

Annual Report **2021**



Coimisiún um Chaighdeán in Oifigí Poiblí
Standards in Public Office Commission

**Independence
Impartiality
Integrity**

Standards in Public Office Commission

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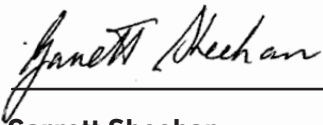
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Foreword

On behalf of the Standards in Public Office Commission, and in accordance with the provisions of section 27(2)(a) of the *Ethics in Public Office Act 1995*, I am pleased to furnish the 2021 annual report of the Standards in Public Office Commission to the Minister for Public Expenditure and Reform.



Garrett Sheehan

Chairperson

Standards in Public Office Commission

June 2022

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*. In 2021, its members were:

- Mr Justice Garrett Sheehan, Chairperson
- Seamus McCarthy, Comptroller and Auditor General
- Peter Tyndall, Ombudsman (retired December 2021)
- Peter Finnegan, Clerk of Dáil Éireann
- Martin Groves, Clerk of Seanad Éireann
- Geraldine Feeney, former member of Seanad Éireann.

Mr Ger Deering was appointed as Ombudsman in February 2022 and became a Commission member.

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

The Commission has supervisory roles under five separate pieces of legislation (as amended):

- the *Ethics in Public Office Act 1995* and the *Standards in Public Office Act 2001*, (together “the Ethics Acts”);
- the *Electoral Act 1997*;
- the *Ministerial and Parliamentary Offices Act 1938*; and
- the *Regulation of Lobbying Act 2015*.

The Commission also has a role in investigating potential non-compliance with Part 15 of the *Local Government Act 2001*.

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

Further information about the functions of the Commission may be accessed online on our website <https://www.sipo.ie/about/what-we-do/>

Introduction by the Chairperson

I am pleased to present this report on the work of the Standards in Public Office Commission (the Commission) in 2021.

The Commission published a number of statutory reports, all of which are available on the Commission's website and are listed at [appendix one](#).

There were seven ongoing investigations in relation to "senior office" appointees for non-compliance with tax clearance provisions at the start of 2021. A further three investigations under these provisions were approved during 2021. Eight individuals came into compliance during the year and two remain outstanding. Two investigation reports were issued in relation to "senior office" appointees who subsequently complied with their tax clearance obligations. The Commission initiated an investigation into one elected member who failed to comply with tax clearance provisions under the *Standards in Public Office Act* also. This member has subsequently come into compliance during 2021.

During 2021, the Commission processed 127 complaints under the *Ethics Acts* and initiated four preliminary inquiries which were ongoing at the end of the year. There were seven preliminary inquiries carried forward from 2020 that were completed in 2021. Of these, two were closed and five proceeded to investigations. The Commission held two investigation hearings in November 2021, the reports of which were published in January 2022. The remaining investigations were carried forward to 2022. Further information on the Commission's work under the *Ethics Acts* is set out in [Chapter One](#).

Two Seanad bye-elections and a Dáil Éireann Dublin Bay South bye-election took place in 2021. The Commission subsequently published its reports on expenditure at those elections.

Other reports published in 2021 include the Commission's annual report on statements of accounts of registered political parties in the State for 2020, expenditure of Exchequer funding for qualified political parties in 2020, donations disclosed by political parties for 2020, and a report on the expenditure of the Parliamentary Activities Allowance by parliamentary party leaders and independent members of the Oireachtas in 2020.

The Commission also had oversight of campaign finance for the Dáil general election in 2020 and published its report in 2021. The Commission also received statutory declarations and donations statements under the *Electoral Act 1997* in relation to the Seanad Election 2020 and published its report on this in 2021. The Commission referred a number of possible contraventions of the *Electoral Act 1997* to the Director of Public Prosecutions (DPP), concerning non-compliance by candidates and/or their agents with the Act's obligations to submit statutory returns in respect of election expenses and donations. The DPP proceeded to prosecution with 30 cases in 2021, with nine cases remaining before the courts at year end.

The Commission acknowledges its responsibility to process election expense returns promptly as resources allow. Further information on the Commission's activities under the *Electoral Acts* can be found in **Chapter Two**.

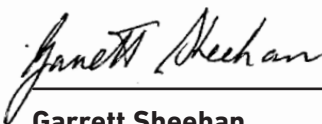
Chapter Three of this report details communications and outreach undertaken in 2021 to encourage knowledge and awareness of statutory obligations that apply under the Acts within the Commission's remit.

As in previous annual reports, the Commission's past recommendations for change to the ethics and electoral legislation that remain outstanding at the time of publication are summarised in **Chapter Four**.

