single referendum. As Mr. Falvey mentioned earlier, there was a time when the title of the referendum did not include what its purpose was. That led to a lot of confusion because one might have to vote on three different referendums just using the number of the referendum but all of them were on the same paper. To remove that confusion we now use a separate paper with the title included. The statistics have shown that one tends to have more spoiled votes in a multiple referendum.”

*E. The proofing of the wording formula by the Supreme Court in advance of it being put on a ballot paper,*

In reply the officials advised members that:

“the legislation does not provide for that. ... The legislation provides, and I am not suggesting it might not be reviewed in years to come, that the Short Title of the Bill must appear on the face of the ballot paper. In years gone by there was something of a problem with that, in the sense that it might just read, for example, “The Fifth Amendment of the Constitution Bill”, and one could well imagine somebody going to the polling booth and wondering what the fifth amendment is about. There was a provision in the legislation, as was said in the opening comments, about including a heading which helped. In more recent years, however, if one thinks of the last amendment, whatever its number was, it included the abolition of the Seanad in brackets, so one got an indication, at least, of what was involved. That is the law. There is no provision in the law for subjecting the wording to examination by the courts before it appears on the ballot paper”.

F. *Will the Government's proposal always be signified by a "Yes"? When a question is put is it always the Government's proposal that one is asked to vote "Yes" on?*

*Deputy Kitt advised member that "A referenda is not like a local, general or European election where one can clearly vote for people and parties and one has sight of what one votes for. The general rule of thumb, down through the years, has been that when the question is put, that the Government favours a "Yes" vote. Therefore, if one supports the Government then the decision is simple and one votes "Yes". However, if one does not support the Government then one can vote "No". I am being very simplistic about the matter but a lot of people would say "This is what such a party is saying yet I belong to another party or no party" and vote accordingly."*

In reply the officials advised members that:

*"The legislation dictates that. One is asked the question "Do you want to amend the Constitution in line with the Bill or legislation proposed? ... ..Technically, it is an Oireachtas proposal."*

In this regard the Joint sub-Committee is aware of Parliamentary Procedure and Practice, as set out in the Standing Orders, particularly in regard to the consideration of legislation. Herein, even Dáil and Seanad members can experience confusion in voting due to how a question for decision is to put in the positive. If an amendment is agreed and a consequence of agreeing that amendment is that the Section of the Bill to which that amendment referred that has to be deleted that question must always be put in the positive; that the Section stand part of the Bill, but decided in the negative.

## Recommendations:

The Committee noted that while the design and layout is determined by legislation this alone will not address the issue of the confusion among voters in relation to the recent abolition of the Seanad referendum. The Committee agreed that while it may be that this issue can only be resolved through amending legislation, it would be remiss of the members not to note a major public oversight that must be addressed.

Members were advised by officials that

“The Deputy may have noticed that the Referendum Commission, in its report, stated that it was the first time it felt that it had enough time to carry out a campaign. The aim would be to ensure that the commission has enough time to present information in a way that is most beneficial,...”.

Members are most anxious about this reply as it indicates *“the Referendum Commission, in its report, stated that it was the first time it felt that it had enough time to carry out a campaign.”* As Deputy O’Snodaigh noted “this debate points to the need for a permanent electoral commission that could deal with these issues on an ongoing basis.”

1. The Joint sub-Committee recommends that the Minister examine the legislation with a view to having it modernised, that which was acceptable in referenda 50 years ago, is not necessarily ‘fit-for-purpose’ in 2014 and forward to 2064.

It is worth noting the format of the ballot paper has remained largely unchanged since 1963 – members note that RTÉ was established in 1963 and if the same pace of change applied to RTÉ since then as has applied to the format of a ballot papers, then the Irish public would only have a 1 channel national television service that broadcasts for only 5-6 hours per day, in black and white. This would not be accepted and the format of a referendum ballot paper should also ‘evolve’. Members note that over the same time period there have been significant changes in the layout of

General Election ballot papers which now include a colour photograph of each candidate.

2. The Joint sub-Committee recommends that the Minister examine the legislation with a view to modernising how a question is posed.

Officials advised members *"...the format of the ballot paper has remained largely unchanged since 1963. Since then the text of every referendum proposal has been prefaced with the question "Do you approve of the proposal to amend the Constitution contained in the under-mentioned Bill ..."* Members are aware of the parliamentary practice of always putting a question in the positive and the consequence of confusion that results in a double negative. The view of members is that the legislation needs to be changed and the words *"contained in the under-mentioned Bill"* needs to be addressed. The Oireachtas enacts the legislation and the Oireachtas should legislate to change how the question is put so as to negate a question being a double negative.

3. The Joint sub-Committee recommends a permanent electoral commission be established with a mandate to conduct research.

