

Report on the Referendums on Family and Care

Held on



Foreword

An Coimisiún Toghcháin, the Electoral Commission, was established in February 2023 under the *Electoral Reform Act 2022*, and it came to engage several of its important statutory functions in respect of the two referendums on the *Thirty-Ninth Amendment of the Constitution (The Family) Bill 2023*, and the *Fortieth Amendment of the Constitution (Care) Bill 2023*.

An Coimisiún's statutory functions and obligations required us to explain to the public the subject matter of these referendums, and to provide information on, promote public awareness of, and encourage participation in, the democratic choice presented to the citizens of the State to amend the Constitution.

In the past, Referendums Commissions were established *ad hoc* to perform some of these tasks, but those Commissions were dissolved immediately upon the conclusion of each referendum process. In the conduct of this information campaign An Coimisiún was influenced by the approach taken by those Commissions.

As required by Section 39 of the Act, this report outlines in some detail how we performed our statutory functions. We endeavoured to engage fully with the public in the performance of our role. We met our obligations with energy and

enthusiasm. The members of An Coimisiún and all its staff worked long hours and each played an important part in the delivery of the campaign. On behalf of An Coimisiún I would like to thank each of them for that work and engagement.

An Coimisiún Toghcháin is established on a statutory basis, and therefore continues in being to perform its statutory role of enhancing and protecting democracy, including in any referendum process. This is our first referendum report and we welcome any comments to help us improve on this work.

Pursuant to Section 39 (1) of the *Electoral Reform Act 2022*, we hereby present to the Joint Oireachtas Committee the report of An Coimisiún Toghcháin on the performance of its functions in respect of the referendum on the *Thirty-ninth Amendment of the Constitution (The Family) Bill 2023* and the *Fortieth Amendment of the Constitution (Care) Bill 2023*.



Ms. Justice Marie Baker,
Chairperson,
An Coimisiún Toghcháin.



An Coimisiún Toghcháin - from left to right back row: Mr. Peter Finnegan, Mr. John Curran, Mr. Ger Deering.
From left to right front row: Mr. Alex Attwood, Ms. Justice Marie Baker (Chair), Ms. Maura Quinn, Prof. Caroline Fennell.

1 An Coimisiún Toghcháin and Referendum Functions

An Coimisiún Toghcháin, Ireland's independent electoral commission, was established in February 2023. An Coimisiún is a statutory body that occupies an important place in Ireland's electoral landscape.

Under the provisions of the *Electoral Reform Act 2022* An Coimisiún has a wide range of electoral functions and responsibilities. These include oversight of the electoral register, the register of political parties, research, education, the carrying out of Dáil and European constituency reviews as well as functions in relation to online political advertising and misinformation and disinformation which have not yet been commenced.

An Coimisiún also has a statutory duty to provide impartial and independent information regarding the subject matter of a proposal for a referendum and to promote and encourage voting at referendums.

Bunreacht na hÉireann, the Irish Constitution, was adopted by the people of Ireland in 1937 to identify the principles that govern the organs of the Irish State and the fundamental human rights that are to be respected and protected. It may be changed only by a vote of eligible citizens over the age of 18 who are registered to vote. The referendums to which this report is addressed concern the fundamental rights provisions of the Constitution.

Section 31 of the *Electoral Reform Act 2022* provides An Coimisiún with a number of functions in relation to referendums. These are:

- the preparation of a statement or statements containing a general explanation of

the subject matter of the proposal for a referendum and of the text in the relevant Bill and any other information that An Coimisiún considers appropriate.

- to publish (in both Irish and English) and distribute such statements in relation to the referendum in such manner and by such means including the use of television, radio and other electronic media as An Coimisiún considers most likely to bring them to the attention of the electorate.
- to ensure as far as practicable that the means employed enable those with a sight or hearing disability to read or hear the statements.
- to promote public awareness of the referendum and encourage the public to vote.

In addition, the Act provides An Coimisiún with powers to:

- prepare, publish and distribute brochures, leaflets, pamphlets and posters.
- distribute the statements to each eligible elector or each household.

An Coimisiún, or a member of An Coimisiún, is precluded from advocating or promoting a particular result at a referendum.

An Coimisiún is also responsible for the declaration of approved bodies for referendums. Such approved bodies may appoint agents to be present at the issuing of ballot papers to postal voters, the opening of postal ballot boxes, and at the counting of postal votes. They may also appoint one person to attend each polling station in order to assist election officials in detecting the electoral offence of personation.

Proposed 39th and 40th Amendments to the Constitution

On 7 December 2023 the Government approved proposals for the holding of two referendums. These generally became known as the Family and Care referendums. The Government stated that it was its intention to hold both referendums on 8 March 2024.

Any proposal to amend the Constitution must be initiated with a Bill in Dáil Éireann. The Bill must be passed by both Houses of the Oireachtas before it can be put to the people in a referendum. If, following the counting of votes, and the declaration by the Referendum Returning Officer, a majority of voters in a referendum support the proposal the Bill is signed into law by the President. If a majority of voters in a referendum vote against the proposal, there is no change to the Constitution.

The *39th Amendment of the Constitution (The Family) Bill 2023* and the *40th Amendment of the Constitution (Care) Bill 2023* were passed by both Houses of the Oireachtas on 24 January 2024. On the same day the Minister for Housing, Local Government and Heritage signed a Polling Day Order under Section 10 of the *Referendum Act 1994* designating 8 March 2024 as the day of the Referendum polls, with polling to take place between 7:00 a.m. and 10:00 p.m.

On 25 January An Coimisiún Toghcháin launched its public information campaign.

