



Coimisiún um Chaighdeán in Oifigí Poiblí **Standards in Public Office Commission**

Investigation by the Standards in Public Office Commission of Alleged
Contraventions of the Ethics in Public Office Acts 1995 and 2001 and Part 15 of the
Local Government Act 2001

Mr Tommy Reilly

29 July 2025

Report under Section 24 of the Ethics in Public Office Act 1995, as amended by the
Standards in Public Office Act 2001 and as applied by the Local Government Act
2001

Foreword

The Standards in Public Office Commission (“the Commission”), in accordance with section 23 of the Ethics in Public Office Act 1995 (“the Ethics Act”), as amended by the Standards in Public Office Act 2001 (“the Standards Act”), has carried out an investigation to determine whether Mr Tommy Reilly has contravened Part 15 of the Local Government Act 2001 (“the Local Government Act”) or done a “specified act” within the meaning given to that term by section 2(1) of the Ethics Act. The Commission, in accordance with section 24 of the Ethics Act, has prepared the following report of the result of that investigation. In accordance with section 24(1) of the Ethics Act, copies of the report are being furnished to

- Mr Tommy Reilly
- Mr Michael Smith, the complainant,
- Mr Kieran Kehoe, Chief Executive, Meath County Council,
- Councillor Wayne Harding, Cathaoirleach, Meath County Council, and
- the Minister for Public Expenditure, Infrastructure, Public Service Reform and Digitalisation.

Mr Justice Garrett Sheehan (Chairperson)

Mr Ger Deering

Ms Geraldine Feeney

Mr Peter Finnegan

Mr Martin Groves

Mr Seamus McCarthy

29 July 2025

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1 Introduction

- 1.1 The Commission was established by section 21 of the Ethics Act, as amended by section 2 of the Standards Act, which was brought into operation by the Standards in Public Office Act 2001 (Commencement) Order 2001.
- 1.2 In brief, the Commission's role in this context is: to supervise the operation of the Ethics Act and the Standards Act (together, “the Ethics Acts”) in so far as they concern office holders, an Attorney General who is not a member of a House of the Oireachtas, ministerial special advisers, designated directors and employees of specified public bodies and certain civil servants; to provide guidance and advice on the applicability of the Ethics Acts; and to carry out investigations into possible contraventions of the Ethics Acts and/or Part 15 of the Local Government Act.
- 1.3 The investigative function of the Commission is a formalised procedure giving its Chairperson statutory powers that include the power to compel the attendance of witnesses and to procure documents or other material. The Ethics Acts oblige the Commission to hold hearings for the purpose of investigations. The procedures adopted by the Commission for the conduct of investigations are set down in the *Procedures of the Standards in Public Office Commission in respect of its Complaints Process* (revised and updated December 2023), a copy of which is at Appendix A to this report.
- 1.4 Having carried out an investigation hearing under section 23 of the Ethics Act to determine whether there has been a contravention of the Ethics Acts or Part 15 of the Local Government Act, the Commission, pursuant to section 24 of the Ethics Act and section 180 of the Local Government Act, is required to prepare a report and to furnish a copy of the report to—
 - the person the subject of the investigation,
 - the person who made the complaint,
 - where a report relates to the Cathaoirleach of a local authority, the Leas-Cathaoirleach and the Chief Executive of the authority,
 - where a report relates to any other member of a local authority, the Cathaoirleach and the Chief Executive of the authority, and
 - the Minister for Public Expenditure, Infrastructure, Public Service Reform and Digitalisation.
- 1.5 In addition, section 24(2) of the Ethics Act provides that, where the Commission is of the opinion that a person the subject of an investigation may have committed an offence relating to the performance of his or her functions, it shall prepare a report in writing in relation to the matter and furnish it to the Director of Public Prosecutions.

1.6 This report, under section 24 of the Ethics Act, sets out the findings of the Commission together with its determinations in relation to the following matters

- a. whether there has been a contravention of a provision of the Local Government Act or a specified act has been done, and whether the contravention or act is continuing,
- b. in case the determination is that there has been a contravention or specified act -
 - (i) if the determination is that the contravention or act is continuing, the steps required to be taken to secure compliance or the discontinuance of the act, and the period of time within which such steps should be taken,
 - (ii) whether the contravention or act was committed inadvertently, negligently, recklessly or intentionally,
 - (iii) whether the contravention or act was, in all the circumstances, a serious or a minor matter, and
 - (iv) whether the person being investigated acted in good faith and in the belief that his or her action was in accordance with guidelines published or advice given in writing by the Commission or the Committee on Members' Interests.
- c. in case the determination is that there has not been a contravention or specified act, whether the Commission is of opinion that the complaint made was frivolous or vexatious or that there were no reasonable grounds for it.

1.7 The Commission must be satisfied to the civil standard of proof (i.e. satisfied on the balance of probabilities) in finding that a contravention was committed or a specified act was done.

2. Background

2.1 Mr Tommy Reilly was a Councillor on Meath County Council until June 2024.

2.2 As a member of the local authority, Mr Tommy Reilly was obliged to comply with section 168 of the Local Government Act, which provides as follows:

“In carrying out their functions under this or any other enactment, it is the duty of every member and every employee of a local authority and of every member of every committee to maintain proper standards of integrity, conduct and concern for the public interest.”

2.3 In addition, specific duties are placed on members of local authorities as regards disclosure of pecuniary or other beneficial interests. Section 177(1) of the Local Government Act provides:

“Where at a meeting of a local authority or of any committee, joint committee or joint body of a local authority, a resolution, motion, question or other matter is proposed or otherwise arises either—

(a) as a result of any of its functions under this or any other enactment, or

(b) as regards the performance by the authority, committee, joint committee or joint body of any of its functions under this or any other enactment,

then, a member of the authority, committee, joint committee or joint body present at such meeting shall, where he or she has actual knowledge that he or she or a connected person has a pecuniary or other beneficial interest in, or which is material to, the matter—

(i) disclose the nature of his or her interest, or the fact of a connected person’s interest at the meeting, and before discussion or consideration of the matter commences, and

(ii) withdraw from the meeting for so long as the matter is being discussed or considered,

and, accordingly, he or she shall take no part in the discussion or consideration of the matter and shall refrain from voting in relation to it.”

2.4 Section 176(1)(a) provides that, for these purposes, “beneficial interest” includes “an interest in respect of which... [the councillor] or a connected person, or any nominee of his or her or of a connected person, is a member of a company or any other body which has a beneficial interest in, or which is material to, any such

matter". The term "*connected person*" is defined in s. 166(1) as including "*a child of the person*".

2.5 Section 166(1) also defines "*actual knowledge*" as "*actual, direct and personal knowledge as distinct from constructive, implied or imputed knowledge and includes, in relation to a fact, belief in its existence the grounds for which are such that a reasonable person who is aware of them could not doubt or disbelieve that the fact exist*".

2.6 Section 177(3) goes on to provide that a reference to any disclosure and withdrawal under the section shall be recorded in the minutes of the meeting concerned and the disclosure shall be recorded in the council's public register of interests.

2.7 Under section 169 of the Local Government Act, the Minister for Housing, Local Government and Heritage is empowered to issue a code of conduct for county councillors ("*the Code of Conduct*"). The Minister issued such code in 2004 and a revised version in 2019. Section 169(3) requires councillors to have regard to and be guided by the code in the exercise of their functions.

2.8 Under section 4(1) of the Standards Act, a person may make a complaint to the Commission where a "*specified person*", *inter alia*—

"may have done an act or made an omission... that is, or the circumstances of which are, such as to be inconsistent with the proper performance by the specified person of the functions of the office or position by reference to which he or she is such a person or with the maintenance of confidence in such performance by the general public, and the matter is one of significant public importance" (which act is referred to as a "*specified act*").

2.9 Section 180(2) of the Local Government Act applies the Ethics Act to members of local authorities; therefore, they are specified persons in respect of whom complaints of specified acts may be made.

2.10 On 2 March 2022, the Commission received a complaint from Mr Michael Smith in respect of certain acts and omissions of Mr Reilly when he was a member of Meath County Council. The complaints arose from the fact that Mr Reilly's son, Mr Ciarán Reilly, had an interest in lands at Liscarton, Navan, Co. Meath ("*the Liscarton lands*"), at a time when Mr Tommy Reilly attended meetings in relation to the re-zoning of such lands and the carrying out of development thereon.

2.11 The complaint was considered by the Commission at its meeting on 25 April 2022. The Commission decided to appoint an inquiry officer to carry out a preliminary inquiry under sections 4(4) and 6 of the Standards Act in relation to the complaint. The Commission requested that the inquiry officer express their opinion in their report as to whether there was *prima facie* evidence to sustain the complaint (as

per section 6(3) of the Standards Act). Mr Eoin O'Shea was appointed as inquiry officer on 4 May 2022.

- 2.12 The preliminary inquiry report was completed on 24 February 2023. The inquiry officer expressed the opinion that, in the absence of requested statements and information from Mr Tommy Reilly and Mr Ciarán Reilly, there was only *prima facie* evidence to sustain one of the allegations in the complaint.
- 2.13 The report of the inquiry officer was considered by the Commission on 6 March 2023. Having examined the relevant provisions of the Ethics Act and the Standards Act, the Commission decided, contrary to the opinion of the inquiry officer, that there was sufficient evidence to establish a *prima facie* case in respect of a number of allegations, that the matter was one of significant public importance and that the subject matter was of sufficient gravity to warrant an investigation by the Commission under section 23 of the Ethics Act.
- 2.14 On 26 May 2023, Mr Tommy Reilly was notified of the decision to carry out an investigation and provided with a copy of the inquiry officer's report.
- 2.15 The Commission obtained further evidence using the Chairperson's powers of direction under section 32 of the Ethics Act. In particular, Mr Ciarán Reilly and his brother Mr Tomás Reilly provided statements, in addition to other evidence obtained.
- 2.16 At its meeting on 23 October 2023, the Commission approved a Statement of Alleged Contraventions, which was furnished to Mr Tommy Reilly. A copy of same is included at Appendix B to this report. As appears therefrom, it was alleged that—
 - (1) in attending meetings of the county council on 27 July 2016 and 22 March, 8 May and 29 May 2017, Mr Tommy Reilly contravened section 177(1)(b)(i) and (ii) of the Local Government Act by failing to disclose the fact of his son's, or sons', interest in the Liscarton lands and failing to withdraw from the meetings,
 - (2) in attending the said meetings and failing to make such disclosure and withdraw, Mr Tommy Reilly also contravened section 169(3) of the Local Government Act and acted in disregard of sections 2.1, 2.2, 2.3 and 4.8 of the Code of Conduct,
 - (3) in attending a special planning meeting of the council on 19 July 2017 (the Special Planning Meeting), Mr Tommy Reilly contravened section 177(1)(b)(i) of the Local Government Act by failing to disclose his son's, or sons', interest in the Liscarton lands,
 - (4) in attending the Special Planning Meeting and not making such disclosure, Mr Tommy Reilly acted in contravention of section 169(3) of the Local Government Act and in disregard of sections 2.1, 2.2, 2.3 and 4.8 of the Code of Conduct,

- (5) in attending a pre-planning consultation in respect of the development of the Liscarton lands on 29 March 2018 (“the Pre-Planning Consultation”), Mr Tommy Reilly acted in contravention of section 169(3) of the Local Government Act and in disregard of sections 2.1, 2.2, 2.3 and 4.8 of the Code of Conduct,
 - (6) in the manner in which he conducted himself in respect of his and his family’s involvement with and/or dealings relating to the Liscarton lands, Mr Tommy Reilly contravened section 168 of the Local Government Act by failing to maintain proper standards of integrity, conduct and concern for the public interest in carrying out his functions, and
 - (7) in his conduct in respect of his and his family’s involvement with and/or dealings relating to the Liscarton lands, Mr Tommy Reilly did a specified act within the meaning of section 2 of the Ethics Act, or a series of such acts, as such conduct and/or the circumstances of such conduct were inconsistent with the proper performance by him of his functions as a member of the council and/or with the maintenance of confidence in such performance by the general public and the matter was one of significant public importance.
- 2.17 By letter dated 12 November 2024, Mr Tommy Reilly’s solicitors sought the discontinuance of the investigation on the basis of the opinion expressed in the Preliminary Inquiry Report and the principle of *de minimis no curat lex*, which is to the effect that the law does not concern itself with trivialities. The Commission considered that request at its meeting on 10 February 2025 and decided to proceed with the investigation hearing, but invited Mr Tommy Reilly’s solicitors to make a more substantial preliminary application by 28 April 2025. No such application was received by that date.