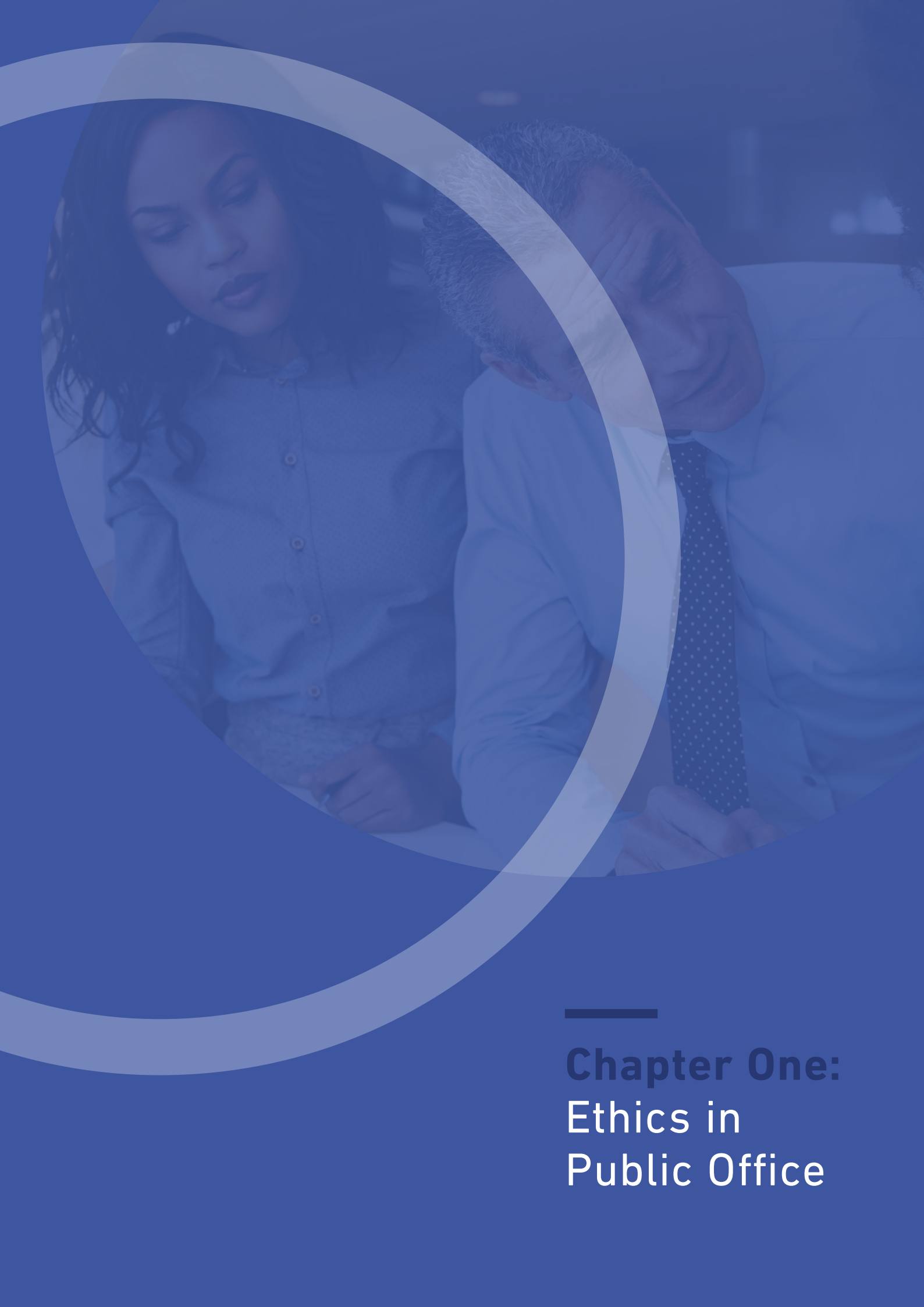
We welcome the launch of the public consultation by the Minister for Public Expenditure and Reform for the review of ethics legislation in November 2021. The Commission supports initiatives that will improve Ireland's ethics framework, and will participate in any legislative and resource reviews.

On behalf of the Commission, I would like to thank the Secretariat, and the support staff in the wider Office of the Ombudsman for their hard work throughout the challenging past year. I would also like to thank the outgoing Head of Ethics and Lobbying Regulation Sherry Perreault. Sherry has worked with the Commission since 2015 and has brought great knowledge and professionalism to the Commission's work. I would like to wish Sherry all the best in her new role in her native Canada.

It is a privilege to work on the Commission.



Garrett Sheehan
Chairperson



Chapter One: Ethics in Public Office

Chapter One:

Ethics in Public Office

This chapter provides information on the Commission's activities in 2021 under the *Ethics Acts*, as well as an overview of key developments in priority areas.

Disclosure of Interests – Ethics Acts Regulations

As noted in last year's annual report, regulations prescribing designated positions of employment in the civil and wider public services, and directorships of State bodies have not been updated since 2018. This means that a number of directorships and positions of employment across the public service remain outside the scope of the *Ethics Acts*, and the provisions for disclosure of interests in the *Ethics Acts* cannot be implemented on a statutory basis in the bodies concerned.

The Commission is aware of 25 bodies that remain outside the remit of the legislation. This includes the new technological universities established under the *Technological Universities Act 2018*, under which certain Institutes of Technology have been amalgamated to form new technological universities.

These include the Technological University of Dublin (formed through the amalgamation of Institute of Technology Blanchardstown, Dublin Institute of Technology, and Institute of Technology Tallaght); the Munster Technological University (amalgamation of Cork Institute of Technology and the Institute of Technology Tralee); and the Technological University of Shannon (amalgamation of Athlone Institute of Technology and Limerick Institute of Technology). Further technological universities will be established in 2022.

The Department of Public Expenditure and Reform has informed the Commission that it has not commenced the process of updating the regulations, due to the Covid-19 emergency. The Commission understands that the Department of Public Expenditure and Reform has not commenced the process of updating the regulations.

The Commission is of the view that the process prescribing designated directorships and designated positions is not onerous, and should not be postponed indefinitely.

The Commission reiterates its recommendation that the Department, in conjunction with other relevant departments, ensure that the regulations are updated to address these identified gaps as a matter of priority, and on a regular basis thereafter. The Commission remains of the view that where a new body is being set up or existing bodies are merged, the prescription of designated directorships and designated positions of employment should be considered as a standard part of the process of establishment.

The Commission also reiterates its request that it be directly informed of the establishment of new bodies or the merger or dissolution of existing bodies, in order that the ethics obligations of employees and/or board members may be addressed, together with any implications for public bodies and designated public officials under the *Regulation of Lobbying Act 2015*.

Tax Clearance – Appointees to Senior Office

A person who is appointed to 'senior office' for the purposes of the *Ethics Acts*, has certain tax clearance obligations. Specifically, appointees to such positions are required to furnish to the Commission within nine months of appointment a statutory declaration made within one month either side of appointment and a tax clearance certificate issued within nine months either side of appointment.

During 2020 and 2021, due to the movement restrictions imposed because of Covid-19, some appointees faced difficulties in having a statutory declaration witnessed within the statutory timelines. Where such difficulties arose, the Commission requested that appointees submit a signed declaration, without a witness, by email to the Commission and that the hard copy with original signature should follow when circumstances allowed, and within the nine-month deadline to provide original evidence of tax compliance.

As previously reported, the Commission has surveyed public bodies regarding appointees to 'senior office', and issues quarterly reminders to these bodies to prompt notifications of such appointments. Despite these reminders, 27 public bodies had failed to respond to the Commission's enquiries as at the end of 2019. As a result of follow-up work carried out in 2020 and 2021, all 27 public bodies have now responded. The Commission was notified by the bodies concerned of a total of 58 additional appointments to senior office.

As the *2001 Act* provides that the relevant documents be furnished to the Commission within nine months of appointment, each of these individuals was non-compliant. Failure of the bodies to notify the Commission of appointments in a timely way meant that the Commission was not in a position to assist appointees regarding their obligations to comply.

The Commission is of the view that the issues that continue to arise in this area provide further evidence that there should be a statutory obligation on public bodies to notify the Commission of senior appointments, and that non-compliance by public bodies should be subject to enforcement.

The Commission's staff were undertaking seven investigations into non-compliance by senior office holders with the obligations at the start of 2021. During 2021, the Commission approved three further investigations to pursue non-compliance by senior office holders with the tax clearance provisions of the *Ethics Acts*. Six individuals came into compliance while investigations were underway, and the process was halted. The Commission issued two investigation reports pertaining to individuals who had failed to comply with their obligations, both of whom have subsequently complied. Two investigations were ongoing at the year end.

