



An Coiste um Leasanna Chomhaltaí Dháil Éireann

**An tAcht um Eitic in Oifigí Poiblí, 1995, arna leasú leis an Acht um
Chaighdeáin in Oifigí Poiblí, 2001**

**Tuarascáil ar Thorthaí Imscrúdaithe ag an Roghchoiste um Leasanna
Comhaltaí de chuid an 31^ú Dáil Éireann maidir leis an Teachta Clare Daly**

Meitheamh 2014

Committee on Members' Interests of Dáil Éireann

**Ethics in Public Office Act, 1995 as amended by the Standards in Public
Office Act 2001**

**Report of the Results of an Investigation by the Select Committee on
Members' Interests of the 31st Dáil Éireann concerning Deputy Clare Daly**

June 2014

COMMITTEE ON MEMBERS' INTERESTS OF DÁIL ÉIREANN

1. Introduction

The Committee on Members' Interests of Dáil Éireann (the "Committee") is a standing committee pursuant to Standing Order 101 of the Standing Orders relative to Public Business of Dáil Éireann and section 8 of the Ethics in Public Office Act 1995 (the "1995 Act") as amended by the Standards in Public Office Act 2001 (the "2001 Act") (collectively referred herein after as "the Acts").

One of the functions of the Committee is to carry out investigations where a complaint is referred or made to the Committee, or if the Committee considers it appropriate to do so. The Committee has the power to investigate whether:

- (1) a member has contravened section 5 or 7 of the 1995 Act as amended; or
- (2) has done a specified act as defined in section 4 of the 2001 Act.

2. Background to the Investigation

The Select Committee on Members' Interests of Dáil Éireann (the "Committee"), at its meeting on the 14th of May 2014, availed of the originating jurisdiction in section 9(1) of the Ethics in Public Office Act 1995, as amended, to carry out an investigation into the usage by Deputy Clare Daly of certain of her Oireachtas pre-paid envelopes in support of certain local election candidates.

Ordinarily, the genesis of Ethics investigations is a complaint from the member of the public supported by physical evidence of the alleged misuse in question, for example an Oireachtas pre-paid envelope. However, in this instance the matter came before the Committee as a result of the member in question seeking the advice of the Committee pursuant to section 12 of the Ethics in Public Office Act 1995, as amended. In the circumstances, the Committee considered it appropriate to carry out an investigation to determine whether the member in question has 'done a specified act'.

Deputy Daly initially corresponded with the Standards in Public Office Commission when the misuse came to light, which in turn advised her to seek the guidance of the Committee on such matters. Deputy Daly wrote to the Chair of the Committee on the 6th of May 2014 indicating that she had used no more than 500 pre-paid Oireachtas envelopes in the course of canvassing for certain local election candidates and that she was seeking the advice of the Committee on the matter. Deputy Daly indicated in her request for advice that her staff were not aware of the different protocols in place during an election and that the envelopes in question would be declared by the

candidates in question as a political donation. Further, Deputy Daly outlined her intention to either repay the amount involved or, alternatively, have the corresponding amount of envelopes used deducted from her future envelope allowance.

3. Investigation by the Committee

As the Committee had availed of its originating jurisdiction, it was tasked with the role of determining whether the admitted misuse of envelopes in this case constituted a breach of the Ethics in Public Office legislation, specifically whether the misuse constituted a specified act. The Committee caused to be prepared a statement of contravention and written procedures for the conduct of an investigation, in accordance with the legislative provisions. By letter dated 20th of May 2014, these documents (copies of which are attached at Appendix A hereto), were furnished to Deputy Daly.

Following receipt by Deputy Daly of the letter from the Committee dated the 20th of May 2014, Deputy Daly reverted to the Clerk of the Committee on the 5th of June stating that *“she was sorry that this error occurred, as my staff were not familiar with election protocol as this is the first time I contested an election as an independent”*. She continued by stating that *“I have been in contact with the Houses of the Oireachtas and have refunded the relevant monies”*. A copy of the relevant receipt was enclosed with the correspondence.

