

Guidelines and charges in relation to the use of services and facilities following a dissolution of Dáil Éireann under section 4(4A) of the Houses of the Oireachtas Commission Acts 2003 to 2009

Introduction

The Houses of the Oireachtas Commission [“Oireachtas Commission”] has prepared the following guidelines for outgoing Deputies and serving Senators who are contesting the next Dáil General Election [“Senator candidates”], pursuant to section 4(4A) of the Houses of the Oireachtas Commission Act 2003 (as inserted by section 4(c) of the Houses of the Oireachtas Commission (Amendment) Act 2009). This subsection reads as follows:

“(4A) The Commission may prepare and publish guidelines for Members of Dáil Éireann and Seanad Éireann in relation to the use of services and facilities provided out of public funds following a dissolution of Dáil Éireann, and—

(a) may provide such services and facilities, and

(b) shall specify an appropriate charge for such use made other than in respect of duties as public representatives.”

Context and application of these Guidelines

- I. Most of the allowances and facilities which are made available to serving Deputies cease to be provided on dissolution of the Dáil – these guidelines are mainly concerned therefore with the limited range of services and facilities which continue post dissolution, namely, secretarial staff, use of office and ICT equipment, access to Leinster House offices and the use of telephone, fax and copying facilities in Leinster House. The guidelines also cover the use of facilities which cease to be available on dissolution but which can be retained for use following dissolution, such as material printed in the Leinster House printing facility, pre-paid envelopes and stationery/consumables.
- II. The purpose of these guidelines is to –
 - a) identify and notify to Members the services and facilities which will or will not be made available to them following a dissolution of the Dáil; and
 - b) set out how Members will be required to certify and reimburse the Oireachtas Commission for use of services and facilities provided out of public funds other than in respect of duties as a public representative.
- III. It is important to emphasise that individual outgoing Deputies and Senator candidates are responsible for remaining within the statutory expenditure limits in relation to election expenses. It is not a matter for the Oireachtas Commission to advise Members on how they should comply with their obligations under election expenditure controls. It is for outgoing Deputies and serving Senators, as candidates in the Dáil General election, together with their

election agents, to determine their reporting obligations under the Electoral Act 1997, as amended, in accordance with the guidelines for that election published, or advice given, by the Standards in Public Office Commission.

- IV. The effect of the Supreme and High Court judgements in the Kelly case is that post dissolution facilities and services, like all services and facilities provided out of public funds, if used for election purposes, must be accounted for within a candidate's election expense limit. Ultimately it is for SIPO to advise candidates on what should be included as having been used for election purposes in that regard.
- V. Members should be aware that, in the event of a legal challenge or challenges subsequent to the General Election, all candidates in the constituency or constituencies under challenge will be subject to scrutiny.

Guidelines

General principle

1. In exercise of its powers under section 4(4A) of the Houses of the Oireachtas Commission Acts 2003 to 2009, the Oireachtas Commission has decided that outgoing Deputies may use services and facilities provided out of public funds [within the meaning of paragraph 2] provided by the Houses of the Oireachtas Commission, in the period following a dissolution of Dáil Éireann up until polling day ["the election period"] in order to attend to their duties as public representatives, such as ongoing constituency casework within the meaning of the definition below. There will be no charge for this use.

"Services and facilities provided out of public funds"

2. "Services and facilities provided out of public funds" includes:
 - Leinster House accommodation and access
 - staff employed under the secretarial assistance scheme whether located for their employment in or outside of Leinster House [e.g. secretarial assistants and, where applicable, parliamentary assistants]
 - ICT and other office equipment
 - telephone facilities in Leinster House
 - postal facilities
 - photocopying
 - stationery/consumables
 - printed material funded by the Oireachtas Commission

but does not include use of the Leinster House printing facility after the date of dissolution – this facility will be closed to outgoing Deputies during the election period. Senators may continue to use the Leinster House printing facility for routine printing connected with their Seanad parliamentary duties but may not use the facility for electoral purposes connected with the Dáil General Election.

