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Friday 5<sup>th</sup> May 2023

### **To the Electoral Commission:**

First, can I wish you all the best in the wake of your recent establishment. There are many important issues to be addressed in relation to electoral process and electoral reform in Ireland and you will hopefully play the leading role in this, but there is no doubt that you will face a intensive workload and a steep learning curve over the next year and a half, especially in the lead up to the City/County Council and European elections, and the next Dáil/General Election.

One of the main challenges facing you is the very first challenge you have been levelled with – the need to redraw Dáil constituency boundaries, but in the context of being required to increase the overall number of seats arising from the increase in the State population, as signposted in last Summer's provisional Census 2022 population figures, and particularly given that the Commission was only formally established a good few months after these figures were released, ultimately condensing the amount of time the Commission has to work on this boundary review.

In light of this, there may be things that the Commission cannot do in this review, but which they could do in future boundary reviews (especially when the timeframe for completing the review runs for a longer period), or if they can influence the Oireachtas to call for changes in the Terms of Reference that are set for them. Some changes, as of now, are outside the remit of the Commission, and this particularly relates to one change that I would like to see is that the Commission be allowed to consider, namely the use of six-seat constituencies, even if only in exceptional circumstances. Being restricted to the use of only three, four and five seat constituencies limits the flexibility that is afforded to the Commission. In the present review, it will force the Commission into bringing about county boundary breaches, or drawing arbitrary new boundary lines within county territories, such as County Wexford. For instance, as the Commission has not the power to create a six-seat Leitrim-Roscommon-Sligo constituency, it will be forced to countenance county boundary breaches that could see areas in south Donegal or east Galway on the wrong side of constituency boundary lines, or else be forced to divide Leitrim (again) between Sligo-North Leitrim and Roscommon-South Leitrim three-seat constituencies. I would strongly advocate that the Commission report includes a request for their Terms of Reference to be amended for future constituency boundary reviews to allow for the use of six-seat constituencies.

In relation to the current review, it is hard to offer very specific advice on potential boundary changes, especially given the range of seats that the Commission has to choose from – the range of options that might be considered in 178-seat or 180-seat scenarios are different to those that could be considered in a 172-seat scenario. In cases like these, it is almost like you are submitting in a vacuum, As well as more clarity on the number of seats that the Commission is edging towards, it would help with the public submission process if people could see the wat that the Commission is thinking, and potentially iron out any unconscious mistakes the Commission might make due to the fact that they do not have the local knowledge about the impacts a certain boundary adjustment might have in the area.

For future reviews, especially when the time accorded to the Commission to complete the review will not be as concertinaed as is the case for the current review, I would strongly suggest that the Commission release a draft version of the report, or – better still – various alternatives that they are considering, before the public submission phase commences, so that the public is better placed to offer helpful advice to help the Commission improve their report before finalising it. This would also ensure that the public is not blindsided by any left-field, or unexpected, decisions that are made by the Commission and hence do not get to have a say on these until after the report is finalised, as happened, for instance, with the unexpected decision to reunite Laois and Offaly into a five-seat constituency by the 2017 Constituency Commission report, ultimately taking a Dáil seat away from an area whose level of population growth during the 2000s has been well in excess of the State average. (*My unfortunate students in Maynooth University Department of Geography have heard my frank opinions on this decision, as well as mushrooming of unnecessary county boundary breaches made in that aforementioned report. But I am sure you will do a much better job.*) So, yes, please consider releasing draft versions of the boundary report before the public submission phase commences for future boundary reviews – I can appreciate that the limited time period to work with did not allow this for this particular review, but the Commission will have a year, or slightly more than a year, to carry out their work for future boundary reviews and this could be facilitated in those scenarios.

