



**Submissions to the Citizens' Assembly on the fourth topic for
consideration**

The manner in which referenda are held

Signpost Document for Assembly Members

Key issues raised and themes covered

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Submissions Process

The submissions process for the fourth topic considered by the Citizens' Assembly (Assembly), "The manner in which referenda are held" was open from 13 November to 22 December 2017.

A number of steps were taken to encourage the public to engage with the submissions process. Advertisements were placed in a number of national newspapers on the 14 November 2017. These papers included: The Irish Examiner, The Irish Times, The Irish Independent and The Irish Mirror. A copy of the call for submissions is provided at Appendix 2.

The Assembly has over two thousand followers on Twitter (social network) and the platform was actively used to promote submissions, via the hash tag **#citizensassembly**.

In total, the Assembly received 213 submissions. Full details on the breakdown of these submissions are provided below.

Of the 212 submissions received, 209 were received online and 4 were received by post. Of these, 206 have been published on the Assembly's website. In total 7 were not published. Of those submissions received and not published the reasons were as follows:

- 4 submissions were not relevant to the topic;
- 1 submission was a duplicate;*
- 2 submissions were anonymous**

*(*Where a submission in exactly similar terms was made more than once by the same individual this was only published once. In many cases this happened because the individual made the same submissions in multiple formats, i.e. by post, on line and by email)*

*(** Anonymous submissions will not be accepted. Submissions made with just a first name listed will not be published.)*

The Secretariat began publication of the submissions received on 15 November 2017 and all of the submissions published have been available online since 2 January 2018.

Purpose of this Document

Purpose

This Signpost Document aims to identify the key issues/topics/themes which presented in the submissions. The full text of the 206 published submissions is available on the Assembly website (www.citizensassembly.ie). The Assembly Secretariat has grouped them into broad thematic areas and has attempted to present a selection of the perspectives which were received.

In all cases, where an individual submission is referred to, the Secretariat has provided the corresponding reference number to allow that submission to be read in full.

The Secretariat acknowledges fully that a Signpost Document such as this cannot capture the full range of issues raised in all of the submissions made to the Assembly. Instead, this document is designed to give the Assembly Members an overview of the main issues and the range of perspectives which emerge in the submissions. It is hoped that it will be of assistance to them in considering the topic before them.

Methodology

Given that there were fewer submissions received on this topic, the Secretariat had the capacity on this occasion to prepare a Signpost document which summarised the key points emerging in all of the 206 submissions published. Therefore, unlike the Signpost document prepared for the third topic, climate change, which was prepared with reference to a range of the total submissions selected (all of the NGOs, advocacy and interest groups, academics and commercial entities who made a submission on the topic, and a random sample of **100** of the total), on this occasion, the Signpost document has been prepared with reference to all 206 submissions published.

Caveat

As outlined above, the purpose of this document is to provide the Members with a high-level overview of the key issues/topics/themes, as they appear in submissions made to the Assembly.

The submissions detailed in this document contain a wide variety of views, perspectives and opinions. **Inclusion in this document does not mean that the views expressed are shared or supported by the Assembly. The Assembly does not endorse any of the assertions made in the submissions referenced in this document.** Descriptions of individual submissions are intended to give the reader an overview of the material that is contained in the longer, original submission.

Key Reference Documents

Readers of the Signpost Document should also be aware that in advance of their consideration of this topic, Members of the Assembly were invited to read the following key national documents associated with this topic:

The Constitution of Ireland 1937

[Articles 27, 46 and 47 of Bunreacht na hÉireann](#)

Legislation

- [Referendum Act, 1994](#)
- [Referendum Act, 1998](#)
- [Referendum Act, 2001](#)

The Referendum Commission

The Referendum Commission is an independent body that explains the subject matter of a referendum proposal, promotes public awareness of a referendum and encourages the electorate to vote. It is open to the Minister for Housing, Planning and Local Government to appoint a Commission any time a referendum is held. More information about the Referendum Commission is available on their website - www.refcom.ie .

Every Referendum Commission to date has published a report following the referendum. These reports are available on the Assembly's website or by clicking the links below:

- [Marriage Referendum and Age of Presidential Candidates Referendum](#) (2015)
- [Abolition of Seanad Éireann and Court of Appeal referendums](#) (2013)
- [The Children Referendum](#) (2012)
- [Fiscal Stability Treaty](#) (2012)
- [Judge's Remuneration and Houses of the Oireachtas Inquiries](#) (2011)
- [Lisbon Treaty](#) (2009)
- [Lisbon Treaty](#) (2008)
- [Irish Citizenship](#) (2004)
- [Treaty of Nice](#) (2002)
- [Protection of Human Life in Pregnancy](#) (2002)
- [Abolition of the Death Penalty, International Criminal Court, Treaty of Nice](#) (2001)

Documents Published by the Department of Housing, Planning and Local Government

The [Department of Housing, Planning and Local Government](#) (previously the Department of the Environment, Community and Local Government) has produced a number of documents in this area, including:

- [The Referendum in Ireland](#)
- [Referendum Results 1937 - 2015](#)

Copies of each of these documents are available on the Assembly's website.