4. Determination of the Committee in relation to the matter

The Committee met in private, on the 11th of June 2014, for the purpose of deliberating over the Deputy’s response and to give consideration to the matter. Having duly considered the matter and the circumstances of the case in its entirety, the Committee has now concluded its investigation of this complaint and has set out its findings as follows;

- (i) noted that members of the Oireachtas receive a monthly allocation of prepaid envelopes and that this allocation is qua membership of a particular House. The Committee further noted that these prepaid envelopes were made available to Deputies in respect of their duties as public representatives only;
- (ii) was of the view that the use of Oireachtas prepaid envelopes by a member of Dáil Éireann in support of candidates in the local elections was both inconsistent with the proper performance of a Deputies function and with the maintenance of confidence in such performance by the general public;

- (iii) noted the seriousness of any misuse of Oireachtas envelopes. However, having regard to the explanation given by the Deputy, including the fact that the Deputy had reimbursed the Houses of the Oireachtas for the envelopes so used, the Committee did not believe that the matter constituted one of "significant public importance"; and
- (iv) determined that the Deputy had not committed a "specified act" within the meaning of the Ethics Acts and, consequently, that no action would be taken against the Deputy.

The Committee has directed that this report, prepared pursuant to section 10(1) of the Acts, be furnished to Deputy Daly.

Further, in accordance with Standing Order 101 of the Standing Orders relative to Public Business of Dáil Éireann, the Committee agreed that a copy of the report shall be laid before Dáil Éireann forthwith.

A handwritten signature in black ink, appearing to read 'T. Pringle', written in a cursive style.

Thomas Pringle T.D.
Chairman
Committee on Members' Interests of Dáil Éireann

11th June 2014

APPENDIX A

STATEMENT OF ALLEGED CONTRAVENTION

Deputy Clare Daly,
Leinster House,
Dublin 2.

By email dated 6th May, 2014, you sought the advices of the Select Committee on Members' Interests of Dáil Éireann (the "Committee") in circumstances whereby a portion of your pre-paid Oireachtas envelopes "*were used to post letters in relation to support for local election candidates*". Specifically, you admitted that up to but not more than 500 pre-paid Oireachtas envelopes were used in this manner.

You further indicated that your staff were not aware of the different protocols in place during an election and that the envelopes in question are now to be declared by the candidates in question as a political donation. Finally, you outlined in your email that you intend to either repay the amount involved or, alternatively, have the corresponding amount of envelopes used deducted from your future envelope allowance.

The Committee considered this correspondence at its meeting on the 14th inst & in the circumstances considered it appropriate to avail of the originating jurisdiction contained in section 9(1) of the Ethics Act to commence an investigation to determine whether you have contravened section 5 or section 7, or did a 'specified act' within the meaning of the Standards Act. Section 5 of the Ethics Act relates to the obligation of members to prepare a statement of registrable interests and is not of relevance in this instance. Similarly, section 7 of the Ethics Act, which relates to declarations of interest by members in Oireachtas proceedings, is not of relevance in this instance. That being the case, **this Committee hereby notifies you that it shall investigate and determine whether the conduct referred to above, specifically the use of pre-paid Oireachtas envelopes in the manner specified above, was such as to constitute the doing by you of a 'specified act' within the meaning of the ethics legislation, as detailed hereunder:**

s9(1) Ethics Act: Where a complaint is referred or made to a Committee under [section 8](#), or a Committee considers it appropriate to do so in the case of a member (other than a member who is or, at the relevant time, was an office holder), it shall carry out an investigation to determine whether the member concerned has contravened [section 5](#) or [7](#), or done a specified act, as the case may be.

'Specified act' is provided for in the Standards Act as follows:

s4.(1) Where a person (“the complainant”) considers that-
(a) a specified person or a person who, in relation to a specified person, is a connected person may have done an act or made an omission after the commencement of section 2 that is, or the circumstances of which are such as to be inconsistent with the proper performance by the specified person of the functions of the office or position by reference to which he or she is such a person or with the maintenance of confidence in such performance by the general public, and the matter is one of significant public importance,

the complainant may make a complaint in relation to the matter to the Commission.

s4(6) (b) Without prejudice to the generality of the expression “significant public importance “ in subsection (1), a matter shall, if the Commission consider it appropriate to do so having regard to all the circumstances, be deemed by it, for the purposes of that subsection, to be of significant public importance if it relates to a benefit alleged to have been received by a specified person or a person who, in relation to a specified person, is a connected person and, in the opinion of the commission, the value of the benefit was, is or might have been or be expected to be or to become not less than £10,000.”