Recommendations

During the course of the referendum information campaign a number of issues arose in regard to which An Coimisiún would like to make specific recommendations. The full explanation of the rationales for these recommendations is provided in section 3. The recommendations are that:

- The publication of a proposed amendment should be no later than 16 weeks before the proposed polling day.
- The designated date in a Polling Day Order for a referendum should be no less than 60 days after the signing of the Polling Day Order.
- The broadcast moratorium should be removed from the guidelines for radio and television broadcasters before the next electoral event.
- The overall design of referendum ballot papers be reviewed in advance of the next referendum.
- An Coimisiún be funded from the Central Fund.



2 The Referendum Information Campaign

The main role of An Coimisiún in relation to referendums is to provide a general explanation of the proposals for referendums to the public, to promote awareness of the referendums and to encourage engagement and turnout. Given that the two referendums were being held on the same day, and both proposals dealt with that part of the Constitution dealing with fundamental rights it was decided there would be a single information and awareness campaign.

An Coimisiún's campaign was conducted across a number of strands. These included the publication and distribution of the Referendum Information Booklet, an extensive national advertising campaign, a dedicated website, and a programme of social media, online, press and broadcast media engagements, in-person events, free-to-air broadcasts and direct, online and telephone contact with members of the public.

An Coimisiún was aware that these were the first referendums in Ireland since May 2019 - the longest gap between referendums since 1992. Accordingly, as it was likely there would be a large cohort of people voting in a referendum for the first time An Coimisiún provided information in the campaign on the importance and role of the

Constitution, on referendums, how to register to vote and how to vote.

The campaign divided into three separate phases:

- **Encourage to Register to Vote:** The first phase began on 4 January in advance of the approval of the amendment bills by the Houses of the Oireachtas. This phase concentrated on encouraging people to register. It was scheduled to allow people as much time as possible to register to vote in advance of the proposed date of the referendums.
- **Inform:** This phase began on 25 January when An Coimisiún launched its official public information campaign. This commenced with a launch event in Technological University Dublin, a media press conference, the publication of the Referendum Information Booklet and associated materials on a purpose-built referendum website.
- **Encourage to Vote:** The final element began just over a week before polling day and focused on encouraging people to vote on 8 March. The information campaign ended on the close of polls on the day of the vote.



Meeting fishermen in Kilmore Quay and agricultural college students in Ballyhaise College.



Behind the scenes at the filming of the three TV adverts.

Advertising

Within the tight timelines available, An Coimisiún developed a comprehensive and extensive national advertising campaign built around the core concept of ‘Your Vote is Your Voice’. The campaign’s premise was that if a person does not use their voice other people will be speaking for them. The advertisements featured a series of everyday settings including a chipper, a travel agency, a hair salon, a tattoo parlour, a garden centre and a hospital. In these scenarios people were rendered voiceless as their choice of food, holiday, hairstyle, tattoo, garden design or child’s name were made by others. This was intended to be an engaging approach to the very serious message of encouraging people to register to

vote if they were not already registered, and then to use their vote.

The campaign ran across television, radio, video on demand, web and social media, as well as across regional and national newspaper advertising and on different out-of-home formats such as billboards and bus stop advertising.

One of the benefits of An Coimisiún Toghcháin being a statutory body with a number of electoral functions, is that the advertising assets used during this referendum campaign were subsequently repurposed to encourage people to register to vote and to use their vote in the European, local and the Limerick mayoral elections that were held on 7 June 2024.

The Referendum Information Booklet

The *Electoral Reform Act 2022* provides that An Coimisiún should prepare one or more statements containing a general explanation of the subject matter of the proposal, and to publish and distribute those statements to every household. The Referendum Information Booklet has become a staple and well-regarded feature of our democratic system, and one our evidence shows is highly valued by the electorate [see Survey section below].

An Coimisiún published a 16-page Referendum Information Booklet which provided clear and accurate information on proposals for both the Family and Care referendums. The legal effect of both a Yes and No vote in each case was outlined. In addition, for the first time a Referendum Information Booklet asked voters to question their sources of information about the referendums and the voting process to ensure that they were getting accurate information. The booklet also provided information about the voting process, eligibility and polling information. Samples of the two ballot papers showing their differing colours were published with instructions as to how to cast a vote either for or against the proposals.

On 25 January the Referendum Information Booklet explaining both referendums was made

available on An Coimisiún's website. On the following day the printing of 2.3m copies of the booklet in both Irish and English was commenced on sustainably sourced and recyclable paper.

On 15 February An Post began delivery to every household in the country. The formal An Post delivery schedule was concluded by Friday 1 March, one week before polling day. However, a small number of deliveries were completed on 4 and 5 March.

In addition to household deliveries, 100,000 booklets were delivered in various consignments to post offices, prisons, Citizens' Information Centres, garda stations, nursing homes, hospitals, Mental Health Commission approved centres, social protection offices, health centres and community health organisations, third level institutions, defence force premises, national cultural institutions and local authorities. Referendum Information Booklets were also dispatched in coordination with the Departments of Foreign Affairs and Defence to diplomatic and military personnel stationed or serving overseas.

An Coimisiún is encouraged by the high levels of public engagement with the Referendum Information Booklet. A survey of voters on 8 March ([National Election and Democracy Study \(neds.ie\)](https://neds.ie)) carried out by An Coimisiún found that 77% of voters reported that they had received the



The Referendum Information Booklets being printed and packaged.



booklet. 88% of those who said they received it reported that they found it helpful. However, it should also be noted that there was no survey of non-voters, so the percentage of non-voters who received the booklet or how many of those found it helpful is not known.

