

Dáil Bye Elections 29 November 2019

**Report by the Standards in Public Office Commission
to the Ceann Comhairle
pursuant to the Electoral Act 1997, as amended**



Coimisiún um Chaighdeán in Oifigí Poiblí
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Foreword

At the request of the Standards in Public Office Commission, I am presenting this report on donations and expenses at the 2019 Dáil bye-election election to the Chairman of Dáil Éireann (Ceann Comhairle), in accordance with section 4(1) of the *Electoral Act 1997*, as amended (the Act).

The donation statements and statutory declarations referred to in the report were provided to the Standards Commission pursuant to section 24 of the Act while the certificates of monetary donations/statutory declarations and statements from financial institutions were provided pursuant to section 23B of the Act. The election expenses statements were provided pursuant to section 36 of the Act.

Detailed information about the requirements of the legislation relating to:

- disclosure of political donations,
- limits on the values of donations which may be accepted,
- prohibited donations,
- limits on election spending, and
- reimbursement of election expenses to qualified candidates

is contained in the Standards Commission's *Guidelines for the Dáil Bye-elections 2019*, which are available on www.sipo.ie.

Sherry Perreault
Head of Ethics and Lobbying Regulation
Secretary to the Commission
December 2020

Chapter 1: Introduction

The *Electoral Act 1997*, as amended (the Act), provides for the disclosure of donations to candidates and parties at a Dáil bye-election, as well as the disclosure of election expenses of candidates, agents of candidates and national agents of political parties.

Polling day for the 2019 Dáil bye-election took place on 29 November 2019. Bye-elections were held in four constituencies: Cork North-Central, Dublin Fingal, Dublin Mid-West and Wexford. Forty-six candidates contested the bye-elections: 12 in Cork North-Central, 12 in Dublin Fingal, 13 in Dublin Mid-West and 9 in Wexford.

Successful candidates at the election, as Members of Dáil Éireann (TDs), are required to furnish an annual donation statement and accompanying documentation to the Standards Commission by 31 January of the year following the election, and each year thereafter while an MEP. The donation statements to be provided in respect of 2019 must include details of any donations received during 2019, including those received in relation to the bye-election.

In accordance with the provisions of Part IV of the Act, unsuccessful candidates at the Dáil bye-election were required, within 56 days after polling day (i.e. by 24 January 2020), to furnish to the Standards Commission a donation statement, certificate of monetary donations, statutory declaration and/or a bank statement. Details of all donations with a value greater than €600 received by unsuccessful candidates in relation to the election were required to be disclosed.

Part V of the Act provides that the election agent of each candidate at a Dáil bye-election, whether successful or unsuccessful, is required to furnish an election expenses statement to the Standards Commission within 56 days after polling day (i.e. by 24 January 2020). The election expenses statement must include details of all expenses incurred and payments made by the election agent on behalf of the candidate at the election. An election expenses statement is also required from the national agent of each political party with candidates contesting the election and from "other persons" who incurred election expenses.

The Commission had regard to the guidelines it issued in advance of the Dáil bye-election and it examined all statements received to ensure compliance with both the guidelines and the legislation. Based on the information received, the Commission has no evidence that:

- any candidate exceeded the expenditure limit,
- any candidate received a reimbursement for election expenses in respect of expenditure that was not an election expense, or
- any prohibited donations were received by candidates.

Chapter 2: General information relating to the Dáil bye-election

The Commission published guidelines after the Dáil bye-election polling order issued. The purpose of the guidelines was to inform prospective candidates of the obligations they would take on if they chose to run, and to assist candidates to comply with their obligations under the Act. The guidelines covered the acceptance and disclosure of political donations, prohibited donations, political donation accounts, election spending and reimbursement of election expenses to qualified candidates.

Candidates and election agents were invited to meet with members of the Standards Commission Secretariat if they wished to discuss their obligations under the Act.

The following is a summary of information about permitted donations, as set out in the legislation.