Introduction

206 submissions were published by the Assembly in relation to 'the manner in which referenda are held', covering a broad range of issues from a wide variety of individuals and groups. As was the case with other topics considered by the Assembly, submissions were received from representative groups and professionals and academics with experience and expertise on the topic, with submissions also being received from individual members of the public.

The most dominant issue to emerge in the submissions was the concept of Citizen Initiated Referenda, with 156 out of the total 206 being received on this topic. However, some 132 of these were duplicate submissions with identical text being submitted from multiple individuals.

The following is a brief selection of some of the key points raised in the submissions.

It should be noted that this document is not a summary of all of the submissions received. As would be expected, many groups and individuals make similar points, and therefore this document merely attempts to bring the issues to the Members' attention. Equally, many submissions made points which covered a number of separate issues. As such, a number of submissions are referred to in the summary on more than one occasion.

1. Referendum Procedure/Process

The Assembly received a large number of submissions relating to the mechanics of how referendums are held in Ireland. These submissions covered a broad range of aspects of the referendum process including electronic or online voting, voting location and time available for casting your vote, the ability or otherwise to vote from abroad, how referendums are worded including suggestions around Multi-Optional Ballots, an examination of what constitutes a majority and how results are reported.

This section provides a selection of the viewpoints raised across these areas.

Electronic or Online Voting

A number of submissions call for greater use of technology for voting in referendums and in advance of formal referendum processes as a means of gauging public opinion.

Cormac McKay (D1-NZ4VQU6UTPMY) discusses the possible benefits of holding an online referenda. In his submission he states: *“With so many referenda to be held in the coming years, it would be more cost-effective to hold referenda online over 7-30 days like in other countries such as Estonia.”*

Eamonn Blaney (D1-OONW18MDVJDY) also presents his view on the advantages of online referendums, particularly in relation to gauging public opinion stating *“Given the massive advances in technology, the government could use internet based referenda to gauge the will of the people PRIOR to launching a full blown formal referendum. As each citizen is entitled to a PPS number it would be simple to ensure that 'one person, one vote' was maintained. Regardless of how they are held, it is imperative that the voices of the people are heard on all major issues and not just by voting every five years in a General Election, in which the promises made are routinely ignored by government. Failure to ensure real democracy will ensure Irelands continued slide into an ungovernable state as the distance between those 'in power' and the people will increase.”*

Jonathan Victory (D1-QDJ5AIH0XN1Z) also refers to the use of electronic voting systems. In his submission he referred to the initiative by international law expert and 2016 independent general election candidate, Roslyn Fuller. *“She has been piloting an online voting project, gauging public opinion on pressing policy issues. “E-democracy” or the use of digital platforms to deliberate and vote on policy issues is something that could become more commonplace in years to come. The Citizens’ Assembly should also consider whether referendums on legislative issues and local government plebiscites could be conducted through some online platform. More information on Fuller’s proposals are available on her “Fuller Democracy” website: <http://fullerdemocracy.com/>”.*

Voting location and time available for casting votes

The Assembly received a number of submissions regarding proposed changes to the location where ballots can be cast in a referendum and the amount of time available for voting.

Brendan Walsh (D1-5SPUSAFP6SJY), made the following observations regarding procedure for referendums: *“There should in every Constituency be one (or more if deemed appropriate) polling place, located as near to the centre of the Constituency as possible, open from the day the Referendum becomes official to enable a voter to vote whose holiday or business arrangements precluded him/her from voting. A simple procedure could be devised whereby the voter would apply to the Voters Registration Department of his/her Local Authority giving certain information, making some form of Declaration and getting a Certificate enabling him/her to vote ahead of Polling Day. If this was thought to be too cumbersome maybe an extension of the present postal voting system could be used.”*

Cormac McKay (D1-NZ4VQU6UTPMY) suggests that *“in person voting, i.e. polling stations should be in the library or tax offices, council offices or garda stations over 7-30 days.”*

Michelle Rogers (D1-GULI79FOWADV) had some concerns about the location of referendums. In her submission she stated *“Referenda in Ireland are most often held in schools. 96% of these schools are religious ethos and display religious iconography on their walls. Since religious organisations often have, and promote, strong views on the substance of referenda - in line with their own religious ethos - it is inappropriate that our state referenda be held in spaces where a religious ethos is promoted by iconography and other materials on the walls, often from the minute you enter the building. This will particularly be the case for the upcoming referendum on the 8th Amendment - organisations that support the abolition of the 8th Amendment will not be allowed to display even a poster with their name; conversely, religious iconography will be allowed to be displayed on the walls of the rooms people vote in. In addition, the presence of bibles on tables for people to swear on - presumably that they are who they say they are - flies in the face of modern practice surely. Will non-religious people be allowed to swear without any props that they are who they say they are, in the absence of acceptable documentary evidence? This republic should be an Ireland of equals and in an increasingly secular republic, it is no longer acceptable that we should be asked to vote in the premises of organisations that have a specific strong stance on issues we may be voting on, and that display iconography in line with their own ideology and dogma in that space. How can that be an impartial space?”*