Some 2.3 million booklets were distributed during the course of the campaign. An Coimisiún is aware that some members of the public did not have access to the physical booklet. An Coimisiún received just over 100 complaints of non-delivery of the booklet. All such complaints were responded or followed up with An Post and time permitting, booklets were delivered. However, it is clear that an improvement in the overall availability of the Referendum Information Booklet to the public is required.

It may be useful for people to understand the Referendum Information Booklet's distribution. According to the legislation there are two options. The booklet can be delivered to every household in the country, which is what has been the case to date. The second option provided for in legislation is for a booklet to be sent to every eligible elector. However, due to the scale of the process and time constraints, including the fact that delivery of the Referendum Information Booklet begins in advance of the closing date for registration (roughly three weeks before polling day), it is not currently feasible for An Coimisiún to



deliver a booklet addressed to every eligible elector.

Accepting that there will be a small number of instances where delivery fails to happen, delivery to every household does not guarantee that everyone in a household who is eligible to vote in a referendum will have access to a hard copy of the Referendum Information Booklet.

The booklet has been delivered by An Post by what is termed 'unaddressed post', i.e. post that is not specifically addressed to an individual. There is one delivered to each household. For a variety of reasons an eligible voter in a household may not see a booklet that has been delivered - it may be discarded, there may be more than one person eligible to vote in the household but not all might see a booklet. While this was supported by widespread distribution to various bodies with offices open to the public such as post offices and Citizens' Information Offices, availability at these locations is not guaranteed at any given time.

On foot of these issues An Coimisiún is investigating working with a national network of locations that can be used to supplement household delivery in the immediate lead up to a referendum. It is hoped that this approach should address any issues that may arise for voters in advance of polling day.

Wording of the Proposed Amendments

In carrying out its statutory function to publish “a general explanation” of the text and subject matter of each of the proposals, An Coimisiún was conscious of the need to communicate in a way that was widely accessible, and to that end used words that are found in ordinary and everyday use. Equally, An Coimisiún was conscious that it was precluded from advocating or promoting a particular result at a referendum, or providing any argument either for or against the proposals.

In regard to the *39th Amendment (The Family) Bill*, An Coimisiún’s Referendum Information Booklet used the phrase “*different types of committed and continuing relationships other than marriage*”, as a general explanation of the phrase “*other durable relationships*” proposed to be included in the constitutional meaning of a family.

An Coimisiún noted that Article 15.2 of the Constitution provides that the “*sole and exclusive*” power of making laws for the State is vested in the Oireachtas, and Article 15.4.1^o provides that the Oireachtas must not enact any law that is in any respect repugnant to any provision of the Constitution.

Since the State was founded in 1922, many Acts have been adopted setting out statutory duties

and rights of members of the marital and non-marital family. An Coimisiún placed the proposed amendment in the context of existing legislation including the *Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010*, and the facts and reasoning in decisions of the superior courts. The existing constitutional definition of a marriage as one between two people would form part of the reasoning of a court asked to interpret the meaning of “*durable relationship*”.

An Coimisiún also made it clear that the phrase “*other durable relationships*” would ultimately be interpreted by the courts as a new constitutional concept. It was also made clear that, whilst the case law to date might be a useful or even compelling aid to interpretation, the statutory role of An Coimisiún did not permit it to engage in speculation as to the application of the phrase in future litigation. An Coimisiún considered it to be outside its remit to provide a view as to whether a generalised instance, or generalised instances, of marital or non-marital relationships would or would not come within the proposed phrase in the Family Amendment.

The absence of any proposal for a legislative definition of “*durable relationships*” and of the intended or anticipated changes that might be considered to legislation in the areas of social welfare, taxation, succession and immigration, gave rise to uncertainty amongst the electorate as to the concrete effect of the proposed change to the definition of the family to which special constitutional status is afforded by Article 41.1.





The Easy to Read version of the Referendum Information Booklet.

The *40th Amendment (Care) Bill* did not give rise to the same level of interpretative difficulty as that presented by the Family Referendum. However, in two instances the Chairperson was happy to provide specific clarity following press queries regarding the meaning of referendum wording in the context of An Coimisiún’s information function in regard to referendums.

The main issue requiring explanation in this referendum was the use of the word “*strive*” in the proposed new text of Article 41.2. An Coimisiún explained its view that the word carried some force and required some degree of active or positive action. It pointed to the fact that the word was used in the Constitution, in the nonjusticiable Article 45, which cannot form the basis on which a person claims a right in court.

A survey of voters carried out by An Coimisiún highlighted the issue of wording and clarity in relation to both referendums. 38% of NO voters in the Family Referendum reported that the main reason for voting no was because the phrase “*lasting relationships*” was poorly defined and open to interpretation. 32% of NO voters reported that the wording was confusing or unclear. In the case of the Care Referendum, 24% of NO voters said that the wording was unclear.

Accessible Information

Under Section 31 (1) (b) of the *Electoral Reform Act* An Coimisiún is “to ensure as far as practicable

that the means employed enable those with a sight or hearing disability to read or hear the statements concerned”.

An Coimisiún produced this booklet in a range of accessible formats which included Braille, audio, Irish Sign Language (ISL), large text and an Easy to Read (ETR) Referendum Information Booklet, all of which were made available on our website. For the first time the ETR version was not only made available online, but was also printed with nearly 10,000 copies distributed to various groups and organisations. An Coimisiún did a separate launch of this ETR booklet format with an event at Prosper Meath, an intellectual disability service provision centre, to bring media and public attention to it. Based on feedback from members of the public and representative groups, there is significant demand for ETR guides. More extensive availability and circulation of these guides will be considered by An Coimisiún for future referendums. Our thanks also to the Irish Deaf Society and Chime for hosting the Irish Sign Language version of the booklet on their websites.