The Commission continues to monitor compliance by relevant individuals to ensure they meet their obligations with regard to providing tax clearance documents as required under the legislation.

Tax Clearance Provisions – Elected Members

Successful candidates elected to Dáil Éireann and Seanad Éireann during 2020 were obliged under the *2001 Act* to provide evidence of tax compliance to the Commission within nine months of the date on which the Returning Officer declared them elected. All TDs and Senators elected at the general elections have complied with their tax clearance obligations.

In addition, one TD who was elected following a bye-election in July 2021, and two Senators who were elected following bye-elections in April 2021, were required to comply with the legislation within nine months of their election.

In the event of a member failing to comply with the legislation and failing to produce the required evidence (a statutory declaration and either a tax clearance certificate or an application statement), the Commission must then decide whether to investigate the matter and to provide any subsequent report to the Committee on Members' Interests.

During 2021, the Commission initiated one investigation to pursue non-compliance by an elected member with their tax clearance obligations. This individual subsequently came into compliance during the year.

Complaints

During 2021, the Commission processed 127 complaints under the Ethics Acts and initiated four preliminary inquiries which were ongoing at the end of the year. There were seven preliminary inquiries carried forward from 2020 that were completed in 2021. Of these, two were closed and five proceeded to investigations. The Commission held two investigation hearings in November 2021, the reports of which were published in January 2022. The remaining investigations were carried forward to 2022.

Updates on Anti-Fraud and Anti-Corruption Working Group

In 2018, the Government tasked former Director for Public Prosecutions James Hamilton with leading an inter-departmental working group examining anti-fraud and anti-corruption measures in Ireland. Officials from the Commission's Secretariat participated in the working group.

The Hamilton Group issued its **report** in November 2020. The recommendations broadly seek to address structural/systemic issues and resourcing, and to enhance the legislative framework, particularly in respect of enforcement and coordination powers for anti-corruption bodies. Structural proposals include the establishment of a cross-sectoral Advisory Council on Economic Crime and Corruption to advise and make proposals on broad strategic and policy matters, along with a multi-annual strategy and action plan.

Among its recommendations, the Hamilton Group identified the need for reform of ethics legislation as outlined in the Programme for Government, and recommended a resourcing review.

The Government announced in November 2020 that it accepted in principle the Hamilton Group's recommendations, and would move to develop a strategy for implementation. Following this, the Economic Crime and Corruption Forum was established to implement the recommendations. The Commission participated on this group during 2021. The work of the Forum is ongoing and it will report to the cross-sectoral Advisory Council which will be established in 2022.

Ethics Reform

For a number of years, the Commission has called for a comprehensive review of the existing ethics framework. In annual reports and legislative submissions, the Commission recommended that new legislation be drafted based on best practice for dealing with conflicts of interests. New legislation should consolidate the provisions of the *Ethics Acts*, all other relevant legislation, and the relevant provisions of the *Code of Practice for the Governance of State Bodies*.

The *Public Sector Standards Bill 2015* was intended to provide a consolidated ethics framework for public officials, and had progressed to Committee Stage in Dáil Éireann. The Bill lapsed on the dissolution of Dáil Éireann on 14 January 2020.

On foot of a commitment in the Programme for Government, a review of ethics legislation commenced in 2021. The Minister for Public Expenditure and Reform published a consultation paper as part of the review and sought public comments. In early 2022, the Minister wrote to the Chairperson of the Commission inviting the views of the Commission.

The Commission will participate fully in the review as required.

Council of Europe's Group of States Against Corruption (GRECO)

Fourth Round Evaluation:

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 the Houses of the Oireachtas, judges and prosecutors in Ireland and made a number of recommendations for improvements in Ireland's ethics framework. GRECO continues to monitor Ireland's compliance with its evaluation recommendations from the fourth round evaluation and in June 2018 rated progress made as "globally unsatisfactory", due in part to the failure to progress the Public Sector Standards Bill 2015. In September 2020, Ireland provided GRECO with an update on progress on the implementation of the recommendations.

GRECO published its Second Interim Compliance Report (Fourth Evaluation Round) on Ireland on 18 November 2020. The report concluded that as the Public Sector Standards Bill 2015 had not been progressed, the two recommendations made in this regard had not been implemented.

Following the GRECO recommendation that dedicated regular training should be provided to members of the Oireachtas in relation to their obligations on issues such as ethics, conflicts of interests and corruption prevention, the Commission reported that this training, in conjunction with the Houses of the Oireachtas, has been established. The 2020 Compliance Report concluded that this recommendation has been dealt with in a satisfactory manner.