This research should include how:-

- To better distribute information, including through the use of internet and social media technologies;
- Holding multi-referenda or a national election and referendum on the one day;
- The colour and lay out of ballot papers;
- Recording, classification and collation, of statistical returns by Returning Officers to the Electoral Commission in relation to spoiled votes. As mentioned in the Chairman's preface, this report relates to 14,355 people spoiling their vote in a referendum to abolish the Seanad, however, in the May 2014 European and Local elections there were
  - 17,258 spoiled votes in the European Midlands-north-west constituency;

- 6,368 spoiled votes in the European Dublin constituency;
- 21,798 spoiled votes in the European South constituency;
- In the Local Elections there were over 19,400 spoiled votes;

Members have concerns at such a level of spoiled votes. Research is necessary and it is within the establishment of a permanent electoral commission with a mandate to conduct research the Joint sub-Committee further recommends that the results of all such research undertaken be reported to Dáil Éireann by the laying of reports not less than annually. The Joint sub-Committee will return to this issue within six to twelve months when the Joint sub-Committee will conduct a review as to the progress made in regard to the recommendations made in this report.

4. The Joint sub-Committee recommends that the Minister examine the possibility of 'proofing the wording formula' by some means (Supreme Court, Referendum Commission etc.) in advance of it being put on a ballot paper. In this regard both the use of plain English and the phraseology of same is vitally important.
5. The Joint sub-Committee will revisit this report within six to twelve months to examine what action has been taken in regard to its recommendations.

## Appendix 1: Members of the Joint Committee

### List of Members of the Joint Oireachtas Committee on Public Service Oversight and Petitions

Chairman: Pádraig MacLochlainn, (SF)

Vice Chairman: Derek Nolan (LAB)

Deputies: Richard Boyd-Barrett, (IND)  
John Halligan, (IND)  
Charles Flanagan (FG)  
Noel Harrington, (FG)  
Seamus Kirk, (FF)  
Michael P. Kitt, (FF)  
Michael Healy-Rae, (IND)  
Helen McEntee, (FG)  
Michelle Mulherin, (FG)  
Aengus Ó'Snodaigh, (SF)  
Patrick O'Donovan, (FG)  
Sean Kenny, (LAB)  
Jack Wall, (LAB)

Senators: Tony Mulcahy, (FG)  
Susan O'Keeffe, (LAB)  
Jimmy Harte, (LAB)  
Trevor Ó'Clochartaigh, (SF)  
Ned O'Sullivan (FF)

1. Deputy Seán O Feraghail was appointed in place of Deputy Dara Calleary on 28 February 2012
2. Senator Thomas Byrne was appointed in place of Senator Darragh O'Brien on 14 June 2012
3. Deputy Richard Boyd-Barrett was appointed in place of Deputy Mick Wallace on 27 June 2012
4. The Committee on Investigations, Oversight and Petitions was renamed the Committee on Public Service Oversight and Petitions on 11 July 2012
5. Deputy Noel Harrington was appointed in place of Deputy John Paul Phelan on 28 November 2012
6. Deputy Peadar Tóibín resigned as Chairman with effect from 10 December 2012
7. Senator Thomas Byrne was discharged from the Committee on 19 December 2012
8. Deputy Pádraig Mac Lochlainn was appointed in place of Deputy Peadar Tóibín on 16 January 2013 and was elected as Chairman to the Committee on 30 January 2013.
9. Deputy Mick Wallace was appointed in place of Deputy Joan Collins on 23 January 2013
10. Deputy Seamus Kirk was appointed in place of Deputy Charlie McConalogue on 18 July 2013
11. Deputy Michael P. Kitt was appointed in place of Deputy Seán ÓFerghail on 18 July 2013
12. Deputy Helen McEntee was appointed in place of Deputy Peter Mathews on 18 July 2013
13. Deputy Jack Wall was appointed in place of Deputy Michael Conaghan on the 7 October 2013.
14. Deputy Willie Penrose was appointed in place of Deputy Michael McCarthy on the 9 October 2013.
15. Deputy John Halligan was appointed in place of Deputy Mick Wallace on 5 February 2014
16. Deputy Patrick O'Donovan was appointed in place of Deputy Alan Farrell on the 12 February 2014
17. Deputy Sean Kenny was appointed in place of Deputy Willie Penrose on the 5 March 2014
18. Senator Ned O'Sullivan was appointed on the 6 March 2014