3. Investigation hearing of the Commission

- 3.1 The hearing of the Commission took place on 13 and 16 June 2025. Mr Tommy Reilly was represented by Mr Séamus Ó Tuathail SC and Mr Dáithí Mac Cárthaigh BL (instructed by Declan Brooks of Shanley Solicitors LLP). Mr Ciarán Reilly and Mr Tomás Reilly were represented by Mr John T Gibbons SC and Mr Thomas Freeman BL (instructed by Patrick F O'Reilly & Co). Michael Lanigan, of Poe Kiely Hogan Lanigan Solicitors LLP, represented Meath County Council. Gavin Simons of AMOSS LLP represented Mr Patrick Gallagher. The Commission was represented by Mr Mark Alexander Curran BL (instructed by Ms Aoife Drudy, Legal Adviser to the Commission).
- 3.2 The date, time and place of the Commission hearing were notified in advance to the legal advisers of Mr Tommy Reilly. Mr Tommy Reilly's legal advisers were also informed of the right to make any preliminary application at the beginning of the hearing and to provide details of same in writing prior to the hearing.
- 3.3 On the morning of the first day of the hearing, Mr Tommy Reilly's representatives lodged with the Commission a written preliminary application seeking the discontinuance of the investigation on the ground that the provisions of the Code of Conduct relied upon in alleged contraventions 2, 4 and 5 of the Statement of Alleged Contraventions were provisions of the revised version of the Code of Conduct. That version had been published on 10 July 2019, after the events the subject of the allegations.
- 3.4 At the outset of the hearing, the Chairperson stated that the Commission had considered the application and decided not to proceed in respect of alleged contraventions 2, 4 and 5 and to proceed to investigate the remaining alleged contraventions. The Chair noted that this ruling would not change the alleged facts and circumstances to be examined by the Commission during the course of the hearing.
- 3.5 Following that ruling, counsel for the Commission made some introductory remarks, opened the Statement of Alleged Contraventions and described the type of allegations made.
- 3.6 Counsel then opened the relevant legislative provisions, using a Hearing Guidance Document that had been prepared in advance, and in respect of which Mr Tommy Reilly's representatives had adopted a neutral position.
- 3.7 Counsel for the Commission went on to summarise the background facts, including the various meetings the subject of the allegations, by reference to key documents in the booklet of evidence prepared for the purposes of the investigation, and to explain their relevance in the context of the remaining four alleged contraventions.

- 3.8 Counsel also opened to the Commission two statements which had been provided, on request, to the Commission and which Mr Tommy Reilly's representatives had agreed could be admitted as evidence. Those statements were provided by Mr Billy Joe Padden, economic projects case planner, Meath County Council, and Ms Wendy Bagnall, senior executive planner, Meath County Council. In addition, statements from Ms Fiona Lawless of Meath County Council, Mr John Harrington, chartered surveyor and Ms Sheila Cooney of Tallan Solicitors LLP were admitted into evidence by agreement.
- 3.9 Counsel also opened the contents of written responses provided to the Commission by Mr Ciarán Reilly, as well as relevant financial statements submitted to the Companies Registration Office by Royal Active Business Solutions Limited ("RABS"), the company through which Mr Ciarán Reilly acquired an interest in the Liscarton lands, and correspondence in relation to such acquisition.
- 3.10 The Commission then heard oral evidence from Ms Jackie Maguire, who was chief executive of Meath County Council at the time of the events the subject of the allegations, and from Mr Eamon Collins, of Collins Boyd Engineering, who was engaged by RABS for the purposes of the development of the Liscarton lands and who attended the Pre-Planning Consultation in that capacity.
- 3.11 Mr Patrick Gallagher, a retired member of the planning department of Meath County Council, and Mr David Caffrey, executive planner, Meath County Council, attended the first day of the hearing to give oral evidence but it was later agreed that their written statements could also be admitted into evidence. Their statements were read into the record at the outset of the second day of the hearing.
- 3.12 On the second day, the Commission heard oral evidence from Mr Eoin O'Shea, the Inquiry Officer, Mr Tommy Reilly's sons, Ciarán and Tomás, and Mr Tommy Reilly himself.
- 3.13 Counsel for the Commission then made closing submissions, followed by replying submissions from counsel for Mr Tommy Reilly.
- 3.14 The hearing then concluded.

4. Relevant evidence and factual findings

The importance of declaration of interests

- 4.1 Integrity in public life is a fundamental principle in the conduct of public business. It requires that those involved in public decision making – whether in the role of elected representatives or employed as administrators/managers – should act in that capacity only in the public interest, and not be influenced by any personal interests, or by any third party interests. In order to maintain public confidence in such decision making, transparency about the personal interests of decision makers is consequently an important requirement, in parallel with public declaration of any lobbying by or on behalf of interested parties. These requirements reflect the fundamental principle in public life that no decision-maker should be involved in a decision that is likely to impact on their own affairs, or the affairs of their close family members. Were it otherwise, it would undermine the confidence of the public in the administration of public business.
- 4.2 In respect of local authorities, the Local Government Act has established a statutory system requiring councillors and employees to make annual declarations of their relevant personal economic interests to the ethics registrar in the local authority. In addition, a specific obligation arises to disclose interests and to withdraw from a council meeting where a member of a local authority has ‘actual knowledge’ that s/he, or a ‘connected person’ (such as a spouse, sibling, parent or child), has a ‘beneficial interest’ in or which is material to the matter under consideration by the local authority. To ensure transparency, the legislation requires that both the disclosure and the withdrawal must be recorded in the minutes of the meeting and the disclosure must be recorded in the register of interests relating to the member. Similar requirements apply to the chief executive and to employees of the local authority.
- 4.3 These requirements are explained in simple terms in both versions of the Code of Conduct for Councillors, issued in 2004 and 2019 respectively. Each Code also recommends disclosure of additional interests which the legislation does not strictly require to be disclosed, as they pose a real potential for conflict of interest or damage to public confidence in local government. The rationale for this is described as follows in the 2004 version of the Code¹:

“Private or personal interests of this kind must not be allowed to conflict with public duty or improperly influence the decision making process. Where such interests, of which a councillor is aware, arise in relation to a matter which comes before a meeting for consideration they should be dealt with in a transparent fashion. This is necessary so that public trust and confidence in

¹ The 2019 version of the Code includes almost identical text, in a slightly different order.

local government is upheld – disclosure of such an interest is invariably appropriate except where it is of a remote or insignificant nature; if in doubt disclosure should be made. The public perception of the way a councillor is seen to deal with such matters is important for the maintenance of trust in local government.

The test to be applied by a councillor is not just what s/he might think - but rather whether a member of the public knowing the facts of the situation would reasonably think that the interest concerned might influence the person in the performance of his or her functions. If so, disclosure should follow and a councillor should consider whether in the circumstances s/he should withdraw from consideration of the matter. In this context it is important to ensure that as well as the avoidance of actual impropriety, occasions for suspicion and appearance of improper conduct are also avoided in case of private or personal interests.”

- 4.4 The failure of local authority members to comply with their obligations may be the subject of an investigation by the chief executive and the Cathaoirleach of the local authority, resulting in a report that must be sent to and retained by the ethics registrar. Such failure may also be the subject of an investigation by the Commission, resulting in a published report. The Commission may, in certain circumstances, impose a requirement to take steps to secure compliance with their obligations. On receipt of the Commission’s report regarding a member, the elected council may take whatever action it may consider appropriate, including by exercising its powers of suspension or removal.
- 4.5 There are obligations placed on the ethics registrar of the local authority to notify members and employees of their obligations in relation to annual declarations. The ethics registrar may also bring any of the other requirements of the legislation to the attention of members or employees, where s/he considers it necessary.

The Commission’s approach in this case

- 4.6 The Commission has considered the three factual circumstances at issue in this case, taking into account the legal requirements and the principles outlined above.
- 4.7 First, the Commission considered whether Mr Tommy Reilly had actual knowledge of his son’s (or sons’) interest in the Liscarton lands prior to July 2017, such that he ought to have disclosed that interest when the lands were discussed at Council meetings prior to that date (the “prior knowledge issue”). The law has created a test of ‘actual knowledge’ to trigger members’ duties to declare their interests and remove themselves from decision-making. This is the test that the Commission must apply.

- 4.8 Second, the Commission considered the circumstances surrounding Mr Tommy Reilly's disclosure of his son's interest in the Liscarton lands at the Special Planning Meeting on 19 July 2017 (the "Special Planning Meeting issue").
- 4.9 Third, the Commission considered the circumstances surrounding Mr Tommy Reilly's attendance at a meeting regarding his son's planning application for the Liscarton lands on 29 March 2018 (the "Pre-Planning Consultation issue").
- 4.10 The Commission will first set out the evidence and its factual findings, before going on to consider whether such factual findings amount to contraventions as alleged.
- 4.11 The Commission has had regard to the evidence presented to it in the form of documentary and oral evidence adduced at the investigation hearing. The Commission has also had regard to the submissions made to it by counsel to the Commission and on behalf of Mr Tommy Reilly.

The prior knowledge issue

- 4.12 The Commission heard evidence regarding references to lands located at Liscarton at meetings of Navan Municipal District attended by Mr Tommy Reilly on 17 December 2014, 18 February 2015, 18 November 2015 and 16 December 2015. From the evidence presented at the investigation hearing, the Commission is satisfied that these references were to a different plot of land in the same area, known locally as the 'cow plot', and are not references to the Liscarton lands at issue in this investigation. The Commission does not consider these references to be relevant to its investigation.

Relevant evidence considered by the Commission

- 4.13 The evidence presented established that Mr Tommy Reilly attended an ordinary meeting of the sub-division of Meath County Council in respect of Navan Municipal District on 27 July 2016. The minutes of that meeting were opened to the Commission and they confirmed that Mr Tommy Reilly was in attendance and that the meeting received an update on the preparation of "*Variation No. 2 of the Navan Development Plan 2009-2015*".
- 4.14 Mr David Caffrey, who delivered such update to the meeting, explained in his written statement to the Commission that the proposal was to re-zone the Liscarton lands under Use Zone Objective E2, which provides for light industrial and industrial office-type employment, effectively allowing for the extension of an existing industrial estate adjoining the Liscarton lands. Mr Caffrey also explained that the 2009-2015 Development Plan had remained in operation until 2021 arising from the abolition of town councils in Meath.

- 4.15 The evidence also established that Mr Tommy Reilly had attended a further meeting in respect of Navan Municipal District on 22 March 2017. Again, this was confirmed by the minutes of such meeting, which also recorded that Ms Wendy Bagnall gave councillors a further update on the variation of the Development Plan in respect of the zoning of the Liscarton lands.
- 4.16 The evidence further established that Mr Tommy Reilly attended an ordinary meeting of Meath County Council on 8 May 2017. The minutes of that meeting recorded that it was agreed that a special meeting would be held on 29 May 2017 to consider the chief executive's report on the proposed variation affecting the Liscarton lands and decide whether or not to approve, modify or refuse the variation.
- 4.17 It was also established that Mr Tommy Reilly attended the meeting on 29 May 2017, with the minutes recording that the council resolved to modify the proposed variation and put the modified proposal on public display for four weeks.
- 4.18 In respect of the purchase of the Liscarton lands, Mr Ciarán Reilly gave evidence that he had, by May/June 2016, become aware that the Liscarton lands were for sale and become interested in acquiring them as an investment opportunity, having previously owned a shop and apartments. Later in his evidence, he stated that he had not initially purchased the lands as an investment for development specifically, but formed the view in the middle of 2017 that the lands may be an investment for development.
- 4.19 Mr Ciarán Reilly explained that he had made an offer for the Liscarton lands through a proxy, in light of his experience with the estate agent a couple of years previously. A deposit of €25,000 was paid by that proxy, on Mr Ciarán Reilly's behalf, on 23 June 2016. The Commission was presented with correspondence establishing that Mr Ciarán Reilly had received draft contracts in respect of the acquisition on 19 July 2016. This occurred a week before the Navan Municipal District meeting of 27 July 2016, at which an update on the preparation of the proposed variation was provided to members. The executed contracts in respect of the lands were signed on 28 July 2016.
- 4.20 RABS, the vehicle that Mr Ciarán Reilly intended would hold the interest in the Liscarton lands, was incorporated almost a month later, on 24 August 2016. When first incorporated, the sole director of RABS was Mr Barry Alder. Mr Ciarán Reilly gave evidence that he himself was, at that point, beneficially entitled to 50% of the shares in RABS, which were held in trust for him by Mr Alder, though he accepted that this was not reflected in the financial statements of the company. Mr Ciarán Reilly was questioned about the structure adopted for his investment. He stated that he had initially decided to purchase the Liscarton lands and that, subsequently, Mr Alder expressed an interest in joining him as a partner in the investment. He stated that he and Mr Alder together decided that Mr Alder should be the sole director and

shareholder of RABS, with Mr Alder holding 50% of his shareholding on trust for Ciarán Reilly. However, he was unwilling to provide further detail in his evidence as to the rationale for that decision.