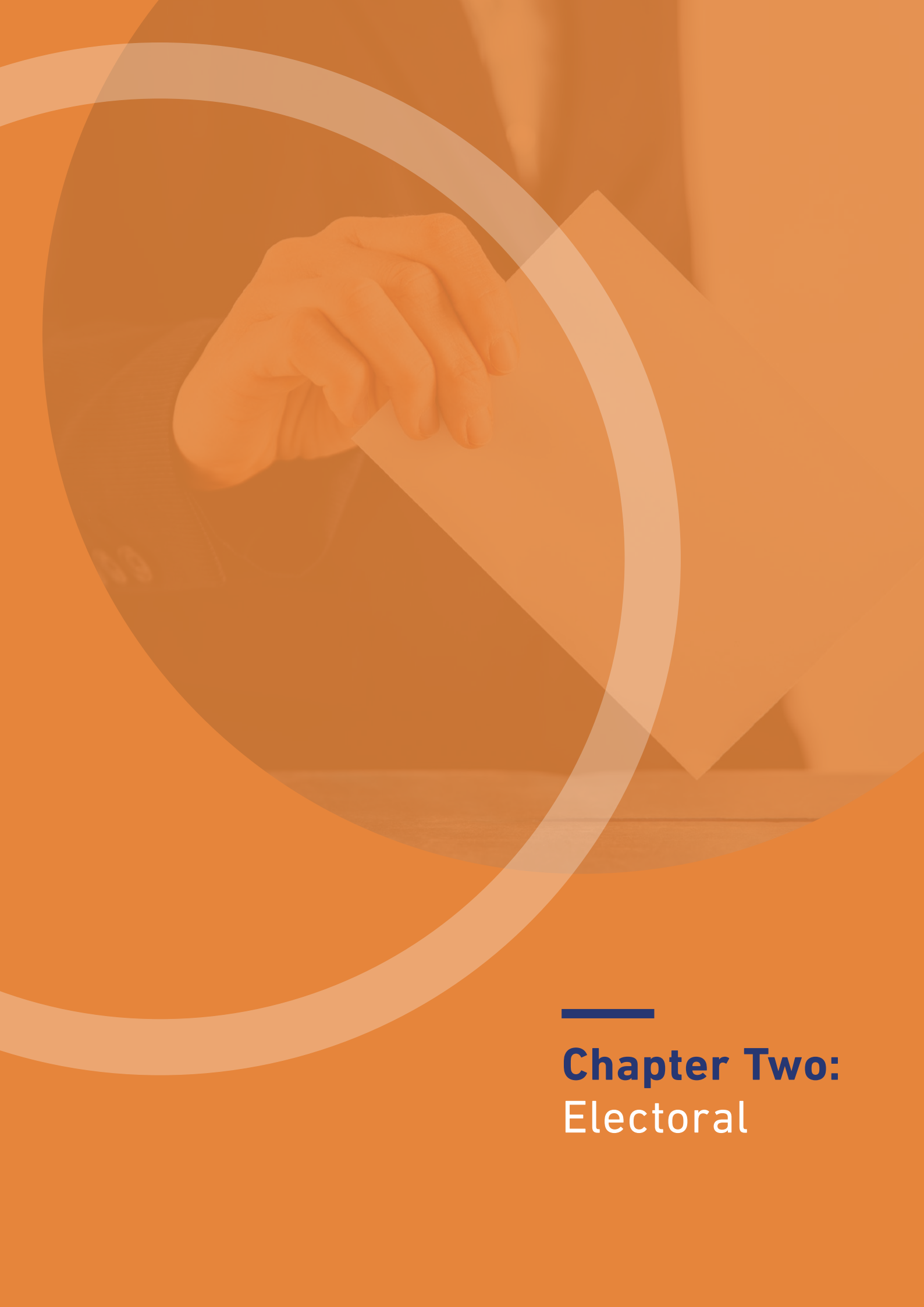
A link to the GRECO: fourth round evaluation – second interim compliance report of Ireland report can be found [here](#).

Fifth Round Evaluation:

GRECO's Fifth Round evaluation process launched on the 20 March 2017. The focus of the Fifth Round is on corruption prevention in relation to the top executive functions of the State (ministers and senior government officials) and law enforcement agencies (excluding customs bodies).

An interdepartmental/agency group was established, under the leadership of the Department of Justice, to prepare for the evaluation. The Commission is represented on this working group and participated in a number of planning meetings in 2019/2020. The Commission provided detailed responses and information for input into the Fifth Round evaluation questionnaire, which was submitted to GRECO in January 2020.

GRECO carried out an on-site evaluation visit to Ireland in October 2021. The Commission participated in this evaluation and met with the evaluation team to answer questions and provide more supporting detail on the matters contained in the questionnaire that had previously been submitted to GRECO. The evaluation team indicated that the final report on the Fifth Round evaluation process would be completed in 2022.



Chapter Two: Electoral

Chapter Two:

Electoral

This chapter provides information on the Commission's activities in 2020 under the *Electoral Act 1997*, as well as an overview of key developments in priority areas.

Dáil General Election 2020

The Commission published its report on the 2020 Dáil general election in November 2021.

The report provides information on election spending disclosed by candidates and political parties, reimbursement of candidates' election expenses, the disclosure of donations by unsuccessful candidates, and "other persons" activity during the election period.

Election expenses of just over €7.3 million were disclosed by candidates and political parties at the 2020 general election.

A total of 531 candidates contested the election. Some 319 election candidates qualified for reimbursement of their election expenses. To qualify, a candidate must have been elected or received a certain percentage of the first preference vote. The total certified for reimbursement to candidates to date is €2.5million.

No candidate is reported to have exceeded the statutory expenditure limits, which differ according to the size of the constituency.

If a candidate was unsuccessful at the election, he/she was required to provide to the Commission, by 4 April 2020, a donation statement disclosing all donations received in relation to the election with a value greater than €600. Donations with a total value of €111,282 were disclosed by 64 unsuccessful candidates.

Donations under the €600 threshold are not required to be disclosed; however, statutory prohibitions and acceptance limits still apply. These totals therefore do not reflect all donations received.

Elected candidates were required to furnish a donation statement to the Commission before 31 January 2021 as part of the annual disclosures process for members of the Oireachtas. Returns must include donations received throughout the previous calendar year, including those given for the election.

The Standards Commission Report on General Election 2020 for Dáil Éireann is available [here](#).

Seanad General Election 2020

One hundred and forty-seven candidates contested the Seanad 2020 general election (118 vocational panel candidates and 29 university constituency candidates). Vocational panels elect 43 Senators, and two university panels elect six Senators (three from the National University of Ireland and three from the University of Dublin/Trinity College Dublin). The Taoiseach nominates 11 Senators to fill the remaining vacancies.

While Senators must disclose donations, there are no limits on spending, no requirement to disclose election expenses, and no provisions for reimbursement of election expenses at a Seanad election.

In accordance with the provisions of Part IV of the *Electoral Act*, unsuccessful candidates at the Seanad election were required, within 56 days after polling day (i.e. by 25 May 2020 for panel candidates and by 26 May 2020 for University candidates) to provide the Commission with a donation statement, certificate of monetary donations, statutory declaration and/or bank statement. These candidates were required to disclose details of all donations, with a value greater than €600, received in relation to the election.

As members of Seanad Éireann, successful candidates at the election must adhere to the annual donations disclosure schedule for members of the Oireachtas. They must provide the required documentation to the Commission by 31 January each year. Documents must include details of any donations received by them during 2020, including those received in relation to the Seanad election.

The Commission's report on the Seanad general election was published in November 2021. In accordance with section 4(1) of the Act, the Commission considered the donation statements furnished by each of the unsuccessful candidates at the election. Five candidates disclosed donations totalling €5,971.

The Standards Commission Report on the Seanad General Election 2020 is available [here](#).

Prosecution for non-compliance with election return obligations

The Commission referred a number of possible contraventions of the *Electoral Act 1997* to the Director of Public Prosecutions, concerning non-compliance with the Act's obligations to submit statutory returns in respect of election expenses and donations. The subjects of these referrals included the national agents of two political parties, Seanad election candidates, Dáil election candidates and election agents. The DPP proceeded to prosecution with 30 cases in 2021, with nine cases remaining before the courts at year end.

Seanad Bye-Elections 2021

Two Seanad bye-elections took place on 21 April 2021. The Commission published its report on the bye-elections in September 2021.

Seven candidates contested the election for two seats: one each on the Agriculture Panel and the Industry and Commerce Panel. Maria Byrne and Gerry Horkan were elected as members of Seanad Éireann.