“Ongoing constituency casework”

3. “Ongoing constituency casework” includes reasonable constituency business but excludes work on new representations (i.e. an enquiry which had not been raised with the candidate prior to the election) which are received by an outgoing Deputy or Senator candidate in the course of canvassing for election at the Dáil General Election or services or facilities used for the purpose of any form of unsolicited communication issued by a candidate to any of the electorate.

Use other than in respect of duties as a public representative

4. Where services and facilities provided out of public funds are used by an outgoing Deputy or Senator candidate other than in respect of duties as a public representative during the election period, the outgoing Deputy or Senator candidate shall pay the appropriate charge for such use specified by the Oireachtas Commission. [see Appendix 1 - Schedule of charges (page 21)].

Use of services/facilities provided prior to dissolution

5. Any use in the election period for election purposes of services and facilities provided prior to dissolution, such as –
 - a) printed material funded by the Oireachtas Commission,
 - b) pre-paid Oireachtas envelopes, or
 - c) stationery or consumables,

must be declared and certified to the Oireachtas Commission and the cost reimbursed in accordance with the schedule of Commission charges. In determining whether the usage is electoral in nature, regard should be had to the definition of “election expenses” in the Electoral Act 1997, as amended [see Appendix 3, page 24]. Ministers and Ministers of State should be aware that declarations in respect of Oireachtas provided material should be made on an Oireachtas declaration form. Declarations made by Ministers in respect of facilities which are provided by their parent Department should refer only to facilities thus provided by that Department. In this respect Ministers and Ministers of State should make two separate declarations if facilities are used from separate allocations.

Assessment of charges to be paid

6. Each individual outgoing Deputy or Senator candidate shall assess the charges payable to the Oireachtas Commission, based on the percentage of his/her use of services/facilities for purposes other than in respect of duties as a public representative in the election period. In making this assessment, regard should be had to –
 - (1) the definition of “election expenses” as set out in section 31 and the schedule to the Electoral Act 1997, as amended [see Appendix 3, page 24]; and
 - (2) the guidelines issued by Standards Commission for the General Election to the 31st Dáil [see Appendix 2, page 22].

The responsibility to make such enquiries and maintain such records as are necessary to enable assessment of the charges payable to the Oireachtas Commission rests with each individual outgoing Deputy or Senator candidate.

7. Outgoing Deputies and Senator candidates are advised that they, together with their election agent where appropriate, should –
 - (1) make such arrangements in relation to their office administration, and
 - (2) issue such instructions to their staffas are necessary in order to ensure compliance with these guidelines and to enable assessment of the charges payable to the Oireachtas Commission.

Declaration of use and payment of charges

8. The Oireachtas Commission will issue declaration forms in respect of the use of services and facilities provided out of public funds to all outgoing Deputies and Senator candidates. Completed forms, accompanied by the appropriate payment, if applicable, must be received as soon as possible after polling day and, in any event, not later than 40 days from polling day [see Appendix 4 (page 27) - Declaration form].
9. Members should also be further aware that the Standards in Public Office Commission has access on request to the declarations made by Members to the Oireachtas Commission and clarifications are liable to be sought by SIPO should declarations differ on the SIPO declarations which Members are required to complete under the provisions of the Electoral Act 1997 as amended.

APPENDIX 1

SCHEDULE OF CHARGES

SPECIFIED BY THE OIREACHTAS COMMISSION FOR USE OF SERVICES AND FACILITIES FOLLOWING DISSOLUTION OF THE DÁIL UNDER SECTION 4(4A) (b) OF THE HOUSES OF THE OIREACHTAS COMMISSION ACTS 2003 TO 2009