The Commission's decisions will effectively weigh up three different – and often competing – concerns: to ensure continuity with previous reports, to ensure proportionality: to ensure that the average representation levels in constituencies are not out of line with the national average, and to avoid breaching county boundaries. There has been a much greater focus on the proportionality and continuity principles in the most recent *Constituency Commission* reports, but a study of public submission patterns in the lead up to the publication of these reports shows that frustrations over county boundary breaches were animating the general public to a much greater degree. The rigid approach of the two recent Constituency Commissions in keeping average representation levels within five percent of the national average – Commissions in previous decades did allow for a bit more leeway – for all constituencies has, in turn, increased the number of county boundary breaches, which can have the effect of disenfranchising people who find themselves resident in small areas that are part of one county, but added to a constituency comprising one or two other counties in order to “balance the numbers” and there is evidence that voter turnout levels can fall in these areas as a result. I would strongly advocate that the Electoral Commission reverse this trend and give greater emphasis to the maintenance of county boundaries in cases where the competing claims of continuity, proportionality and avoiding county boundaries breaches intersect. The Commission should occasionally stray outside the five percent variance level when deciding on constituency boundaries in cases where it would otherwise have to move a small part of one county into a different constituency just to balance the numbers.

Looking at individual constituencies, and assuming that the Commission will ultimately opt for a seat levels towards the upper end of the range they have been given to work with – either 178 seats or 180 seats – as this could allow them to keep that same overall number of seats for the next boundary review, in my perspective there are some instances where the decisions to be made by the Commission should be relatively straightforward, but there are other instances where the Commission has some difficult and complex calls to make.

In the case of the Dublin region, this should be in line to gain an extra five Dáil seats, or potentially even six extra seats, especially if the Commissions opts to go with an overall number of 180 seats. The destination of some of these seat gains can be relatively straightforward, especially with the constituencies in the south of the region, although there will need to a call on boundary redrawals, but some cases are more complex.



- Between them, Dublin Mid-West and Dublin South-West should gain a seat – as Dublin South-West cannot be a six-seater, this means Dublin Mid-West should gain a seat, as well as gaining territory from Dublin South-West to balance population levels.
- Between them, Dún Laoghaire and Dublin Rathdown should gain a seat – the constituency that does gain this extra seat will need to also gain territory from the other constituency to balance population levels.
- Between them, Dublin South-Central and Dublin Bay South should gain a seat – the constituency that does gain this extra seat will need to also gain territory from the other constituency to balance population levels. Dublin South-Central probably has the greater claim to this extra seat in light of recent history, but the prospect of using these changes to ensure that all of the South Inner City falls within the same Dáil constituency is an intriguing one and should be considered.
- The Fingal constituencies could be in line to gain two extra seats between them due to recent population changes impacting on that local authority area, but this raises a logistical issue, given that Dublin Fingal is already a five-seat constituency and Dublin West is a four-seater. This could require the creation of a new constituency in Fingal (maybe focused on the Greater Swords area). Alternately, it may require Dublin West to gain a seat, but also for areas in Fingal to be moved into the neighbouring constituencies in the North City area (Dublin North-West, Dublin Central, Dublin Bay North), in addition to those parts of Fingal that are already part of these constituencies (such as the Howth area). In a 180-seat scenario, such a decision could well amount to seat gains for both Dublin North-West and Dublin Central, especially if the latter constituency regains the Ashtown area from Dublin West.

In North Leinster and the Midlands, the decisions to be made by the Commission seem to be relatively straight forward:

- Cavan-Monaghan can be a stand-alone five-seater, involving only the territories of those counties and without needing territory from north Meath to balance the numbers.
- Louth can be a stand-alone five-seater, involving only the territory of that county, and without needing territory from east/coastal Meath to balance the numbers.
- Longford-Westmeath can be a stand-alone five-seater (thus gaining a seat), involving the territories of those counties, if the north-west Westmeath area is returned to the constituency (from Meath West) to balance the numbers.
- With the return of territories from Louth and Cavan-Monaghan, and even with the loss of the north-east Westmeath area, Meath will have enough population to warrant the county getting eight seats if the Commission opts for an overall seat number of either 178 or 180 seats, which probably would result in both Meath East and Meath West gaining an extra seat and becoming four-seat constituencies.
- Laois and Offaly have between them population levels that are comfortably equivalent to six Dáil seats. Hence, the irrational decision by the *2016-17 Constituency Commission* to join the two counties together again into a five-seat constituency (albeit one that was losing chunks of territory to Kildare South) will need to be reversed in this report, given that a six-seat Laois-Offaly is not possible. If the Commission opts for a seat range at the upper end of the range offered to them, Offaly County would have a sufficient level of population to be a stand-alone three-seat constituency, but the population per TD ratio for Laois would be either 6.14% (178 seats) or 7.34% (180 seats) above the national average representation level, a degree of variance that recent *Constituency Commissions* have not allowed. I would strongly argue that the Electoral Commission go instead with the precedent set by earlier boundary commissions, in which variance levels that fell slightly over/below the five percent variance level were allowed for, if it meant that county boundary breaches would be prevented.



In South Leinster, there are more complex issues faced by the Commission and the potential is there for an increased number of county boundary breaches, in a number of cases requiring the Commission to make calls in terms of deciding on/drawing up new boundary lines:

- The population of Wicklow is now too large to allow it to remain as a stand-alone five seat Dáil constituency, but not nearly large enough to allow the county to be assigned an extra seat (and be divided into two new three-seat constituencies). In this case, there will need to be some territory transfer with a neighbouring county (with Kildare the more likely candidate here). Wicklow could gain territory to allow for the creation of, say, two new three-seat Wicklow North and Wicklow South-East Kildare constituencies. Alternately it could lose territory (equivalent to a population level of around 13,000 people) to an enlarged Kildare South (or Kildare South-West Wicklow). As population levels in Wicklow are closer to the level associated with five-seat constituencies than with (theoretical) six-seat constituencies, the latter scenario would probably be the one to be countenanced. This, in turn, would allow a seat gain by Kildare County, with either Kildare North or Kildare South-West Wicklow gaining a seat to become a five-seat constituency. If the boundaries between Kildare North and Kildare South subsequently needed to be redrawn, there may be scope here to do this in such a way that some of the mismatches between Dáil and County Council election boundaries in Kildare could be addressed. There has been some suggestion that territory in Wexford be transferred to Wicklow to allow for the creation of two Wicklow three-seaters, but this argument to me is wholly irrational given that there is no need for territory transfers in/out of Wexford (see below) and if this was to be done it would be giving an extra seat to a county (Wicklow) at the expense of another county (Wexford) with a notably larger population.
- Carlow and Kilkenny have between them population levels that are comfortably equivalent to six Dáil seats. Unfortunately, the current terms of reference do not allow for six-seat constituencies, so the existing five-seat Carlow-Kilkenny will need to be divided into two new three-seat constituencies, one of which should include the entire county area of Carlow, hence a new three-seat Kilkenny City-South Kilkenny constituency and new Carlow-North Kilkenny (or Carlow-East Kilkenny) constituency. An alternate approach might instead be to like Carlow with Wicklow (three-seat Carlow-West Wicklow) and Kilkenny with Waterford (three-seat Kilkenny, five-seat Waterford-South Kilkenny), but in my opinion, if the continuity principle is to be taken account of, it does not make sense to break the association between these two counties unless the arguments for alternate boundary arrangements are overwhelming.
- Wexford has a sufficient population level to allow it to gain an extra Dáil seat. As six-seat constituencies are not permitted, then Wexford needs to be divided into two new three-seat constituencies. There may be scope here to do this in such a way that any mismatches between Dáil and County Council election boundaries in one of the constituencies was comprised of the current Gorey, Kilmuckridge and Wexford (Town) electoral areas (equivalent to 17 Council seats) and the other comprised of the Enniscorthy, New Ross and Kilmore electoral areas (equivalent to 17 Council seats). This would, however, leave the Rosslare area, and areas within the hinterland of Wexford Town, in a different constituency to Wexford Town, so that might not be an especially ideal solution. This would be one case where some guidance from the public submission process would be especially helpful, as local people would have the best knowledge as to which potential boundaries might make sense and which might not, but I am not certain that the public in Wexford is clued into the likelihood that their county will probably be divided at the next general election. This highlights the point I made earlier about the usefulness of drawing up provisional/draft electoral boundaries ahead of the public submission phase, as otherwise many people do not really know what they should be submitting on.