## Appendix 2: Orders of Reference of the Joint Committee

### Orders of Reference of the Joint Committee on Public Service Oversight and Petitions

That, notwithstanding anything in Standing Orders—

- (1) the Order of the Dáil of 8th June, 2011 relating to the Joint Committee on Investigations, Oversight and Petitions, as amended by the Order of the Dáil of 29th September, 2011, is amended—
  - (a) in paragraph (1) by the deletion of all words from and including “Investigations,” down to and including “2011” and the substitution of “Public Service Oversight and Petitions, to consider the activities specified in Standing Order 165A.”, and
  - (b) by the deletion of paragraphs (2) and (3) and the substitution of the following:
    - “(2) Standing Orders 165A to 165E, inclusive, shall apply to the Joint Committee.”,
- and
- (2) the Order of the Dáil of 9th June 2011 relating to membership of the Joint Committee on Investigations, Oversight and Petitions is amended by the deletion of all words from and including “Investigations, Oversight and Petitions” and the substitution of “Public Service Oversight and Petitions”.
- (3) until further notice in the 31st Dáil, the Standing Orders of Dáil Éireann relative to Public Business are hereby amended—
  - (i) by the adoption of the following additional Standing Orders:

“Joint Committee on Public Service Oversight and Petitions.

165A. (1) There shall stand established, following the reassembly of the Dáil subsequent to a General Election, a Standing Committee, which shall be joined with a similar Committee of the Seanad, to form the Joint Committee on Public Service Oversight and Petitions.

(2) The Standing Committee shall consist of fifteen members of Dáil Éireann. The quorum of the Joint Committee shall be six, of whom at least one shall be a member of Dáil Éireann and one a member of Seanad Éireann. The Chairman of the Joint Committee shall be a member of Dáil Éireann.

(3) The Joint Committee shall have oversight of public service delivery generally, with a particular focus on investigating and identifying improvements in the delivery of such services to citizens.

(4) (a) There shall stand established, following the reassembly of the Dáil subsequent to a General Election, a sub-Committee which shall be called the sub-Committee on the Ombudsman, which shall be joined with a similar sub-Committee of the Seanad Committee, to form the Joint sub-Committee on the Ombudsman.

(b) The sub-Committee shall consist of all fifteen members of the Standing Committee. The quorum of the Joint sub-Committee shall be six, of whom at least one shall be a member of Dáil Éireann and one a member of Seanad Éireann. The Chairman of

- the Joint Committee shall be the Chairman of the Joint sub-Committee.
- (5) (a) There shall stand established, following the reassembly of the Dáil subsequent to a General Election, a sub-Committee which shall be called the sub-Committee on Public Petitions, which shall be joined with a similar sub-Committee of the Seanad Committee, to form the Joint sub-Committee on Public Petitions.
- (b) The sub-Committee shall consist of all fifteen members of the Standing Committee. The quorum of the Joint sub-Committee shall be six, of whom at least one shall be a member of Dáil Éireann and one a member of Seanad Éireann. The Chairman of the Joint Committee shall be the Chairman of the Joint sub-Committee.
- (6) Without prejudice to the generality of paragraph (3),
- (a) the Joint sub-Committee on the Ombudsman shall consider—
- (i) the reports of the Ombudsman which are laid before the Houses of the Oireachtas under the Ombudsman Acts 1980 to 1984,
- (ii) motions pursuant to section 2 of the Ombudsman Act 1980, which shall stand referred to the Joint Committee for consideration and report to the Houses of the Oireachtas thereon, and
- (iii) such other matters as may be referred to the Joint sub-Committee by the Houses of the Oireachtas,
- (b) the Joint sub-Committee on Public Petitions shall consider—
- (i) public petitions addressed to the Houses of the Oireachtas which shall stand referred to the Joint sub-Committee in accordance with Standing Orders 165B to 165E, inclusive, and
- (ii) such other matters as may be referred to the Joint sub-Committee by the Houses of the Oireachtas,
- (c) the Joint Committee shall consider—
- (i) the quality and standards of public service delivery informed by its sub-Committees' consideration of the reports and petitions under paragraphs (a) and (b), including the effectiveness of public service complaints and redress systems,
- (ii) such other matters as may be referred to the Joint Committee by the Houses of the Oireachtas, and
- (iii) any other related matters.
- (7) The Joint Committee and the Joint sub-Committee on Public Petitions shall have the following powers:

- (a) the powers defined in Standing Order 83, other than paragraphs (2A), (4A), (4B) and (6A) thereof; and
  - (b) power to refer any matter which has been considered by it (and which has been concluded to be of sufficient importance to require additional consideration) to the relevant Joint Committee appointed under Standing Order 82A for further consideration and report back to the Committee.
- (8) The Joint sub-Committee on the Ombudsman shall have the following powers:
- (a) the powers defined in Standing Order 83, other than paragraphs (4A), (4B) and (6A) thereof; and
  - (b) power to refer any matter which has been considered by it (and which has been concluded to be of sufficient importance to require additional consideration) to the relevant Joint Committee appointed under Standing Order 82A for further consideration and report back to the Committee.
- (9) Each Joint sub-Committee shall have the power to report directly to the Dáil
- (10) The provisions of Standing Order 92, other than paragraph (1) thereof, shall apply to the Joint Committee and its sub-Committees.
- (11) In carrying out their roles under this Standing Order—
- (a) the Joint sub-Committee on the Ombudsman—
    - (i) shall agree guidelines on collaborative working between the Joint sub-Committee and the Ombudsman, including a right of initiative for the Joint sub-Committee in bringing specific matters to the attention of the Ombudsman, and
    - (ii) may liaise with such other Ombudsmen, regulatory public bodies or bodies established for the purpose of redress, as the Joint sub-Committee considers appropriate,
  - (b) the Joint sub-Committee on Public Petitions may engage with the Committee on Petitions of the European Parliament including in relation to the European Citizens' Initiative.
- (12) It shall be an instruction to the Joint Committee and its sub-Committees that they shall not consider any matter which is being considered, or of which notice has been given of a proposal to consider, by the Committee of Public Accounts pursuant to Standing Order 163 and/or the Comptroller and Auditor General (Amendment) Act 1993.
- (13) The Joint Committee shall prepare an annual work programme and an annual report as outlined in Standing Order 86, which shall be laid before both Houses of the Oireachtas.
- (14) The Joint Committee shall review its role generally on

an ongoing basis and may make recommendations for change by way of report to the Committees on Procedure and Privileges of both Houses.

Lodging a petition.

165B. (1) A petition may be addressed to the Houses of the Oireachtas on a matter of general public concern or interest in relation to their legislative powers or an issue of public policy.

(2) A petition may be lodged by an individual person, a body corporate or an unincorporated association of persons.

(3) A petition shall clearly indicate—

- (a) the name of the petitioner;
- (b) an address of the petitioner to which all communications concerning the petition should be sent; and
- (c) the name and address of any person supporting the petition.

(4) All petitions addressed to the Houses of the Oireachtas shall stand referred to a Committee or sub-Committee empowered to consider petitions under this Standing Order and Standing Orders 165C, D and E (referred to in this Standing Order and Standing Orders 165C, D and E as “the Committee”).

(5) The Committee shall, from time to time, determine—

- (a) the proper form of petitions,
- (b) the manner in which petitions are to be lodged with the Houses, and
- (c) such other matters in relation to the consideration of petitions as the Committee considers appropriate and which are not otherwise provided for in these Standing Orders.

Admissibility of petitions.

165C. (1) A petition is admissible unless it—

- (a) requests the Dáil to do anything other than the Dáil has power to do;
- (b) does not comply with Standing Orders or is otherwise not in proper form;
- (c) is *sub judice* within the meaning of Standing Order 57;
- (d) contains the name or names of individuals;
- (e) contains language which is offensive or in the nature of being defamatory;
- (f) is the same as, or in substantially similar terms to, a petition brought by or on behalf of the same person,

- body corporate or unincorporated association during the lifetime of that Dáil and which was closed by agreement of the Committee;
- (g) is frivolous, vexatious or otherwise constitutes an abuse of the petitions system;
  - (h) requires the Committee to consider an individual complaint which has been the subject of a decision by the Ombudsman, by another Ombudsman, or by a regulatory public body or a body established for the purpose of redress.

(2) In relation to admissible petitions, where a petition deals with

- (a) local or regional matters,
- (b) matters which are more appropriate to a regulatory public body or a body established for the purpose of redress,

the Committee shall establish that all available avenues of appeal or redress have been utilised by the petitioner prior to the Committee considering the matter.

(3) The Committee shall consider and decide in a case of dispute whether a petition is admissible and shall notify the petitioner of its decision and of the reasons for that decision.

Action on petitions.

- 165D. (1) If a petition is admissible, the Committee shall take such action as it considers appropriate in relation to that petition.
- (2) Without prejudice to the generality of paragraph (1), the Committee may—
- (a) refer the petition to the Ombudsman, another Ombudsman or a regulatory public body or a body established for the purpose of redress;
  - (b) refer the petition to any other Committee as it considers appropriate, with a request for further consideration and report back to the Committee;
  - (c) report to the Dáil with recommendations, including a request that the report be debated by the Dáil
- (3) The Committee shall notify the petitioner of any action taken under paragraph (2).

Closing of petitions.

- 165E. (1) The Committee may close a petition at any time.
- (2) Where the Committee closes a petition it shall notify the petitioner that the petition is closed and of the reasons for closing it.”,

and

- (ii) by the insertion in Standing Order 82 of the following subparagraph after paragraph (2)(c):

“(ad) that it shall not consider any matter which is being considered, or of which notice has been given of a proposal to consider, by the Joint Committee on Public Service Oversight and Petitions in the exercise of its functions under Standing Order 165A.”.