Atheist Ireland (D1-KF04W5RRDTOL) note *“there should be no symbols or practices in polling stations that endorses either religion or atheism, and all voters should be treated equally”*. The submission pointed to a study conducted by Stanford University in 2016 which showed that environmental cues in a polling station can influence how people vote. The submission discusses the use of religious oaths and bibles at polling stations, and in this regard made a number of recommendations. *“There should be one single test of identity for voters whose identity is being challenged.*

- *It should be capable of being applied equally to all voters, without discrimination on the ground of religion.*

- *It should not require the voter to reveal his or her religious or nonreligious philosophical beliefs, directly or indirectly. This is an established human right.*
- *It should not provide an environmental cue that can influence how people vote, particularly in a referendum where religions support one outcome.”*

Andrew Doyle (D1-O6ONNNO4QBB6) makes a further observation about the use of schools as polling stations in referendums, stating *“our school regularly loses a whole day from the curriculum, and our children lose a whole day’s education just so that we can use one room of the school, less than 5% of its floor space, for voting.”*

Voting from Abroad

John F Colgan (D1-4YZ3WFRUYWFG) notes as part of his submission in relation to Irish Citizens recently living abroad *“Irish citizens recently living abroad (like my adult children, one moved because the international body they work for is located abroad) should be allowed to vote on referenda.”*

In their submission, **The Green Party** (D1-985EYHK0N20D) references the “Home to Vote” campaign which they say saw many young immigrants travel home to vote on that referendum (2015 Marriage Equality Referendum). The submission continues stating *“currently, this practice is technically outside of the law as the right to vote expires after a person has lived outside of their registered constituency for more than 18 months. However, in practice, local franchise offices have either turned a blind eye or have been unable to regulate this law. The Green Party supports the formal recognition of this practice for emigrants by extending the period for which someone may live outside of their registered Dáil constituency to five years and extending the justifications for a postal vote to include ordinary business and social activities”*.

Referendum wording including Multi-Optional Ballots

A number of submissions outline the perceived deficiencies of a simple yes/no vote in determining a referendum result. In his submission, **John Baker** (D1-P689K46JZ14A) states: *“there is a strong democratic case against simple yes/no votes, particularly where there is a range of significantly different alternatives. The Borda Count system provides a procedure for dealing with multi-option voting that is clear and fair”*.

In his submission **Peter Emerson** (D1-C80B3HEIA6BF) notes the difficulties with binary ballots. *“Binary ballots have often been a cause of bitterness (as in Ireland’s divorce and abortion referendums), division (as in Brexit and now Catalonia), confusion and contention (as in today’s region of Kurdistan in Iraq), if not violence and war (as in the Balkans, the Caucasus, South Sudan and now Ukraine)”*. The submission contrasts binary ballots to multi option ballots, stating: *“In 1982, Guam held a six-option poll, with a further blank option for anyone(s) who might have wished to (campaign and) vote for a further seventh option. None have yet used a preferential form of referendum. Here, then, is an opportunity for Ireland to lead the world in showing how preferential voting can be, not only the catalyst of more nuanced and tolerant campaigning before any subsequent referendum, but also the*

instrument by which can be ascertained a measure of the will of the people which is accurate.”

Tim Spalding (D1-NBCZ7RAH550S) discusses multi-optional ballots also, stating as part of his submission that referendums should be “multi choice”: *“These are known as preferendums and are promoted by the DeBorda Institute (www.deborda.org). This would allow for more nuanced and more representative and better supported outcomes than straight forward yes/no votes. It does not mean that all referendums have to be done in this way but issues that are complex lend themselves to it well. It also means that there is a more in depth debate with moves towards consensus rather than polarity.”*

Philip Kearney (D1-8ZY6LX6Y007P) makes the observation that *“the de Borda Institute has argued for many years and in multiple submissions to the Oireachtas that a more inclusive, multi-optional, preference-based methodology is required and would allow the people, when necessary, ‘to decide . . . questions of national policy, according to the requirements of the common good’. The Modified Borda Count is one such method. In summary, my submission is to urge the members of the Citizens' Assembly to recommend a review and change in the law 'relating to the Referendum' as provided for in Article 46.2 of Bunreacht na hÉireann to allow for multi-optional, preferential referendums incorporating the Modified Borda Count or similar methodology.”*

Continuing in the context of the issues with Binary Ballots, **Vanessa Liston** (D1-NMHDO2VGE9BP) bases her submission on the academic research and innovations in public consultation and opinion insights developed by CiviQ. The submission states: *“As one of the major purposes of any democratic system is to accurately reflect the diversity in the public will, we can show that binary option referendums based on the majority vote do not provide the opportunity for reflecting the diversity of public perspectives on an issue. Knowledge is now available to build on new insights into public opinion and multi-option, preference-based, decision-making. This has been demonstrated in national public deliberations in Australia and The Netherlands.”*

Ann O'Connor (D1-7SMSPUB9KQQ9) states in her submission, that there should be agreement on the format of ballot papers before a referendum is held: *“Due to the recent intentional extreme ambiguity in the language used on ballot papers, It is now imperative that the public agree the wording on the ballot paper BEFORE a Referendum is held. While this may appear, at first view, to be an expensive exercise the need for same has been caused by the Government and needs to be addressed and redressed. This corrective procedure will help to obviate legal challenges.”*

