



Comhshaol, Pobal agus Rialtas Áitiúil  
Environment, Community and Local Government

Mr Ronan Lenihan  
Joint Committee on Public Service Oversight and Petitions  
Houses of the Oireachtas  
Leinster House  
Dublin 2.

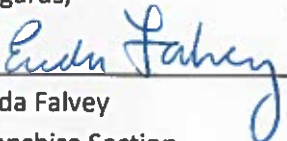
Dear Ronan,

Further to your letter of 20 April 2015 in connection with meeting the Committee on Wednesday 24 June 2015 at 4.15pm, I attach a copy of the Opening Statement that I have drawn up for the meeting.

As for attendance on the day, there will be three of us – all from Franchise Section of this Department – Mr Enda Falvey, Ms Mairead Ryan and Ms Mary Lane.

We will be outside Committee Room 3 in Leinster House in advance of the appointed time. In the meantime, if you wish to contact me for any reason, I am available at 01 888 2420 and at 087 257 5232.

Regards,

  
Enda Falvey

Franchise Section  
19 June 2015.

## **Joint Committee on Public Service Oversight and Petitions : Opening Statement - 24 June 2015**

**Good Afternoon Chairman and Members,**

In your letter of 2 February 2015 to the Department you requested a progress report on the matters raised in your Committee's report of 12 June 2014 - "Report on the Design and Layout of Ballot Papers used in the Seanad Referendum October 2013". This report had emanated from the Committee's consideration of correspondence sent to it following the October 2013 referendums, in which concerns were raised about confusion among voters in respect of the design, text and language of the ballot papers used at the referendum on abolition of the Seanad. The Department sent a progress report to the Committee on 19 March 2015.

You had invited officials from the Department to address the Committee on 22 April 2015. You later extended this to today having regard to the ongoing work at that time in relation to the referendums on Marriage Equality and on the age of eligibility for election to the office of President. I would like to thank you for that consideration.

Today is an opportunity to review the Department's progress report. The Committee will also be aware that their report of 12 June 2014 was debated in the Dáil last November and that some of the points made during the debate continue to be relevant.

### **Recommendations in the Committee's Report of 12 June**

There were four main recommendations outlined in your report of 12 June 2014. They were –

- that the Minister examine the legislation with a view to having it modernised,
- that the Minister examine the legislation with a view to modernising how a question is put,
- that the Minister examine the possibility of 'proofing the wording formula' by some means in advance of it being put on a ballot paper, and
- that a permanent Electoral Commission be established with a mandate to conduct research.

I'm taking the recommendations made regarding legislation to amend the format of the ballot paper and the possible proofing of the ballot paper wording in advance of referendums together. Following the publication of the Committee's report, the Department sought legal advice and consulted with the National Adult Literacy Association in order to assess what steps could be taken in relation to the format of the ballot paper.

Simplification and modernisation of the referendum ballot paper is not a straightforward matter. Article 46 of the Constitution provides that every proposal for an amendment of the Constitution is initiated by a Bill and it is the Bill which is submitted for decision of the people. Therefore, the Bill must be the focus of the amendment. A direct question must be put to the voter about the amendment proposed, not about an interpretation or summary of the amendment. Trying to make a question simpler and more obvious runs the danger that a gloss or spin is essentially

interfering with the real textual question and possibly acting as a form of 'referendum information'. Recent court cases have emphasised the importance of process in the taking of a referendum.

The Department felt that the National Adult Literacy Association would have valuable comments to make in relation to the wording of the referendum ballot paper. The Association informed the Department that 1 in 6 adults between the ages of 16 and 65 have literacy difficulties. For these people, the format of the ballot paper used in the October 2013 referendums may have presented difficulties – for example, the closeness of the Irish and English texts on the ballot paper, the excessive use of capital letters and bold text. Subsequent consultations between the Department and the National Council for the Blind reflected some of the same concerns for people with visual impairments.

Taking these points into consideration, the Minister felt that the focus in the shorter term – particularly with the prospect of two referendums then envisaged for May – should be on measures that could be taken within the existing legislative framework that would assist voters in familiarising themselves with the question they would have to answer on the ballot paper.

This does not mean that the format of the ballot paper cannot be improved in the medium to longer term. A future Electoral Commission might usefully be given the task of making recommendations on a new form of referendum ballot paper. Depending on the particular amendment of the constitution that is being put to the people in a referendum, it may be possible to move to a formula which would continue to focus on the amendment Bill but yet expand the question to be more explanatory. This sort of research would perhaps be in line with the research mandate for the Commission recommended by your Committee in its report of 12 June 2014.

### **Improvements introduced by the Department**

In our progress report of 19 March 2015, we outlined the measures being taken by the Department to improve the format of the ballot paper at the May 2015 referendums. In summary-

- the format of the ballot paper was changed to make it easier for people with literacy and visual impairment difficulties. The Department had very positive engagement both with the National Adult Literacy Agency and the National Council for the Blind in making these changes. While not meeting all of their requirements, both organisations were agreed that the new format of ballot papers (those used in the recent referendums) was a big improvement on the one previously used. The changes made included the use of different and generally larger font sizes, together with better use of upper and lower case letters, use of 'bold' lettering and shading. A sample copy was provided to the Committee,
- Statements for the Information of Voters prescribed by each House of the Oireachtas were provided in poster form to local returning officers for placement in polling compartments at polling stations. Some 25,000 posters were printed and distributed for this purpose. This was done to assist voters at the point of marking the ballot paper. Senator O'Keefe

made a suggestion along these lines during our discussion with the Committee last year, and

- the Department wrote to the Referendum Commission in advance of the May referendums, asking it to consider including a mock-up of the ballot papers in the information booklet sent to voters. The Referendum Commission did so and this meant that voters had sight of what the ballot papers would look like and had the opportunity to familiarise themselves with the questions being put to them, in advance of polling day. The opportunity to see a mock-up of the ballot papers in advance will hopefully have helped some of those reported to have been confused by the ballot paper in the October 2013 referendums.

### **Electoral Commission**

Turning to the Committee's recommendation that a permanent Electoral Commission be established with a mandate to conduct research, progress has been made over the last number of months. As I set out in the Progress Report of 19 March 2015, the Minister for the Environment, Community and Local Government published a consultation paper on 27 January 2015 to commence the pre-legislative process leading to the establishment of an Electoral Commission. The consultation paper includes the recommendations of your Committee in relation to the Electoral Commission. The Minister invited the Joint Oireachtas Committee on Environment, Transport, Culture and the Gaeltacht to examine the consultation paper and to consider undertaking a public consultation process to inform the preparation of legislation to establish an Electoral Commission. The Minister met with the Committee on 10 March 2015 to hear their views. I understand that the Committee's consultation process is well underway. The closing date for written submissions was Monday 15 June 2015. Public hearings commenced on 16 June and are to conclude before the end of July. A report is to be submitted to the Minister on the outcomes from the consultation process as soon as possible thereafter.

### **Conclusion**

In any future work in this area, it will be important that we do not lose sight of the gravity of the decision voters are being asked to make at a referendum and the need for precise language in legal matters. Proposals to amend the Constitution can have far reaching and profound consequences. In a constitutional referendum voters are not simply being asked their opinion on a particular issue. They are being asked to decide on amendments to the written constitution that are set out in the relevant constitution amendment bill.

In concluding, I hope that this brief outline sets out the position fully for you on the response to the recommendations you made in your report on this matter last June.

Enda Falvey  
Franchise Section  
Department of the Environment, Community  
and Local Government  
19 June 2015.

Check against delivery