In the West, there are also complex choices facing the Commission, although some other decisions might be somewhat more straightforward than others, as in the case of Mayo. Ultimately, however, everything in this region hinges around what will happen with Leitrim, Sligo and Roscommon, as the decisions made in relation to these counties will have potential impacts on other counties in this region, but most notably Galway and Donegal.

- Assuming that the Commission opt for a seat number at the upper end of the range that is available to them, Mayo will have a sufficient level of population to allow it to be re-established as a stand-alone five-seat constituency.
- Galway has a sufficient level of population to allow the area covered by Galway County and Galway City to be allocated ten Dáil seats, thus allowing for the creation of two (Galway East and Galway West) five-seat constituencies.
- The population in Donegal is now large enough to allow this county to be once again allocated six Dáil seats, potentially resulting in the re-creation of the Donegal North-East and Donegal South-West three-seat constituencies. The decision on redrawing internal boundaries within Donegal would be less challenging than the one facing the Commission in Wexford, as there is at least a precedent here of Donegal having been divided between two constituencies up to recent times (the 2011 General Election) and the old Donegal North-East and Donegal South-West boundaries could offer some guidance to the Commission here.
- However, whatever happens to Galway and Donegal may ultimately be shaped by the decisions made in relation to Leitrim, Roscommon and Sligo. The Roscommon population remains too small for this to be a stand-alone three-seat constituency. The combined Leitrim and Sligo populations are too small for a constituency comprising solely of these counties to be a stand-alone four-seat constituency (although there might be a case for allowing this if the Commission opted for 180 or 181 seats) but is too large to form a stand-alone three-seat constituency. Issues with these counties could be easily resolved if the Commission had the power to create a six-seat Leitrim-Roscommon-Sligo constituency, but that is not possible. As such, one option might be to re-create the Sligo-North Leitrim and Roscommon-South Leitrim three-seat constituencies, but this was a deeply unpopular as Leitrim people believed that it effectively disenfranchised them, given the small population level in their county. One other option might instead be to split Sligo, allowing for the creation instead of Roscommon-South Sligo and Leitrim-North Sligo three-seat constituencies. This would very much disenfranchise the people in southern Sligo, as they would be very much in a minority in that constituency, but ultimately there would still be a number of Sligo TDs elected. The final option might be to revert to the current situation: keep the four-seat Sligo-Leitrim constituency, but in doing so retaining a chunk of territory from south Donegal (thus leaving Donegal as a five-seat constituency), and keep the three-seat Roscommon-Galway constituency (although this should sure be renamed Roscommon-East Galway?), but in doing so retaining a chunk of territory from eastern Galway (thus ensuring that Galway East becomes a four-seat constituency and not a five-seat constituency). This would leave things as deeply unfair to the people of Galway and Donegal, as some of their population would be (again) voting in a different constituency and these counties effectively would also lose out on extra representation in the process. But this is testament to the “Sophie’s Choice” left to the Commission to deal with because they have not been allowed the flexibility to create six-seat constituencies.



The task faced by the Commission in redrawing boundaries in the Munster region is also quite messy and there are very few straight-forward options available to the Commission in this region.