An Coimisiún also made a significant effort to ensure our referendum website reached high levels of accessibility. The website was reviewed specifically for accessibility by a contracted reviewer, and also by the National Disability Authority in line with our obligations under the EU’s Web Accessibility Directive, where the website received a rating of over 90%.

Press and Media Engagement

An Coimisiún undertook the most comprehensive programme of press and media engagements to have been associated with any referendum information campaign to date. This began on 25 January, the day after the Polling Day Order was signed, and continued until the day after polling day. During this time An Coimisiún's Chairperson, Ms Justice Marie Baker, Chief Executive, Art

O'Leary, Tim Carey, Head of Electoral Operations and Brian Dawson, Communications Manager took part in a combined 58 broadcast, press and online media engagements. There were 9 national TV interviews, 9 national radio interviews, 22 local and community radio interviews, 8 national newspaper interviews, 6 regional newspaper interviews and 4 online interviews.



Throughout the campaign we engaged with local and national print, broadcast and digital media.

Campaign Events

A key element supporting An Coimisiún's referendum information campaign was a programme of 12 in-person events that took place across 10 different counties. This began with the launch in Technological University Dublin on 25 January and ended with the Chairperson speaking to an online virtual support event with

Enable Ireland on 6 March. These events were with a diverse range of groups and was the most extensive range of events ever held as part of a referendum information and awareness campaign. Events were held with the artistic community, the Traveller community, a variety of disability organisations, sport, business, farming and fisher audiences, university, library and adult learning groups.



Referendum information events with University College Cork, Prosper Meath, The Galway Traveller Movement, Tullamore GAA Club, students at the Technological University Dublin, the Hawk's Well Theatre in Sligo, at our national media launch and in Wexford Library.



Free-to-Air

The provision of free-to-air broadcasting time for An Coimisiún's referendum information is required by Section 32 of the *Electoral Reform Act 2022*. Facilitated by the Minister for the Environment, Climate and Communications and Coimisiún na Méan, these free-to-air broadcasts supplemented An Coimisiún's advertising campaign reach in the 10 days before polling day.

We are grateful to RTÉ, TG4 and Virgin Media for providing extended television time slots to allow for the fact that An Coimisiún was communicating information on two separate referendums. These slots featured the Chairperson of An Coimisiún providing information directly to the viewer in both Irish and English. We are also grateful to the network of local radio stations who supported An Coimisiún in broadcasting its message in the run up to polling day.

Website

An Coimisiún's referendum information website was an integral part of the campaign and an important source of information additional to that provided in the Referendum Information Booklet. The website contained an FAQ section which gave detailed answers to many of the questions people raised with An Coimisiún prior to the referendums. There was also general information on referendums, the Constitution, on how to vote and other relevant topics.

Over 160,000 people used An Coimisiún's website during the campaign. While they were on the site they looked at over 770,000 pages of information. The most popular page viewed was 'What are you being asked to decide on?' with nearly 140,000 views. There were over 20,000 downloads of the Referendum Information Booklet from the website.

Unsurprisingly, the highest numbers visiting the website were recorded in the days immediately before as well as the day of the referendums. On the day of the referendums over 73,000 people accessed the website with 44,500 of those accessing the page 'What are you being asked to decide on?'.

Website engagement was significantly helped by social media platforms providing direct links to An Coimisiún's referendum pages as an authoritative and impartial source for those interested in voting information.

Social Media

The use of social media in previous referendum campaigns has been relatively limited. While being a newly established body, with a relatively small social media following, a broad spread of social media channels was used to reach different audiences. Informational material related to the referendums was shared across X, Facebook, LinkedIn, Instagram, Threads, Snapchat and other platforms. This is an area

where An Coimisiún is determined to grow its reach and engagement.

An Coimisiún also ran a targeted social media only campaign asking people to be aware of how they sourced their voting information. The campaign saw three dedicated videos disseminated across social media channels with the message that, when considering information sources, one should “*Treat Every Day Like April Fool’s Day*” in respect of being sceptical and questioning about things one hears, sees and reads.

Irish Language

An Coimisiún reports on its Irish language advertising in line with Section 10A of the *Official Languages Act* at the end of each year.

The Irish language is a central part of An Coimisiún’s communications. During the course of the campaign An Coimisiún provided Irish language translation of its referendum information material, website and publications. An Coimisiún also actively engaged with Irish language media through paid-for Irish language advertising. Alongside the paid-for campaign, an Irish language spokesperson was provided throughout the campaign, who carried out a number of in-person interviews across Irish language TV and radio.

Unfortunately, there was an error made on the online Irish version of the Referendum

Information Booklet published at the start of the campaign. On discovery of this translation error, the text was urgently reviewed and corrected and the correct information was quickly uploaded to the website. In a subsequent review An Coimisiún identified the process failings which led to this error, and has taken steps to ensure that this cannot be repeated in the future.

Direct Contact from Members of the Public

Members of the public were able to contact An Coimisiún on a dedicated phone line and email address for referendum queries and also through the main email and phone lines. During the course of the campaign An Coimisiún received 1,184 direct contacts from the public.

These communications dealt with a diverse range of queries and comments. The most common subjects relating to An Coimisiún’s referendum function were 158 queries and comments related to the Referendum Information Booklet (including non-receipt of booklet) and 98 queries and comments about the wording of the proposals.

A large number of communications were received in relation to issues in which An Coimisiún does not have a direct role. The most common of these were 277 that related to the electoral register. These were mainly people asking about registering, not finding their details online, updating of details, etc. A number of these queries appeared to have arisen from a



Meeting workers at the Newbridge Silverware Factory.

