



Public Consultation on the Draft Research Programme of the Electoral Commission

Submission on behalf of the Labour Party from Ivana Bacik TD

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On behalf of the Labour Party, I wish to provide the following observations on the Draft Research Programme 2024-2026.

First, I would like to commend the Electoral Commission for putting together this ambitious research programme. The electoral system is at the centre of Irish democracy, and it is vital that sustained research is undertaken into its structure and functions, to ensure the system continues to thrive for many years to come. While I am fully supportive of all the proposals laid out in the draft plan, I would like to provide some observations on potential research areas for the Commission.

In November 2023, we in Labour submitted three amendments to the Electoral (Amendment) Act 2023, which followed the most recent Constituency Review published by the Electoral Commission. It goes without saying that we accept the review of the Electoral Commission, and our amendments were not aimed at the Schedule to the Act, which gives effect to the review's recommendations.

The three amendments we submitted relate to three areas which would be worthy of further research by the Electoral Commission under Strand B: Electoral Law, Electoral Systems and Electoral Infrastructure. I will further outline the issues below.

Doubt as to which Constituency an Area Belongs

Section 3 (2) of the 2023 Act provides that, if any doubt arises as to the constituency in which an electoral division, townland or part of a division or townland is included, the doubt shall be determined by the Minister.

This provision is simply a repetition of one found in all the previous Acts that redrew constituency boundaries. However, all those previous Acts predated the establishment of a permanent and independent Electoral Commission. Even when statutory Boundary Commissions were in operation, they were wound up as soon as they delivered their reports so that, in effect, the Minister was the only person remaining who was in a position to determine such a doubt.

The situation has now changed with the establishment of The Electoral Commission. This permanent body is, I believe, the body best positioned to interpret its own report. On these grounds, we proposed that the reference in the subsection to the Minister should be replaced by a reference to the Commission.

I would suggest that in its research programme the Commission investigates the procedure for dealing with doubt over a constituency boundary so that future electoral acts can be informed by this research.

Electoral Divisions and 'Former Rural Districts'

In the proposed research programmes, it is important to tackle not just the 'big picture' issues that surround elections but also matters of mechanics and detail. We need to ensure that the electoral machinery is up to date and fit for purpose. In that regard, it is

highly anomalous that the Electoral Commission, like its predecessors, still does its work by reassigning electoral divisions and ‘former rural districts’ between constituencies.

Rural districts were abolished almost 100 years ago, in 1925, with the abolition of rural district councils. Since they no longer exist, they cannot be redrawn to reflect current realities. They serve no present-day function at all, except having a ghostly presence as building blocks in constituency definitions. Their size and shape bear little or no relation to modern demographics.

Meanwhile, electoral divisions originated with the poor law system of the 1830s. They were originally drawn with the intention of producing areas roughly equivalent in both population and rateable value when rate-paying was a franchise qualification.

While electoral divisions were used after that to return Councillors, they have had no independent existence since 1919, when PRSTV was introduced for local elections. So, they now also only exist as building blocks for electoral areas for local government and for Dáil constituencies.

There is a provision in the 1963 Act enabling the Minister to redraw the boundaries of electoral divisions, but this power has never been exercised outside Dublin and, within Dublin, it was done only in the context of the division of that county into three.

The result is that there are 3,440 electoral divisions in the State varying wildly in population, from over 38,000 to single figures. In fact, in order to maintain the privacy of individuals the CSO has to amalgamate 32 very small electoral divisions with their neighbours in the presentation of detailed census data.

These are the ancient tools at the Commission’s disposal when it goes about redrawing the Dáil constituencies. It is time for an updated approach. Therefore, I am proposing that the Commission should carry out research and report its recommendations on the reconstitution of electoral divisions in accordance with standard and objective criteria that reflect the current population, and on the discontinuance of the use of former rural districts.

Future Proofing the Structure of Constituencies and Constituency Boundaries

The recent Constituency Review conducted by the Electoral Commission makes clear that the boundary recommendations are not ‘future proofed’ and that the current exercise will have to be repeated as soon as the next Census results are published. In particular, the exclusion of provision for six-seat constituencies and the continued use of three-seaters both contribute to increasingly makeshift constituencies, which are at risk of reducing the proportionality of democratic representation within the electoral system.

We need to consider possible solutions that confer some degree of stability on the format and boundaries of constituencies, rather than engaging in continuous chopping

and changing of constituency structures in a way that does not reflect people's own perception of locality.

I was pleased to note in the draft research programme the stated intention to conduct research into the size and structure of constituencies.

In this vein, I propose that the Commission should research and report on the potential for abolishing the practice of having constituencies which return only three members, and instead should examine the potential to have an increased number of constituencies of larger population size which are represented by five or six members.

As part of your research on constituency magnitude, I also propose that the Commission should research and report on the merits of introducing a system based upon the concept of a fixed size Dáil and a fixed number of constituencies, with the boundaries of constituencies fixed, but the number of members to be elected for each constituency to be changed from time to time so as to be aligned with constitutional requirements, based on changes in the distribution of the population throughout the State.

I have attached the recent Irish Times article written by prominent political scientist Professor Michael Gallagher, who makes a strong argument for the restructuring of Dáil constituencies to ensure less change to their boundaries. The article is also accessible at: <https://www.irishtimes.com/opinion/2023/09/06/the-cube-root-rule-that-determines-the-number-of-tds-ireland-should-have/>

I would urge the Commission in its research to consider the proposals of Professor Gallagher for a potential rethinking of the structure of Irish constituency boundaries to ensure stability and consistency into the future. Indeed, Professor Gallagher's article inspired us in Labour to put an amendment down to the Electoral (Amendment) Bill 2023 at Committee Stage calling on the Commission to research and report on providing for a system with fixed-size Dáil and a fixed number of constituencies; because the number of members to be elected for each constituency could then be changed from time to time, to reflect changes in the distribution of the population. The advantage for citizens would be that they would not see themselves moving between constituencies and we would not see county boundaries being breached, as we have done in so many constituencies with successive reports from electoral commissions over the years. This would be a way of future-proofing and of ensuring greater certainty and stability for people who are voting.

I also refer the Commission to my speech in the Dáil on Second Stage of the Electoral (Amendment) Bill 2023, in which I set out some of the above points, which I attach with this submission and which is also accessible at:

<https://www.oireachtas.ie/en/debates/debate/dail/2023-11-14/10/>

Safety of Representatives and Candidates and a Ban on Publication of Candidates' Homes Addresses

There has been increasing concern about the incidence of threatening or even violent protests at the homes of public representatives. In addition, as a member of the Task force on Safety in Political Life established by the Ceann Comhairle, I have become increasingly aware of the fears expressed by many candidates and prospective candidates about threats to their homes and families. In particular, may prospective candidates are fearful about having their home addresses made public, and this has also been raised as an issue in other jurisdictions.

For women candidates in particular, there is certainly a perception that the publication of home addresses on ballot papers may contribute to a lack of safety and security in the home. There may be other particular reasons that people do not want their home addresses published. Although some candidates use the addresses of business premises or party political premises on ballot papers, clearly this may place candidates at an electoral disadvantage as most still use their home addresses. It would be preferable to have a general prohibition on the publication of specific addresses beside candidates' names on ballot papers – instead the ballot paper could simply include the name of local electoral division address in which each candidate resides. I would therefore request that the Commission should examine the potential for the introduction of such a prohibition.

Regulation of Opinion Polling

Finally, the impact of opinion polling on election campaigns is not mentioned in the draft research programme, and we would ask the Electoral Commission to carry out a comparative review of how opinion polling is regulated in other jurisdictions both in the restrictions that apply to publishing such polls during campaigns, but also the quality controls that apply to polling companies due to the potential impact of their output on election contests.

ENDS.