Schedule 1 of the Standards Act reads as follows:

‘Specified act’ means an act or omission referred to in section 4(1) (a) of the Act of 2001 and references to the doing of a specified act include references to the making of such an omission and cognate words shall be construed accordingly, but references, in relation to a member, to a specified act shall be construed as if the references in the said section 4(1) (a) to the performance by the specified person of the functions of the office or position by reference to which he or she is such a person were references to the performance by the member of the functions of the office of member.”

This Committee proposes to conduct its investigation in private on Wednesday the 11th June, 2014.

Yours sincerely,

T. Pringle

Thomas Pringle TD
Chairman
Committee on Members' Interests of Dáil Éireann.

20 May 2014

Memorandum of Procedures on the conduct of the investigation by the Select Committee on Members' Interests of Dáil Éireann (the "Committee") in relation to the use by Deputy Clare Daly of a portion of her pre-paid Oireachtas envelopes in support of certain local election candidates.

1. The Committee will conduct its investigation in accordance with this memorandum of procedures and in accordance with the provisions of the Ethics in Public Office Act, 1995 as amended (the "Ethics Act") and the Standards in Public Office Act, 2001 (the "Standards Act").
2. The Committee will hold sittings for the purpose of its investigation into this matter.
3. The Committee's sittings shall be conducted in private.
4. The Committee shall notify Deputy Daly of the date, time and place of each sitting of the Committee, other than private sittings held for the purpose of deliberation.
5. The Committee shall enable Deputy Daly to be present at the relevant sittings of the Committee, other than private sittings held for the purpose of deliberation.
6. The Committee shall receive all evidence in written format and Deputy Daly will be afforded the opportunity to present her case, submit and rebut evidence in person or through a legal representative, in written format (subject to her right to call witnesses - please see below).
7. The Committee may invite or direct in writing Deputy Daly or any other person whose evidence is required by the Committee to attend before the Committee on a date and at a time and place as specified in the invitation or direction.
8. The Committee may direct in writing any person (other than Deputy Daly) to give evidence, to produce and or send to the Committee any document or thing in his or her possession or power as specified in the direction. Notwithstanding this, the Committee may test the evidence before it by inviting Deputy Daly, in writing, to supplement any evidence she may voluntarily produce and/or clarify aspects of her evidence.
9. Without prejudice to the foregoing, the Committee may give any other direction for the purposes of the proceedings that appear to be reasonable and just.
10. The Committee may, for sufficient reason if it considers it appropriate to do so, arrange for the examination of a person in or outside the State by a member of the Committee or the Committee's legal representative. The Committee may receive in such form as it may determine, the evidence of a person taken at the examination, and

Affirmation: I, do solemnly, sincerely and truly declare and affirm that the evidence that I shall give shall be the truth, the whole truth and nothing but the truth.

16. Each witness shall be advised in advance of giving their evidence of the privilege attaching to their evidence.
17. A sufficient record of Committee proceedings shall be made.
18. The Committee may adjourn or postpone proceedings in relation to its investigation as it deems fit.
19. Decisions of the Committee in relation to its investigation or any question arising in the course of the investigation will be that of the majority of the members.
20. The Committee will meet in private for the purposes of deliberating on the evidence before them and any submissions made.
21. When the Committee has concluded their deliberations they will draft a report as is required and in the format as specified in the Acts.
22. The Committee may by resolution amend, rescind or supplement these procedures as may be deemed necessary by the Committee during the course of the investigation.
23. The Committee may, at any time, discontinue an investigation if it becomes of opinion that the complaint concerned is frivolous, vexatious or evidence sufficient to sustain a complaint is not and will not be available.