Similarly, **Ciarán Ó Coigligh** (D1-5XOOXNC7KZDO) states in his submission, in Irish, that a preliminary referendum should first be held to allow the public to decide whether a referendum is required. The submission goes on to note: *“Bíodh sé de choinníoll go gcaithfidh tromlach na ndaoine uile atá i dteideal vóta a chaitheamh i reifreann ar son rúin sula nglacfar leis agus ní hea tromlach na ndaoine a chaitheas vóta ar an lá. Is cóir féachaint chuige go mbeidh an próiseas chomh daonlathach agus is féidir. Mar shampla vótáil os cionn 49% de na vótálaithe a chaith vóta i reifreann an cholscartha i gcoinne an cholscartha agus ní raibh 49% ná rud ar bith mar é den díospóireacht ar na meáin chumarsáide ná i dTithe an Oireachtais i gcoinne an cholscartha. Mar a chéile leis an*

reifreann faoin bpósadh comh-ghnéis, vótáil os cionn 38% ina choinne ach arís ní raibh 38% ná rud ar bith mar é den díospóireacht ar na meáin chumarsáide ná i dTithe an Oireachtais i gcoinne an phósta comh-ghnéis.”¹

What constitutes a majority?

A number of submissions make suggestions for changes to what constitutes a majority in a referendum.

Donal O’Driscoll (D1-8U1DUF8E1J0Y), suggests in his postal submission, regarding the winning result in referendum, *“the winning result should be at least 50% of population entitled to vote. This would obviate the situation where a small percentage of the population, perhaps without realising the consequences, may change the situation of the majority.”*

This point is also made in a submission by **Séamas de Barra** (D1-JG82X93DVZQ5) from the Alliance for the Deference of the Family and Marriage: *“we are proposing the introduction of the requirement of a Pre-Referendum to decide whether a particular Substantive Issue should be put to a Consequent Referendum. In both cases we urge that the result should be decided, not by a majority of those voting on the day, as at present, but by clearly more than 50% of registered voters.”* Similar points are also made in the submission from the **Council for the Status of the Family** (D1-JPNCESPJMTXQ).

A submission made by **Michael Logan** (D1-B5IKEN2KB26Y) states: *“A minimum percentage of the electorate would have to vote, in other words a quorum would be required, for a change to be valid, perhaps 40%. Any change in the constitution should require a $\frac{2}{3}$ majority.”*

A submission by **Nollaig M. Malone** (D1-JR9318UOQ01J) also presented the view that at least 50 % of the population must vote in an election *“a truly democratic referendum should require at least a fifty percent plus turnout of the populace and not less than that for it to be binding. The questions should be simple and direct, not vague and confusing. The outcome should be over fifty percent of that fifty percent plus. The truth has every right to be heard in the buildup to each referendum.”*

¹ There is a lack of democracy in the way a number of referenda on the question of divorce and the Lisbon Treaty and a referendum on same-sex marriage were forced on the public. There should first be a pre-referendum which would give the public a say on whether or not they wish to vote on a particular question in the form of a referendum. It should be a condition that the majority vote, in order to carry a motion, should be based on the number of people entitled to vote in a referendum as opposed to the number of people who vote on the day. The system should be as democratic as possible. For example 49% of voters who cast their vote in the Divorce referendum voted against the introduction of divorce. However the debate in the media and in the Houses of the Oireachtas against divorce was no where near 49%. Likewise regarding the same-sex marriage referendum, more than 38% voted against the motion but the debate in the media or in the Houses of the Oireachtas against same-sex marriage was no where near 38%. Therefore it is essential that the two sides are treated equally when any question is asked of the public in a referendum.

Reporting on results

The submission made by **PJ Murray** (D1-PTYWMQR7EIR) suggests “*The votes at a referendum is given constituency by constituency. I believe only the overall result should be announced. The way it is now it gives a rural urban breakdown of results. A referendum is for all the Irish citizens to decide, how we arrive at the decision should be of no interest. A referendum is not an opinion poll for the benefit of statisticians.*”

2. Legal challenges in respect of referendums and their impact, including the ‘McKenna Principles’

A significant number of submissions referenced the case taken by Patricia McKenna in 1995 (*McKenna v An Taoiseach (No. 2)* [1995] 2 IR 10) where she challenged the constitutionality of spending public money in a one-sided fashion in the 1995 Divorce Referendum. Following an appeal to the Supreme Court, Ms. McKenna won her case and the Court laid down the “McKenna principles” setting out the rights of Irish citizens to fairness, equality and democracy in constitutional referendums.

There are also references made to a number of other significant cases including *Coughlan v Broadcasting Complaints Commission* [2000] 3 IR 1, *McCrystal v Minister for Children and Youth Affairs* [2012] 2 IR 726, and *Jordan v Minister for Children* [2015] IESC 33.

Below is a selection of some of the points raised in the submissions in respect of these legal developments and their perceived impact on the conduct of referendums in Ireland.

A number of these submissions referenced the importance of the Constitution and of ensuring that the system for effecting changes accurately reflects the will of the people and is robust. In some cases submissions urge caution in suggesting any changes to the current regime.