In accordance with the provisions of Part IV of the Act, unsuccessful candidates at the Seanad Bye-Election were required, within 56 days after the relevant day on which the poll closed, to furnish to the Commission a donation statement and accompanying documentation. The date by which donation statements were required to be received by the Commission was 16 June 2021. All unsuccessful candidates had complied with their obligations by the deadline date. There were no donations disclosed at the Seanad Bye-Election.

Successful candidates at the election are required, as members of Seanad Éireann, to furnish an annual donation statement and accompanying documentation to the Commission by 31 January each year. The donation statements to be furnished to the Commission in respect of 2021 by members of Seanad Éireann must include details of any donations received by them during 2021 in relation to the Seanad Bye-Election. These statements were scheduled to be provided to the Commission by 31 January 2022.

The Commission Report on the Seanad Bye-Election 2021 is available [here](#).

Donations Disclosed by Political Parties

The Commission's report on donations disclosed by political parties was published in November 2021. The report and political party donations statements are available at www.sipo.ie.

Disclosure of Donation by TD's, Senators, and MEP's

The Commission's report on donations disclosed by TDs, Senators and MEPs for 2019 was published in April 2021. The report on donations disclosed by TDs, Senators and MEPs for 2020 was published in December 2021. Both reports are available at www.sipo.ie.

Donation Statements by Individual Donors

Under section 24(1A)(a) of the *Electoral Act*, any donor who makes donations exceeding the aggregate value of €1,500 in the same year to two or more persons who were members of the same political party, or to a political party and one or more of its members, must furnish a donation statement/statutory declaration to the Commission. Details about donation statements submitted in respect of 2019 and 2020 are published as part of the Commission's annual report on donations to TDs, Senators and MEPs. The relevant reports are available on the Commission's website.

Accounting Units

An accounting unit, in relation to a political party, is a branch or other subsidiary organisation or sub-unit of the party, which receives at least one donation valued at more than €100 in any year. Upon receipt of such a donation, the accounting unit must open a political donations account, into which all donations must be lodged. Details in respect of the 2020 reporting year for accounting units were published in November 2021, as part of the Commission's report on political party donation statements.

As noted by the Commission in the report on political party donation statements and in previous annual reports, accounting units are not required to submit donation statements detailing donations they have received. Accounting units must provide the Commission with a copy of their bank statement, which shows lodgements and debits as well as balances, and must certify that they have only received allowable donations. However, unlike national parties, they do not have to submit donation statements disclosing the amount and source of individual donations. This makes it difficult for the Commission to ascertain the source of monies held in accounting units' political donation accounts and to ensure donations received are permitted under the Act. The Commission continues to hold the view that further refinement of the legislation is needed to ensure that there is full transparency in respect of accounting units. Under the *Electoral Act*, it is an offence for the responsible person of an accounting unit to fail to comply with the Act's reporting requirements.

Third Parties

A third party is any individual or organisation, other than a political party, who or which accepts a donation over €100 given for political purposes. Upon receipt of a donation over that threshold, the person/organisation must register with the Commission as a third party, and has annual reporting obligations thereafter. In 2021, 36 third parties were registered with the Commission.

In 2021, the Commission reviewed its approach to the obligations of third parties.

The Commission has decided that it will no longer maintain a list of third parties on its website on an ongoing basis. However, it will continue to publish a list in its annual report of those third parties who submitted returns for the previous year.

A list of third parties who submitted returns for 2021 is included in [appendix two](#) of this report.

Corporate Donors

A corporate donor is any corporation or unincorporated body of persons that makes a donation (or donations) for political purposes. Corporate donors wishing to make political donations valued at more than €200 must register with the Commission. This register is updated on an annual basis. The Commission contacts registrants in November of the year of active registration and asks them to confirm whether they intend to remain on the register for the following year.

Unlike third parties, there are no reporting obligations for registered corporate donors.

In 2021, there were ten 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 2021 is included in **appendix two** of this report.

Exchequer Funding of Political Parties

In September 2021, the Commission published two reports on the state financing of political parties and independent TDs and Senators during 2020.

Exchequer Funding of Political Parties in 2020

Political parties may qualify for funding from the Exchequer under the *Electoral Act 1997* based on their percentage of the vote in the last Dáil election. Any unused funding from the previous year may be carried over for use the following year, and accounted for in the year in which it is spent. The funding may not be used for electoral or referendum purposes.

Details of the funding, including how it was spent and accompanying statements, are contained in the report entitled *Exchequer Funding of Political Parties in 2020*. The report is available at www.sipo.ie.

Parliamentary Activities Allowance 2020

Party leaders and independent members of the Oireachtas may receive funding under the *Ministerial and Parliamentary Offices Act 1938*, informally known as the "Parliamentary Activities Allowance". Details of the funding, how it was spent and accompanying statements are contained in the report, entitled *Exchequer Funding under the Parliamentary Activities Allowance Legislation in 2020*. This report is available at www.sipo.ie.

Political Party Annual Statements of Accounts

The *Electoral Act 1997*, as amended (the Act), provides for the disclosure of annual statements of accounts by political parties. It also makes provision for the keeping of accounting records, and for the audit of the statements of accounts by statutory auditors. The Act requires that the accounts comply with the requirements as to form and content provided for in guidelines issued by the Commission, following approval by the Minister for Housing, Local Government and Heritage.