Political donations account	On receipt of a donation of €100 a political donations account must be opened (if not already in place) by a candidate.
Cash donations	€200 is the maximum cash donation that may be accepted by a candidate from a donor in any calendar year.
Corporate donors	€200 is the maximum donation that may be accepted by a candidate from a corporate donor in any calendar year unless the corporate donor is registered in the Register of Corporate Donors maintained by the Commission
Individual donors	<ul style="list-style-type: none">• €1,000 is the maximum donation that may be accepted by a candidate in a particular year from an individual or registered corporate donor• All donations received by a candidate exceeding €600 must be disclosed on the Donation Statement.
Multiple donations	Where a donor makes a donation to two or more recipients (multiple members of the same party or to one or more party members and the party itself), the aggregate value of which exceeds €1,500 , he/she is required to submit a donation form to the Commission under section 24(1)(a)
Prohibited donations	<ul style="list-style-type: none">• An anonymous donation exceeding €100 cannot be accepted• Foreign donations, of any value, cannot be accepted from outside the island of Ireland, other than from an Irish citizen or from a business outside the island of Ireland unless it maintains an office on the island of Ireland from which at least one of its principal activities is directed.

Relevant dates & limits

7 to 29 November 2019	Election period
13 January 2020 (45 days after polling day)	Claims for payment of election expenses from suppliers must be received by the election agent by this date. Invoices received after this date cannot be paid.
24 January 2020 (56 days after polling day)	Date by which unsuccessful candidates must furnish donation statement/certificate of monetary donations/bank statements to the Standards Commission
24 January 2020 (56 days after polling day)	Date by which election agents must furnish election expenses statements and invoices to the Standards Commission
€8,700	Maximum amount of reimbursement of election expenses that a qualifying candidate may claim
31 January 2020	Date by which successful candidates were required to furnish to the Standards Commission their annual returns, including donation statements, certificate of monetary donations and bank statements.

Four-seat constituency	Five-seat constituency
€37,650 spending limit	€45,200 spending limit
<ul style="list-style-type: none"> • Cork North-Central • Dublin Mid-West 	<ul style="list-style-type: none"> • Dublin Fingal • Wexford

Chapter 3: Disclosure of donations by unsuccessful candidates

3.1 Donation statements and certificates of monetary donations received from unsuccessful candidates

Unsuccessful candidates must furnish a donation statement to the Standards Commission within 56 days after polling day. The donation statement must give details of all donations received in relation to the election with a value greater than €600.

A certificate of monetary donations must also be supplied to the Standards Commission within 56 days after polling day, certifying that all monetary donations received were lodged to the candidate's political donations account and that all amounts debited from the account were used for political purposes. The certificate of monetary donations and donation statement must be signed by the candidate and accompanied by a statutory declaration and/or statement from a financial institution.

3.2 Donations disclosed

In accordance with section 4(1) of the Act, the Standards Commission considered the donation statements provided by each of the unsuccessful candidates at the Dáil bye-election.

Donations declared by the unsuccessful candidates at the Dáil bye-election amounted to **€2,000**. The table below summarises the donations declared by the candidates.

Table 1: Summary donations disclosed by unsuccessful candidates

Candidate	Party	Number of donations	Value of donation €
Peter Kavanagh	The Green Party	1	1,000
Joanna Tuffy	The Labour Party	1	1,000
Total			2,000

Sections 23A(1)(i) and (ii) of the Act provide that, where a donation exceeding the permissible limit is received, then the donation must be returned to the donor or, if it is a monetary donation, the part of it exceeding the limit must be returned to the donor, within 14 days of receipt. A written record of the return must be kept for the purpose of it being provided to the Standards Commission, if required; or the recipient of the donation must notify the Standards Commission of receipt of the donation within 14 days and remit the donation or the value thereof to the Standards Commission. In the case of a monetary donation, the part of it exceeding the limit must be returned or remitted.