Department of Housing, Local Government and Heritage campaign which many understandably interpreted as implying that people needed to update their details in order to stay on the register. An Coimisiún staff were happy to confirm that a failure to update details did not have the effect of removing a voter for the existing register, and to offer any other assistance where possible or direct them to their registration authority.

There were 208 contacts related to allegations of misinformation and disinformation. All of these correspondents were informed that An Coimisiún Toghcháin does not currently have any regulatory powers regarding alleged misinformation and disinformation. The *Electoral Reform Act 2022* does provide the An Coimisiún with these powers with regard to online information but the relevant parts of the Act have not yet been commenced.

Summary of Queries and Issues Raised	
Electoral Register	277
Alleged misinformation and disinformation	208
Referendum Information Booklet	158
Non-receipt of polling information card	121
Referendum content	98
Postal voting/voting from abroad	95
Queries or issues related to polling locations and stations	83
Queries related to external referendum campaigns	48
An Coimisiún's Referendum Campaign	36
Miscellaneous	60

Voter Registration and Voter Turnout

As the independent electoral commission, An Coimisiún Toghcháin has no stake in any particular outcomes of referendums. Its only interest is that the public are informed and that they vote and ensure that their voice is heard.

The voter is at the heart of Ireland's democracy and electoral events. In the *Electoral Reform Act*

2022 An Coimisiún has a specific role to encourage the public to vote at a referendum. This work broke down into two distinct areas. First, encouraging people who were eligible to vote to register to vote in advance of the deadlines of 12 February for postal votes and 20 February for in-person voting and, second, encouraging those people on the register to vote on 8 March.

Voter Registration

In this context it was gratifying to learn that between the start of An Coimisiún's registration campaign in the first week of January and the closing date for registration on 20 February there was a total of 184,605 online registrations and updates to the register, including in the region of 100,000 new registrations. This is roughly similar to the total activity that had taken place in the previous 15 months.

Voter Turnout

A fundamental marker of Ireland's democracy is voter engagement. Among of the best indicators of voter engagement is the number of people who are registered to vote and the number of those who turn out for an electoral event.

There are many factors that contribute to voter turnout at referendums. These include the subject matter of the referendum concerned, the political discussion around the referendum, the level of media engagement and the interest that citizens show through their own efforts to listen, watch, read and discuss any referendum proposal.

When all of the referendum votes cast on 8 March 2024 were counted, a total of 1,525,215 out of a potential electorate of 3,438,566 had voted in the Family Referendum and 1,525,005 out of a potential electorate of 3,438,566 had voted in the Care Referendum. This translates into turnouts for the Family and Care Referendums of 44.36% and 44.35% respectively. There were 16,105 invalid votes for the Family Referendum and 17,548 invalid votes for the Care Referendum. These represented 1.15% and 1.05% respectively.



Voting on 8 March 2024.

The constituencies with the highest turnouts in both Family and Care referendums were Wicklow (51.37% for both), Dublin Bay North (50.72% and 50.70%) and Kildare North (48.15% for both). The three constituencies with the lowest turnouts in both were Dublin Bay South (39.14% and 39.15%), Meath West (39.71% for both) Donegal (39.99% for both).

When comparing the turnout to previous referendums since the 1990s the voter turnout for both the Family and Care Referendums were in the middle range relative to referendums that were not held on the same day as another electoral event. While it will aspire and always work towards the highest levels of voter engagement An Coimisiún is reasonably happy with the turnout for the 39th and 40th Amendments, which exceeded the expectations of many commentators.

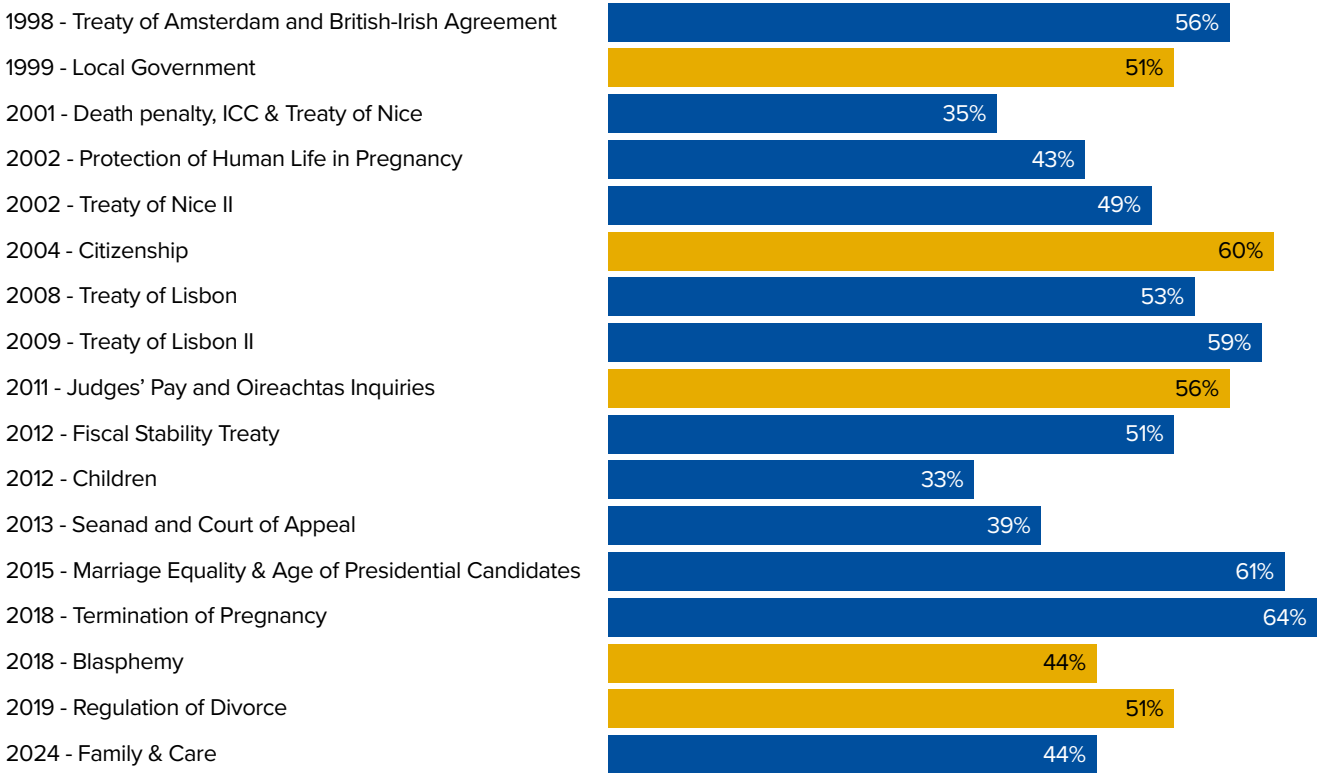
An Coimisiún is mindful not to read too much into one electoral event. However, the increase in

