

THE IRISH COUNCIL FOR CIVIL LIBERTIES

SUBMISSION ON THE ELECTORAL REFORM BILL (2022)

May 2022

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INTRODUCTION

The Irish Council for Civil Liberties welcomes the opportunity to make a submission on this critically important Bill. There are a number of matters contained in this Bill that ICCL believe deserve careful consideration. Our primary concern is the continuing undemocratic restrictions on freedom of association contained in the 1997 Electoral Act which will be further encoded into law in this legislation. Detail on this issue has been circulated to the committee separately in our joint submission with our Coalition for Civil Society (CCSF) partners. A link to this submission can be found in footnote 26 of this document.

The recommendations included in this submission should be read as supplementary and additional to those contained in the CCSF submission.

Aside from the above, this submission makes recommendations concerning the structure, powers and governance of the proposed Electoral Commission in Part Two, privacy concerns relating to proposals for the electoral register contained in Part Three, the scope of the proposals for political advertising in Part Four and the exercise of democratic rights in the context of national emergencies as per Part Five.

This submission is divided into four parts, each dealing with the substantive sections of the Bill (2, 3, 4 and 5). It should be noted that the first section on Part Four of the Bill refers the reader to our joint submission with our CCSF partners as outlined above.

PART TWO: ELECTORAL COMMISSION

PROPOSED COMMISSION FUNCTIONS

1. ICCL strongly welcomes the provisions contained in the Bill to establish an Electoral Commission. This is a development that ICCL have sought for a number of years.¹ There is some disappointment however that a number of key recommendations from our pre-legislative scrutiny submission² have not been incorporated. These recommendations address the limited scope of powers for the Commission and governance arrangements.
2. The Bill seems to prescribe the role of the Commission as one of amalgamating existing electoral functions into a single institution as set out Part 2 Chapter 4³. The draft heads of bill set out that there would exist a number of further functions “to be **considered** for transfer at a later stage”⁴. This list included the regulation of political funding and electoral expenditure, this however is not in the updated Bill. It is critical that the Department is clear with respect to if and when these functions will be transferred to the Commission.
3. The overt prescription of functions as set out under Head 29⁵ seems to allow very little room for the Commission to evolve, expand or adapt its remit of activities. As Highlighted by Dr Jane Suiter in her presentation to the Housing Committee on February 2nd 2021;

”Crucially, the Commission is not given a specific function of maintaining the integrity of electoral processes.”⁶

There is no recognition of the interrelated and current threats of disinformation or electoral interference, nor is there a role for the Commission to support candidacy as is seen in New Zealand⁷. These functions should also extend to the implementation of expanded gender quota legislation which would include a candidate selection quota at local level of 40% for the Local Elections 2024. This is in line with the National Women’s Council of Ireland’s pre-legislative submission on the general scheme of the Bill.⁸

4. In addition to the reports on electoral events as outlined under head 67⁹, the Commission should be explicitly tasked with conducting ongoing studies of public attitudes towards voting and the electoral process, as seen in the UK¹⁰.
5. Head 63 and 64 on the Research Functions¹¹ does not allow sufficient scope for the Commission to undertake research and/or pilot projects on other topics it may deem necessary. The onerous nature of obtaining Oireachtas approval for research as outlined under head 64 is not consistent with the principle of independence of the Commission or its effectiveness and should be re-examined.