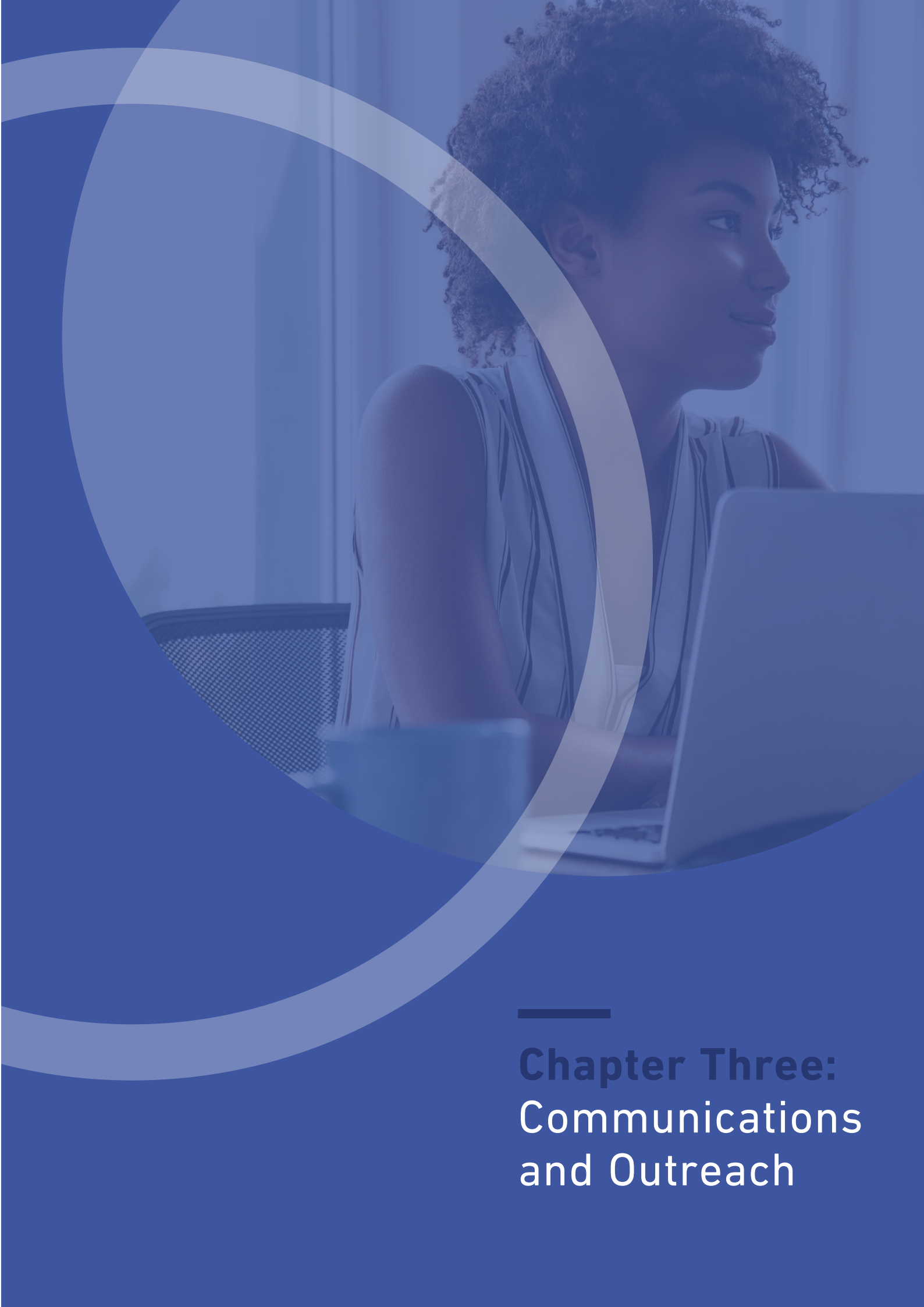
In its annual report for 2020, the Commission noted concerns had been raised with regard to the application of the Acts to registered political parties operating in multiple jurisdictions. The Commission noted that some political parties registered to contest elections in Ireland are also registered to contest elections in Northern Ireland and that as a result, they must organise and operate within two different regimes of electoral regulation. They must also operate controls that ensure there are no cross-border transactions that are illegal or improper.

The Commission also noted that where a corporate donor, including a Northern Ireland political party, wishes to give funds to a party, elected official, candidate or third party in Ireland, this would count as a donation and would be subject to the limits and disclosure provisions set out in the Act.

The Commission indicated that it would review its guidelines for the preparation of annual audited statements of account by Irish political parties in light of the issues raised about parties operating in multiple jurisdictions.

Having conducted this review, the Commission has decided that changes to the current guidelines for political parties' statements of account are not required.

The Commission published its report on the 2020 statements of accounts provided to it by political parties registered in Ireland in March 2022. The report is available at www.sipo.ie.



Chapter Three: Communications and Outreach

Chapter Three:

Communications and Outreach

Similar to 2020, the Commission continued the vast majority of its outreach activities in 2021 by way of virtual tools, including hosting and participating in online meetings, information sessions, training events and conferences. Towards the end of 2021, some secretariat staff and Commission members were able to participate in person-to-person meetings with some annual conferences and events the Commission participates in returning to normal.

The following provides highlights of communications and outreach activities undertaken by the Commission in 2021.

January

- Presentation made online to Oireachtas members regarding statutory obligations under the *Ethics Acts*, the *Electoral Act 1997* and the *Ministerial and Parliamentary Activities Act 1938*.

February

- Presentation to special advisers on as part of Special Advisers Induction course.
- Attendance at virtual meeting for the Network for Integrity.

March

- Presentation made to Executive Management Team of Tallaght University Hospital regarding obligation under the *Ethics Acts*.
- Meeting with European Commission (EC) regarding the EC's Rule of Law Report for 2021

May

- Attendance at inaugural meeting of the Economic Crime and Corruption Forum, established in response to recommendations by the Hamilton Review Group on Anti-Fraud and Anti-Corruption.

June

- Presentation to local authority Ethics Registrars organised by the Local Government Management Agency.

July

- Meeting with the Commissioner for Standards, Northern Ireland.
- Meeting with the Organisation for Economic Co-operation and Development Working Party of Senior Public Integrity Officials regarding ethics governance in member states.

September

- Attendance at a virtual meeting with the Glenree Centre for Peace and Reconciliation and the Hume Foundation.

October

- Meeting with the Commissioner for Standards, Northern Ireland.
- Meeting with the Evaluation Team from GRECO (Group of States Against Corruption).

December

- Attendance at an online Network for Integrity virtual conference.

Council on Governmental Ethics Laws (COGEL)

The Commission continues to be a member of the Council on Governmental Ethics Laws (COGEL), a US-based non-profit organisation. COGEL is a network 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.

Network for Integrity

The Commission maintains observer status in the Network for Integrity, which brings together institutions from around the world engaged in promoting integrity, transparency, and ethics of public officials. A virtual plenary meeting was held in February of 2021, attended by the Head of Ethics and Lobbying.

Publications

In 2021 the Commission published a number of statutory reports. A complete list is available in [appendix one](#).



Chapter Four:
Recommendations
for Change

Chapter Four:

Recommendations for Change

In November 2021, the Minister for Public Expenditure and Reform launched a formal review of ethics legislation which the Commission welcomes. The Commission's recommendations below relating to the *Ethics Acts* are due to be considered in the course of this formal review.

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 that may have taken place in the meantime. Minor proposals, such as technical amendments, appear in previous annual reports. Proposals that have been actioned and reported on in a previous report do not appear on this list.