Chapter 4: Election spending by candidates and political parties

4.1 Definition of election expenses

Section 31(1) of the Act provides that election expenses are those and only those set out in paragraph 1 of the Schedule to the Act, which are incurred on the provision of property, goods or services for use at the election during the election period (7 – 29 November 2019) in order to:

- promote or oppose the interests of a political party or the election of a candidate, or a political group formed in accordance with the rules of procedure of the European Parliament; or
- present the policies of a political party or the comments of a political party on the policies of another political party or a candidate at the election; or
- promote or oppose, directly or indirectly, the election of a candidate at the election or to solicit votes for or against a candidate at an election; or
- 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 another candidate at the election, or
- otherwise influence the outcome of the election.

The provision during the election period of property, goods or services, free or below cost, used at the election, is regarded as an election expense and must be accounted for at its full commercial price, less any normal or general discount which may be available.

4.2 Spending limits

The statutory spending limit for the 2019 Dáil bye-election was €45,200 for the five-seat constituencies (Dublin Fingal and Wexford) and €37,650 for the four-seat constituencies (Cork North-Central and Dublin Mid-West).

The statutory spending limit for each candidate is inclusive of VAT. The statutory limit represents the maximum spending allowed on a candidate and includes all spending by the election agent and a political party (both head office and local organisation) on a candidate. No separate or additional spending by a political party on a candidate over and above that which has been assigned to the party by the candidate is allowed.

4.3 Election period

The spending limit at a Dáil bye-election applies to all expenses incurred and payments made in providing property, goods or services which are used for electoral purposes during the "election period". Section 31(3)(a)(ii) of the Act provides that the election period at a Dáil bye-election is from the date of the issue of the writ appointing polling day ending on polling day at the election, both dates included. The date of the issue of the writ appointing polling day was on 7 November 2019, and polling day took place on 29 November 2019.

4.4 Election expenses statements

Election expenses statements and statutory declaration forms were required from the election agents of each candidate who contested the Dáil bye-election within 56 days after polling day (i.e. by 24 January 2020).

An election expenses statement and statutory declaration was also required by the same deadline from national agents of all the political parties that had candidates contesting the election.

4.5 Persons referred to Director for Public Prosecutions

Failure to furnish to the Standards Commission a donation statement, certificate of monetary donations or a statement from a financial institution by the statutory deadline is an offence.

Failure to furnish an election expenses statement and statutory declaration to the Standards Commission by the statutory deadline is also an offence.

Where the Commission is of the view that a contravention of the Act has occurred, it may refer the matter to the Director for Public Prosecutions (DPP). At the time of drafting the report, the Standards Commission has referred two candidates / election agents to the DPP for failure to submit the relevant statutory documentation by the statutory deadline.

A number of queries to other candidates remained outstanding at the time of drafting the report. Other referrals to the DPP may be made in due course where necessary.

4.6 Reported expenditure at the Dáil bye-election

Details of expenditure declared at the 2019 Dáil bye-election may be viewed in the tables that follow.

Note: totals may not match due to rounding.

Table 2: Overview of reported expenditure at 2019 Dáil bye-election

EA/Candidate expenditure	National Agent/Party expenditure on candidates	National Agent/Party expenditure nationally ("National Spend")	Total Expenditure
€	€	€	€
128,246	295,982	7,782	432,010

Table 5: Breakdown of expenditure by political parties on candidates

Political Party	Advertising	Publicity	Posters	Other Material	Office & Stationery	Transport & Travel	Market Research	Campaign Workers	Total €
Aontú	—	—	12,381	150	—	—	—	—	12,531
Fianna Fáil	15,209	7,158	46,947	29,252	8,449	—	—	—	107,015
Fine Gael	22,283	5,289	33,031	14,771	555	—	—	—	75,930
The Green Party	8,344	2,627	3,278	1,694	—	—	—	—	15,942
Independents 4 Change	—	—	—	—	—	—	—	—	—
Irish Freedom Party	—	1,848	—	—	—	—	—	—	1,848
The Labour Party	2,296	3,887	20,490	10,183	—	—	—	—	36,857
Sinn Féin	1,695	2,400	25,045	8,997	1,765	—	—	—	39,903
Social Democrats	730	—	3,832	1,393	—	—	—	—	5,956
Solidarity - People Before Profit	—	—	—	—	—	—	—	—	—
The Workers Party	—	—	—	—	—	—	—	—	—
Total	50,558	23,208	145,005	66,441	10,770	—	—	—	295,982