- The population of Clare is now too large to allow it to remain as a stand-alone four seat Dáil constituency, but not nearly large enough to allow the county to be assigned an extra seat (although if the Commission opted for 171 or 172 seats, there could be a basis for allowing the retention of the four-seat Clare (County) constituency). Even if the Commission opts for a seat level at the upper end of the range available to them, the Clare population level will be closer to that of a four-seat constituency than a five-seat constituency, so there is no basis for arguing that Clare gets extra territory to allow it to gain a seat. As such, the population levels can be balanced if Clare loses territory (equivalent to population level of around 10,000 people) to a neighbouring constituency and Limerick City appears the more viable contender here, given that parts of Clare fall within the immediate hinterland of the city of Limerick. This creates, however, an issue for the Limerick constituencies, which ironically would be one of the few constituencies whose boundaries could be left intact, based solely on their current population levels. Added population from Clare would leave the combined populations in the Limerick constituencies as too large to sustain for the seven seats currently assigned to these, but not large enough to warrant Limerick gaining an extra seat. This issue could be resolved by moving part of west Limerick in with Kerry to, in turn, allow for the re-creation of the Kerry North-West Limerick and Kerry South three-seat constituencies that were used at the 2011 General Election. (This, in turn, could address the issues associated with Kerry, whose population is now too large to allow it to remain as a stand-alone five seat Dáil constituency, but not large enough to allow Kerry to gain an extra seat (and be divided into two three-seat constituencies) without the inclusion of added territory from another county.) Alternately, what might be seen as the needless and unfair chopping and changing of Limerick Dáil boundaries could instead be avoided if Clare gained territory from, or shed territory to, Tipperary instead and Kerry likewise gained territory from, or shed territory to, West Cork.
- Tipperary has a sufficient level of population, assuming the Commission opt for 178 or 180 seats, to allow it to gain an extra seat, thus bringing about the re-creation of the Tipperary North and Tipperary South three-seaters (which, in turn, means that the Commission could use the old constituency boundaries as pointers when redrawing the Tipperary constituency map). What happens to Tipperary could be impacted by Waterford, whose population is now too large to allow it to remain as a stand-alone four seat Dáil constituency, but not nearly large enough to allow the county to be assigned an extra seat. This could be resolved by transferring territory in north Waterford (equivalent to population level of around 10,000 people) to Tipperary South, as it would be possible for the Tipperary three-seaters to absorb this added population without pushing their average population per TD levels outside the accepted limits (would remain within 5% of the national average representation level). The counterargument could be to transfer territory in South Tipperary to Waterford, thus leaving two five-seat Tipperary and Waterford constituencies. Based on population levels, however, Tipperary has the greater claim to an extra seat out of the two counties.
- The Cork region should gain two extra seats in this constituency boundary review, especially if the Commission opts for either 178 or 180 seats. In this review, there could be opportunity to align the constituency boundaries of Cork North-Central and Cork South-Central with the newly enlarged boundaries of Cork City, with the River Lee to act as a natural boundary, as far as is practicable, between the two constituencies. Of the other constituencies, Cork East would have, based on population levels, the greater claim to gain an extra seat, with the other Cork seat gain to be allocated to either Cork South-West or Cork North-West.



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I hope that the Commission will find something of use from this rather detailed submission. Having worked through the different scenarios myself, I can well understand the challenges faced by you as a newly established body in trying to navigate the complex set of decisions that will need to be made as part of this particular constituency boundary review and there is no doubt that you are undergoing a baptism by fire, but I trust you will excel at this task and not make the mistakes that were made in some of the later *Constituency Commission* reports, especially the final (2017) report which resulted in a raft of largely unnecessary breaches of county boundaries. I think that some of the terms of reference set for you in the *Electoral Acts* do tie your hands significantly and you should use the publication of the report to advocate for changes to be made to these (e.g., allow for the creation of six-seat constituencies, even if only in exceptional circumstances) ahead of future constituency boundary reviews. In terms of future practice, when the Electoral Commission should have a year, or more, to work on the constituency review process (as opposed to the case this year, in which the Commission was not established until a number of months after the publication of the provisional Census population-by-area figures), I would advocate that the Commission consider publishing draft versions of their recommended report (or at least some draft boundary maps) ahead of the commencement of the public submission process, as this will make this a more effective element of the constituency boundary review, as discussed earlier. I wish you all the best with the rest of your work on the current constituency review process and, indeed, the many other elements of electoral administration and electoral reform that will fall under your umbrella over the coming years.

Yours sincerely,

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