Recommendations applying to *Ethics Acts*

Recommendation	Progress in 2021
<p>The Commission should be granted the power to appoint an inquiry officer to conduct a preliminary enquiry into a matter in the absence of a complaint under the <i>Ethics Acts</i>.</p> <p>(Chapter 1, "Own initiative inquiries", Annual Report 2004)</p>	None.
<p>Provision should be made for a quorum of not less than three members (including in all cases, the Chairperson) for the hearing of an investigation under the <i>Ethics Acts</i>.</p> <p>(Chapter 4, "Proposed amendments to the <i>Ethics Acts</i>", Annual Report 2008)</p>	None.

Recommendations applying to *Ethics Acts*

Recommendation	Progress in 2021
<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>	None.
<p>Legislation should be introduced to ensure accountability of all former public officials, including those not currently covered by the <i>Ethics Acts</i>.</p> <p><i>(Chapter One, Ethics, Annual Report 2019)</i></p>	None.
<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>	None.
<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>	None.
<p>Motions should be initiated in the House of the Oireachtas to designate the chairpersons of Oireachtas committees as office holders for the purposes of the <i>Ethics Acts</i>.</p> <p><i>(Chapter 1, "Ethics Acts", Annual Report 2005)</i></p>	None.

Recommendations applying to *Ethics Acts*

Recommendation	Progress in 2021
<p>There should be a comprehensive act consolidating the <i>Ethics Acts</i> 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>	None.
<p>There should be an amendment for the provisions for complaints about a "specified act" to allow references to a high-level statement of the ethical principles to be followed by public servant and public representatives.</p> <p><i>(Chapter 2, "High Level Statement of Ethical Principles", Annual Report 2009)</i></p>	None.
<p>There should be an amendment of the definition of a "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>	None.
<p>There should be a requirement that liabilities be disclosed as a "registerable interest".</p> <p><i>(Chapter 2, "Disclosure of Liabilities", Annual Report 2009)</i></p>	None.

Recommendations applying to *Ethics Acts*

Recommendation	Progress in 2021
<p>Explicit provision should be made to allow complaints against members of the Oireachtas in circumstances where the matter has come to light after the member has left office.</p> <p><i>(Chapter 1, Ethics, Annual Report 2017)</i></p>	None.
<p>The Act should be amended to require that public bodies notify the Commission of new appointees to senior office, to facilitate the effective implementation of tax compliance requirements.</p> <p><i>(Chapter 1, Ethics, Annual Report 2017)</i></p>	None.
<p>That future regulations prescribing designated positions of employment be made effective on 1 January of the year following their promulgation.</p> <p><i>(Chapter 1, Ethics, Annual Report 2018)</i></p>	Minister has agreed with recommendation; no new regulations since recommendation made.
<p>That regulations prescribing designated positions of employment be updated regularly and that the prescription of new positions in a body to be established (whether entirely new or bodies being merged) be considered as part of the process of establishment. In addition, the Commission should be informed of the creation/merger/dissolution of such bodies.</p> <p><i>(Chapter 1, Ethics, Annual Report 2019)</i></p>	None.
<p>Various pieces of legislation that address ethics for elected officials and civil and public servants, including post-employment provisions, should be streamlined with a view to ensuring consistency and efficiency.</p> <p><i>(Chapter 1, Ethics, Annual Report 2019)</i></p>	None.

Recommendations applying to *Ethics Acts*

Recommendation	Progress in 2021
<p>The incoming Government should give urgent consideration to passage of revised ethics legislation at an early stage.</p> <p><i>(Chapter 1, Ethics, Annual Report 2019)</i></p>	<p>Minister for Public Expenditure and reformannounced a formal review of ethics legislation in November 2021.</p>
<p>The role of ethics registrar in local authorities should be rotated less frequently than the current two years, to allow for capacity-building and the development of knowledge and expertise, and should be at a senior level within the organisation.</p> <p><i>(Chapter 1, Ethics, Annual Report 2019)</i></p>	<p>None.</p>

Recommendations applying to *Electoral Act*

Recommendation	Progress in 2021
<p>An electoral commission should be established, and a comprehensive review of the <i>Electoral Act</i> should take place. Provisions should be included to provide for regulation of digital means of influence during an electoral or referendum campaign.</p> <p><i>(Chapter 2, Electoral, Annual Report 2017)</i></p>	<p>An Electoral Reform Bill was published in March 2022, which includes provision for the creation of an Electoral Commission and the regulation of online political advertising.</p>

Recommendations applying to Electoral Act

Recommendation	Progress in 2021
<p>New electoral commission should be established:</p> <ul style="list-style-type: none"> • On a statutory basis; • Entirely independent of government for budget, reporting, publications and staffing; • Ensure that members are dedicated to the role on a full-time basis and not as additional function to other statutory roles, and; • Provide secretarial support via a stand-alone organisation, ensuring that all statutory and operational functions, including salary and non-salary expenditures, are appropriately resourced. <p><i>(Chapter 2, Electoral, Annual Report 2019; Submission to public consultation on creation of Electoral Commission)</i></p>	<p>An Electoral Reform Bill was published in March 2022.</p>
<p>As the body with responsibility for supervising the <i>Electoral Acts</i>, the Commission should have a statutory basis on which to review the legislation and report on its findings.</p> <p><i>(Review of the Electoral Acts 2003)</i></p>	<p>None.</p>
<p>Consideration should be given to imposing some accountability, in the context of 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 the moving of the writ at an election).</p> <p><i>(Review of the Electoral Acts 2003)</i></p>	<p>None.</p>

Recommendations applying to Electoral Act

Recommendation	Progress in 2021
<p>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.</p> <p><i>(Review of the Electoral Acts 2003; and 2009 Report on third parties at the Referendum on the Treaty of Lisbon)</i></p>	<p>None.</p>
<p>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”).</p> <p><i>(Review of the Electoral Acts 2003)</i></p>	<p>None.</p>
<p>Registration of third parties should be allowed for the duration of a particular campaign only, or on an on-going basis.</p> <p><i>(2009 Report on third parties at the Referendum on the Treaty of Lisbon 2008)</i></p>	<p>None.</p>
<p>Provisions 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>	<p>None.</p>

Recommendations applying to Electoral Act

Recommendation	Progress in 2021
<p>Expenditure limits should apply at referendums as well as elections.</p> <p><i>(Chapter 2, Electoral, Annual Report 2017)</i></p>	None.
<p>Provide for disposal of surplus donations in situations where a person is no longer required to maintain a political donations account and there are unused funds remaining.</p>	None.
<p>Review whether it is necessary to furnish, as a matter of course, supporting documentation in relation to the maintenance of a political donations account.</p>	None.
<p>Consider setting aside specific funding to support the operation and development of less prominent political organisations, which, under the current legislative provisions, are unlikely to qualify for receipt of exchequer. Such funding would be subject to suitable controls being put in place to ensure that the funding is fully accounted for and is used for its proper purposes.</p>	None.
<p>Offences should be provided for failure to open political donations account.</p>	None.
<p>Provide for offences and penalties for failure to comply with parts IV, V, VI of the 1997 Act.</p>	None.
<p>Provide for the furnishing of single donation statement in situations where a person holds a dual mandate or where, in a particular year he/she is a sitting TD, Senator, or MEP unsuccessfully contested a Dáil, Seanad or European election.</p>	None.
<p>Provide for offence for failure to provide necessary information to election agent or national agent for purposes of facilitating agent's election expenses statement (EES).</p>	None.

Recommendations applying to Electoral Act

Recommendation	Progress in 2021
<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 House of the Oireachtas Commission [section 4(4A) of the <i>House of the Oireachtas Commission Act 2003</i> (as amended by section 4(c) of the <i>House of the Oireachtas Commission (Amendment) Act 2009</i>].</p> <p><i>(Report on the Dáil general election of 2007)</i></p>	<p>None.</p>
<p>Consider whether definition of political purposes should be modified to include only campaigns relating to elections or referendums, rather than campaigns that seek to influence decisions or functions of public bodies.</p>	<p>None.</p>
<p>Smaller political parties, particularly those not in receipt of Exchequer funding, should be exempt from the requirement to submit audited accounts.</p> <p><i>(Chapter 3, Electoral, Annual Report 2016)</i></p>	<p>None.</p>
<p>Amend definition of corporate donor to include companies that are linked by common ownership.</p> <p><i>(Chapter 2, Electoral, Annual Report 2019)</i></p>	<p>None.</p>
<p>Amend Act to address issue of remaining funds on closure of political donations accounts.</p> <p><i>(Chapter 2, Electoral, Annual Report 2019)</i></p>	<p>None.</p>

Recommendations applying to Electoral Act

Recommendation	Progress in 2021
<p>Any new legislation to address online political advertising should:</p> <ul style="list-style-type: none"> • Take into account difficulties with current definition of political purpose, and • Be developed on the same track as electoral commission and not assigned on an interim basis to Standards Commission. <p>(Chapter 2, Electoral, Annual Report 2019)</p>	<p>An Electoral Reform Bill was published in March 2022</p>
<p>Amend Act to reflect the fact that members of local authorities and candidates at local elections have their own reporting requirements under the <i>Local Elections (Disclosure of Donations and Expenditure) Act</i>, as amended.</p>	<p>None.</p>
<p>Shorten interval between the making and submission of statutory declaration.</p>	<p>None.</p>
<p>Provide a statutory deadline by which candidates, who wish to do so, must finally assign parts of their spending limits to their political parties.</p>	<p>None.</p>
<p>Clarify duration of third party registration.</p>	<p>None.</p>
<p>Consolidate provisions from other legislation relating to use of public funds for electoral purposes. This would involve a consequential repeal of the provisions dealing with the provision of services and facilities following a dissolution of the Dáil Éireann by the House of the Oireachtas Commission [Section 4(4A) of the <i>Houses of the Oireachtas Commission Act 2003</i> (as inserted by the <i>House of the Oireachtas Commission Act 2006</i>) (now Section 4(c) of the <i>House of the Oireachtas Commission (Amendment) Act 2009</i>).</p>	<p>None.</p>

Recommendations applying to Electoral Act

Recommendation	Progress in 2021
Amend definition of “financial institution” to include credi unions.	None.
Definition of “minor expenses” at an election should be limited to €126.97 per candidate.	None.
Modify term “election agent” to “election spending agent” or “election spending accounting officer”.	None.
Candidates should be required to notify Commission directly of change to election agent.	None.
Provide for discretion by Commission in allowing expenses such as refreshments fo volunteer workers and candidate petrol costs.	None.
Amend section 31 (10) of 1997 Act to include phrase “seeks to influence the outcome of an election”.	None.
Allow for registration of third parties for a particular campaign or an ongoing basis.	None.
Clarify Act to specify whether expenditure of Exchequer funding is allowable in respect of capital and/or current spending.	None.

Recommendations applying to the Ministerial and Parliamentary Offices Act 1938

Recommendation	Update
The Commission should be able to give advice on the appopriate use of the Parliamentary Activities Allowances and for such advice to be legally binding on the persons to whom they apply. <i>(Annual Report 2007)</i>	None.



Appendices

Appendix One:

Commission Publications in 2020

June

- Standards in Public Office Commission Annual Report 2020

September

- Report to the Chairman of Dáil Éireann (Ceann Comhairle) pursuant to section 4(1) of the *Electoral Act 1997* on spending and donations disclosed by candidates at the Seanad Bye-Election April 2021.
- Exchequer Funding of Political Parties in 2020: Report to the Chairman of Dáil Éireann pursuant to section 4(1) of the *Electoral Act 1997*.
- Exchequer Funding under the Parliamentary Activities Allowance Legislation in 2020: Report to the Minister for Public Expenditure and Reform in accordance with Section 10D of the *Ministerial and Parliamentary Offices Act 1938* as amended by the Oireachtas (*Ministerial and Parliamentary Offices) (Amendment) Act 2014*.

November

- Report on Donations to Political Parties Received in 2020.
- Report to the Chairman of Dáil Éireann (Ceann Comhairle) pursuant to section 4(1) of the *Electoral Act 1997* on spending and donations disclosed by candidates at the Dáil General Election of 8th February 2020.
- Report to the Chairman of Dáil Éireann (Ceann Comhairle) pursuant to section 4(1) of the *Electoral Act 1997* on spending and donations disclosed by candidates at the Seanad General Election of 30th and 31st of March.

December

- Report on Donations to TD's, Senators, and MEPs' received in 2020.

Appendix Two:

Third Parties and Corporate Donors Registered in 2021

List of Third Parties who submitted returns for 2021

- ADFAM (Alliance for the Defence of the Family and Marriage)
- Atheist Ireland
- Christian Solidarity Party
- Coalition to Repeal the Eight
- Family & Life
- Immigration Control Platform
- National Campaign for the Arts
- ROSA (for Reproductive Rights, against Oppression, Sexism, and Austerity)
- The Socialist Party
- Socialist Worker's Network
- Together for Yes
- Women's Health in Ireland

List of Registered Corporate Donors 2021

- CE Cladwell Estates Ltd
- Chatbot Creations Ltd
- EP Lynam Properties Ltd
- Fianna Fáil
- Fine Gael
- Green-Party/ Comhaontas-Glas
- Irish Farmers Association
- Irish National Teachers Organisation
- SIPTU
- Unite the Union