Table 6: Breakdown of reported expenditure by candidates

Political Party	Advertising	Publicity	Posters	Other Material	Office & Stationery	Transport & Travel	Market Research	Campaign Workers	Total €
Aontú	—	—	208	689	—	—	—	—	897
Fianna Fáil	4,672	—	—	2,852	615	—	—	—	8,140
Fine Gael	14,585	—	7,160	8,444	204	1,027	—	99	31,519
The Green Party	1,554	85	4,630	4,248	—	438	—	—	10,955
Independents 4 Change	246	—	3,372	5,461	—	242	—	—	9,321
Irish Freedom Party	—	—	—	2,005	—	100	—	—	2,105
The Labour Party	1,467	—	1,750	7,624	212	—	—	—	11,052
Non Party	2,060	—	3,065	11,938	113	60	—	—	17,236
Sinn Féin	4,969	—	2,191	4,574	1,244	100	—	—	13,078
Social Democrats	299	—	3,070	1,002	68	110	—	163	4,713
Solidarity - People Before Profit	123	100	6,223	9,703	300	166	—	—	16,615
The Workers Party	—	—	—	2,615	—	—	—	—	2,615
Total	29,975	185	31,670	61,156	2,756	2,244	—	262	128,246

Chapter 5: Reimbursement of candidates' election expenses

In order to qualify for a reimbursement, a candidate must either:

- have been elected at the election, or
- if not elected, have exceeded one quarter of the quota at any stage of the counting of votes.

The maximum amount that may be reimbursed to qualified candidates at a Dáil bye-election is €8,700. Candidates who qualified for a reimbursement were eligible, therefore, to receive the lesser of that amount or the actual amount of election expenses incurred on their behalf at the election.

The Standards Commission is required under section 21(d) of the Act to certify to the Minister for Finance that a candidate is eligible for a reimbursement of his/her election expenses. It is the practice of the Standards Commission not to issue an application form for reimbursement of election expenses to a qualified candidate until such time as all matters relating to the completion of his/her statutory returns have been finalised.

In the 2019 Dáil bye-election, a total of 28 candidates qualified for reimbursement of election expenses. To date a total of €193,606 has been paid by the Exchequer to 26 of the 28 candidates who qualified for a reimbursement of election expenses. Queries remain on two of the returns provided by qualifying candidates.

Table 7: Reimbursements approved

Number of qualified candidates	Number of reimbursements issued	Total value of reimbursements issued to date
28	26	193,606

Chapter 6: Publishing of donation statements and election expenses statements provided to the Standards Commission

In accordance with section 24(7)(a) of the Act, an electronic copy of each donation statement received by the Standards Commission from unsuccessful candidates at the Dáil bye-election has been laid before each House of the Oireachtas.

In accordance with section 37(1) of the Act, a copy of each election expenses statement provided to the Standards Commission in relation to the Dáil bye-election, and which the Standards Commission is satisfied has been correctly completed, has been laid before each House of the Oireachtas.

The donation statements and election expenses statements are available on the Oireachtas website at www.oireachtas.ie and on the Commission's website at www.sipo.ie.

In accordance with section 73 of the Act, the donation statements and election expenses statements received by the Standards Commission, together with relevant invoices, receipts or vouchers, are required to be made available for public inspection and copying at the offices of the Standards Commission.

Section 73 of the Act requires the donation statements and election expenses statements received by the Standards Commission, together with relevant invoices, receipts or vouchers, to be made available for public inspection at its offices at 6 Earlsfort Terrace, Dublin 2, D02 W773. In light of the current COVID-19 pandemic, the Commission's offices are closed to callers. It is therefore not possible to provide for public inspection in person. Copies can be made available on application to the Commission via email at info@sipo.ie or by telephone at (01) 639-5666.