registrations and the turnout seem to indicate signs of a healthy functioning democracy, albeit with room for improvement.

There is a need to better understand the reasons why those who are on the electoral register did not vote and the reasons that people who are entitled to vote do not register. This will be part of the ongoing engagement with local authorities who manage and maintain the electoral registers and will be key element to An Coimisiún’s research and education functions.

Finally, it is apparent that the accuracy of the electoral registers must be improved. In recent years local authorities have been making efforts to address this issue as part of an overall modernisation process. An Coimisiún has a new oversight role over the electoral registers, and registration authorities now have an obligation to report to An Coimisiún each year on both the accuracy and comprehensiveness of their registers and the efforts they are making to

Referendum % Turnout Since 1998



Referendums shown in yellow were held with other electoral events

improve both. Information from these will inform a report An Coimisiún will make annually to the Oireachtas on the electoral register and how it can be improved. However, An Coimisiún also notes that it is the responsibility of each member of the electorate to ensure that they are properly registered and that their details on the register are up to date.

Finance

An Coimisiún Toghcháin has its own vote, Vote 23, established on 1 March 2023 and is included in the Department of Housing, Local Government and Heritage Vote Group. Funding allocated to An Coimisiún for 2024 included €3.5m for these referendums. Overall expenditure for the referendum was €3.4m. This is broken down in table 1.

Throughout the information campaign, An Coimisiún was conscious of achieving value for money and ensuring maximum effectiveness of the campaign. An Coimisiún is satisfied that both these objectives were realised through effective contract management.

Surveys

During the course of the referendum campaign three surveys of members of the public were carried out. These were pilot studies that are part of the Commission's new National Election and Democracy Study (NEDS) which is under the direction of a NEDS Management Board. In each of these surveys the respondents were asked to rate referendum information provided by An Coimisiún. Two (one online and one by phone) were carried out in the immediate weeks preceding polling day. The other was a survey of people who voted on 8 March.

Of those surveyed in advance of the referendums 79% declared they had a 'high level' or 'very high level' of trust in An Coimisiún. In a survey of 3,557 respondents, 33% reported that they used Electoral Commission information 'often' during the referendum campaign and that 37% had a 'high degree' of trust in the information provided. This compared with 39% and 33% for RTÉ, 34%

and 27% for other TV and Radio, 30% and 23% for newspapers, 16% and 18% for online news sites and 14% and 20% for social media.

The pre-referendum survey reported that 66% had received the booklet and 53% had read it. The voter survey found that 77% of voters said they had received the Referendum Information Booklet and 88% of those found it either helpful or very helpful.

Table 1: Breakdown of Costs

	€
Advertising	
TV	291,920
Radio	321,353
Print	380,618
Digital	277,001
Cinema	22,122
Out of Home	208,515
Booklet Design, Print, Translation & Distribution	574,850
Production of Advertisement	
Concept & Creative Development	297,525
Production	864,493
Legal	40,605
Photography	30,280
Website	12,975
Campaign Management Fees	58,684
Administration and other costs	22,908
Total	3,403,850

Approval of Bodies for the Purposes of the Referendums

Under Section 33 of the *Electoral Reform Act 2022* An Coimisiún is responsible for the declaration that a body is an approved body for the purpose of a referendum. Such approved bodies are entitled to appoint agents to attend at the issue of ballot papers to postal voters, at the opening of postal ballot boxes, and at the counting of votes. In addition, under Section 37 of the *Electoral Reform Act 2022*, an approved body may appoint one person to be present as

the body's agent in each polling station for the purpose of assisting in the detection of personation.

Following a national call applications from the following organisations were approved.

1. Fine Gael
2. Ireland First
3. The Green Party
4. Fianna Fáil
5. Sinn Féin



An Coimisiún Toghcháin
The Electoral Commission

Approved bodies at a referendum

At referendums, any organisation, public or private, and any registered political party can apply to An Coimisiún Toghcháin, Ireland's independent electoral commission, to become a temporary Approved Body for the duration of the Referendum Campaigns.

Approved bodies can appoint agents to:

- Be present at the issuing of ballot papers to postal voters, the opening of postal voters' ballot papers, and at the counting of votes.
- Attend at each polling station (one person per polling station) to assist election officials in detecting the electoral offence of personation.

