

On behalf of the Standards in Public Office Commission I welcome the opportunity given to the Commission by the Committee to make a formal submission setting out the views of the Commission on the draft General Scheme of a Public Sector Standards Bill. I also welcome the opportunity to address members today, to answer any questions they may have and to contribute to the debate on the matter.

The Commission welcomes the publication of the draft General Scheme. The proposals represent a significant step on the road to realisation of a major recommendation first made by the Commission in its annual report for 2009 for a single comprehensive Act based on best practice for dealing with conflicts of interests, which would consolidate the provisions of the Ethics Acts with other statutory and administrative ethics frameworks, such as the Ethical Framework for the Local Government Service and the Code of Practice for the Governance of State Bodies.

The Commission and its predecessor, the Public Offices Commission, have been overseeing the implementation of the ethics legislation since the passage of the Ethics in Public Office Act 1995. In that time, it has made numerous recommendations for improvement of the ethical framework, many of which are reflected in the draft General Scheme. Not least of these is the requirement that the legislation be consolidated and that a clear set of principles be established which apply to all in public life.

The Commission considers that a strong ethical framework should be aspirational in nature. The structure underpinning the Statute should have a strong promotional role, and not just be engaged in detecting

non-compliance. The statutory framework should codify public service values and principles; use these as the basis of a statutory Code of Conduct and provide clear guidance and training. These provisions should form the centre of the framework. Such values and principles would include the requirements that public officials act solely in the public interest, act fairly and impartially, are accountable for their actions and show leadership by acting in accordance with the highest standards and promoting these standards to other public officials by their conduct.

The draft General Scheme gives centre stage to conflicts of interest, which formed the basis of the Ethics in Public Office Act 1995. However, other aspects of behaviour such as the requirements on public officials to have respect for equality of opportunity; to perform their functions openly and transparently to the greatest extent possible and to avoid the misuse of public resources also need to feature, in the context of the fundamental obligation of public officials to act ethically in the public interest, which must be emphasised as of the highest priority.

The Commission therefore considers that the General Scheme should be reordered to emphasise the high standards of conduct and integrity which are expected of public officials, along with the provisions re codes of conduct and that other provisions setting out specific obligations (e.g. disclosure of interests, tax clearance, use of confidential information, dealing with land) and the complaints and investigations procedures should follow.

The Commission has provided a document setting out in detail its

observations on the draft General Scheme and has made recommendations for improvements. The Commission has also provided that document to the Minister for Public Expenditure and Reform.

In particular, the Commission considers that the structure and procedure proposed for investigation of contraventions is over elaborate and unnecessary. It considers that, given its experience of dealing with complaints under the Ethics Acts, the investigative function should be provided within a single organisation, without the need for an external structure.

The Standards Commission notes the proposal in the draft General Scheme for its replacement by a single office holder, the Public Sector Standards Commissioner. It considers that there is some merit in the proposal. However, it also considers that there has been merit in the existing approach. The wide range of experience brought to it by its current and former members (former High Court judges, the Comptroller and Auditor General, the Ombudsman, the Clerks of Dáil and Seanad Éireann and former Oireachtas members and Ministers) has been of great benefit to it in performing its functions under the Ethics Acts. The Commission is of the opinion that careful consideration should be given to this proposal. The current structure of the Commission and its implementation of its statutory powers has indicated the established ability for the Commission to perform its functions in an open and transparent manner covering a wide range of issues. Appropriate legislative amendments (where necessary) could be made whilst substantially retaining the current structure of the Commission.

My colleagues and I will be very happy to answer any questions which the members may have and to contribute to the development of the proposals.