

We think it is unfortunate that that this review seems to be taking place in lieu of enacting the Public Sector Standards bill (2015), which was supported by all government parties including the opposition. Despite having now been introduced by two separate governments it has consistently failed to pass committee stage. A better use of time and resources would be spent investigating why this was, rather than dragging out the process of reform even further.

Nevertheless, my party wishes to engage constructively with this public consultation and as such our recommendations can be found below. This is not an exhaustive list and we plan to bring forward legislation in our own regard, which will outline our more extensive and detailed proposals.

Some of the matters dealt with below deal directly with the issue of ethics in public life, whilst others are more geared towards the institutional structures which support a well-functioning ethical framework.

### ***The Standards in Public Office Commission***

The Standards Commission needs to be revamped with its resources and powers increased. The repeated recommendations that it has made to the government on how to improve ethics in public life need to be enacted. The Office of the Public Sector Standards Commissioner and the position of the Public Sector Standards Commissioner should be established as per the Public Sector Standards bill (2015).

### **Regulation of Lobbying**

As we saw in 2020 with the events of D'Arcygate and the aborted appointment of former Junior Finance Minister Michael D'Arcy and Irish Association of Investment Managers, there is a revolving door between politics and big business. This is corrosive to democracy and is what motivated myself and my colleague Deputy Pearse Doherty to introduce our Regulation of Lobbying bill (2020). This bill enacts 13 of the recommendations of SIPO, and should be allowed to pass the final stages and become law, and not go the same way as the Public Sector Standards bill.

It is also important that former members working as lobbyists must be placed on the same footing as non-former members engaging in lobbying, with their removal of their special entitlements. Back at the time of our bill's introduction I wrote to the Ceann Comhraile to raise this matter, and although he informed me he was examining this issue in light of international best practice, I received no further report.

With regard to the Lobbying Register, this should be connected to other publicly available databases like Tenders.ie, the CRO, the Register of Beneficial Ownership. FOI requests submitted in relation to this lobbying activity should be published here to provide greater transparency and context. More detail should be published about the legislation (enacted or

forthcoming), current stage of a bill, and the amendments that are being sought, changes to a Ministers position as a result, in order to create a kind of legislative footprint and more rounded picture of the impact that private interests have on public policy.

### ***Protected Disclosures***

With regard to protected disclosures, the regressive clauses in the government's new Protected Disclosure (Amendment) bill need to be removed, as per the report of the Finance Committee, and more broadly, the recommendations outlined in the report need to be enacted. The new restrictive conditionality on making a disclosure to the relevant Minister lowers current existing national standards, and thus it can be argued violates the transposition. Rather than limiting the Ministerial role in receiving protected disclosures, we should be further empowering Ministers to gathering all information in relation to a protected disclosure, and passing this on to the Attorney General to conduct legal proceedings on behalf of the state.

### ***Freedom of Information***

Given the problems with the current FOI regime, and the review which has been launched as a result, we believe that there needs to be greater accountability when it comes to functioning of FOI. We believe that Secretary Generals, Chief Executives and the Heads of Public Bodies, should ultimately be accountable for how their department/local authority/body is performing with regard to Freedom of Information (FOI). SIPO should also be empowered to receive complaints about Senior officials whose departments, authorities or public bodies consistently fails in its FOI obligations.

Departments/local authorities/public bodies should be required to publish information on FOI requests processed, number of refusals, redactions, appeals, upheld appeals, cost of legal fees defending cases against the Information Commissioner, as part of their annual report. This is needed to support transparency and open government. Fortunately, my own Freedom of Information (Amendment) introduced last year would do just that, and should be supported.

### ***Appointment to Boards/Commissions***

A previous report by the Institute of Directors in Ireland found that nearly three-quarters of state body executives it polled didn't think the appointment process was sufficiently transparent. It's imperative that the appointments process to boards and commissions is transparent, that proper due diligence is exercised and conflicts of interest are avoided.

### ***Conclusion***

This state's ethics framework is something of a patchwork quilt of overlapping and often poorly defined institutional roles. With a greater emphasis on informal/formal codes of conduct and moral integrity, than clear cut rules and accompanying sanctions for breaches,

overlapping oversight functions often lead to questions of who should regulate and investigate wrongdoing, and what remedial measures should be applied.

SIPO is reactive in the sense that for the most part it does not initiate investigations but waits to have complaints referred to it. It needs a new more activist and reformist drive, one backed up by additional powers and resources.

Institutional mechanisms like the regulation of lobbying, protected disclosures and freedom of information, are key maintaining accountability and transparency in public life and thus ethical behaviour. But we should recognise that over time the fortunes of these regimes can wax and wane and depend on sufficient resources, political support and legislative reform.

Reviews in lieu of action when problems have already been well documented and solutions long identified, contribute to a loss of faith in the political and public service systems. It is my hope that this public consultation is being held in good faith, and the reforms that we badly need will be enacted with the speed they warrant.

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