- 4.21 Mr Ciarán Reilly gave evidence that Mr Alder decided to exit the company as a shareholder and director in about October 2017, just before the re-zoning took place. Mr Ciarán Reilly's evidence was that Mr. Alder ceased any practical activity as a director by early 2018, although the 24 August 2016 (date of incorporation) to 31 December 2017 financial statements for RABS were signed by Mr Alder on 20 May 2018. The change of directors from Mr Alder to Mr Tomás Reilly – Mr Ciarán Reilly's brother - was registered with the Companies Registration Office on 21 May 2018. Mr Ciarán Reilly was asked about his knowledge of Mr Alder's reasons for exiting RABS at that time but stated that this was a matter for Mr Alder. Mr Ciarán Reilly was not in a position to give any adequate explanation for the structure of his investment or the timing of the exit of his business partner.
- 4.22 Mr Tomás Reilly was unable to shed any further light on the rationale for the structure of the investment in the Liscarton lands or for his replacing Mr Alder as director of RABS in late 2017 or early 2018. Despite being a director of RABS and, according to company filings being owed a sum in the region of €15,000 from it, Mr Tomás Reilly claimed to have no knowledge of the financial position of the company, the acquisition of the lands, other than the fact that RABS had acquired them, or the planning application in respect of the lands. His evidence was that he became a director on the request of his brother and fulfilled his statutory obligations in that regard, but he could not recall what those statutory obligations entailed.
- 4.23 It was put to Mr Ciarán Reilly that the value of the lands had gone from the sum of €500,000 for which they were acquired to something in the region of €4.2 million, being the sum at which they were marketed for sale in 2020 following the re-zoning and the grant of planning permission. Mr Ciarán Reilly stated that the sale did not go through and that RABS continues to own the Liscarton lands.
- 4.24 With regard to whether Mr Tommy Reilly had knowledge of Mr Ciarán Reilly's interest in the Liscarton lands prior to its purchase in July 2017, Mr Ciarán Reilly's written and oral evidence to the Commission conflicted in its substance. In the course of the investigation, prior to the hearing, the Chairperson exercised his powers under section 32(2)(e) of the Ethics Act and directed Mr Ciarán Reilly to respond to a number of queries, including the following:

"22. What discussions, if any, did you have with any of the following persons regarding the purchase by RABS Limited of the lands at Liscarton, prior to that purchase? Please provide estimated dates and summary of the discussion.

(a) John Carolan

(b) Joesph Freer

(c) Barry Alder

- (d) Tomás Reilly
- (e) Councillor Reilly”

4.25 On 4 September 2023, Mr Ciarán Reilly’s solicitors provided a detailed response to the Commission on his behalf, addressing each question posed by the Commission separately. His response to the above question was as follows:

“22. What discussions, if any, did you have with any of the following persons regarding the purchase by RABS Limited of the lands at Liscarton, prior [emphasis original] to that purchase? Please provide estimated dates and summary of the discussion.

- (a) John Carolan **None***
- (b) Joseph Freer **Mr. Freer was asked by our client to place an offer with the auctioneer.***
- (c) Barry Alder **Upon Mr. Alder offering to provide finance***
- (d) Tomás Reilly **None***
- (e) Councillor Reilly **General parental discussion on our client’s consideration of the transaction.”***

(Emphasis and formatting reflects that contained in the response provided on Mr Ciarán Reilly’s behalf.)

4.26 However, in oral evidence at the hearing, Mr Ciarán Reilly stated that, on reflection, that answer was not correct. He stated that he had no discussions with his father in relation to the purchase prior to the acquisition. When asked why he provided a different answer to the Commission, two years previously, he stated that his initial statement was incorrect, on reflection. He stated that he thought he was being helpful, but that his comments were referring to general parental discussions regarding family matters and not regarding the Liscarton lands.

4.27 Mr Ciarán Reilly stated that he did not discuss the Liscarton lands with his father until the end of June or early July 2017, when he inquired with his father about the proposed re-zoning of the Liscarton lands and the development plan process. He said that his father responded that it was too late to make submissions on the variation. When asked why he had not thought to discuss the potential re-zoning of the Liscarton lands with his father prior to purchasing them, he answered that the lands were not necessarily an investment for development and he had only formed that intention in or around the middle of 2017.

4.28 For his part, Mr Tommy Reilly gave evidence that he did not learn of his son’s beneficial interest in the Liscarton lands until early July 2017, approximately two weeks before the Special Planning Meeting. He said that his son asked him how he would go about making a submission on the proposed variation of the Development Plan. Mr Tommy Reilly asked why he wanted to know and Mr Ciaran Reilly told him

that he had bought the Liscarton lands. Mr Tommy Reilly stated that he responded that it was too late to make a submission, and that he, Mr Tommy Reilly, could have nothing to do with it. Mr Tommy Reilly was asked if he was surprised that his son had not mentioned this before. He gave evidence that they did not generally discuss his son's business interests, that he did not know anything about his son's business interests, and that he was not interested in them. He denied that he had any common business interests with his son, such that they might commonly discuss business matters. He stated that his son had not worked in Mr Tommy Reilly's retail business since he was a teenager and that he, Mr Tommy Reilly, had no involvement in, and did not discuss with his son, Mr Ciarán Reilly's retail business.

Factual findings of the Commission

- 4.29 As set out above, in a written statement made to the Commission on 4 September 2023 through his legal representatives, Mr Ciarán Reilly indicated that he had a "*general parental discussion*" with his father regarding his "*consideration of the transaction*" prior to the purchase. Up until the second day of the hearing, this remained the Commission's understanding of Mr Ciarán Reilly's position. In his oral evidence, on oath, Mr Ciarán Reilly stated that, on reflection, his written statement was incorrect.
- 4.30 It is unsatisfactory that Mr Ciarán Reilly waited until then to change his evidence in that regard. There is a duty on witnesses to give accurate responses to the Commission. Indeed, the Commission was dissatisfied with the lack of engagement and co-operation by Mr Tommy Reilly and his sons during the preliminary inquiry, which made the inquiry officer's task more difficult.
- 4.31 The Commission was not persuaded by the evidence provided by Mr Ciarán Reilly, Mr Tomás Reilly and Mr Tommy Reilly and found itself unable to rely on it.
- 4.32 As noted above, the Commission is required to apply the civil standard of proof in reaching its findings. However, the Commission is cognisant of the guidance provided by the Courts in relation to that civil standard in *Lawlor v Members of the Tribunal of Inquiry into Certain Planning Matters and Payments* [2010] 1 IR 170 and later in *Sheehy v Board of Management of Killaloe Convent Primary School* [2019] IEHC 456. The Commission recognises, in particular, that its findings could occasion reputational damage and so must be proportionate to the evidence upon which they are based.
- 4.33 That being so, and having careful regard to the standard of proof that must be applied by the Commission in reaching its findings, the Commission is unable to find, on the evidence before it, that Mr Tommy Reilly had actual knowledge of his son's, or sons', interest in the Liscarton lands prior to early July 2017.

The Special Planning Meeting issue

Relevant evidence considered by the Commission

- 4.34 The evidence established that Mr Tommy Reilly attended the Special Planning Meeting on 19 July 2017. The minutes recorded that one of the items on the agenda for that meeting was whether to approve the variation of the Development Plan in respect of the zoning of the Liscarton lands. They recorded that *“Councillor Tommy Reilly excused himself from the meeting at this point due to a conflict of interest”* and that the councillors thereafter resolved to make the variation.
- 4.35 The evidence given by Mr Tommy Reilly and Mr Ciarán Reilly regarding when and how Mr Tommy Reilly was notified of his son’s interest is outlined in relation to the prior knowledge issue above. Arising from his discussion with his son, Mr Tommy Reilly said that he acknowledged that he could have nothing to do with the lands. He stated that, having spoken to a council official before the meeting, he proceeded to declare that he had a conflict of interest at the Special Planning Meeting, as recorded in the minutes.
- 4.36 When asked why he did not *“disclose the nature of his... interest, or the fact of a connected person’s interest”*, as required by section 177(1)(b)(i) of the Local Government Act, Mr Tommy Reilly responded that in 30 years he had never seen anyone do that at a meeting and he had not been aware that anyone had previously been asked why they needed to withdraw from a meeting, by council officials or anyone else. He said that it was the first time he had had cause to withdraw from a meeting due to a conflict of interest. He also pointed to the fact that he had later written to the council’s ethics registrar, by handwritten letter dated 9 September 2020 (three years after the meeting), disclosing that the conflict arose from the fact that his son’s company, RABS, had an interest in the Liscarton lands.
- 4.37 Ms. Jackie Maguire, formerly chief executive of the Council, gave evidence as to the review carried out by her and by the then Cathaoirleach in 2020 in respect of Mr Tommy Reilly’s alleged failure to disclose the fact of his son’s interest in the Liscarton lands at the Special Planning Meeting. The conclusion of that review was that *“there was compliance with the spirit but not the letter”* of the Ethical Framework for Councillors and that Mr Tommy Reilly had *“inadvertently breached”* that Framework, but that *“he believed in good faith that he had met his statutory and ethical obligations by disclosing a conflict of interest and absenting himself from the meeting”*.

Factual findings of the Commission

- 4.38 Mr Tommy Reilly accepted in his evidence that he failed to disclose the fact of his son's interest in the Liscarton lands at the Special Planning Meeting. However, he gave evidence that a practice had developed of not complying with that element of the legislative requirement and instead simply notifying the meeting of an unidentified interest and withdrawing from the meeting on that basis.
- 4.39 The Commission does not consider that to be a valid excuse for failing to comply with this important statutory obligation and wishes to express its concern if this practice had been allowed to develop. Transparency with regard to the conflicting interests of elected members is essential for the maintenance of trust in local government. Without such transparency, it is impossible for the public to properly hold their elected members to account.
- 4.40 It is incumbent upon councillors to inform themselves fully of their obligations and, if they are not sure as to any aspect, to seek assistance to understand it. While it is regrettable that there was no appropriate guidance provided by Meath County Council officials in this regard, the Commission notes that the requirement was explained clearly and in simple terms in the Code of Conduct that was applicable to councillors at the time.
- 4.41 In Mr Tommy Reilly's case, as a long-standing councillor of 21 years service at the time, and with all the experience that entails, he should have known better and, if he was in doubt, should have sought specific advice beforehand. The Commission takes into account, in this regard, the fact that the vote on the variation at the Special Planning Meeting was likely to significantly increase the value of the land owned by Mr Tommy Reilly's son's company and that Mr Tommy Reilly could not have failed to understand this. Given that Mr Tommy Reilly had around two weeks' notice, he should have made more of an effort to inform himself as to the full requirements of the law in this regard and to ensure that he was fully in compliance.
- 4.42 The legal requirement to disclose a person's (or a connected person's) interest is an important legislative provision that is straightforward to understand and should already be well known to a long-standing councillor. The provision clearly requires one to *"disclose the nature of his or her interest, or the fact of a connected person's interest at the meeting"*. It is not sufficient to merely withdraw *"due to a conflict of interest"*. Ignorance is not an excuse. If he was in doubt, he should have taken steps to clarify the position in advance of attending the meeting.

The Pre-Planning Consultation issue

Relevant evidence considered by the Commission

- 4.43 The evidence established that this was a meeting, prior to any planning application being lodged, to discuss the council's requirements and expectations in terms of development of the Liscarton lands and the type of development envisaged by RABS. It was established that the meeting was attended by Mr Gallagher, Ms Bagnall and Mr Padden from the council, and by Mr Ciarán Reilly, Mr Collins and Mr Tommy Reilly on behalf of the proposed applicant, RABS.
- 4.44 There were no notes or minutes of the consultation. It was put to Ms Jackie Maguire, the former chief executive, that that was in breach of section 247(5) of the Planning and Development Act 2000, which required local authorities to "*keep a record in writing of any consultation*" under that section relating to proposed development. She responded that this was merely an "*exploratory meeting*" and it was not the practice of the council to keep a note of such meetings.
- 4.45 Ms Maguire had, in her own investigation of the matter carried out with the Cathaoirleach of the council, concluded that it was "*unwise*" for Mr Tommy Reilly to have attended the Pre-Planning Consultation. In evidence, she said that, while it was not unusual for councillors to attend such meetings in a "*representational role*" on the applicant's side, in this case she considered that it was unwise for Mr Tommy Reilly to attend given his son's interest and role as the applicant. She was asked whether she considered it to be a breach of the legislation and she responded that she did not.
- 4.46 Mr Collins, who was engaged by Mr Ciarán Reilly to apply for planning permission for the development of the Liscarton lands, also gave evidence in relation to the Pre-Planning Consultation. The distinction drawn by Ms Maguire between "*exploratory meetings*" and normal pre-planning consultations was put to him. He responded that, while that might be the position of the council, it was not a distinction he would draw.
- 4.47 It was noted that Mr Collins had given details of the meeting under the section dealing with "*Pre-Application Consultation*" in the planning application form which was ultimately lodged on RABS's behalf in May 2018. Mr Collins was asked why he had included, in the list of "*Person's involved*" in that section, reference to "*Ciarán & Tommy Reilly Applicant*". He responded that he had accepted that it was a mistake on his part when this was pointed out to him by Mr Ciarán Reilly in or around October 2020, and that following this contact he had written to the Council to amend the record.

- 4.48 Mr Ciarán Reilly gave evidence that his father attended the consultation to facilitate introductions with the council officials and did not say anything after the introductions.
- 4.49 Mr Tommy Reilly gave evidence that he frequently attended such meetings for other applicants and he did not see anything wrong with doing so on behalf of his son's company, asking "*Should he have went to another councillor, rather than his father?*". He said that he said nothing at the meeting and the council officials introduced themselves. He disagreed with Ms. Maguire's assessment that his decision to attend was 'unwise'. Mr Tommy Reilly had acknowledged that in 2017 he told his son that he could have nothing to do with the lands. He said that he was angry when he discovered that he had been erroneously listed as an applicant on the planning application form.