Some submissions also cautioned against any change to the current system. A submission made by **Teresa McDonnell** (D1-P32IS4B3YQS), states: “*We are one of the few countries that hold Referendums to let the people decide on very important issues. I think the process should be left as it is.*” The submission continues: “*If groups decide, such as the Citizens Assembly that do not speak for me (sic). Then it will be the loudest voices are heard. It is marvellous to have a debate on any subject but when the majority of one voice at such a meeting overtakes a minority it is anything but fair. The majority/minority can be manipulated as I have observed is not a fair way for everyone to have their voice heard. Even this process of submitting our opinions is flawed as only certain people have computers or know how to use them. There is an option to write in but many people do not bother. These submissions will not give a true picture of how the country stands on any issue. Our Referendum process allows everyone to have a voice. Voting in Referendums in Ireland should be left as it is presently.*”

Donal O’Driscoll (D1-8U1DUF8E1J0Y) states: “*the constitution is to be complied with, not circumvented. Once elected a government of the day may see it as stumbling block and may have an interest in changing the Constitution of politician’s own advantage. An increase in the power of legislature may be at the expense of a decrease in power of the people.*” The submission continues “*the McKenna principles, enunciated by the Supreme Court in 1995, give further details of the position of the Constitution, and the role of citizen in making changes, which will be necessary from time to time*”.

A number of further submissions go on to describe the perceived importance of the McKenna principles in ensuring fairness during referendum campaigns.

Anthony Coughlan (D1-4TJW2JQXURBK) states: “The key principle here was the Supreme Court’s judgement that the expenditure of public funds in a one-sided fashion to obtain a particular result in Irish referendums was unconstitutional, undemocratic and inherently unfair to the country’s citizen-voters”.

Mr. Coughlan goes on to discuss the McCrystal case: “The first breach of the McKenna principles by an Irish Government occurred in the 2008 Lisbon Treaty referendum. On that occasion the then Brian Cowen-led Government issued a booklet through the Department of Foreign Affairs with the title ‘EU Reform Treaty’ which it sent to all households in the State... These partisan Government “information campaigns” using public money unconstitutionally were not challenged in the Courts at the time of the 2008 and 2009 Lisbon Treaty or the 2012 “Fiscal Treaty” referendums. They were however successfully challenged by Mr Mark McCrystal in the 2012 Children’s Rights referendum. On the eve of that referendum the Supreme Court ruled unanimously that the booklet, advertisements and web-site issued by the Government on that occasion were in breach of the Court’s 1995 judgement in McKenna. There were factual inaccuracies in the Government information booklet such that it had to be withdrawn. In giving its judgement the Supreme Court strongly reaffirmed the McKenna principles. Irish Governments could certainly spend public money in informing citizens of the main arguments for and against particular referendum propositions, but any partisan presentation was a violation of citizens’ rights to fairness, equality, and democracy on these occasions.”

In a submission to the Assembly **Patricia McKenna** (D1-3473BCKLXXTZ) states: “with regard to the criticism directed at the concept of a fair referendum process in Ireland it would seem from this analysis(earlier in the submission) that this criticism is predominately motivated by the belief or fear that equal treatment of both sides in a referendum campaign makes it more difficult to get proposed constitutional amendments adopted in referenda. However, this is not a convincing enough argument for rejecting such principles and as the result in the Good Friday Agreement referendum shows, people can decide to support change even when they have been given both sides of the argument. The assertion that the Supreme Court decision in McKenna wrongly inhibits the ability of the democratically elected Government to persuade voters on how they should vote overlooks the fact that in a referendum to amend the Constitution the People are sovereign. They are directly legislating and this sovereignty is undermined if those subject to their authority interfere with their decision. Furthermore, it is clear from a close analysis of the McKenna judgment that the claim that this decision constrains Government and political parties is exaggerated as the only constraint involved is in regard to the use of public funds to influence the voters’ decision in a referendum and both logic and international best practice point to this being a just and fitting rule for any democratic State.”

A number of submissions reference decisions made by the Courts since McKenna and outline their view that in some cases these cases have undermined the decisions taken by the court in 1995.

In his submission, **Colm Callanan** (D1-4YRWA3OXCUOR) references the Supreme Court decision in 2012 (2 IR 726) in connection with the Children’s Referendum and states: “the Supreme Court...sought to undermine [the McKenna] principles. In not intervening, it decided to ignore the illegal expenditure by Government, and to ignore misstatements made by the Government. The people are entitled to depend on the judiciary for the upholding of law”.

In his submission, **Kieran Fitzpatrick** (D1-OCTL96HX288E) calls for a number of amendments to the Referendum Act to *“better ensure that referenda are conducted in a fairer manner and in compliance with democratic principles”*. In order to achieve this he recommends the following:

“1) Amend the Referendum Act to give explicit permission to a court to delay a referendum for a period of up to three weeks, and to issue an order to government to mitigate the effects of any violation of the McKenna-2 principles.

2) When a McKenna-2 principles violation has been found by a court, the burden of proof should be reversed (and placed on the government), such that the government must convincingly show that the interference could not have altered the result.