¹ [ICCL Submission to the Public Consultation on the Establishment of an Electoral Commission](#)

² [ICCL Submission on the General Scheme of the Electoral Reform Bill \(2020\)](#)

³ [Electoral Reform Bill 2022 pp27](#)

⁴ General Scheme of the Electoral Reform Bill 2020

⁵ [Electoral Reform Bill 2022 pp27](#)

⁶ [Consultation on the General Scheme of the Electoral Reform Bill 2020 Opening Statement on behalf of Theresa Reidy \(UCC\), Jane Suiter \(DCU\), and David Farrell \(UCD\) 2 February 2021](#)

⁷ [New Zealand Electoral Commission: About the Electoral Commission](#)

⁸ [NWCi Submission to the Committee on Housing, Local Government and Heritage on the General scheme of the Electoral Reform Bill \(2020\)](#)

⁹ Ibid. pp46

¹⁰ [UK Electoral Commission: Public Attitudes](#)

¹¹ Ibid. pp45

PROPOSED COMMISSION GOVERNANCE STRUCTURE

6. ICCL would also express some concerns with regard to provisions relating to governance of the Commission as currently envisioned. Head 8¹² of the Bill sets out the Membership Composition of the Commission. Best comparative practice internationally, such as the New Zealand Electoral Commission (three members)¹³ or the Electoral Commission of South Africa (five members)¹⁴ would normally suggest that the Commission itself should be comprised of a smaller number than the 7-9 persons as set out in the Bill. ICCL would suggest a membership of 5 as a seemingly optimum number to ensure effective governance.
7. As per Head 8(3)¹⁵, it is unclear to ICCL as to why it is necessary that an individual with a judicial background is essential for the execution of the role of the chair of the Electoral Commission. Further consideration should be given to alternative options in this regard, for example an open competition or the establishment of a special appointment process chaired by the Chief Justice. We welcome the provision for a public selection process for the Selected Members as outlined under Head 8 (1), but would again call into question the need for this to consist of “between 4 and 6” individuals when comparable international best practice would suggest a smaller number in order to ensure efficiency and functionality.

RECOMMENDATIONS

8. That the remit of the Electoral Commission is expanded beyond its current focus to encompass a wider set of functions. These should include, inter-alia, countering mis/disinformation, candidacy support, the extension of gender quotas to local government elections and the security of the electoral process. The status of the transfer of political financing oversight should be clarified.
9. That provisions related to the research functions of the Commission are re-examined in order to ensure academic independence. The Commission should be free to set and direct its own research agenda without the need for prior approval of the Oireachtas.
10. That the proposed governance structure of the Commission is re-examined to ensure that it aligns with international best practice for similar bodies.
 - a. The number of members of the Commission should be capped at 5
 - b. That the requirement that the Chair should be nominated by the Chief Justice and should be of a legal background be removed and replaced by an alternative more open selection process.

¹² Ibid. pp14

¹³ [New Zealand Electoral Commission: Electoral Commission Board](#)

¹⁴ [Electoral Commission of South Africa: Organisational Structure](#)

¹⁵ Ibid. pp15

PART THREE: FRANCHISE AND REGISTRATION OF ELECTORS

REGISTRATION OF ELECTORS

1. The provisions contained under Head 82 (7)(a)¹⁶ simplifying the process for those with no fixed address being able to register are welcome. It is imperative that efforts should be made to facilitate marginalised populations to exercise their democratic rights. We would however have concerns that the proposed annual renewal process is onerous. ICCL welcomes the promised review of this provision to ensure effectiveness and would suggest that particular attention is paid to the number of those who re-register year on year if the existing provision is retained. Special efforts must be made by the Electoral Commission to publicise this provision in partnership with relevant organisations working with homeless individuals and families.

OVERSIGHT AND REPORTING

2. With respect to Head 96, 20(A)¹⁷ on Oversight and Reporting, provision should be included to ensure that these reports are made available on the Commission website or similar within a defined number of months of receipt by the Minister, to allow for public oversight of local authority efforts with regard to updating and maintaining an accurate register.

DATA PROTECTION AND DATA SHARING

3. Head 87¹⁸ of the Bill refers to the creation of a shared central database for the electoral register. While there are clear benefits of this provision with regard to efficiency and data management, this cannot be at the expense of data security and privacy rights. It is the view of ICCL that this provision deserves further scrutiny insofar as it has the potential to create data privacy and security issues as all electoral data will be stored and managed as a single entity. The experience of HSE hacking incident in 2021 shows how vulnerable may organisations are to malicious interference and special attention should be paid to the security of this critical data. The relationship between the Electoral Commission and the individual registration authorities needs to be very clearly demarcated with regard to data security and processing.
4. Related to the above, ICCL are concerned that the scope of the data sharing as envisioned under head 87¹⁹. In particular, ICCL Have grave concerns with regard to the use/sharing of PPSN data for the aforementioned purposes as it is likely disproportionate to the level of certainty required. The Department of Social Protection sets out the PPSN as;

“a unique reference number that helps you access social welfare benefits, public services and information in Ireland.”²⁰

5. The right of eligible persons to participate in the democratic process through casting ballots in elections and referenda is one of the most basic fundamental democratic freedoms. In the Irish context, these rights are set out in article 16²¹ of the constitution. Limitations on

¹⁶ Ibid. pp52

¹⁷ Ibid. pp65

¹⁸ Ibid. pp56

¹⁹ Ibid. pp56

²⁰ [Department of Social Protection: Get a Personal Public Service \(PPS\) Number](#)

²¹ [Irish Constitution: Article 16](#)

the exercise of this right cannot reasonably be captured by the definition provided above which sets limits on the use of the PPSN.

6. Eligibility to vote does not require a PPSN and therefore to **require** a PPSN in order to register to exercise this right is wholly inappropriate and fundamentally undemocratic. While it is not unreasonable for the registration process to offer individuals the **opportunity** to use their PPSN to confirm their identity/address, the willingness to share PPSN data cannot be a **compulsory** requirement. ICCL are strongly opposed to any attempts which conflate existing and limited PPSN functions with that of a National ID or similar. This opposition has previously been raised, for example with relation to concerns surrounding the interaction between PPSN and the Public Service Card.²² Furthermore, with respect to Head 104 (38) 1²³ on the Pending Elector List, while we strongly welcome the pre-registration of 16- and 17-year-olds as a positive development, we are again opposed to any mandatory use of PPSN as an identifier for the reasons outlined previously.
7. There are a number of further issues related to privacy and what ICCL believes to be excessive barriers to the exercise of democratic rights. For example, with respect to Head 104 (32)²⁴ (Entry of Names in Postal Voters Lists), it is the position of ICCL that individuals should not be forced to prove and/or disclose illness/disability for any period of time in order to be able to access postal voting. Forcing individuals to disclose such sensitive personal data in order to vindicate their constitutionally guaranteed democratic rights is not proportional to the need to justify a postal ballot. ICCL recommends that this requirement is removed and postal voting be made available to any individual who requests it.
8. ICCL gives a qualified welcome to the provision for Anonymous Electors as contained in head 91²⁵. While this is a very worthwhile provision, it seems to suffer many of the same shortfalls as the postal vote provisions above. The requirement to “prove” the danger of inclusion on the register poses is excessive, difficult to justify and not proportionate to potential it has to prevent and discourage individuals from exercising their democratic rights. Secondly, while the attempt to remove the necessity of a barring order or similar is a positive step, it introduces a discretionary nature to the assessment of applications which is very unwelcome. ICCL supports the ability of any individual to appear as anonymous on the register if they so choose, regardless of their personal circumstances and without having to provide proof or similar justification.

RECOMMENDATIONS

9. ICCL calls for the requirements for annual re-registration for those with no fixed abode to be re-examined to ensure that the democratic rights of those seeking to register are not unduly undermined by this provision. We would also recommend any review of this provision pays special attention to year-on-year re-registration in order to ascertain and address fall-off rates.
10. ICCL strongly oppose any attempts to make the sharing of PPSN information being a mandatory requirement for those seeking to register to vote. Any such attempt would be profoundly undemocratic as the possession of a PPSN is not a mandatory requirement in order to exercise any constitutionally guaranteed democratic right. Furthermore, any such provision would unfairly disadvantage already marginalised communities who, while eligible to vote, may not possess a PPSN. While the use of PPSN as an identifier can be

²² [The Irish PSC: Enforced digital identities for social protection services and beyond](#)

²³ Ibid. pp87

²⁴ Ibid. pp83

²⁵ Ibid. pp60

considered as one method of identity verification, it cannot be a compulsory method. Similarly, reasonable alternative registration methods should be accessible and practical for individuals who choose not to share their PPSN information or do not possess a PPSN.

11. While in principle ICCL welcomes the changes to the registration requirements for those who wish to register as postal voters and/or as anonymous on the electoral roll, the proposals are limited in scope. ICCL can see no practical reasons why any individual who wishes to register as a postal voter or as an anonymous elector should be compelled to disclose sensitive personal or medical information in order to vindicate their basic democratic rights. It is our position that the options of postal voting and to appear as an anonymous elector should be available to all who request them, regardless of circumstance.

PART FOUR: REGULATION OF ONLINE POLITICAL ADVERTISING

HEAD 117: INTERPRETATION

12. The substantive issue of concern for this legislation for ICCL is contained within this section of the Bill, namely the definition of “political purposes” as contained in the 1997 Electoral Act and referred to under head 117 (1). Our arguments for reform of this definition are contained in our joint submission with our CCSF partners which was submitted to the committee on May 18th.²⁶
13. The secondary focus of ICCL’s commentary on Head 117 is a development of our submission on the Regulation of Online Political Advertising in Ireland²⁷ in advance of the Open Policy Forum on the issue in November 2018 as initiated by the Interdepartmental Group on the Security of Ireland’s Electoral Process and Disinformation. This section should also be understood in the context of the matters raised and addressed in the Electoral (Civil Society Freedom) (Amendment) Bill 2019 which is before the Oireachtas and seeks to amend the Electoral Act 1997 to end the chilling effect the 2001 amendment has had on civil society organisations.
14. Since 2001, the Electoral Act 1997 (As Amended) has applied donation restrictions previously reserved for political parties and those running for election to all donations made to “third parties” for “political purposes”. A “third party” is *anyone* other than an election candidate or political party. The amended 1997 Act’s broad definition of “political purposes” is having a negative impact on the work of CSOs in Ireland outside of election and referendum periods, has severely constrained funding efforts and led to a number of organisations being forced to shutter their activities. In recent years, SIPO has begun to enforce the Act’s funding restrictions in relation to the work of CSOs generally, i.e. even if not within an election or referendum period. The relevance of the 1997 Electoral Act and the 2001 amendment to this Bill is set out below.

DEFINITION OF POLITICAL PURPOSES FOR THE PURPOSES OF ADVERTISEMENT

15. The General Scheme of this Bill proposes to define “political advertisement” as “any form of communication in a digital format for political purposes purchased for placement, display, promotion or dissemination on an online platform during an electoral period and for which a payment or payment in kind is made to the online platform concerned.”²⁸ Under Heading 117(1) “political purposes” shall have the meaning assigned to it by section 22(2)(aa) of the Electoral Act 1997²⁹. This proposal presents a potential issue insofar as that it could serve to inadvertently regulate advertisements promoting the day-to-day advocacy work of third parties during electoral cycles. The potential interaction between the proposed definition of “political advertisement” with the existing definition of “political purposes” as it applies to ‘third parties’ in the amended 1997 Act may cause further confusion in an already problematic area of law. Clarity is needed from the department in respect of how they see “issue based” advertisements being regulated during electoral periods.

²⁶ [Submission on the Definition of ‘Political Purposes’ as contained in the Electoral Reform Bill \(2022\) The Coalition for Civil Society Freedom](#)

²⁷ [Public Consultation on Regulation of Online Political Advertising in Ireland Submission by the Irish Council for Civil Liberties](#)

²⁸ *Ibid.* pp96

²⁹ [1997 Electoral Act \(as amended\)](#)

ISSUE BASED ADVERTISEMENTS

16. ICCL does not exclude the possibility that transparency regulations with regard to advertising might be deemed to also appropriately apply to a wider category of ‘issue based advertising’ concerning matters of social or economic policy outside of electoral periods. Regulations such as these are already the case within the existing practice of some social media companies, for example in Facebook³⁰, Twitter³¹ and Instagram³², while TikTok bans political and issue-based advertising completely³³.
17. However, we believe it is imperative that any such rules around ‘issues based advertising’ should be clearly distinguishable from rules pertaining to ‘political advertising’. This Bill as it stands runs the risk of creating a situation whereby a category of “issue based” advertisements will exist but only during electoral periods, most of which will have nothing to do with the electoral event taking place.
18. It is the view of ICCL that the development of this Bill creates an opportunity to disentangle explicitly political advertising and ‘issue-based advertising’ and to develop separate guidelines for transparency on the latter. This is particularly prescient when we consider the role played by the internet in the public’s access to news and information both inside and outside of electoral periods. Different considerations of freedom of expression and freedom of association apply in the context of individuals and civil society organisations seeking to express views on matters of public interest. Thusly, different criteria with regard to the transparency of these advertisements should apply.

HEAD 119: PUBLIC INFORMATION REQUIREMENTS FOR ONLINE POLITICAL ADVERTISEMENTS

19. There are a number of issues with regard to Head 119 of the General Scheme of the Bill which have not been addressed in the revised version. ICCL believe these issues deserve further consideration. The issues mostly refer to the need to balance privacy rights with the objective of protecting electoral integrity. Any use of personal data to ensure advertising transparency is bound to and must be balanced with the principles relating to the processing of personal data as outlined in Article 5 of GDPR.³⁴ ICCL also notes the EU’s forthcoming Digital Services Act and regulations on proposed regulations on political advertising³⁵ which may necessitate the revisiting of this proposed legislation in the near future.

PUBLIC INFORMATION REQUIREMENTS

20. Head 119(2)(a) of the General Scheme of the Bill refers to the Public Information Requirements for Online Political Advertisements. The requirements for information to be included in the “Transparency Notice” should be interrogated further. The the Bill sets out that the transparency notice should contain, inter alia.

³⁰ [Facebook: About Ads About Social Issues, Elections or Politics](#)

³¹ [Twitter: Cause-based advertising policy](#)

³² [Information on Social Issue Ads on Instagram](#)

³³ [TikTok: “Understanding our policies around paid ads”](#)

³⁴ [GDPR Article 5](#)

³⁵ [Proposal for a Regulation of the European Parliament and of The Council on The Transparency and Targeting of Political Advertising](#)

“the name, postal address, email address and, where applicable, the website address of the buyer who paid for the online political advertisement;”³⁶

The related obligations on the buyers to provide this is set out under Head 121 and stipulates that an offence will be committed by the buyer if this information is not provided³⁷

21. ICCL would have serious concerns with regard to the scope of personal data that individuals would be forced to disclose in order to place these advertisements which we outlined in our submission as part of the pre-legislative scrutiny process.³⁸ These concerns are particularly acute when the advertisement is placed by an individual as opposed to an organisation. It is important to be mindful of potential negative effects this provision could have on vulnerable groups in society, e.g. forcing members of discriminated against minorities to publicly declare their support for an organisation or cause. If the hosting platform does not receive all of the information as stipulated in the Bill, they are precluded from running the advertisement(s) in question. This provision is set out in Head 121 (4);

“An online platform which is unable to apply the measures specified in subsection (2) in relation to a buyer of an online political advertisement as a result of any failure on the part of the buyer to provide the online platform with documents or information required under this section or section 120(2), or both, shall not place, display, promote or disseminate any online political advertisement purchased by the buyer, or for or on behalf of the buyer, on the online platform where it can be accessed or seen by users of the online platform for so long as the failure remains unrectified.”³⁹

This provision may have a serious chilling effect on the enjoyment of constitutionally guaranteed rights to freely participate in the democratic process and violate the right to privacy.