	Facility or service	Appropriate weekly charge
1	Leinster House accommodation	Outgoing Deputy = €150 per week Senator candidate = €60 per week
2	Staff salaries	Individual staff Members' salaries will be notified by letter to individual Members prior to dissolution Note - Likely range based on gross salary plus employers' PRSI at 10.75% is minimum of €91 and maximum of €49 per week for a secretarial assistant and minimum of €72 and maximum of €1,108 per week for a parliamentary assistant.
3(1)	ICT and other office equipment	Outgoing Deputy = €35 per week Senator candidate = €67 per week
3(2)	¹ Moving ICT equipment after the dissolution date	€195 and up to €350 for reconfiguration
4	Telephone facilities in Leinster House	Members will be charged according to calls made
5	Postal facilities	Large envelope [up to 250g] = €1.30 Standard envelope [up to 100g] = 54c
6	Photocopying	Cost per 1000 copies (including paper) = €8.39
7	Stationery/consumables	A4 paper per 2500 = €2.34 A3 paper per 500 = €6.27
8	Printed material funded by the Oireachtas Commission	Indicative costings: 4 Page newsletter by 30,000 = €2100 DL cards 2 sided by 30,000 = €40 A6 cards 2 sided by 30,000 = €10 A4 Letterheads by 30,000 = €90

Note – The Commission will provide key staff contacts to advise outgoing Deputies or Senator candidates on appropriate charges for services or facilities not included in the above schedule.

¹ See Section C Pages 9 and 11. In addition, a charge of €195 applies only where the first appointment has been missed for the collection of equipment from non – returned Members.

**EXTRACTS FROM THE STANDARDS IN PUBLIC OFFICE COMMISSION
GUIDELINES FOR THE GENERAL ELECTION TO THE 30TH [31ST] DÁIL**

G. What are election expenses?

The legislation provides that election expenses are those and only those, set out in the definition of election expenses [see Appendix 3], which are incurred in the provision of property, goods or services for use at the election during the election period in order to:

1. promote or oppose the interests of a political party or the election of a candidate, or
2. present the policies of a political party or the comments of a political party on the policies of another political party or of a candidate at the election, or
3. solicit votes for or against a candidate, or
4. present the policies of a candidate or the views of a candidate on any matter connected with the election or the comments of a candidate on the policies of a political party or of another candidate at the election, or
5. otherwise influence the outcome of the election.

Where property, goods or services which are provided free or below cost are used during the election period, they are regarded as election expenses which must be authorised by the election agent or the national agent, and must be accounted for as election spending by the relevant agent at the commercial price. An example might be where a printer agrees to provide, for no charge, election literature which would normally cost €1,500.00. This supply of material must be authorised and accounted for at its commercial price less any normal discount which may be available.

Election Expenses which are met out of public funds

Arising from the judgment in *Kelly v. Minister for the Environment & Ors* [2002] 4 I.R. 191, where property, services or facilities are used for electoral purposes during the election period and the costs are met out of public funds, such costs must be accounted for as election expenses. The use of the material must be authorised by the candidate's election agent. It will be a matter for the relevant agent and the candidate, in consultation with the provider of the property, services or facilities, to determine the value of the usage for electoral purposes and to account for this in the Election Expenses Statement.

The Standard in Public Office Commission (Standards Commission) is aware that some candidates at the election who are already public representatives may be required to communicate with their constituents during the election period, for example, MEPs, Senators and local authority members. Similarly outgoing Members of the Dáil may have residual constituency business to conduct. It is necessary, therefore, where costs are met from public funds to differentiate between the use of property, services (including staff) and / or facilities in carrying out reasonable constituency business and the use of such material for electoral purposes. If, during the election period, such materials are used for the purpose of any form of unsolicited communication to any of the electorate in the constituency, the materials will be regarded as having been used for electoral purposes and the costs will have to be accounted for as an election expense at their full commercial value. In that regard, the Standards Commission is of the view that where a new enquiry is raised with a candidate (i.e., an enquiry which had not been raised with the candidate prior to the election) while he/she is canvassing and facilities the cost of which are met out of public funds are used for the purposes of responding to the enquiry, the facilities will be regarded as having been used for electoral purposes. This also applies to unsolicited material issued by elected representatives, other than the candidate, where the material either promotes or opposes a candidate or otherwise seeks to influence the outcome of the election. This includes time spent by staff in responding to the enquiry except where such staff are working voluntarily on the candidate's campaign.