3) Provide a system of costs protection for referendum challengers, such that an application can be made to the court for a costs-capping-order, such that any failed applications should not burden applicants with costs in excess of €1500, and such that any Cost Protection Cap (issued on foot of the grant of such a Costs-Cap, to pursue the substantial case) should not exceed €5000. Both caps should be made reducible by the court (in advance), to €100 for persons of low wealth. Additionally, third parties should be allowed to provide Amicus Briefs to the court¹⁹, without being threatened with adverse costs. Third party funding of legal actions should be permitted.

4) If the evidence of a breach of the McKenna-2 principles, only clearly emerges after a referendum vote, allow the courts to demand a rerun of the referendum, in cases where the vote in favour of amendment is less than 60% of the votes cast in the referendum.

5) Give express powers to the Referendum Commission to initiate the legal actions outlined above, of its own initiative, or on foot of complaints from the public.”

3. Information provided to the Electorate prior to a referendum

Key Concepts

Many submissions mentioned the importance of ensuring that the electorate is well informed prior to voting in a referendum.

Patricia McKenna (D1-3473BCKLXXTZ) states: *“The People have a right to a fair and impartial source of information prior to voting on any proposed constitutional amendment. This source of information should be fully independent and voters should have full confidence in its impartiality and reliability.”*

John F Colgan (D1-4YZ3WFRUYWFG) made a submission stating: *“Your assembly should consider recommending user-friendly information on the back of voting papers, to augment the vague legalese. The Constitution needs a total revamp, probably using the Whitaker Commission's report (ca 1996) as a starting point. Why? It encountered ca 19 changes made by Dail during the transition period, then a middle period of negligible change, followed by the current period of regular changes - its progress followed the "bathtub curve" known to reliability/quality engineers. The Assembly should consider how extensive changes might be made.”*

Anthony Coughlan, (D1-4TJW2JQXURBK) states: *“The Council of Europe’s Code of Good Practice in Referendums states further that in order to encourage a well-informed citizenry on these occasions: “The best solution is for the authorities to provide voters with an explanatory text setting out not only their viewpoint or that of the persons supporting it, but also the opposing viewpoint in a balanced way, or to send voters balanced campaign material from the proposal’s supporters and opponents.” Clearly the Council of Europe’s Code of Good Practice in Referendums should from now on be the template for good democratic referendum practice in Ireland as in other modern countries.”*

The role and status of the Referendum Commission

A number of submissions made reference to the role of the Referendum Commission with many calling for changes to its status and functions.

Hugh McDowell (D1-OM7B09OS0DLD) submits: *“without adopting a position in relation to the concept of an Electoral Commission, it is submitted that the establishment of the Referendum Commission as a permanent body would (sic) is a common-sense proposal and one which should be recommended by the Citizens’ Assembly. Further consideration should also be given to expanding the powers of the Referendum Commission, increasing its budget, and allowing for greater flexibility in its membership so as to allow the Referendum Commission to procure the services and assistance of experts and professionals.”*

Anthony Coughlan (D1-4TJW2JQXURBK) argues that the original functions of the Referendum Commission as laid out in Section 3(1) of the 1998 Referendum Act, where one of its principle functions was *“to prepare and publicise a statement or statements setting out*

the arguments for and against the proposal”, should be restored. In his submission he states: “The principal democratic value of the Referendum Commission having to set out the main pros and cons of any proposed constitutional change fairly and impartially was that false, irrelevant or extraneous arguments on the pros and cons of the referendum proposition had necessarily to be excluded from the Commissions’ advertisements and other information material.”

This point is made in a number of other submissions, including by **Patricia Mc Kenna** (D1-3473BCKLXXTZ) who states: *“I would argue that if a permanent Referendum Commission with expanded functions that included the role of providing the Yes and No arguments was established, then, it would go a long way to upholding the interests of democracy and the constitutionally enshrined sovereign right of the people. This matter should be addressed before any further constitutional amendments are put to the Irish People.”*

John F Colgan (D1-4YZ3WFRUYWFG) made the following observation regarding material supplied by two referendum commissions *“(1) that on the abolition of capital punishment - which omitted mention of the cost of "life" imprisonment, and recidivist rates of the alternative to capital punishment, in its public information; and (2) that on the so-called children's referendum - The information provided on its web site was unfair; it failed to mention two existing Constitutional rights, namely (i) the right to free primary education and (ii) the right of any child attending any school in receipt of public funding, not to be indoctrinated in a religion and that these rights are met, in practice, by a denial of them, thus essentially confirming that the proposed changes would not be worth the paper they were written on, and were substantially politically motivated - "to appear to do something beneficial", hence the low turnout. “*

The Green Party (D1-985EYHK0N20D) notes in their submission that they believe *“an independent Electoral Commission should assume control of all matters relating to the proper running of elections and referendums. This includes managing the electoral register, ballot paper design, engaging in voter education, regulating posters and referendum literature, as well as measuring voter satisfaction with the referendum process.”*

4. Broadcasting and Social Media

Broadcasting

The Assembly received a detailed submission from the **Broadcasting Authority of Ireland (BAI)** (D1-1WW5UF2DY63B) which included a briefing note on the BAI's regulations in respect of coverage of referenda, together with copies of the most recent referendum guidelines, and the overarching regulations guiding news and current affairs coverage.

A number of submissions addressed these rules which apply to broadcasters during a Referendum, with many making suggestions for changes.

Colum Kenny (D1-KH1ZZ8OF45CK) suggests that *"The concept of fairness in public debates is under attack from right, left and centre, with people convinced that those on the other side of an argument are unreasonable and do not deserve to be heard as much as the righteous do (left, right or centre). Commercial interests also wish to see the constraints that require fairness and balance weakened. The Assembly should resist this strongly. The existing requirements for broadcasters and others to be fair during debates about political and constitutional issues are a vital protection for freedom of speech and for society. We need more not fewer means of facilitating the democratic process and keeping media excesses in check. The Citizens' Assembly should resist all calls to weaker existing requirements for fairness and balance."*

Hugh McDowell (D1-OM7B09OS0DL) made a submission which deals at some length with some of the issues regarding how the rules regarding broadcasting are applied following the McKenna and Coughlan decisions. In his submission he discusses *"several necessary changes to the regime for broadcasters during referendum campaigns"*. Discussing the Coughlan decision he states: *"It is submitted that the requirement of equal airtime is undesirable and an unnecessary intrusion on the democratic process by the legal system, for reasons set out below. It should be noted that, in respect of all of these concerns, it is at least arguable that RTE is in a separate and unique position. The constitutional right to free speech is less applicable where an organ of state is concerned. Furthermore, issues surrounding the guarantee of equality contained in the Constitution are of greater relevance in circumstances where RTE is the national broadcaster, receives a subvention from the State, and, critically, receives a large proportion from (sic) its income from the mandatory television licence fee."*

A number of submissions also referred to the role that the media has more broadly in a referendum campaign. **Gearóid Duffy** suggests in his submission that the media has the ability to *"dictate the debate"*. This can be done, he argues: *"where those we might admire or be led by are excluded from the debate"* and *"by exclusion of points of view and by limiting the public debate to well known articulate speakers and those who are willing to organise as groups, for the purpose of the Referendum"*.

Gearóid R Ó Dubhthaigh (D1-7KGRJ5LQVK23) made the observation, as part of his submission that more recent debates have become embroiled in an national narrative repudiating the values held by previous generations and in continuing this narrative states: *"In this regard it should be noted that when the regulation of non-RTE radio stations was undertaken some decades ago, no provision was made for any Catholic orientated stations,*

even though about 90% of the public claimed to be Catholic at that time. Indeed the then minister with responsibility for broadcasting made it clear that the Catholic Church would never have a radio station. This was in stark contrast to other countries. For example Italy has almost 100 Catholic radio stations. Today there are two Evangelical Christian stations on my radio dial, but no Catholic, Church of Ireland or Muslim lead ones. All the rest are in one way or another commercially driven, dependent upon making all their programming interesting, entertaining and compliant with the need to service an advertising led outlook on life. It is through this commercial filter that the electorate are informed-misinformed or deflected from the core issue at the heart of any Referendum change proposed. Those locked out of the broadcast perspective feel disenfranchised, excluded and frustrated in their inability to articulate what is important to them, hearing their views continually misrepresented, and hence they feel misunderstood themselves.” The submission also examines the BAI guidelines and proposes a number of potential improvements.

Social Media

Hugh McDowell (D1-OM7B09OS0DLD) included in his submission a section on the difficulties presented by the role that social media plays. In his submission he states: *“Consideration should be given to imposing reporting restrictions on social media operators in Ireland. This might include disclosure of the spending levels of various advocacy groups during referendum campaigns and, having due regard for the confidentiality of the political and marketing strategies adopted by these groups, some limited or summary-level disclosure of the nature of spending on social media and the types of ‘targeted’ advertising which might be employed. Notably, most major global social networks have a permanent corporate presence in Ireland, which may facilitate enforcement and compliance-monitoring by SIPO. Alternatively, an obligation could be placed on social media platforms to ensure that any advertising related to a referendum includes a clear statement of the identity of the person or group who paid for the advertisement.”*

The Green Party (D1-985EYHK0N20D) notes an anomaly in advertising *“In Ireland, there is an anomaly in that paid political advertising is prohibited on broadcast TV and radio yet the same material can be advertised online. The Green Party believes that the Electoral Commission should look at mechanisms to regulate online political advertising, in line with broadcast media and print media, and to examine the activities of so-called “fake news” websites and “bots”, especially during election and referendum periods.”*

5. People Initiated Referenda

The Assembly received a very large volume of submissions from an organisation called 'one-year-initiative' (1Yi) which advocates the launch of a new People's Assembly. It envisages that such an Assembly would meet for a period of one year to devise modern versions of Articles 47 & 48 that were in the 1922 Irish Constitution. It notes that as it stands, only the Government can initiate referenda to bring matters to the Irish People. These new mechanisms would "*put People-Initiated Referenda into the Irish Constitution and political system*".