To apply:

Visit our website at electoralcommission.ie/referendums. Read the guidance, fill in the application form and return it:

By email to:
ReferendumsOs@electoralcommission.ie

By post to:
Approved Body Application,
An Coimisiún Toghcháin, The Electoral Commission, Block M, Dublin Castle, Dublin 2. D02 X8X8.

Deadline 16 February 2024.

Your vote is your voice on 8 March



An Coimisiún Toghcháin
The Electoral Commission

Comhlachtaí ceadaithe i reifrinn

I reifrinn, is féidir le heagraíocht ar bith, idir phoiblí agus phríobháideach, agus le páirtí polaitiúil cláraithe ar bith iarratas a chur faoi bhráid an Choimisiúin Toghcháin, coimisiún toghcháin neamhspleách na hÉireann, le bheith ina Comhlacht Ceadaithe fad a bhíonn an feachtas reifrinn ar siúl.

Chun iarratas a dhéanamh:

Tabhair cuairt ar ár suíomh gréasán ag electoralcommission.ie/ga/reifrinn/. Léigh na treoracha, comhlánaigh an fhoirm iarratais agus seol ar ais i:

Ar ríomhphost chuig:
ReferendumsOs@electoralcommission.ie

Sa phost chuig:
Iarratas ar Chomhlacht Ceadaithe,
An Coimisiún Toghcháin, Bloc M,
Caisleán Bhaile Átha Cliath,
Baile Átha Cliath 2. D02 X8X8.

Spriocdháta: 16 Feabhra 2024.

Is é do vóta do ghuth ar an 8 Márta

Is féidir le comhlachtaí ceadaithe gníomhairí a cheapadh chun an méid seo a leanas a dhéanamh:

- Bheith i láthair nuair a dhéantar páipéir bhallóide a eisiúint chuig postvótálaithe, nuair a osclaítear páipéir bhallóide postvótálaithe, agus nuair a dhéantar vótaí a chomhaireamh.
- Freastal ar gach stáisiún vótála (duine amháin in aghaidh an stáisiúin vótála) chun cuidiú le hoifigigh an toghcháin an cion toghcháin de phearsanaíocht a bhrath.

3 Recommendations

Referendum Timelines

In order to fulfil its legislative referendum functions it is essential that An Coimisiún is provided with sufficient time to both run an extensive information campaign, and provide voters with independent information on the referendum, primarily through a Referendum Information Booklet that is delivered to every household.

This was An Coimisiún's first referendum information campaign. In light of its experiences, An Coimisiún makes two recommendations to the Oireachtas with regard to the referendum timelines. These relate firstly to the notice provided by Government of its intention to hold a referendum, and secondly to the minimum notice period in a Polling Day Order for a referendum to be held. The specific recommendations are:

1. That the publication of a proposed amendment should be no later than 16 weeks before the proposed polling day. This is to allow for An Coimisiún to design, print and distribute more than 2.3m Referendum Information Booklets, and to run an information campaign as set out under the requirements of the *Electoral Reform Act 2022*.
2. The designated date in a Polling Day Order for a referendum should be no less than 60 days after the signing of the Polling Day Order. This is to allow An Coimisiún to give due consideration to the agreed wording of the Amendment, to develop text to explain that wording, as outlined in the *Electoral Reform Act*, and to provide that text in the Referendum Information Booklet.

16 Weeks from Publication of Amendment Bill

An Coimisiún believes that the Referendum Information Booklet is central to its referendum function. Therefore, it is important that the booklet is delivered in time in order for the electorate to have time to properly consider it.

Every household in the country should have the booklet between two to three weeks before the referendum polling day. An Coimisiún firmly believes that 16 weeks is the minimum time required to allow it to carry out these functions. The publication of the Family and Care bills gave An Coimisiún a total of 13 weeks, which included Christmas and New Year.

In the case of the Family and Care Referendums delivery of booklets to households began on 12 February. This was the earliest possible date that could have been achieved with the notice of the referendum that was provided to An Coimisiún. The scheduled An Post delivery was completed by 1 March, one week before polling day. However, further deliveries took place even up to 5 March, three days before the referendums. This is not an optimal timeframe in which to provide independent information on proposed constitutional change. Therefore, 16 weeks is the minimum notice that should be provided by Government of its intention to hold a referendum.

Minimum of 60 Days’ Notice of Polling Day

A Polling Day Order designating the date for a referendum is signed by the Minister for Housing, Local Government and Heritage after an Amendment Bill has been passed by both Houses of the Oireachtas.

The current minimum notice set out in the *Referendum Act 1994* is 30 days. In the case of the Family and Care referendums, the Polling Day Order was signed 42 days before the designated polling day. This timeframe meant that deliveries of the booklet continued up to three days before the referendum.

Had the Polling Day Order been signed 30 days before the designated polling day An Coimisiún would not have been in a position to fulfil its referendum function as set out in the *Electoral Reform Act 2022*. There would not have been sufficient time to print and distribute the Referendum Information Booklet.

In addition, if the wording of a referendum proposal had been changed during the passage

through the Houses of the Oireachtas, it is very possible that An Coimisiún would not have had sufficient time to consider the new wording and provide independent information about the proposals in time for the booklet to be delivered to every household.

Therefore, An Coimisiún recommends that a Polling Day Order should give a minimum of 60-days’ notice of a referendum polling day.

The table on the following page illustrates the proposed timeframes and the ones that pertained to the Family and Care referendum information campaigns.

In addition to the design and print of the booklet there is an extensive programme of work required for the other components of the campaign including purchasing and booking of advertising space and slots, photography, recording, filming, editing, translations, production Irish Sign Language versions, a Braille version, an Easy to Read version, all with deadlines dictated by the notice of the intention to hold a referendum and the notice provided in the Polling Day Order.

