

Submission to the Public Consultation on the Electoral Commission's Draft Research Programme 2024 – 2026

- *The Civil Engagement Group of Seanad Éireann*

Introduction:

The Civil Engagement Group welcomes the opportunity to provide input on the Electoral Commission's Draft Research Programme 2024 – 2026. The establishment of the Commission is something we have strongly supported and engaged extensively with both in the context of the Electoral Reform Act 2022 and our own private members' legislation addressing electoral issues. We believe that the Commission has a strong role to play not only in terms of oversight and election integrity, but in terms of long-term thinking and reform of our electoral frameworks to ensure that they are equitable and truly representative.

Our submission is categorised along thematic lines broadly aligned with the different strands identified in the draft research programme. We look forward to engaging further on these issues and commend the Commission on their work thus far and wish them every success going forward.

Vision and Values:

Regarding the vision and values guiding the draft research programme, we welcome the commitment to place inclusivity at the heart of the process and welcome that there will be further public consultation undertaken. However, in attempting to include those marginalised from political and democratic processes we believe that there should be a commitment, alongside public consultation and surveys, to identify and reach out to those groups in a more targeted manner. This should include the Commission seeking out those groups and their views specifically within communities – including through regional homeless services, disability services, local area partnerships, local drug and alcohol task forces, the prison service, education facilities and advocacy groups.

The commitment to diversity in terms of research is also welcome and we would further argue that the Commission should provide research training opportunities to people who have been marginalised from political and democratic processes. This will not only enrich the work of the Commission, but will no doubt contribute greatly to scholarship in this vital area.

Strand A, Longitudinal Survey Research and Data Collection:

We welcome the intention of the Commission to develop a National Election and Democratic Study and further commend the decision that it be open source as we believe this will greatly contribute to a wide range of scholarship on Ireland's elections. On the factors affecting turnout and participation there should be a specific effort made to engage with those who did not vote in a given election and attempts made to collate and

understand the reasons behind such abstentions – whether they are because of an active decision or immediate or long-term circumstances for which mitigating measures could be put in place.

Furthermore, such research should also be carried out and open source when it comes to elections to Seanad Éireann (both on the vocational and university panels) as this is an area where more research is required and though much of the public unfortunately is not enfranchised in such elections they still have a right to engage with and understand the dynamics of those elections.

Strand B, Electoral Law, Electoral Systems and Electoral Infrastructure:

Constitutional Provisions relating to Constituency Magnitude

On the issue of representation, particularly in the context of a rising population and the relevant constitutional provisions, the Commission should give due consideration to the groups or individuals in Irish society who currently lack meaningful representation in the current context. Specifically, the views should be sought of working class people, disabled people, LGBTQ+ people, Travellers, members of ethnic minority groups and people living in poverty. Questioning the relevant constitutional provisions relating to the number of members to be elected to Dáil Éireann is premature at a stage where so many in our society are excluded from politics and public life and do not feel represented in our political systems.

Constituency Magnitude

Regarding constituency magnitude, the Commission should specifically look to diversity of political views; diversity of race and ethnicity; diversity in respect of disability; diversity in social class; LGBT diversity and diversity in political parties. We note that forthcoming research from Dr Claire McGing on behalf of Women for Election which specifically calls on the Commission's research in this area to provide a gendered analysis of constituency size and the affect it has on success for female candidates. Furthermore, the research must examine how constituency size affects the ability of working-class people, disabled people, LGBTQ+ people, Travellers, members of ethnic minority groups and people living in poverty to be elected to Dáil Éireann.

By-elections

On the issue of by-elections, it is crucial that the franchise for Seanad by-elections is examined. Our views on the need for appropriate research on Seanad elections and the franchise is outlined in full below, however the fact that in a by-election to one of the Seanad vocational panels only 220 people are able to vote is clearly an issue and should be appropriately examined and researched.

Elections and Franchise for Seanad Éireann

Seanad reform represents a key component of electoral reform which has been stalled and delayed for far too long and one which requires urgent attention and work from the Commission. While the recent Supreme Court ruling in respect of the seventh amendment

to the Constitution means there is now a legal obligation for one aspect of Seanad reform, there is an equally urgent and wider body of work to be carried out. The majority of the public who voted against abolition of the Seanad in 2013 did themselves not have a Seanad vote but they voted to retain the Seanad because they value its work and because they want a say in it. It was very clear that there was a mandate for reform which came out of that 2013 referendum. Following that referendum, the Manning report was developed which set out a roadmap for how reform could be delivered.

On the very first day of the previous Seanad, a number of Senators brought forward legislation to deliver on the Manning report. We were asked by the then Taoiseach, Deputy Varadkar, to set aside that legislation and instead engage in a cross-party implementation group. The cross-party Seanad reform implementation group did its work collectively and produced, as it was required to do, agreed cross-party legislation that would deliver a wide mandate and ensure that every citizen has the chance to vote for the Upper House and who represents them there.

When the Seanad Bill 2020 was at Second Stage, the Government assured us that these issues of Seanad reform would be dealt with through the creation of the Electoral Commission, yet currently the research programme shows no intention to engage with the issue of reform or even broader electoral issues for the Upper House of our nation.

The Commission should include in its draft research programme an examination of reform of the franchise for Seanad vocational panel elections and in this examination should give due regard to the Report of the Seanad Reform Implementation Group and the Seanad Bill 2020 – agreed cross-party legislation which represents a blueprint for truly equitable Seanad reform.

The Seanad performs half of the legislative process in our parliament and Seanad elections are important electoral events which require research, scrutiny and most importantly reform.

Electoral Law

We welcome that the Commission's research will include reviewing the Electoral Act 1997 and particularly reviewing the definition of "political purposes". We would further suggest that the Electoral (Civil Society Freedom) (Amendment) Bill 2019 introduced by our group should be looked to and given due consideration in any revision.

In reviewing aspects of our electoral law, the issue of the requirement for candidates to have their addresses published on ballot papers should also be examined. Such an examination should include all legislative requirements for this practice given that it is spread across multiple pieces of our electoral law. There has been much talk in recent months about safety in public life, yet we still require candidates to disclose where they live. Not only are there safety concerns in this regard, there are also issues about privacy. The Commission should give particular consideration to a proposal made during debate on the Electoral (Amendment) Act 2023 that the requirement might be changed to specify the constituency in which a candidate resides in the case of Dáil, Local and European elections.

In the case of elections to Seanad Éireann the publication of an address should not be required at all given that Senators do not represent geographic constituencies.

Specific research should also be carried out on the impact of PR-STV specifically on both voter behaviour and satisfaction – especially in the context where more jurisdictions (including many U.S states) are moving to or considering a move to differing forms of proportional representation.

Strand C, Integrity of Electoral Events:

Regulatory Powers

While the regulatory powers under Parts 4 and 5 of the Electoral Reform Act 2022 are yet to be commenced, they will undoubtedly represent a significant shift in terms of oversight of electoral events. In this context, we believe that as part of the research programme an independent regulatory impact assessment should be commissioned to provide scope for the improvement/revision of such powers.

Research on Integrity of Electoral Events

The formation of an Online Electoral Information Advisory Board to help the Commission develop research in this area is especially welcome. We also believe that as part of the research undertaken in this area the Commission should look to the challenges and gaps in electoral and online regulation experienced during the referendum to repeal the eighth amendment in 2018. Research should inform engagement with social media multinationals prior to electoral events and should specifically look to how major social media companies – on an individual and industry-wide basis – facilitate and amplify disinformation to ensure that we do not support attempts to create or exploit loopholes such as the distinction between publisher and platform to bypass essential regulation. We also need to look to the constraints on electoral funding and ensure that they are adequately applied in the online space during electoral events. We believe it is possible to strengthen regulation in the online space without creating a chilling effect.

Analysis cannot be solely undertaken in the context of electoral events and the Commission's research should be looking to how disinformation is being spread now on certain political issues. Engagement should be prioritised with those who are affected by disinformation and should look to ways to remedy the extreme disenfranchisement which allows such disinformation to take hold in our communities.

Strand D, Education, Public Engagement and Inclusion:

The Voting Age

We welcome proposals from the Commission to carry out research on the voting age and particularly the commitment to look to experiences of lowering the voting age in other countries, such as Scotland. The Commission should, in their research, look to the Electoral (Amendment) (Vote at 16) Bill 2016 (introduced by Senator Ruane and Senator Fintan Warfield). We would also note that a private members' bill proposing a constitutional amendment to lower the voting age to 16 is currently before the Dáil (sponsored by Deputy

Thomas Pringle) and believe that as part of research in this area the Commission must also look to constitutional change in the context of lowering the voting age for elections to the Dáil. We also think a similar proposal should be looked to for Seanad elections in anticipation of a broadening of the franchise for such elections.

Democratic and Electoral Participation

We welcome proposals from the Commission to carry out research on increasing representation of women, people with disabilities and from diverse ethnic backgrounds and on democratic participation by those in marginalised groups such as homeless persons. As previously highlighted we think there must be a broader programme which engages with marginalised communities and how they engage with our democratic institutions and importantly how our democratic institutions engage with them.

As previously highlighted, this should include the Commission seeking out those groups and their views specifically within communities – including through regional homeless services, disability services, local area partnerships, local drug and alcohol task forces, the prison service, education facilities and advocacy groups. It is of the utmost importance that those experiencing marginalisation are given the space to engage in this research in a manner in which they feel comfortable. The Commission should therefore put resources specifically into outreach with such groups.

Specifically on the issue of electoral participation, the Commission's research should not only look to the challenges experienced by marginalised groups in getting elected within set electoral or party selection processes but should look more broadly to persons who would never consider engaging with those processes in the first place and the reasons why and how their relationships with the institutions of power in the State inform such exclusion.

The Commission should also engage in a detailed examination – both within post-election analysis and more broadly – in practical barriers to engaging in democratic processes (both in terms of actually voting and other forms of engagement such as attending candidate Public Participation Network roundtables). This research should look to issues including accessibility, access to appropriate public transport (with the potential of introducing free public transport on polling days --- as is already the law in other jurisdictions such as Poland and Brazil) and the format and engagement work of community organisations hosting pre-election events for people to participate in.