

## **Labour Party submission on reform and consolidation of Ireland's statutory framework for Ethics in Public Life**

The Labour Party is pleased to contribute to this important consultation. The observations and recommendations made in this submission are general by nature and are not exhaustive. We look forward to engaging constructively with government and the Department's officials in a comprehensive way at each stage of this process.

The Labour Party is proud of the pioneering and progressive role we have played in the introduction and evolution of Ireland's current statutory ethics in public life statutory framework.

High ethical and governance standards and the principles of integrity, accountability, openness and transparency at every level of politics, public life and public administration are critical cornerstones of our democracy.

Public trust and confidence in the State and how it conducts its business on behalf of its citizens depends on a robust framework to police and enforce ethical standards in public life.

In truth, the 2016 to 2020 government paid lip service only to this important agenda.

We are disappointed it has taken so long to progress reform in this critical area since Brendan Howlin published the Public Sector Standards Bill in 2015.

This was a key part of the reforms pursued by the Labour Party which included;

- an overhaul and restoration of the Freedom of Information legislation
- the introduction of a legislative framework for protected disclosures
- the regulation of lobbying
- a new system for appointing State Boards.

Unfortunately, the Public Standards Bills was stalled at Committee Stage in April 2017, and the government chose not to restore it to the Order Paper after the last general election.

There is now an urgent need to consolidate and update the legal framework currently in place, and to finally act on the outstanding recommendations of Tribunals and other inquiries and reports.

As SIPO pointed out in its 2019 annual report, the Council of Europe's Group of States against Corruption (GRECO) had recommended in its 2014 evaluation report that Ireland should replace the existing ethics framework with a uniform and consolidated values-based normative framework.

Because of the delay in passing the 2015 Bill, GRECO found in a 2018 interim compliance report that its recommendations could not be considered to have been implemented in full and it gave Ireland a rating of "globally unsatisfactory", due in part to the failure to progress the draft legislation.

In the context of future legislative proposals, it is the view of the Labour Party that the proposals in the Public Standards Bill should be taken forward again and further updated to take on board other recommendations and developments since.

Furthermore, with the planned creation of the new Electoral Commission there needs to be a clear and meaningful separation of the roles and functions between that body, and the proposed Public Sector Standards Commissioner allied with a formal requirement for both bodies to co-operate on matters of common concern where issues of standards in public life are concerned.

There is a clear need to address the powers available to investigate and enforce decisions of the successor to SIPO and ensure that the 'cooling-off' period for former designated public officials is enforceable.

This issue, and the gap in the legislative framework has received considerable public attention (for example when then Senator and former Minister of State for Financial Services Michael Darcy was appointed to a senior role with a financial services industry body a matter of weeks after he left ministerial office).

In 2020 the Labour party published legislation to address this lacuna in the law to empower SIPO to investigate and sanction former politicians who breach lobbying and ethics rules in this way.

This review and the legislative reform agenda in respect of the financing of politics and the drive to enhance and update the statutory framework for ethics in public life must be mindful of the ways in which gaps between party finance and standards in public life laws in the two jurisdictions on the island of Ireland have been exploited and are open to abuse by parties and bodies who are registered in both jurisdictions.

The review should consider this matter and whether the powers and defined functions of the proposed Electoral Commission and PSSC are sufficient to ensure adequate oversight and enforcement of these complex issues. Put simply, the question of the financing of politics and ethics in public life cannot and should not be separated. They are one in the same thing and must be considered as such by this review.

In addition, it is our view that the reformed regulatory framework and reporting mechanisms to be put in place for public officials and elected representatives should be modernised and digitalised to provide for easier compliance.

It is of fundamental importance that the lacunae in the law and the variety of issues highlighted by SIPO in recent years through their reports, and their previous submissions to the Department should be taken into account in revised proposals that would build on Deputy Brendan Howlin's 2015 Bill, including the proposal that former public officials could be subjected to formal inquiries over their past conduct.

The most prominent recommendations of SIPO, still outstanding, include –

- power to appoint an inquiry officer to conduct a preliminary inquiry into a matter in the absence of a complaint
- legislation to ensure accountability of all former public officials, including those not currently covered by the Ethics Acts
- a code of conduct should be adopted for public servants and members of state boards in the wider public service
- an amendment to the provisions for complaints about a 'specified act' to allow reference to a high-level statement of the ethical principles to be followed by public servants and public representatives
- a requirement that liabilities be disclosed as 'registrable interests', and
- provision to allow complaints against members of the Oireachtas in circumstances where the matter comes to light after the member has left office.

The proposed Public Sector Standards Commissioner function must in our view, provide for a robust and effective framework for oversight, investigation, and enforcement; and importantly cut down on unnecessary bureaucracy.

It is clear too to the Labour Party that there is an urgent need to consolidate local and national ethics requirements and that various recommendations made by Tribunals over the last two decades are fully implemented.

We look forward to continuing to engage in this important process.

**Ged Nash TD - on behalf of the Labour Party**