Appendix 5 - Accounting for the use of offices during the election period

Use of Dáil / Seanad offices or Departmental offices

The use by a Member of the Dáil or Seanad of his/her Dáil/Seanad office for electoral purposes is regarded as an election expense. Account must be taken of the extent to which the office has been used for electoral purposes during the election period. Account must also be taken of ancillary costs such as salaries, heat, light, phones, fax, copying, printing, stationery, postage, envelopes, etc. where such costs have been incurred for electoral purposes.

The use of Departmental offices of Ministers/Ministers of State for election purposes during the election period is also an election expense. This includes the costs of salaries and expenses of civil servants or special advisers, where they are engaged in activities for election purposes during the election period, as well as other ancillary costs such as heat, light, phones, fax, copying, printing, stationery, postage, envelopes, etc. where such costs have been incurred for electoral purposes.

Accounting for offices which are owned by a candidate or political party

Notional rental costs for the use of an office which is owned by a candidate are not required to be accounted for as election expenses. Similarly where a political party owns an office in a constituency which is used by its candidate(s) during an election campaign, neither the party nor the candidate are required to apply notional rental costs for the use of these offices. Any expenses, however, incurred in carrying out alterations to facilitate its use for election purposes during the election period are required to be accounted for.

APPENDIX 3

DEFINITION OF ELECTION EXPENSES

EXTRACT FROM SECTION 31 OF THE ELECTORAL ACT 1997 AS AMENDED

31.—(1) (*a*) In this Part 'election expenses' means all expenses falling within paragraph (*b*) incurred in the provision of property, goods or services for use at an election during the period referred to in subsection (3) in order—

- (i) to promote or oppose, directly or indirectly, the interests of a political party or a political group formed in accordance with the rules of procedure of the European Parliament, or to present the policies or a particular policy of a political party or a political group or the comments of a political party or a political group on the policy or policies of another political party or political group or of a candidate at the election; or
- (i) to promote or oppose, directly or indirectly, the election of a candidate at the election or to solicit votes for or against a candidate or to present the policies or a particular policy of a candidate or the views of a candidate on any matter connected with the election or the comments of a candidate on the policy or policies of a political party or a political group or of another candidate at the election; or
- (ii) otherwise to influence the outcome of the election.

(*b*) The expenses mentioned in the foregoing definition of 'election expenses' shall be those, and only those, set out, in the Schedule to this Act.

(2) Where property, goods or services are provided to a political party or a candidate at an election without payment or other consideration therefore or at a price which is less than the commercial price, the provision of the property, goods or services shall be deemed to be an election expense and the property, goods or services shall be deemed to have been provided at the commercial price and shall be accounted

for accordingly by the national agent or election agent, as the case may be, in the statement to be furnished under *section 36* to the Public Offices Commission.

SCHEDULE TO THE ELECTORAL ACT 1997 AS AMENDED

1. The following are the expenses referred to in section 31(1)(b) and 52(1)(b):

a) Advertising (whatever the medium used).

Expenses in respect of such advertising include agency fees, design costs and other costs incurred in connection with preparing, producing, distributing or otherwise disseminating such advertising.

b) Publicity.

Expenses in respect of that matter include expenses incurred in respect of party political broadcasts, the provision of any services or facilities in connection with press conferences or other dealings with the media, media advice and training and photography.

c) Election posters.

Expenses in respect of such material include the costs of the design, production, printing, erection and removal of election posters.

d) Other election material.

Expenses in respect of such material include the design, production, printing and disseminating of such material (other than posters) including canvass cards, election leaflets, election manifestos, newsletters and any other promotional election material.

e) Office and stationery.

Expenses in respect of those matters include costs incurred in the rental or use of an office premises or meeting rooms for election purposes (other than for the purposes of annual or other party conferences) and the costs of heating, electricity, insurance, purchase or rental of office equipment, telephones, stationery and postage.

f) Transport and travel.

Expenses in respect of those matters include expenses incurred on transport and travel (by any means), petrol and diesel, rental or use of campaign vehicles, rental or use of vehicles for transport of voters on polling day, accommodation costs, taxi and hackney services and courier services.

g) Market Research.