Table 2: Actual Family and Care Timelines and Recommended Timelines

Actual 2024 Family and Care Timeline	Family and Care Key Actions	Recommended 16 Week Timeline	Key Actions
		Week 1	Amendment Bill(s) introduced by the Government. Order Paper for 2.3m booklets - printing and distribution to be completed two to three weeks before Referendum Polling Day.
		Week 2	
	Paper ordered for 2.3m Referendum Information Booklets.	Week 3	
Week 1	Amendment Bills (Family and Care) introduced by the Government.	Week 4	
Week 2		Week 5	
Week 3		Week 6	
Week 4		Week 7	Final Wording of Bill(s) Approved by the Oireachtas. Polling Day Order Signed.
Week 5		Week 8	Consider Final Text of Bill and Draft Independent information based on Final Text.
Week 6		Week 9	Finalise text and Start Printing of Referendum Information Booklets.
Week 7	Final Wording of Bills (Family and Care) Approved by Oireachtas. 2024 Polling Day Order Signed. 2024 Printing of Referendum Information Booklet starts.	Week 10	
Week 8		Week 11	Booklet Distribution.
Week 9		Week 12	Booklet Distribution.
Week 10	Booklet Distribution.	Week 13	Booklet Distribution.
Week 11	Booklet Distribution.	Week 14	Final Delivery of Information Booklets.
Week 12	Booklet Distribution.	Week 15	
Week 13	2024 Final Delivery of Information Booklets. Polling Day.	Week 16	Polling Day.

Broadcast Moratorium

Guidelines provided by Coimisiún na Meán instruct radio and television broadcasters to observe a moratorium on coverage of an electoral event from 2:00 p.m. the day before the event until the close of polls. This does not apply to online media or social media. In the case of these referendums, the moratorium began on 2:00 p.m. on Thursday, 7 March and was in effect until 10:00 p.m. on Friday, 8 March. At a time when online media and social media is so prevalent, these guidelines are now anomalous and open to potential exploitation.

An Coimisiún recommends that the broadcast moratorium is removed from the guidelines for radio and television broadcasters before the next electoral event.

Ballot Papers

An Coimisiún believes that the layout and design of the ballot papers for referendums were not sufficiently clear. The ballot papers for the two referendums were striking in that for example, on the Family ballot paper, it was 44 words in before the words “*An Teaghlach*” were mentioned or 53 words in before the words “*The Family*” are mentioned on the ballot paper. This made it difficult for voters to differentiate between ballot papers which looked almost identical in respect of their text and layout. In our media engagements ahead of polling day, An Coimisiún stressed the differing colours of the ballot papers as a method of differentiation, but this colour distinction does not in itself suffice.

An Coimisiún recommends that the overall design of referendum ballot papers be reviewed and that a simple prominent heading stating the subject matter of the proposal be included. This should be done in advance of the next referendum.

An bhfuil tú ag toiliú leis an togra chun an Bunreacht a leasú atá sa Bhille thíosluaite?

Do you approve of the proposal to amend the Constitution contained in the undermentioned Bill?

An Bille um an Naoú Leasú is Tríocha ar an mBunreacht (An Teaghlach), 2023

Thirty-ninth Amendment of the Constitution (The Family) Bill 2023

Ná cuir marc **ach san aon chearnóg amháin**

Place a mark in **one square only**

Má thoilíonn tú, cuir X sa chearnóg seo.....

If you **approve**, mark X in this square.....

	Tá Yes
--	-------------------------

Mura dtoilíonn tú, cuir X sa chearnóg seo.....

If you do **not approve**, mark X in this square.....

	Níl No
--	-------------------------

An bhfuil tú ag toiliú leis an togra chun an Bunreacht a leasú atá sa Bhille thíosluaite?

Do you approve of the proposal to amend the Constitution contained in the undermentioned Bill?

An Bille um an Daicheadú Leasú ar an mBunreacht (Cúram), 2023

Fortieth Amendment of the Constitution (Care) Bill 2023

Ná cuir marc **ach san aon chearnóg amháin**

Place a mark in **one square only**

Má thoilíonn tú, cuir X sa chearnóg seo.....

If you **approve**, mark X in this square.....

	Tá Yes
--	-------------------------

Mura dtoilíonn tú, cuir X sa chearnóg seo.....

If you do **not approve**, mark X in this square.....

	Níl No
--	-------------------------

Funding of An Coimisiún Toghcháin

Currently, the annual estimate for An Coimisiún Toghcháin is introduced by the Minister for Housing, Local Government and Heritage. It is managed in the same way as estimates for other public services, with the expenditure being subject to controls and approvals by the Minister. This is in much the same way as expenditure on Departments and Offices of State generally.

Provision was made for referendum expenditure of €3.5m in the 2024 budget, approved in 2023. It should be noted that had An Coimisiún to run the planned information and awareness campaign regarding membership of the Unified Patent Court, a supplementary estimate would have been required, which would have determined the nature and scope of the campaign.

There is no specific provision in the *Electoral Reform Act 2022* for referendum funding.

Currently requests for this funding must go to the Department of Public Expenditure and Reform via the Department of Housing, Local Government and Heritage, on an annual basis and is at the discretion of the Executive.

A question now arises in relation to the appropriateness of the Executive controlling the resources of An Coimisiún, the body charged with specific electoral functions and independent oversight of the electoral process.

Given the nature of the role of An Coimisiún Toghcháin in this most fundamental aspect of our democracy, it is important that it is seen to have independence from the Executive in the way in which it organises its business. This is to ensure that citizens can have confidence in the administration of our elections and referendums and in the integrity of the results of our electoral events. It is therefore recommended that An Coimisiún be funded from the Central Fund.

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