Factual findings of the Commission

- 4.50 At the outset, the Commission wishes to note that there is a statutory obligation on local authorities, under section 247(5) of the Planning and Development Act 2000, to keep a record of consultations with landowners "*for the purposes of discussing any proposed development in relation to the land*" (emphasis added).
- 4.51 While the Commission accepts that there may be certain kinds of engagement, for example *ad hoc* or general conversations with members of the public at the public counter or on the telephone, which may not be regarded as coming within the scope of that provision, it is the view of the Commission that meetings such as occurred in this case on 29 March 2018 clearly come within the scope. This was a formal, scheduled meeting involving three council planners, a professional advisor, a representative of the applicant and a local councillor, at which the proposed development of a specific piece of land that had recently been re-zoned by a special motion, and the council's requirements and objectives in relation thereto, were discussed. The Commission found it significant that Mr Collins, the professional advisor that attended the meeting, did not regard the meeting as anything other than a pre-planning consultation and referenced it as such in the planning application.
- 4.52 The Commission did not consider the label of "*exploratory*" meetings, as used by Ms Maguire and Mr Tommy Reilly, to accurately describe the nature of the meeting. It is important that a title of convenience is not used to avoid important statutory obligations such as this.
- 4.53 The failure on the part of the Council to comply with that statutory provision is not satisfactory. The absence of a record of the meeting made the task of the Commission more difficult in this case. Nonetheless, the Commission is satisfied that the meeting was, in substance, a meeting to which section 247(5) applied.

- 4.54 With regard to the attendance of Mr Tommy Reilly at the Pre-Planning Consultation, the Commission finds that, as his son was a director of, and the principal shareholder in, the applicant company, Mr Tommy Reilly's attendance was inappropriate.
- 4.55 On his own evidence, and on that of the council officials, Mr Tommy Reilly was there in a "*representational capacity*". It may well be the case that a councillor's attendance has no actual impact on the extent to which council officials assist a prospective applicant, or on the outcome of a planning application. However, what matters in this context is whether the public perceives that there may be a benefit to be gained from the councillor's attendance.
- 4.56 The evidence of both Mr Tommy Reilly and Ms Maguire about the frequent attendance of councillors at such consultations persuades the Commission that there is a public perception that there is a representational value or benefit in local councillors attending with a prospective applicant, whether or not the councillor speaks at the meeting. If there were not, it is not clear to the Commission as to why a councillor would take the time to attend at all.
- 4.57 The Commission did not consider it credible that Mr Tommy Reilly merely attended the Pre-Planning Consultation to make introductions. On his own evidence, he actually said nothing and the council officials introduced themselves. The Commission's view is that Mr Tommy Reilly attended for the purpose of representing his son's company in a matter which would ultimately come before the council executive for decision and which would potentially significantly benefit his son. That was not appropriate.
- 4.58 The Commission accepts that Mr Tommy Reilly did not say anything of substance at the meeting, but it was his presence at the meeting that was significant. The Commission notes that Mr Tommy Reilly had acknowledged, in July 2017, that he could have nothing to do with the Liscarton lands, given his conflict of interest. This being the case, there was no valid reason for Mr Tommy Reilly to be present at the meeting.
- 4.59 The Commission clarifies that it does not consider it inappropriate for a local councillor to attend a pre-planning consultation with a constituent with whom they are not personally connected. It is the familial connection that made Mr Tommy Reilly's attendance inappropriate in this case.

5. Findings as to the alleged contraventions

- 5.1 The Commission will determine whether alleged contraventions 1, 3, 6 and 7, as set out in the Statement of Alleged Contraventions at Appendix B of this report, were made out on the evidence. The Commission's findings in relation to each of the alleged contraventions are stated below, in light of its factual findings above.
- 5.2 Where the Commission finds that alleged contraventions were committed, the Commission is required by section 24 of the Ethics Act to determine whether they were committed inadvertently, negligently, recklessly or intentionally. The Commission considers a determination that an act was committed intentionally to be at the highest end of the spectrum, with acts committed inadvertently at the lowest end. The Commission considers that an act is committed inadvertently when it is done without intention or accidentally, often through forgetfulness or absent-mindedness. By contrast, an act is done negligently where the person fails to exercise the care that a reasonable person would, in a similar situation, be expected to exercise. In other words, there has been a failure on the part of the person, in carrying out the act, to do something which they ought to have done or had regard to something to which they ought to have had regard. Acting recklessly, in the view of the Commission, involves behaving in a way that shows a disregard for potential consequences, implying a conscious choice to ignore risks, as opposed to just acting carelessly or negligently. Finally, a determination of acting intentionally, in the Commission's opinion, arises where an act is done consciously with a view to achieving a specific result.
- 5.3 The Commission is also required, under the same provision, to determine whether the contravention or act was a serious or minor matter and whether the person acted in good faith and in the belief that his or her action was in accordance with guidelines or advice from the Commission.
- 5.4 In determining the manner in which Mr Tommy Reilly acted, the Commission has had regard to the nature of the contraventions and acts as appears from the evidence before it and has taken account of the surrounding circumstances and context.
- 5.5 Where the Commission finds that there has *not* been any contravention and that the person has not done a specified act, it is required to determine whether it is of the opinion that the allegation concerned was frivolous or vexatious, or that there were no reasonable grounds for it.

Alleged contravention 1 – Contravention of section 177(1)(b)(i) and (ii) at meetings on 27 July 2016, 22 March 2017, 8 May 2017 and 29 May 2017

- 5.6 Section 177(1) of the Local Government Act only requires disclosure of pecuniary or beneficial interests of ‘connected persons’ (such as children of a member) where the member has actual knowledge of that interest.
- 5.7 As set out above, taking into account the standard of proof that must be applied by the Commission in reaching its findings, the Commission is unable to find, on the evidence before it, that Mr Tommy Reilly had actual knowledge of his son’s, or sons’, interest in the Liscarton lands prior to early July 2017. Accordingly, the Commission finds no contravention in respect of alleged contravention 1.
- 5.8 However, the Commission notes, in particular, that up until the second day of the hearing, Mr Ciarán Reilly’s position, as set out in his written response to questions from the Commission, was that he had discussed the purchase of the lands with his father *prior to the acquisition*. Mr Ciarán Reilly subsequently changed this position in his oral evidence on oath before the Commission.

Alleged contravention 3 – Contravention of section 177(1)(b)(i) at Special Planning Meeting

- 5.9 Where a member of a local authority has actual knowledge of the pecuniary or other beneficial interest of a connected person, section 177(1)(b) of the Local Government Act requires the member to:

*“(i) disclose the nature of his or her interest, or the fact of a connected person’s interest at the meeting, and before discussion or consideration of the matter commences, and
(ii) withdraw from the meeting for so long as the matter is being discussed or considered, ...”.*

- 5.10 As set out above, Mr Tommy Reilly accepted in his evidence that he failed to disclose the fact of his son’s interest in the Liscarton lands at the Special Planning Meeting. Accordingly, the Commission finds that there was a contravention of section 177(1)(b)(i) when Mr Tommy Reilly failed to disclose the fact of his son’s interest in the Liscarton lands at the Special Planning Meeting.
- 5.11 The Commission finds that this contravention was committed recklessly by Mr Tommy Reilly. As a long-standing councillor of 21 years service at the time, and with all the experience that entails, the Commission finds that he should have known better and, if he was in doubt, should have sought specific advice beforehand. Section 177(1)(b)(i) is an important provision that is straightforward to understand and must be well known to a long-standing councillor. It was clearly and simply

explained in the Code of Conduct for Councillors applicable at the time. Ignorance is not an excuse.

- 5.12 The provision clearly requires one to *“disclose the nature of his or her interest, or the fact of a connected person’s interest at the meeting”*. It is not sufficient to merely withdraw *“due to a conflict of interest”*.
- 5.13 Furthermore, the Commission takes into account, in this regard, the fact that the vote on the variation at the Special Planning Meeting was likely to significantly increase the value of the land owned by Mr Tommy Reilly’s son’s company and that Mr Tommy Reilly could not have failed to understand this. In his sworn evidence to the Commission he accepted that he could have nothing to do with the matter, given his conflict of interest. Given that, and given that Mr Tommy Reilly had around two weeks’ notice, the Commission is satisfied that he must have foreseen the risk that he would fall foul of the statutory requirements, but he proceeded nonetheless without checking the nature of those requirements. Accordingly, the Commission finds that Mr Tommy Reilly acted recklessly.
- 5.14 For the same reasons, the Commission is not satisfied that Mr Tommy Reilly acted *“in good faith and in the belief that his... action was in accordance with guidelines published or advice given in writing by ... the Commission”*. This was a serious matter to become aware of two weeks before the meeting and the Commission would expect a councillor who has any doubt about the position to take steps to positively establish the extent of their obligations and ensure their compliance. He did not do so.
- 5.15 On the same grounds, the Commission finds that this was a serious matter, as opposed to a minor matter. It is not open to councillors to adopt a position of partially complying with statutory obligations in relation to conflicts of interest.

Alleged contraventions 6 and 7 – conduct in respect of family’s involvement in Liscarton lands amounted to contravention of section 168 and specified act

- 5.16 Alleged contraventions 6 and 7 both refer to Mr Tommy Reilly’s conduct *“in respect of [his] and [his] family’s involvement with and/or dealings relating to”* the Liscarton lands. Accordingly, these alleged contraventions need to be considered in respect of Mr Tommy Reilly’s conduct in respect of the Liscarton lands in the round. The Commission’s findings below in respect of these alleged contraventions focus primarily on the Pre-Planning Consultation issue, but the Commission also takes into account, in the round, Mr Tommy Reilly’s conduct in respect of the Special Planning Meeting issue.
- 5.17 The Commission is of the opinion that, in the particular circumstances of this case, the same considerations apply to whether section 168 has been contravened and

whether a specified act has been done. Accordingly, alleged contraventions 6 and 7 may be considered together.

- 5.18 Section 168 of the Local Government Act provides that, in carrying out their functions, it is the duty of every member of a local authority to maintain proper standards of integrity, conduct and concern for the public interest.
- 5.19 The definition of a “*specified act*” is in similar terms. A specified act or omission is one that is, or the circumstances of which are, such as to be inconsistent with the proper performance by the specified person of their functions or with the maintenance of confidence in such performance by the general public, where the matter is one of significant public importance.
- 5.20 Mr Tommy Reilly’s sworn evidence was that he acknowledged in July 2017 that he could have nothing to do with the Liscarton lands given his conflict of interest. Yet he still attended the Pre-Planning Consultation less than a year later, in March 2018.
- 5.21 The Commission’s view is that Mr Tommy Reilly attended the Pre-Planning Consultation for the purpose of representing his son’s company in a matter which would ultimately come before the council executive for decision and which would potentially significantly benefit his son. That was not appropriate. The Commission accepts that Mr Tommy Reilly did not say anything of substance at the meeting, but his presence was significant.
- 5.22 The Commission finds that this inappropriate attendance at the Pre-Planning Consultation, and Mr Tommy Reilly’s failure to fully comply with his disclosure obligations at the Special Planning Meeting the previous year (considered in detail above), collectively amounted to a failure to maintain proper standards of integrity, conduct and concern for the public interest in carrying out his functions as a member of the council, and therefore a contravention of section 168 of the Local Government Act.
- 5.23 In addition, the Commission finds that these actions and omissions amounted to a specified act within the meaning of section 4(1) of the Standards Act in that they were inconsistent with the proper performance by Mr Tommy Reilly of his functions, and with the maintenance of confidence in such performance by the general public. The Commission further finds that, as is required by that provision, these were matters of significant public importance.
- 5.24 Pursuant to section 24 of the Ethics Act, the Commission finds that the contraventions and acts in this regard were committed recklessly. As regards the failure to comply with his obligations at the Special Planning Meeting, it adopts the same reasoning in this regard as in alleged contravention 3. As regards Mr Tommy Reilly’s attendance at the Pre-Planning Consultation, Mr Tommy Reilly acknowledged less than a year previously that he could have nothing to do with the

Liscarton lands and therefore must have foreseen the risk that his attendance at the Pre-Planning consultation may be inappropriate, but he proceeded to attend nonetheless. On this basis, Mr Tommy Reilly acted recklessly.

- 5.25 For the same reasons, the Commission also finds that Mr Tommy Reilly did not act *“in good faith and in the belief that his... action was in accordance with guidelines published, or advice given in writing by ... the Commission”*, in either respect.
- 5.26 Finally, the Commission finds that these were serious, as opposed to minor, matters.

Appendices

- A. *Procedures of the Standards in Public Office Commission in respect of its Complaints Process* (revised and updated December 2023)
- B. Statement of alleged contraventions



Coimisiún um Chaighdeán in Oifigí Poiblí **Standards in Public Office Commission**

Procedures of the Standards in Public Office Commission in respect of its Complaints Process

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Introduction

1. The Standards in Public Office Commission (the “**Commission**”) is an independent statutory body which performs an important public function directed towards the establishment and maintenance of public confidence in the accountability of public representatives.
2. The following procedures (the “**Procedures**”) outline how a complaint will be managed from receipt of the complaint to the final decision of the Commission.
3. The Procedures are based on the provisions of the Ethics in Public Office Act 1995 and the Standards in Public Office Act 2001, (the “**Ethics Acts**”). Complaints in relation to members or employees of a local authority will involve consideration of Part 15 of the Local Government Act 2001, as amended (the “**LGA**”).
4. The Procedures have been prepared in accordance with Section 21(11) of the Ethics Acts which provides that “*the Commission shall determine, by standing orders or otherwise, the procedure and business of the Commission*”. The Procedures are at all times subject to the Ethics Acts and Part 15 of the LGA. The Ethics Acts and Part 15 of the LGA are available on the Commission’s [website](#).
5. In addition to adherence to the relevant legislation and Procedures, the Commission will act at all times in accordance with the principles of natural justice.
6. The Procedures have been approved by the Commission. The Procedures will be reviewed by the Commission every two years.
7. A glossary of terms used frequently in the Procedures are highlighted in bold with an explanation set out at Appendix 1.

The Standards in Public Office Commission

8. The Commission consists of the Chairperson and five ordinary members. Its membership is determined by Section 2 of the Ethics Acts which provides for the following composition:
 - (i) a Chairperson who is a judge or former judge of the High Court or Supreme Court,
 - (ii) the Comptroller and Auditor General,
 - (iii) the Ombudsman,
 - (iv) the Clerk of Dáil Éireann,
 - (v) the Clerk of Seanad Éireann; and
 - (vi) a former member of one of the Houses of the Oireachtas.
9. The Chairperson is appointed to the Commission by the President of Ireland on the advice of the Government following resolutions passed by each House of the Oireachtas recommending the appointment. The former member of one of the Houses of the Oireachtas is appointed to the Commission by the Government following resolutions passed by each House approving the proposed appointment.
10. The role of the Chairperson is to be a member of the Commission and to chair the meetings of the Commission, in particular when it is considering complaints under the Ethics Acts. The Chairperson will ensure that meetings are conducted in accordance with the Ethics Acts and the Procedures.

Commission Meetings

11. The quorum for a Commission meeting will depend on the matters under consideration. For most matters, the quorum must not be less than three members of the Commission. However, where the Commission is considering any matter relating to an investigation under Section 23 of the Ethics Acts, the full composition of the Commission is required i.e. the Chairperson and the five ordinary members. See pg. 13 for further information on an investigation under Section 23 of the Ethics Acts.
12. Meetings of the Commission take place in private.
13. The Commission is supported in its work by the Secretariat to the Commission. The Secretariat performs tasks on the Commission's behalf in order to assist it in carrying out its functions under the Ethics Acts. The Secretariat is available to provide assistance to the Commission during its meetings. The Secretariat does not take part in the decision-making process of the Commission and only attends a Commission meeting in respect of the area of work they are responsible for.
14. At the request of the Commission, a legal advisor may also be present at a Commission meeting in order to provide legal advice to the Commission and the Secretariat regarding any aspect of its functions.
15. The Commission members, in advance of considering a matter, will inform the Secretariat of any conflicts of interest. This means that a member of the Commission, including the Chairperson, should not have a material interest, or be reasonably perceived as having a material interest, in the consideration of a particular matter. The Secretariat will also ensure that

documentation relating to the matter will not be sent to the member of the Commission who declared a conflict of interest. If a conflict of interest arises during the complaints process for either a Commission member or the Chairperson, the individual in question will withdraw from any consideration in respect of the matter. In circumstances where the matter proceeds to an investigation pursuant to Section 23 of the Ethics Acts, despite the conflict of interest, the quorum of the full composition of the Commission is still required. As the Commission member and / or Chairperson is temporarily unable to act due to the conflict of interest, the Ethics Acts allows for the Minister to appoint a replacement member or Chairperson for the duration of the inability to act.

Types of Complaints considered by the Commission

16. Complaints under Section 4 of the Ethics Acts

Anyone can make a complaint under section 4 of the Ethics Acts to the Commission where it relates to a Specified Person. A Specified Person includes the following:

- (i) A person who is, or at the time to which the complaint concerned relates was, an **Office Holder** or the holder of the office of Attorney General. This includes a Minister of the Government and/or a Minister of State but excludes a member of Dáil Éireann or a member of Seanad Éireann.
- (ii) A person who is, or at the time to which the complaint relates was, a **Special Adviser** or held a **Designated Directorship** of, or occupied a **Designated Position**, in a public body.
- (iii) A person who, presently or at the time to which the complaint relates, holds or occupies a directorship or a position of employment in a **Public Body**.

Types of Complaints under Section 4 of the Ethics Acts

The following are Specified Acts which can be the subject of a complaint to the Commission as outlined:

- (i) A Specified Person or a person who, in relation to a Specified Person is a **Connected Person**,
 - a. may have done an act or omission which is inconsistent with the proper performance of the functions of the Specified Person; or
 - b. may have done an act or omission which is inconsistent with the functions of the office or position that person is in; or
 - c. the act or omission is inconsistent with the maintenance of confidence in such performance by the general public; and
 - d. the matter is one of **Significant Public Importance**.
- (ii) A Specified Person where the complainant is of the view the Specified Person may have breached their obligations under the Ethics Acts.
- (iii) A Specified Person where the complainant is of the view that the Specified Person may have breached the **Electoral Act 1997**, as amended.

Types of Complaints the Commission cannot consider

The Commission cannot consider a complaint under Section 4 of the Ethics Acts if it relates to an act or omission of a Specified Person or a person who, in relation to a Specified Person, is a Connected Person, if:

- a) it relates to a private matter and it is not related to the functions of the office or the position of the Specified Person; or
- b) the act or omission results from incompetence or inefficiency in the performance or failure to perform the function of that Specified Person; or
- c) the complaint is frivolous or vexatious.

17. Disclosure of Interests Complaints

The Ethics Acts require certain interests to be declared by Office Holders and certain public officials. Interests which are registrable interests for the purposes of the Ethics Acts are listed in the Second Schedule of the Ethics Acts, a copy of which can be found at Appendix 2 of the Procedures.

The following persons can make a complaint to the Commission about an alleged breach of the disclosure provisions under the Ethics Acts:

- (i) A member of the public;
- (ii) A member of Dáil Éireann or Seanad Éireann;
- (iii) The Minister for Public Expenditure and Reform;
- (iv) A Minister of the Government;
- (v) The **Appropriate Authority** in relation to a civil servant; and
- (vi) The Committee on Members' Interests of Dáil Éireann or the Committee on Members' Interests of Seanad Éireann.

18. Local Authority Complaints

Anyone can make a complaint against a local authority member, also known as a councillor, or employees of a local authority (which includes the Chief Executive Officer of the local authority), where it is considered that there has been a breach of Part 15 of the LGA and / or the Code of Conduct for Councillors or the Code of Conduct for Local Authority Employees. The relevant Codes of Conduct and Part 15 of the LGA are available on the Commission's website using the following links: [CodesofConduct](#) and the [LGA](#).

19. Subject to exceptional circumstances, it is the procedure of the Commission that a local authority complaint may not be considered by the Commission until the complainant has first made the complaint to the **Ethics Registrar** of the relevant local authority. The Ethics Registrar has a number of statutory duties set out in Part 15 of the LGA. In particular, the Ethics Registrar has a duty to bring a complaint to the attention of the Chief Executive and / or the Cathaoirleach of the local authority for consideration. If the complainant is not satisfied with the actions taken by the local authority in considering its complaint, the complainant may then make its complaint to the Commission.

[Anonymous complaints](#)

20. The Ethics Act provides that the Commission shall not consider a complaint if the identity of the complainant is not disclosed. The Commission will consider a complaint to be anonymous if the full name, address and contact number of the person making the complaint is not provided.

Protected Disclosures

21. A protected disclosure, in the Protected Disclosures Act, is a disclosure of information which, in the reasonable belief of a worker, tends to show one or more relevant wrongdoings; came to the attention of the worker in a work-related context; and is disclosed in the manner prescribed in the Act.
22. The Secretary to the Standards in Public Office Commission is a prescribed person under the Protected Disclosures Act.
23. To make a protected disclosure to a prescribed person you must meet the above requirements and
 - you must also reasonably believe that the report you are making is within the remit of the Standards in Public Office Commission; and
 - you must reasonably believe that the information disclosed and any allegation contained in it are substantially true.
24. You can make a protected disclosure to the Secretary of the Standards in Public Office Commission on matters relating to the supervision of:
 - All matters relating to the supervision of the Ethics in Public Office Acts 1995 and 2001 in so far as they apply to specified persons and to members of the Oireachtas who are not office holders, within the meaning of those Acts, including investigations and reports in relation to possible contraventions of those Acts
 - All matters relating to the supervision of the Electoral Acts 1992 to 2019 in regard to-
 - (i) the disclosure of donations to political parties, members of the Oireachtas, members of the European Parliament, and candidates at elections to Dáil Éireann, Seanad Éireann and the European Parliament,
 - (ii) the obligations of third parties,
 - (iii) the obligations of corporate donors,
 - (iv) the monitoring of limitations on expenditure by election candidates and political parties, and
 - (v) the expenditure of Exchequer Funding received by qualified political parties.
 - All matters relating to the supervision of the Ministerial and Parliamentary Offices Act 1938 with regard to the expenditure of funding (Parliamentary Activities Allowance) received by the parliamentary leaders of qualifying parties and by independent members of the Oireachtas.

The Secretary is not currently a prescribed person for matters relating to the Regulation of Lobbying Act.

25. ***How do I make a protected disclosure to the Commission?***

Protected Disclosures can be made to the Secretary of the Commission by

- telephone on 01 639 5797, or
- email to disclosures@sipo.ie

26. Further information on making a protected disclosure, including details of protections available to reporters, and the procedure followed once a disclosure is received by the Commission, is available on our website at www.sipo.ie.

How to make a Complaint

27. The Ethics Acts provide that complaints made to the Commission must be in writing. In that regard, a Complaints Form should be completed and submitted to the Complaints and Investigations Unit. The Commission cannot accept complaints made over the telephone. The Commission requires the following information in order to consider a complaint:

- (i) The full name, address and a contact number of the person making the complaint;
- (ii) The name of the person the complaint is about, their title / position / role (if known) and the name of the organisation;
- (iii) A concise description of the alleged act(s) or omission(s) complained of, including names, dates and places; and
- (iv) Any supporting documentation or material in relation to the circumstances of the complaint.

28. Complaints to the Commission should be submitted on the Commission's complaints form, available on the Commission's website [here](#). It may be sent by post using the address below or by email to complaints@sipo.ie.

Standards in Public Office Commission
6 Earlsfort Terrace
Dublin 2
D02 W773

29. The Commission acknowledges that making a complaint can be stressful. Some complaints are complex and it may take some time to gather all the information required to reach a decision. The Commission will aim to keep the complainant and the subject of the complaint informed at the following key stages of the complaints process:

- Acknowledgement of receipt of the complaint – to the complainant;
- Notification of receipt of the complaint, including the name of the complainant and the details of the complaint provided on the complaints form – to the subject of the complaint;
- Decision has been made whether to close the complaint or to appoint an Inquiry Officer;
- Decision has been made whether to proceed to investigation;
- An investigation hearing date has been fixed;
- An investigation report is published.

30. In the event the Commission receives a complaint that relates to the work or the responsibility of another organisation, the Commission may have a separate statutory duty to let them know about it. For example, if a complaint raises a concern about the protection of children or a vulnerable person, the Commission is obliged to tell the relevant authority such as the Child and Family Agency, Tusla. Equally, if the Commission becomes aware of certain information regarding possible criminal offences, other than an offence pursuant to the Ethics Acts, it may have a statutory duty to report the matter to An Garda Síochána¹.

See [s.19 Criminal Justice Act 2011](#)

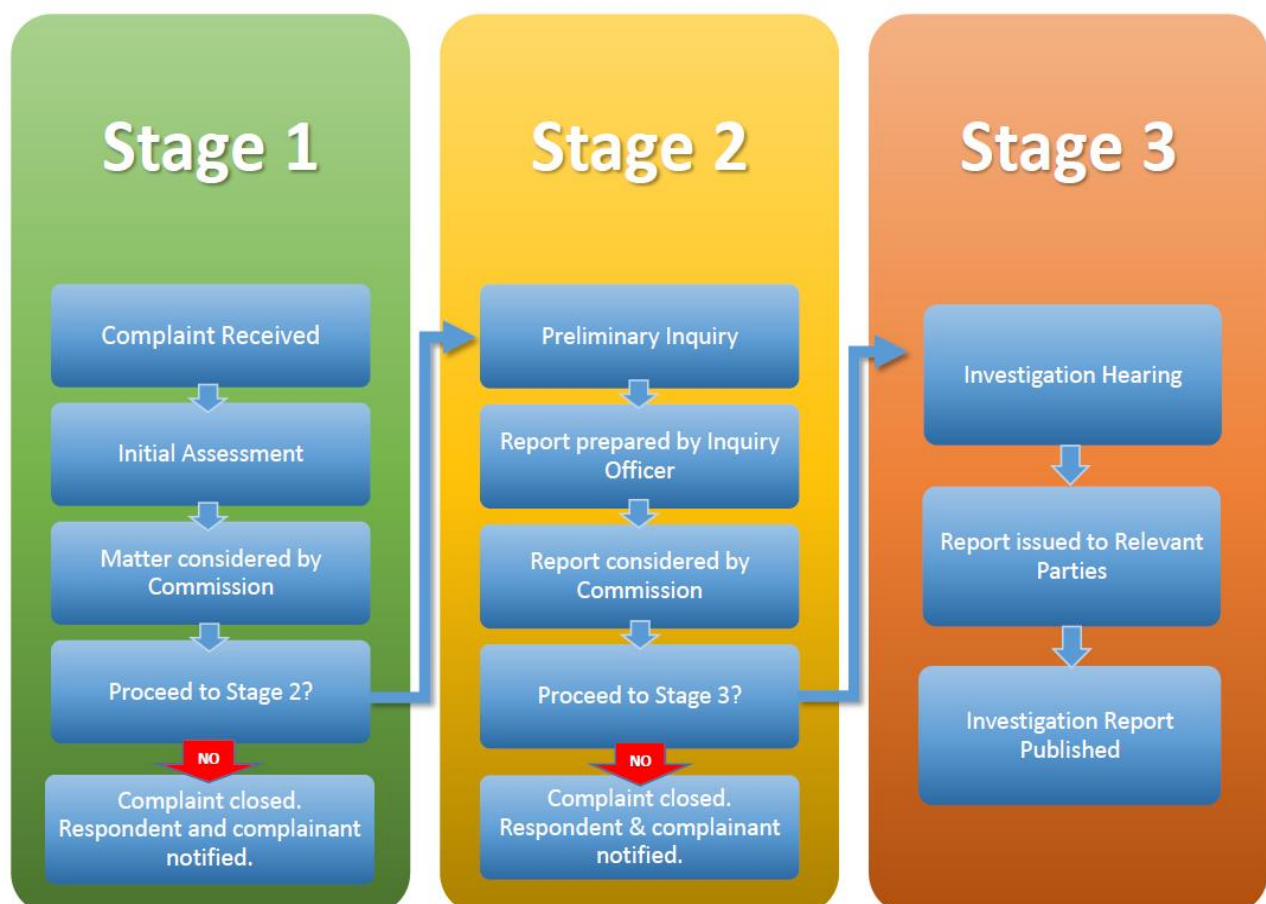
Complaints Process

31. The process for examining complaints can involve a number of stages as set out below:

Stage 1 – The Secretariat supports the Commission throughout the complaints process. The initial assessment of the complaint is carried out by members of the Secretariat, known as the Complaints and Investigations Unit (**CIU**). The CIU will establish whether the complaint is within the remit of the legislation and contains the necessary details referred to in the section ‘How to make a Complaint’.

Stage 2 – Preliminary Inquiry – The Commission will consider the complaint and decide whether to appoint an Inquiry Officer to examine the full facts of the complaint. The function of an Inquiry Officer is to establish whether there is *prima facie* evidence to sustain the complaint.

Stage 3 – Investigation – An investigation under the Ethics Acts is by way of an investigation hearing. At an investigation hearing, all available evidence is presented to the Commission in relation to the alleged complaint.



Stage 1 – Initial Assessment

32. CIU will acknowledge all complaints received without delay, advising the complainant that their form will be assessed. The complainant will also be provided with a copy of the Procedures. In some instances, it may be necessary to request additional information or seek clarification in relation to the complaint before it can be considered further.
33. Once the complaint is received by email or post, CIU will assess whether the complaint is within the remit of the Ethics Acts and confirm that the complaint contains the necessary details as set out in the section 'How to make a Complaint'. The complaint should contain a concise description of the alleged act(s) or omission(s) complained of, including names, dates and places.
34. The respondent (specified person) will be notified of the fact that a complaint about them has been received by the Commission. Once the complaint has been assessed by the CIU and the respondent is determined to be within the remit of the legislation, the complainant's full name and the details of the complaint will be issued to the respondent. The Commission will not share the complainant's address or contact information.
35. If the complaint is not within the Commission's remit, the complainant will be informed accordingly.
36. All complaints that are considered to be within remit will be provided to the Commission for consideration.
37. Complaints referred to the Commission are discussed at their scheduled meetings. Having considered the information available, the Commission will decide whether to close the complaint, to proceed to a preliminary inquiry (stage 2), or in certain circumstances to proceed directly to an investigation hearing (stage 3). In certain circumstances, the Commission may refer the complaint to an appropriate third party for consideration.
38. The complainant and the respondent will be informed of the Commission's decision and the reasons for the decision.

Stage 2 – Preliminary Inquiry

39. The purpose of a preliminary inquiry is to establish facts relating to the complaint.
40. The Commission may appoint an Inquiry Officer to carry out a preliminary inquiry into a complaint and to prepare a report in writing of the results of the inquiry. Section 6 of the Ethics Acts provides the Inquiry Officer with certain powers for the purposes of conducting an inquiry.
41. During the preliminary inquiry process, the following will occur:

- (i) The Inquiry Officer will inform the complainant and the respondent of the Commission's decision to conduct a preliminary inquiry. The purpose of a preliminary inquiry is, at the request of the Commission, to establish whether there is *prima facie* evidence to sustain the complaint.
 - (ii) The Inquiry Officer will provide the respondent with
 - a copy of the complaint (save in exceptional circumstances), and
 - a copy of the signed authorisation for the appointment of the Inquiry Officer.
 - (iii) The Inquiry Officer, in certain circumstances, may ask the complainant if they would like to provide a statement in writing, or make a statement at a meeting with the Inquiry Officer, of the evidence in support of their complaint. The complainant is not required to do so and any such statement will be provided to the respondent and will form part of the Inquiry Officer's report.
 - (iv) The Inquiry Officer will ask the respondent to provide, if they so wish, a statement in writing or attend for interview with the Inquiry Officer in relation to the complaint. Any such statement will form part of the Inquiry Officer's report.
 - (v) The Inquiry Officer may also ask any other person whose evidence may be relevant to the inquiry to provide a statement in writing, or attend for interview, if they so wish, with the Inquiry Officer.
42. At the conclusion of the preliminary inquiry, the Inquiry Officer will prepare a report based on the information obtained, together with any statements and other relevant documents. The report will not contain any determinations or findings, but will, at the Commission's request include the Inquiry Officer's opinion as to whether there is ***prima facie* evidence** to sustain the complaint.
43. The Inquiry Officer's report will be provided to the Commission but will not be provided to any other party at this stage. If the complaint proceeds to an investigation, the report will be provided to the respondent.

Consideration of the Inquiry Report

44. The Commission will consider the report of the Inquiry Officer at a meeting held in private. The Commission does not make any findings at this stage. Its role is to determine whether there is sufficient evidence to proceed to an investigation.
45. The following decisions may be made by the Commission at this stage:
- (i) Investigate the complaint where it considers there is sufficient evidence to establish a *prima facie* case in relation to the complaint and it is appropriate in the circumstances to do so;
 - (ii) Dismiss the complaint where the subject matter of the complaint is not of sufficient gravity to warrant investigation;
 - (iii) Dismiss the complaint where it is of the view the complaint is frivolous or vexatious;

- (iv) Refer the complaint to an appropriate third party where the subject matter of the complaint is not of sufficient gravity to warrant investigation: or
- (v) Refer the complaint to an appropriate third party where the subject matter of the complaint is outside the remit of the Commission.

46. The Commission's decision, and the reasons for the decision, will be recorded and the complainant and the respondent will be notified accordingly.

Own Initiative Complaints

47. In certain circumstances, the Commission can, of its own initiative, decide to carry out an investigation into a Specified Person where it is of the view that the person has contravened their obligations under the Ethics Acts. In making such a decision, the Commission will take into account all available information.

Stage 3 – Investigation

Pre-hearing Stage

48. In advance of the investigation hearing, a number of steps may be taken in order to prepare for an investigation hearing.

- a) A Statement of Alleged Contraventions will be prepared by the Legal Services Unit. This is a document which sets out the allegations being made against the respondent. This will be sent to the respondent in advance of the hearing so that they are aware of the allegations being made.
- b) The complaint will be further examined and relevant documentation will be gathered. This documentation may be sought by way of a direction, issued by the Chairperson of the Commission, which formally requires a person to provide the documentation to the Commission within a specified timeframe. This is also known as a direction in writing for any person to make discovery on oath of any documentation that is or has been in the person's possession or control. If the direction is not complied with, it can be enforced by the High Court.
- c) The Secretariat may consider it appropriate to interview witnesses and take witness statements. The witness statement sets out the nature of the evidence the witness will give at the investigation hearing. The respondent will be provided with all witness statements in advance of the investigation hearing.
- d) A witness may be asked to attend the investigation hearing and give evidence in person. If necessary, the Chairperson of the Commission may direct a witness to attend to give evidence at the hearing.
- e) The Secretariat will inform the respondent and relevant parties / witnesses of the date, time and venue of the investigation hearing. Parties may be required to attend the hearing by direction of the Chairperson of the Commission, if necessary.
- f) The Commission may hold a hearing to consider any preliminary applications. A preliminary application can include an application for the hearing to be heard in private. The respondent must provide advance notice in writing of any application that it intends to make. A transcript of the preliminary application hearing will be provided to the respondent.
- g) The Commission will publish the details of the investigation hearing on its website in advance of it taking place.

The Investigation Hearing

49. Investigation hearings and any applications before the Commission are generally held in public. Following a preliminary application and only in exceptional circumstances, the Commission has discretion to direct that a hearing be heard in private. A person who attends a private hearing of the Commission shall not disclose information obtained during the hearing. Disclosure of this nature, or of any information obtained in the course of the preliminary inquiry or investigation, is an offence under the Ethics Acts.

Who attends the Investigation Hearing?

- (i) The Commission (all six members);
- (ii) The respondent and his or her legal representatives (if legal representatives are instructed);
- (iii) Legal representatives of the Commission;
- (iv) Staff and advisors of the Commission;
- (v) Witnesses;
- (vi) Stenographer;
- (vii) The public; and
- (viii) Members of the press and media

What happens at the Investigation Hearing?

- 50. Preliminary applications may be made at the outset of the investigation hearing by the parties present, which will require a determination by the Commission. Any procedural matters will also be dealt with by the Chairperson of the Commission at the beginning of the investigation hearing.
- 51. At the beginning of the hearing, the Commission's legal representatives will present the case and set out the Statement of Alleged Contraventions made against the respondent.
- 52. The Commission's legal representatives will then go through the evidence in relation to the Statement of Alleged Contraventions. Relevant witnesses will be called to give evidence. The respondent or their legal representatives can cross-examine the witnesses called by the Commission.
- 53. It is then the turn of the respondent or their legal representatives to present their evidence and call their own witnesses. Any witnesses called may be cross-examined by the Commission's legal representatives. The respondent may give evidence if they so wish, however they are not obliged to do so. Evidence is given under oath or affirmation.
- 54. The Commission may also question the witnesses or seek clarification on any matter that arises during the investigation hearing.
- 55. Written statements and other records may be admitted into evidence without further proof where agreed by all parties.
- 56. Investigation hearings are recorded by a stenographer and transcripts are prepared as a formal record of the proceedings.
- 57. In general an investigation hearing may proceed for approximately one or two days, however, some can go on longer depending on the complexity of the complaint.

The role of the witness

58. The Commission can require a witness to give evidence under oath or affirmation.
59. Witnesses are required to co-operate with the proceedings. A person who does not co-operate may be guilty of an offence – see pg. 17 for further information.
60. A witness who attends an investigation hearing may be entitled to reasonable vouched expenses to be determined by the Commission. The Commission has issued guidelines in respect of witness expenses, a copy of which can be found at Appendix 3.
61. A witness who gives evidence at a hearing is generally entitled to the same privileges and immunities as a witness in the High Court.

Discontinuance or Postponement of an Investigation

62. The Commission may decide at any time to discontinue an investigation for various reasons including where it is of the opinion that the complaint concerned is frivolous or vexatious. In such circumstances, the Commission will outline the reasons for its decision in writing and will provide it to the complainant and the respondent.
63. In certain circumstances, the Commission may decide to adjourn or postpone proceedings in relation to an investigation including where criminal proceedings in respect of the complaint are initiated or ongoing. The Commission will record their reasoned decision in writing in respect of an adjournment or postponement.

What happens after an Investigation Hearing?

Investigation Report

64. After an Investigation Hearing, the Commission is required to prepare a written report which sets out the findings of the Commission together with its determinations in relation to:

- a) whether there has been a **Contravention**, as listed in the Statement of Contraventions, and whether the Contravention is continuing; and in the event there has been a contravention:
 - (i) if the determination is that the Contravention is continuing, the steps required to be taken to secure compliance, and the period of time within which such steps should be taken;
 - (ii) whether the Contravention was committed inadvertently, negligently, recklessly or intentionally;
 - (iii) whether the Contravention was, in all the circumstances, a serious or a minor matter; and
 - (iv) whether the person being investigated acted in good faith and in the belief that his or her action was in accordance with guidelines published or advice given in writing by a Committee under section 12 or by the Commission under section 25 of the Ethics Acts.
- b) Whether there is no, or insufficient, evidence of a Contravention, whether the Commission is of opinion that the complaint made was frivolous or vexatious or that there were no reasonable grounds for it.

65. The Commission must be satisfied to the civil standard of proof (satisfied on the balance of probabilities) in finding that a contravention listed in the Statement of Contraventions was committed.

66. The Commission's report is furnished to:

- the respondent;
- the complainant;
- the Cathaoirleach and the Chief Executive of a local authority (where a complaint relates to a member and/or employee of the local authority). This is then considered by the local authority. The local authority may take action it deems appropriate including, in the case of a Chief Executive Officer this can include suspension or removal from the local authority; and
- the Minister for Public Expenditure and Reform.

67. Under the Ethics Acts, the Commission shall also furnish its report to the DPP where it is of the opinion the person the subject of an investigation may have committed an offence relating to the performance of his or her functions.

68. The report is also published on the Commission's website.

Costs

69. The Commission may decide to make an order for costs. An order for costs may also be made by the Commission following an application by a person appearing at the investigation hearing. The Commission can order the payment of the investigation hearing costs in whole or in part to a particular person to be paid by a particular person or entity including the Minister for Finance. In making an order for costs, the Commission will consider its findings of the investigation hearing and all other relevant matters to include failure to cooperate with, or provide assistance to, the Commission. The Commission will also consider whether false or misleading information was knowingly provided to the Commission. Overall, the Commission must be satisfied there are sufficient reasons to make it equitable to issue the order for costs.

Offences under the Ethics Acts

70. There are a number of offences relating to investigation hearing proceedings:

- failure to co-operate with the Commission. This can include refusal to attend before the Commission, refusal to take the oath or affirm, refusal to answer questions, refusal or failure to produce or send any item requested by the Commission, or any other action or inaction which in a court would be regarded as contempt;
- the offence of perjury, i.e. giving false evidence to the Commission in such circumstances that, if the person had given the evidence before a court, he or she would be guilty of perjury;
- disclosure of information obtained under the Ethics Acts or by being present at a sitting of the Commission held in private;
- hindering or obstructing the work of the Commission, or the work of a member of its staff or of an Inquiry Officer.

71. Any person who is found guilty of an offence, on summary conviction, would be liable to a fine of up to €1,250 and/or a term of imprisonment of up to 6 months and, on conviction on indictment, to a fine of up to €25,000 and / or a term of imprisonment of up to 3 years.

Other Information You Should Know

What happens if I withdraw my complaint?

72. You may apply, in writing, to the Commission to withdraw your complaint. The Commission will consider your request. If the Commission is of the view that the complaint is of sufficient gravity and public importance it may allow you to withdraw the complaint but it may decide to commence an 'own initiative investigation' regarding the matter (see section entitled '*Own Initiative Complaints*').

Can I appeal the decision of the Commission following an Investigation hearing?

73. The Ethics Acts do not provide for an appeal to the courts in respect of the Commission's decision following an investigation hearing. There is no appeal mechanism during any stage of the complaints process.

Can I contact the Commission for advice?

74. If the complaints process is underway in respect of a complaint, the Commission cannot provide advice to the complainant, respondent or any other party involved. The Secretariat to the Commission are happy to assist any party to a complaint as best they can with any questions.

Do I require a Solicitor?

- i. if I wish to make a complaint, or,
 - ii. if I am the subject of an investigation?
75. i. You do not need a solicitor to make a complaint.
- ii. In circumstances where you are the subject of an investigation by the Commission you are entitled, if you wish, to be legally represented at the hearing.

APPENDIX 1 - GLOSSARY

Appropriate Authority

As provided for by Section 2(1) of the Civil Service Regulation Act, 1956, as amended by [Section 6 of the Civil Service Regulation \(Amendment\) Act 2005](#):

Section 2(1):

- (a) in relation to a civil servant-
 - i. holding a position to which that civil servant was appointed by the Government, or
 - ii. holding a position as a Commissioner of the Revenue Commissioners pursuant to Article 7 of the Revenue Commissioners Order 1923, the Government,
- b) in relation to a civil servant who is of the grade of Principal or of an equivalent or superior grade to whom paragraph (a) does not apply, the Minister of the Government by whom the power of appointing a successor to that civil servant would for the time being be exercisable,
- c) in relation to a civil servant below the grade or rank of Principal or an equivalent grade, the Secretary General of the Department or the Head of the Scheduled Office in which the civil servant is serving,
- d) in relation to a civil servant holding a Ministerial Private Office appointment and who provides a service to a Minister of the Government, the Minister of the Government to whom that service is provided, and
- e) in relation to a civil servant holding a Ministerial Private Office appointment and who provides a service to a Minister of State, the Minister of State to whom that service is provided.

Section 2(2) Notwithstanding subsection (1), in this Act ‘appropriate authority’ means –

- a) in relation to a civil servant who is the Secretary General of the Office of the Houses of the Oireachtas or the Clerk-Assistant of Dáil Éireann, in respect of matters directly related to the business of Dáil Éireann, the Chairman of Dáil Éireann, in all other respects, the Houses of the Oireachtas Commission,
- b) in relation to a civil servant who is the Clerk or Clerk-Assistant of Seanad Éireann, in respect of matters directly related to the business of Seanad Éireann, the Chairman of Seanad Éireann, in all other respects, the Houses of the Oireachtas Commission,
- c) in relation to a civil servant who is the Superintendent, Houses of the Oireachtas or the Captain of the Guard, Houses of the Oireachtas—
 - (i) in respect of matters directly related to the business of Dáil Éireann, the Chairman of Dáil Éireann,
 - (ii) in respect of matters directly related to the business of Seanad Éireann, the Chairman of Seanad Éireann,
 - (iii) in all other respects, the Houses of the Oireachtas Commission,
- d) in relation to a member of the staff of the Houses of the Oireachtas Commission who is of the grade of Principal or of an equivalent or superior grade, the Houses of the Oireachtas Commission,
- e) in relation to a member of the staff of the Houses of the Oireachtas Commission below the grade or rank of Principal or an equivalent grade, the Secretary General of the Office of the Houses of the Oireachtas,

- f) in relation to a civil servant who is of the grade of Principal or of an equivalent or superior grade to whom subsection (1)(a)(i) does not apply, who is serving in the Office of the Secretary General to the President, the Taoiseach, and
- g) in relation to a civil servant below the grade or rank of Principal or an equivalent grade, who is serving in the Office of the Secretary General to the President, the Secretary General to the President.

Connected Person

- (i) a person is connected with an individual if that person is a relative of the individual,
- (ii) a person, in his or her capacity as a trustee of a trust, is connected with an individual who or any of whose children or as respects whom any body corporate which he or she controls is a beneficiary of the trust,
- (iii) a person is connected with any person with whom he or she is in partnership,
- (iv) a company is connected with another person if that person has control of it or if that person and persons connected with that person together have control of it,
- (v) any two or more persons acting together to secure or exercise control of a company shall be treated in relation to that company as connected with one another and with any person acting on the directions of any of them to secure or exercise control of the company.

Contravention

A failure to comply with a law or rule.

Designated Position

In relation to a public body, means a *prescribed** position of employment in that body (public bodies for the purposes of the Ethics Acts are described below in this Glossary).

**prescribed* means set down by regulations made by the Minister for Finance

Designated Directorship

In relation to a public body, means a *prescribed** directorship of that body.

Electoral Act 1997, as amended - can be found at this [link](#). It is an act to establish a constituency commission, to make provision for payments to political parties and candidates, to make provision for disclosure of donations for political purposes, to regulate expenditure at elections by political parties and candidates, to provide voting arrangements for certain persons unable to vote at polling stations and to provide for other electoral matters.

Ethics Registrar

Is a person or persons assigned by order of the manager for a local authority to perform the duties of an ethics registrar in accordance with section 174 of the LGA in respect of such authority or authorities as specified. Further information on the duties of the Ethics Registrar are available at [section174oftheLGA](#).

Inquiry Officer

The role of an Inquiry Officer is, on the direction of the Commission, to carry out a preliminary inquiry under Section 6(2) of the Ethics Acts into a complaint made to the Commission. The Inquiry Officer must then prepare a report in writing of the results of that inquiry and furnish that report and any statements or relevant documents to the Commission. If directed by the Commission, the Inquiry may also provide an opinion as to whether there is *prima facie* evidence to sustain the complaint.

Office Holder – means

- a) A person who is a Minister of the Government or Minister of State
- b) A member who holds the office of the Attorney General
- c) A person who is Chairman or Deputy Chairman of Dáil Éireann or Chairman or Deputy Chair of Seanad Éireann; and
- d) A person who holds –
 - a. The office of chairman of a committee of either House, being an office that stands designated for the time being by resolution of that House, or
 - b. The office of chairman of a joint committee of both Houses, being an office that stands designated for the time being by resolution of each House.

Prima Facie Evidence means there is sufficient evidence to establish basic facts of a complaint but that this can be refuted.

Public Body a list of public bodies is set out in the [FirstScheduleoftheEthicsAct](#) and also in any Regulations made thereunder.

Significant Public Importance is interpreted under the Ethics Acts as:

Without prejudice to the generality of its meaning within Section 4(1) of the Ethics Acts, a matter shall, if the Commission considers it appropriate to do so, having regard to all the circumstances, be deemed by it to be of significant public importance if it relates to a benefit alleged to have been received by a Specified Person or a person who, in relation to a Specified Person, is a connected person and, in the opinion of the Commission, the value of the benefit was, is or might have been or be expected to be or to become not less than €12,500.

Special Adviser means a person who;

- (a) occupies or occupied a position to which section 7(1)(e) of the Public Service Management (Recruitment and Appointments) Act 2004 relates, having been selected for appointment to that position by an office holder personally otherwise than by means of a competitive procedure, or
- (b) is or was employed under a contract for services by an office holder, having been selected for the award of the contract by an office holder personally otherwise than by means of a competitive procedure,

and whose function or principal function as such a person is or was to provide advice or other assistance to or for the office holder.

APPENDIX 2 – REGISTRABLE INTERESTS - ETHICS ACTS

Ethics in Public Office Act 1995 – Second Schedule

Registrable Interests

1. Each of the following interests shall be a registrable interest for the purposes of this Act:

- (1) a remunerated trade, profession, employment, vocation or other occupation of the person concerned (other than that of office holder or member or an occupation to which Part IV applies) at any time during the appropriate period, in relation to that person, specified in section 5 (1) or 20 the remuneration from which to the person concerned during that period exceeded €2,600,
- (2) a holding by the person concerned of shares in, or bonds or debentures of, or other like investments in, a particular company or other enterprise or undertaking if the aggregate value of the holding exceeded €13,000 at any time during the appropriate period aforesaid,
- (3) a directorship or shadow directorship of any company held by the person concerned at any time during the appropriate period aforesaid,
- (4) any interest in land of the person concerned, being an interest the value of which exceeded €13,000 at any time during the appropriate period aforesaid, including—
 - (a) the interest of the person in any contract entered into by him or her for the purchase of land, whether or not a deposit or part payment has been made under the contract, and
 - (b) the interest of the person in—
 - (i) any option held by him or her to purchase land, whether or not any consideration has been paid in respect thereof, or
 - (ii) land in respect of which such an option has been exercised by the person but which has not yet been conveyed to the person,

but excluding any interest in land consisting of any private home of the person or of his or her spouse or civil partner, that is to say, a building or part of a building that is occupied by the person or his or her spouse or a child of the person or of the spouse as a separate dwelling and any garden or other land usually occupied with the dwelling, being land that is subsidiary or ancillary to it, is required for its amenity or convenience and is not being used or developed primarily for commercial purposes,

- (5) (a) a gift given to the person concerned during the appropriate period aforesaid, but excluding—
 - (i) a gift given to the person by a relative or civil partner or friend of the person or of his or her spouse or civil partner or of a child of the person or his or her spouse for purely personal reasons only, unless the acceptance of the gift by the person could have materially influenced him or her in the performance of his or her functions as a member, office holder, Attorney General, holder of a designated directorship, occupier of a designated position or special adviser, and
 - (ii) a gift given to the person, or gifts given to the person by the same person, during the period aforesaid, as respects which the value, or the aggregate value, of the property the subject of the gift or gifts did not exceed €650 at any time during the period aforesaid,
- (b) (i) property supplied or lent or a service supplied to the person, once or more than once by the same person during the period aforesaid, for a consideration or considerations or at a price or

prices less than the commercial consideration or considerations or the commercial price or prices by more than €650, and

- (ii) property lent or a service supplied to the person, once or more than once by the same person during the period aforesaid, free of charge if the commercial consideration or considerations or the commercial price or prices was or were more than €650,

other than property supplied or lent or a service supplied to a person by a relative or civil partner or friend of the person or of his or her spouse or civil partner or of a child of the person or of his or her spouse where such supply or loan was in the nature of a gift to the person and for personal reasons only unless the acceptance of the property or loan or the service by the person could have materially influenced him or her in the performance of his or her functions as a member, office holder, Attorney General, holder of a designated directorship, occupier of a designated position, or special adviser,

- (6) travel facilities, living accommodation, meals or entertainment supplied during the appropriate period aforesaid to the person concerned free of charge or at a price that was less than the commercial price or prices, but excluding—

- (a) travel facilities, living accommodation, meals or entertainment provided—

- (i) within the State, or

- (ii) in the course and for the purpose of—

- (I) the performance of the functions of the person as a member, office holder, holder of a designated directorship, occupier of a designated position or special adviser, or

- (II) the trade, profession, employment, vocation or other occupation (other than an occupation specified in subclause (I)) of the person,

or

- (iii) in the case of a member, by the Inter Parliamentary Union (or such other (if any) similar bodies as may be specified by the Committee in guidelines published by it under section 12) or any organisation of states or governments of which the State or the Government is a member or a body of or associated with any such body or organisation,

- (b) travel facilities, living accommodation, meals or entertainment supplied to the person by a relative or civil partner or friend of the person or of his or her spouse or civil partner or of a child of the person or his or her spouse where such supply was in the nature of a gift given to the person for personal reasons only, unless the acceptance by the person of such facilities, accommodation, meals or entertainment might reasonably be seen to have been capable of influencing him or her in the performance of his or her functions as a member, office holder, Attorney General, holder of a designated directorship, occupier of a designated position or special adviser,

- (c) travel facilities, living accommodation, meals or entertainment supplied to the person, once or more than once by the same person during the period aforesaid, free of charge if the commercial price, or the aggregate of the commercial prices, of the facilities, accommodation, meals or entertainment did not exceed €650, or

- (d) travel facilities, living accommodation, meals or entertainment supplied to the person, once or more than once by the same person during the period aforesaid, at a price or prices less than the commercial price or prices by not more than €650,

- (7) a remunerated position held by the person concerned as a political or public affairs lobbyist, consultant or adviser during the appropriate period aforesaid,

(8) any contract to which the person concerned was a party or was in any other way, directly or indirectly, interested for the supply of goods or services to a Minister of the Government or a public body during the appropriate period aforesaid if the value of the goods or services supplied during the period aforesaid exceeded €6,500 or, in case other goods or services were supplied under such a contract as aforesaid to a Minister of the Government or a public body during the period aforesaid, if the aggregate of their value and the value aforesaid exceeded €6,500.