Expenses in respect of that matter include expenses incurred in the taking of an opinion poll or other similar survey relating to an election within the

period of 60 days before polling day at the election by or on behalf of a political party, a political group or a candidate at the election.

h) Campaign workers.

Expenses in respect of that matter include payments to campaign workers, insurance and other costs.

2. For the avoidance of doubt, nothing in paragraph 1 of this Schedule extends to—

- a) ~~any of the matters referred to in subparagraphs (i) to (v) of section 22(2)(b) or, in the case of a presidential election, subparagraphs (i) to (v) of section 46(2)(b),~~ [Note – this provision was struck down in Kelly case]
- b) expenses incurred in the provision of property, goods or services used at an election where such property, goods or services was or were provided in respect of a previous Presidential, Dáil, European or local election and the cost of providing such property, goods or services was included in the statement of election expenses furnished to the Public Offices Commission or to a local authority in relation to the said previous election by the national agent of the party or designated person of the party or election agent of the candidate, or candidate as the case may be,
- c) ~~any expenses in respect of any property, services or facilities so far as those expenses fall to be met out of public funds,~~ [Note – this provision was struck down in Kelly case]
- d) necessary travelling expenses incurred by a candidate or an assessor in meeting the requirements of section 46(4A) and (4B) of the Act of 1992 and section 12(1A) and (1B) of the Act of 1997,
- e) expenditure on the purchase of copies of the register of electors or parts thereof,
- f) the reasonable living expenses (including accommodation) of a candidate or any person or persons working on behalf of the candidate on a voluntary basis, or
- g) any sum disbursed by any individual out of the individual's own resources for any minor expenses (not exceeding £100 in any one payment) lawfully incurred in relation to the election if the said sum is not repaid to the person.

APPENDIX 4

Declaration as to use of services and facilities provided out of public funds following a dissolution of Dáil Éireann

Section 4(4A) - Houses of the Oireachtas Commission Acts 2003 to 2009

GENERAL ELECTION FOR THE 31TH DÁIL

Please read the information notes provided before completing this form

Name [*block capitals*]: _____

Address: _____

Total amount payable to the Oireachtas Commission [enclosed]: € _____

Note this declaration form, accompanied by the appropriate payment, if applicable, must be received by the Oireachtas Commission not later than 40 days from polling day. Cheques should be made payable to the Houses of the Oireachtas Commission

Ref	Facility/service	(1) Appropriate full charge [Weekly]	(2) % of use other than in respect of duties as a public representative	(3) Actual charge payable based on column (1) and (2) [see note 4]
1	Leinster House accommodation	Outgoing Deputy = €150 per week Senator candidate = €60 per week		
2	Staff salaries <ul style="list-style-type: none"> • secretarial assistant • parliamentary assistant 	Individual staff Members' salaries will be notified by letter to individual Members prior to dissolution Note Likely range based on gross salary plus employers' PRSI at 10.75% is minimum of €491 and maximum of €949 per week for a Secretarial assistant and minimum of €872 and maximum of €1,108 per week for a Parliamentary Assistant		
3	ICT and other office equipment	Outgoing Deputy = €235 per week Senator candidate = €167 per week Moving of ICT equipment after the date		

		of dissolution = €195 and up to €350 for reconfiguration		
4	Telephone facilities in Leinster House	Members will be charged according to calls made		
5	Postal Facilities	Large envelope [up to 250g] €1.30 Standard envelope [up to 100 g] = 54c		
6.	Photocopying	Cost per 1000 copies (including paper = €18.39		
7.	Stationary/consumables	A4 paper per 2500 = €12.34 A3 paper per 500 = €6.27		
8.	Printed material funded by the Oireachtas Commission	Indicative costings: 4 Page newsletter by 30,000 = €2,100 DL cards 2 sided by 30,000 = €940 A6 cards 2 sided by 30,000 = €810 A4 Letterheads by 30,000 = €690		

The above declaration is, to the best of my knowledge and belief, correct in every material respect and I took all reasonable action in order to be satisfied as to its accuracy.

Signature:

Date: