

Electoral Commission
Dublin Castle
Dublin 2

11th January 2024

Electoral Commission Research Proposals

To whom it may concern,

I write you as the Chief Executive Officer of Keystone Procurement and former Chairperson of ISME. I am also a board member of SMEUnited, the Pan-EU SME representative body for SMEs in Europe. I am writing in a personal capacity.

Firstly, I wish to welcome the introduction of the Electoral Commission and the further strengthening of the Electoral Law structure in Ireland. This is a time globally where the role of our political systems is as important as ever but threats to our systems have never been greater. Those threats include but are not restricted to third party state and non-state actors.

I read the *Draft Research Programme 2024-2026*, and as a member of the public who has taken up leadership roles within our political system at different stages in my career, I would like to make a number of recommendations for the structure of Electoral Commission Research Programme. I ask that you consider adopting these proposals for your programme. I believe they are important for legislative agenda of our government in the coming years.

1. Political Donation Limits in Ireland

I think the Electoral Commission should examine the current political donation limits in Ireland in the context of international practice in countries which accept political donations. The research in this area should consider the context of the Irish political landscape and our funding model. I believe a review would lead to a recommendation for the donation levels to be increased.

In 1997, monetary disclosure and maximum threshold political donation limits were introduced. Since then, they have been reduced on two separate occasions under different Electoral Acts (in 2009 and 2012).

It is my view that whilst not politically popular for successive governments, the political donation limits in Ireland are completely inappropriate at this point in time and do not reflect the financial realities faced by all political parties, big and small or new political parties looking to register and compete in elections. I was involved in the founding of a recent political party and this was a real barrier to successfully competing in the 2016 election.

There are a number of key reasons why I believe that political donation limits should be increased, and that research should be conducted by the Electoral Commission to underpin this recommendation.

- New political parties looking to register and compete in elections in Ireland do not have access to the state funding that existing political parties can get access to after each election. The limits set for political donations in Ireland are far too low to enable them raise sufficient funding for their election campaigns and they act as a barrier to the successful entry of such parties onto the political landscape in Ireland.
- As outlined, the political donation limits were introduced in 1997 and reduced subsequently on two occasions in 2009 and 2012 under various Electoral Acts. At no stage has the considerable inflation during this period been factored into the appropriateness of these donation limits in the context of the rising costs of running elections for both candidates and parties. It is imperative that donation limits are substantially increased from their present levels to reflect at a minimum the inflation for the period from 1997 to the present day but equally mechanisms will need to be built-in in future for an annual review by the Electoral Commission of donation limits to avoid a repeat of such a pattern. CPI inflation on a compound basis equates to 78% from January 1997 to November 2023 (the most recent month). This means a €250 donation (on an ERM basis as this predates the elimination of the punt) would need to be €446 to keep up with this inflation. Source: CSO 09/01/24
- In recent years, there has been a clear and apparent uneven playing field emerging between political parties in Ireland between those operating within the Irish jurisdiction only and those operating both within and outside the Irish jurisdiction. As a result, this confers unfair advantages on those parties who can effectively go “jurisdiction shopping” when deciding where to declare political donations that they receive. There are clear examples of this arising in the case of one mainstream party in Ireland. This particular point was raised in the SIPO Annual Report in 2019, it stated *"donations are subject to different acceptance and disclosure thresholds in the two jurisdictions, and donations received in one jurisdiction may be acceptable where they would not be in the other jurisdiction...Given the differences in statutory requirements, this may have the practical effect of sometimes benefitting or disadvantaging a party."*

In addition, there have been examples of substantial monies left to particular parties in Ireland under wills of estate. At present, SIPO have considered such monies as “donations” within the Republic of Ireland jurisdiction in spite of the legislation being silent on this matter and that such monies are explicitly exempted from donation legislation in other jurisdictions. I would ask that the Electoral Commission research this matter as part of your programme and produce recommendations in line with practice in other jurisdictions that they should be exempted.

2. Gender Quotas

Under the Electoral Act 2012, gender quotas were introduced for the first time for registered political parties in Ireland. It introduced the requirement initially for 30% of selected candidates for registered political parties for each General Election to be females. This requirement increases to 40% for the imminent General Election in 2024 or 2025. Failure to meet this threshold by any political party in receipt of state funding under the Electoral Acts will result in a 50% reduction in their state funding.

This is one of the most aggressive gender quota policies introduced across Europe and indeed, globally but hasn't seen a substantial increase in elected female participation in Dáil Éireann similar to the levels achieved in the Nordic countries for instance.

Since its introduction, all mainstream parties have met the gender threshold of 30% for the 2016 and 2020 General Elections in the selection of their male and female candidates.

However, one of the failings of the Electoral Act in 2012 when developing the gender quota section, was its failure to address the need to similarly increase the level of female participation in our General Elections of independent candidates.

One of the side-effects of mainstream parties actively discriminating against male candidates in their political parties in favour of promoting female candidates is that such male candidates are then subsequently leaving these parties and running as Independent candidates, and in many cases, are successfully elected.

At present, over 90% of independent candidates who go forward for election are male, and again, the overwhelming majority of independent candidates elected to Dáil Éireann are male (16/21 Independent TDs in the current Dáil). A consequence of this has been the disintegration of party structures around such male candidates in local areas and over the same period, this has led to a substantial increase in Independent T.D.s represented in Dáil Éireann. It seems evident to me that the implementation of gender quotas in mainstream parties has been a contributing factor to this trend and this trend will increase further as the quota rises to 40% ahead of the next General election.

In parallel with this, funding to Independent T.D.s has increased in recent years, with Independent T.D.s forming technical groups in Dáil Éireann. They have been permitted to access further funding through staffing allowances under the Oireachtas system, mainly due to their key role in forming governments in recent years.

In short, there are now increasing local, political and financial incentives for candidates to run as independent candidates for General Elections whilst in tandem, mainstream political parties are being asked to effectively discriminate against qualified male candidates to promote female candidates. In simple terms, we are creating a perfect storm which is not only undermining the political party structure in Dáil Éireann and the potential formation of stable governments with a whip system, but the initial goal of increasing elected female participation in our parliament.

There are additional considerations that while early stage, are open to abuse and/or create new barriers. These include the following unintended consequences:

- Under gender recognition bills, there is a risk that legislation will be abused for reasons that could not have been foreseen when this was first brought in. The political atmosphere around this area is charged and there are risks to denying people tactically changing their declared gender identity (for practical, political or other reasons).
- We have an increasingly diverse population and an ambitious eligible citizen that may originally hail from India, Poland or Brazil that happens to be male, cannot be selected even if they bring other forms of diversity to our politics. Such citizens already face barriers to integration in Ireland and there is a risk that this legislation compounds those exclusionary barriers.

I would ask that the Electoral Commission research the implementation of the gender quota system since its introduction, the side-effects on mainstream political parties in Ireland both

financially and politically, look at international best practice and look at the trends of female participation within Independent candidates in Ireland and produce recommendations on how realistic and similar financial penalties are put in place for Independent T.D.s as is the case the mainstream political parties rather than the current incentives in place with the goal of increasing female participation in Dáil Éireann.

As outlined from the outset, I welcome the introduction of the Electoral Commission and wish you well on your work in the coming years. I hope you find my recommendations for your proposed Draft Research Programme useful and helpful and you are minded to include them in your proposed work programme.

Finally, I am happy to meet with you or any of your officers if needed to elaborate on or discuss the contents of this letter.

Yours sincerely,

Ross McCarthy
Chief Executive Officer
Keystone Procurement