2. (1) In paragraph 1 (2), “holding” does not include money in a current, deposit or other similar account with a financial institution.

(2) In paragraph 1 (3), “shadow directorship” means the position held by a person who is a shadow director within the meaning of the Companies Acts, 1963 to 1990, or, in the case of a public body that is not a company (within the meaning of the Companies Act, 1963) and is specified in subparagraph (8), (9), (10), (11) or (12), or stands prescribed for the purposes of subparagraph (13), of paragraph 1 of the First Schedule , the position held by a person in accordance with whose instructions or directions the members of the body or the members of the board or other body that controls, manages or administers that body are accustomed to act.

APPENDIX 3 – WITNESS EXPENSE GUIDELINES

Section 9 of the Ethics Acts provides for the payment of whole or part of the costs necessarily incurred by any person appearing before the Commission for the purposes of an investigation hearing. In general, it is expected that this would apply to any witnesses called by the Commission to give evidence during the hearing, which usually takes place at its offices.

The Commission will consider reimbursement of out-of-pocket expenses incurred by any ordinary witness as a result of having to give evidence. These expenses must be reasonable vouched expenses and could include;

- Travel expenses to / from the hearing venue*
- Subsistence costs – overnight accommodation and meals
- Car Parking

Please note claims not supported by vouchers will not be paid.

If a witness thinks they may be entitled to any expenses, other than standard travel and subsistence costs, they must submit these for approval by the Commission in advance of the hearing. The Commission will consider any request for the payment of such expenses on an exceptional basis.

The Commission reserves the right to refuse to reimburse any expenses that are not properly vouched, and, in its opinion, are not reasonable or have not been incurred directly as a result of appearing as a witness.

*Mileage for using a private car will only be paid where no suitable public transport is available. Every effort should be made to use public transport where possible. If using a private car, the claimant must explain why public transport could not be used on this occasion.

APPENDIX 4 – Complaints Form

SIPO Complaints Form

Please read the following advice carefully before submitting this form

This form should be filled out in accordance with the Standards in Public Office Commission's (the Commission) guidance on submitting a complaint for the Commission's consideration. The Commission's Ethics Complaints Procedure can be found at <https://www.sipo.ie/about/make-a-complaint/>. Further information on making a complaint to the Commission can be found on the Commission's website at www.sipo.ie or by emailing complaints@sipo.ie.

Please be advised, failure to have regard to the Commission's procedures for submitting a complaint may result in your complaint not being considered by the Commission.

This form should be accompanied by any background information or documentation that supports your allegations or that is necessary for the Commission to understand the circumstances of your complaint. This information can be provided by way of email to complaints@sipo.ie or by post to 6 Earlsfort Terrace, Dublin 2.

Should you require assistance in filling out this form, you can contact the office by email via complaints@sipo.ie or by phone on 01 639 5666 and ask to speak to a member of the Complaints and Investigation Unit.

Please be advised that, in accordance with the Commission's procedures, your full name and a copy of the details of your complaint on pages 2 and 3 will be provided to the person about who the complaint is made. The Commission will not share your address or contact information.

DETAILS OF THE COMPLAINT

This section relates to the person(s) you wish to submit a complaint about. The Commission can only consider a complaint where it is alleged that a person (specified person) has done an act or made an omission that is inconsistent with the proper performance of the functions of their office or position or is inconsistent with the maintenance of public confidence in their performance (specified act).

Please be advised, the Commission **cannot** consider complaints that relate to the actions or omissions of organisations or that relate to unnamed individuals. Please note, the Commission can **only** consider complaints in relation to:

- Office holders (Ministers, Ministers of State, the Attorney General)
- Employees and councillors of a local authority
- Employees of the public and civil service
- Designated positions/directors of a public body

For further information, please consult the Commission's Ethics Complaints Procedure or contact the Commission by email complaints@sipo.ie or by phone on 01 639 5666 and ask to speak to a member of the Complaints and Investigation Unit.

As the Commission can only consider complaints where it is alleged that a specified person has done an act or omission (specified act), in order to appropriately examine a complaint, it is essential that **the precise act(s) or omission(s) being alleged by the person(s) is clearly identified** to the Commission. In addition, you should state how you believe such acts or omissions are inconsistent with the proper

performance of the functions of the person's office or position or with the maintenance of public confidence in their performance, for example by reference to any applicable code of conduct.

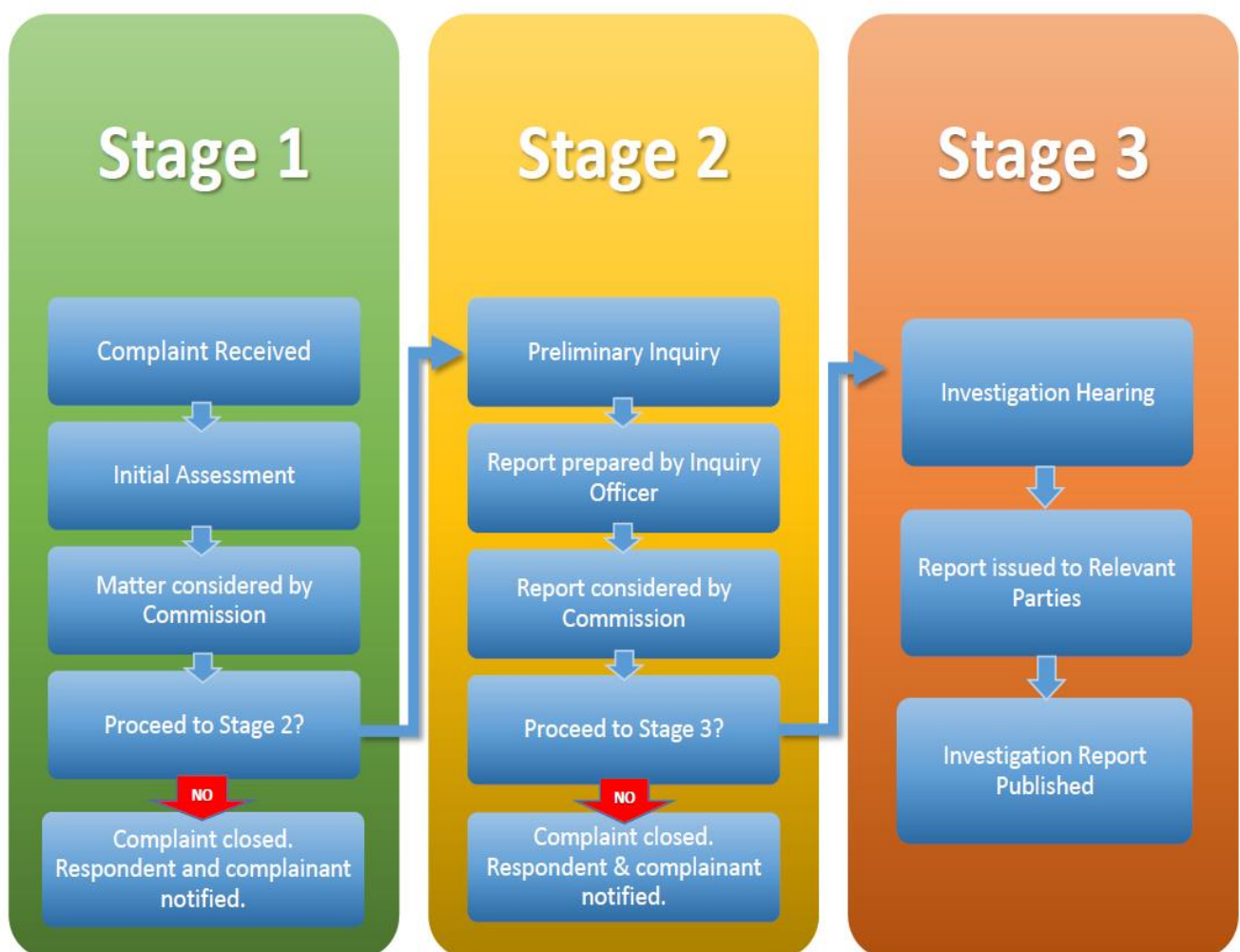
Accordingly, information relating to the subject(s) of your complaint should be conveyed to the Commission in the box below in the manner specified.

Name of person
Title/Position/Role(if known)
Organisation
Act(s) or omission(s) alleged
How you believe that such acts or omissions are inconsistent with the proper performance of their functions or with the maintenance of public confidence
<u>Any additional Information you would like to provide</u>

COMPLAINANT'S DETAILS

This section is for your information, as the person making the complaint (the complainant). As per s.8 of the Standards in Public Office Act 2001, the Commission **cannot** consider a complaint unless the identity of the complainant is disclosed to the Commission. Accordingly, the Commission **shall not** consider a complaint unless the below information is provided.

Full name(s) of the complainant(s)	
Address:	
Contact Information (Phone number and/or email address)	



Ethics in Public Office Act 1995

Standards in Public Office Act 2001

Local Government Act 2001

(Section 32(6)(b) of the Ethics in Public Office Act 1995)

STATEMENT OF ALLEGED CONTRAVENTIONS

Mr. Tommy Reilly

Councillor, Meath County Council

1. That, in respect of Navan Municipal Meetings on 27 July 2016 & 22 March 2017 and in respect of Meath County Council meetings on 8 May 2017 & 29 May 2017, you contravened Section 177(1)(b)(i) & (ii) of the Local Government Act 2001 in that you failed to disclose the fact of your son's, or sons', interests in lands at Liscarton, Navan, Co. Meath before discussion or consideration of matters relating to the lands commenced and/or you failed to withdraw from the aforementioned meetings for so long as said matters were being discussed and/or considered.
2. That, in respect of Navan Municipal Meetings on 27 July 2016 & 22 March 2017 and in respect of Meath County Council meetings on 8 May 2017 & 29 May 2017, you contravened Section 169(3) of the Local Government Act 2001 and acted in disregard of sections 2.1, 2.2, 2.3 and 4.8 of the Code of Conduct for Councillors in that you failed to disclose the fact of your son's, or sons', interests in lands at Liscarton, Navan, Co. Meath before discussion or consideration of matters relating to the lands commenced and/or you failed to withdraw from the aforementioned meetings for so long as said matters relating to the lands were being discussed and/or considered.
3. That, in respect of the Meath County Council Special Planning Meeting on 19 July 2017, you contravened Section 177(1)(b)(i) of the Local Government Act 2001 in that you failed to disclose the fact of your son's, or sons', interests in lands at Liscarton, Navan, Co. Meath, before discussion or consideration of matters relating to the lands commenced.
4. That, in respect of the Meath County Council Special Planning Meeting on 19 July 2017, you contravened Section 169(3) of the Local Government Act 2001 and acted in disregard of sections 2.1, 2.2, 2.3 and 4.8 of the Code of Conduct for Councillors in that you failed to disclose the fact of your son's, or sons', interests in lands at Liscarton, Navan, Co. Meath, before discussion or consideration of matters relating to the lands commenced.
5. That you contravened Section 169(3) of the Local Government Act 2001 and acted in disregard of the provisions of paragraphs 2.1, 2.2, 2.3, and 4.8 of the Code of Conduct for Councillors in that you attended a pre-planning consultation on 29 March 2018 in respect of lands at Liscarton, Navan, Co. Meath.

6. That you contravened Section 168 of the Local Government Act 2001 by failing to maintain proper standards of integrity, conduct and concern for the public interest in carrying out your function as a member of Meath County Council in the manner in which you conducted yourself in respect of your and your family's involvement with and/or dealings relating to lands at Liscarton, Navan, Co. Meath.
7. That being a "specified person" within the meaning of section 4(6) of the Standards in Public Office Act 2001, you did a "specified act" within the meaning of section 2 of the Ethics in Public Office Act 1995 (inserted by Schedule 1 of the Standards in Public Office Act 2001), or a series of such acts, by way of your conduct in respect of your and your family's involvement with and/or dealings relating to lands at Liscarton, Navan, Co. Meath which conduct, and/or the circumstances of such conduct, was inconsistent with the proper performance by you of the functions of a member of Meath County Council and/or with the maintenance of confidence in such performance by the general public and which matter is one of significant public importance.

Approved by the Standards in Public Office Commission on 23 October 2023