ONLINE DIGITAL ARCHIVE

22. The data protection and privacy concerns are compounded by the provisions in the Bill which relate to the creation of a “digital archive” for the preservation of these advertisements for a period of seven years as provided for under heading 119(2).⁴⁰ The accessibility of this archive and the details provided in the privacy notice for a lengthy period such as this should be scrutinised in terms of proportionality in the need to ensure the transparency of funding. This need has to be weighed against the rights of individual privacy and freedom of political expression.

“MICRO TARGETING” AND “LOOK-ALIKE” TARGETING

23. Heading 119(2)⁴¹ sets out the transparency provisions that political advertisements must contain with regard to so-called “micro-targeting” and “look-alike” targeting lists. However, many (perhaps all) such technologies are incompatible with the GDPR because they process personal data, including “special category” data, unlawfully. ICCL has submitted detailed evidence on this point to the DPC.

³⁶ Ibid. pp98

³⁷ Ibid. pp100

³⁸ [ICCL Submission on the General Scheme of the Electoral Reform Bill \(2020\)](#)

³⁹ Ibid. pp101

⁴⁰ Ibid. pp98

⁴¹ Ibid. pp98

24. Furthermore, it is the view of ICCL that Heading-119(2) should include provision for, inter alia, a prominent link to the Electoral Commission website, or another independent resource, with a notice informing individuals that “*further information on your rights with regards to political advertising can be seen here*” or similar. While websites hosting these advertisements have an important role to play in ensuring transparency, it is critical that individuals are signposted to impartial information regarding their digital rights.

RECOMMENDATIONS

25. Amend the Electoral Act (1997) as per the recommendation included in the Coalition for Civil Society Freedom submission on the Bill to ensure that funding restrictions on “third parties” only apply during electoral periods.
26. Clarify the restrictions with respect to “third party” advertisements during electoral periods. In addition, ICCL submits that transparency guidelines on “Issue Based Advertisements”, as outlined above should be developed and be distinct in criteria from “Political Advertisements.”
27. While ICCL welcomes the focus on the need for transparency in the arena of political advertising, it is crucial that the measures are proportional and align with existing data protection and privacy rights. Therefore, ICCL recommends that the Public Information Requirements as included under Heading 121 and related provisions are re-examined in order to ensure that these rights are respected and vindicated.
28. In addition, it is essential that transparency efforts should be linked to a greater understanding of digital rights more broadly. For this reason, we believe that any transparency notice should include links to further impartial resources as outlined above.
29. Furthermore, it is the view of ICCL that legislating for transparency with regard to so-called “micro-targeting” and ‘look-alike” targeting lists is inappropriate as these activities are incompatible with the GDPR.

PART FIVE: ADVANCE POLLING DURING PANDEMIC OR COVID-19

DEMOCRATIC RIGHTS AND THE RULE OF LAW IN TIMES OF NATIONAL EMERGENCY

30. ICCL welcomes this important provision with regard to the exercising of democratic and electoral rights in the context of Covid-19 or similar restrictions. It is however, somewhat puzzling that the measures in question *solely* refer to the management of electoral events specifically in this narrow context. This Bill presents the opportunity to legislate for electoral events in the context of emergencies more broadly and to help ensure that no national emergency of any kind (natural disaster, extreme weather or public health) should present an insurmountable obstacle to the vindication of democratic rights.
31. It is the view of ICCL that one of the key lessons that must be drawn from the global experience of Covid-19 is that accountability, openness, oversight and transparency with regard to decision-making are essential in maintaining the legitimacy and authority of democratic institutions. The importance of these democratic principles and the rule of law more generally become *more, not less* important at a time of national crisis. This is a matter that we have highlighted our repeated concerns with to the Government over the course of the last two years⁴² and outlined extensively in our 2021 report “Human Rights in a Pandemic⁴³”.
32. Research published by IHREC in conjunction with Trinity College Dublin has highlighted the importance of the rule of law for the functioning of democracy and also how the onset and response by government to the pandemic has highlighted a;
- “significant defect in Ireland’s COVID-19 response, breaching international law norms relating to the rule of law.”⁴⁴*
33. National emergencies such as Covid-19, should not be seen as an excuse for opaqueness when important decisions with regard to individual liberties and human rights are being made. At a time when community and national solidarity are essential in meeting great challenges, and when governments may seek to and be required to exercise unusual and exceptional powers, the onus on governments, parliaments and other policy-making structures to be open and clear about their decisions and processes is increased.
34. An essential element of the rule of law is that government is bound by the law and by established rules and processes. ICCL draws attention to the lack of adherence by government in their response to Covid-19 to the “*Strategic Emergency Management National Structures and Framework*”⁴⁵ document which was published by the Department of Defence in July 2017. This document recommended an “all of government” approach to national emergency management and makes provision for decision-making and oversight structures in the event of a pandemic. The principles that there should be a multi-disciplinary approach to emergency situations seems to be largely sound. However, we note that the 2017 Framework is also incomplete. For the purposes of this Bill, for example, the document does not contain provision for conducting electoral events during national emergencies.
35. It is the view of ICCL that the current Part 5 of this Bill presents an opportunity to address this lacuna. With this in mind, it is the recommendation of ICCL that Part 5 should be

⁴² [ICCL Commentary on Covid-19 Emergency Powers Legislation](#)

⁴³ [ICCL: Human Rights in a Pandemic A Human Rights Analysis Of The Irish Government’s Response to Covid-19](#)

⁴⁴ [Ireland’s Emergency Powers During the Covid-19 Pandemic](#) pp62

⁴⁵ [Strategic Emergency Management National Structures and Framework](#)

amended and expanded to include provision for the management of electoral events in the context of national emergencies more broadly. Enhancing Part 5 in this manner would go some way to putting the exercise of critical democratic rights in the time of emergency on a statutory footing.

36. According to a February 2022 report by the International Institute for Democracy and Electoral Assistance (IDEA) elections have been postponed in 80 countries or territories as a result of Covid-19, or where Covid-19 was cited as a reason for postponing.⁴⁶ Creating a robust legislative guarantee for the smooth functioning of the democratic process insofar as is possible in the context of a national emergency can act as a catalyst for a review of government decision-making, transparency and oversight during the Covid-19 emergency more broadly and in order to ensure that lessons are learned in this regard for future emergencies.

RECOMMENDATIONS

37. That Part 5 of the Bill be amended to include provision for the development of “all of government” strategies for the holding of electoral events in the context of national emergencies. This would include provisions for, inter-alia, the conducting of electoral events in the context of pandemics, natural disasters, terrorist outrages, cyber-attacks, extreme weather events, and so on.
38. The development of these strategies would be cognisant of and build on the work of the 2019 National Risk Assessment report, published by the Department of An Taoiseach⁴⁷. The revised Bill should also commit to carrying out a periodic review and update of these strategies.
39. That the development of these strategies should also prompt a wider review of the “*Strategic Emergency Management National Structures and Framework*”⁴⁸ document and the incorporation of electoral events into its planning matrix.

⁴⁶ [IDEA: Global Overview of Covid-19 Impact on Elections](#)

⁴⁷ [National Risk Assessment 2019](#)

ABOUT ICCL

The **Irish Council for Civil Liberties** (ICCL) is Ireland's oldest independent human rights body. It has been at the forefront of every major rights advance in Irish society for over 40 years. ICCL helped legalise homosexuality, divorce, and contraception. We drove police reform, defending suspects' rights during dark times. In recent years, we led successful campaigns for marriage equality and reproductive rights. ICCL has worked on data protection for decades.