Of these submissions the majority included the same text, which is quoted below. This particular submission is made by **David Lloyd** (D1-YWVCY5KF8DZ9):

"To whom it may concern, Article 6.1 of the Constitution which states: "All powers of government, legislative, executive and judicial, derive, under God, from the people, whose right it is to designate the rulers of the State and, in final appeal, to decide all questions of national policy, according to the requirements of the common good." However, the Irish people only get the opportunity to have the final say when the Government deems it necessary for them to do so using a referendum. As a result, the Irish Constitution does not provide an adequate mechanism for ongoing citizen participation in the legislative process with a view towards the shaping of national policy in accordance with the common good. This belief and desire was clearly illustrated when eighty three percent (83%) of delegates to the 2012 Constitutional Convention (Citizens' Assembly) voted in favour of people-initiated referenda with the appropriate safeguards. A change in Irish politics is necessary, a change where Irish citizens are the beating heart of Government. Therefore I propose the Citizens' Assembly considers the benefits of people-initiated referenda as a key part of a reinvigorated, renewed and fairer political system. Currently, only Government can initiate referenda in Ireland. This is a proposal to provide the Irish public with a mechanism to petition and initiate referenda also. This single mechanism will subsequently enhance and complement our representative democracy as well as introducing additional checks and balances. The Citizens' Assembly could decide a new mechanism for people-initiated referenda or it could recommend the implementation of the One Year Initiative (1Yi). This initiative is a specific process to achieve the objective of putting people-initiated referenda into the Irish Constitution. Firstly, a new Citizens' Assembly would be established. The assembly would have one year (hence the name 'one-year initiative') to formulate a mechanism for people-initiated referenda for citizen initiatives and citizen veto. After the year when the mechanism has been formulated, the mechanism would be presented to the Irish people to decide by referendum if they want the mechanism put into the Irish Constitution. I am proposing this approach to ensure citizens participate in both devising the mechanism as well as ensuring all citizens ultimately decide as to whether the mechanism is added to the Constitution. It's also important to note that people-initiated referenda are currently available to citizens in no less than one third of European countries such as Switzerland, Italy and the Netherlands. They also were available in the 1922 Constitution within Articles 47 & 48 prior to the introduction of the 1937 Irish Constitution. I sincerely hope you take this opportunity of doing something magnificent – indeed, unprecedented – for Ireland. Please see this exhortation for what it is: a chance to be remembered as another

assembly who strove to reform an ineffectual political system and, in doing so, to make history and enhance democracy for Ireland”.

The Assembly also received a number of other submissions concerning the question- ‘who initiates referendums?’ Some suggested that such citizen-led initiatives may help to solve perceived weaknesses in representative democracy currently.

A submission made by **Alan Lawes** (D1-GSRINYVHOBZ) states: *“Representative Democracy is not working not only in Ireland but all over the world”.* The submission goes on to say: *“The Irish people didn't vote for a Bank Bailout costing Billions but that's what we got. The Irish people didn't vote for a health crisis with people dying on waiting lists and trolleys but that's what we got. The Irish people didn't vote for a housing and homeless crisis with people living in B+B's and dying on our streets but that's what we got.”*

The submission outlines how a people initiated referendum could have avoided these issues stating: *“We need a system that holds all politicians account. We need a system of People's initiated referendums. This would give the Irish people the ability to call a referendum of their choosing, For example the Irish people could have called for a referendum on any of the above, stopping the giveaway of tax payers money to cover €Billions in Banks gambling debts and Billions to the Apple corporation. We would have the ability to call a referendum on building a massive amount of social houses to meet the homeless emergency”.*

Colin Walsh (D1-37DI81ROIEAN) makes an observation about democracy in his submission stating: *“The system of democracy we operate at the moment is really a system designed to give the illusion of democracy, it has been captured since its inception by a small portion of society. We need to trust that the total citizenship of the nation should contribute to its governance in a meaningful way. People initiated referendums are positive first step on the path to true democracy”.*

Barry Walsh (D1-Q8747Q3GJBCJ) echoes this opinion in his submission stating: *“as a member of society I deserve the right to exercise my opinion on matters that I feel are of national importance for my country and its people. It is only right and logical that all people of a society should have the means to be heard. People initiated referenda is one such mechanism that should be used by all who wish to do so”.*

Eoin Ward (D1-R55XEFIVN2P8) recommends reinstating Article 48 of the 1922 Constitution stating: *“I am appalled at the recent governments attempts to degrade the Irish people, to label anything that doesn't fit their agenda as populism. I refer to the referendum on water infrastructure and disgusting attempts of the main political parties to privatize an essential right to life. Enough is a enough, IF anything has been proven in Ireland since our "Republics" foundation is that successive Irish governments and all of it's institutions are not acting and have never acted to protect its citizens. Indeed any honest man or women that stands up is beaten down. The political structures are broken and only accommodate the corrupt and the wealthy... Re- institute articles which deal with peoples Initiative in line with the aims of the 1 Year Initiative and Reinstatement 48 campaign.”*

Dave Lanigan (D1-AZ1CF9LNK93U) writes: *“Referendums should be able to be triggered by a petition of an agreed percentage of the population, for too long we are at the mercy of some representatives who have shown themselves unworthy of the trust we give them”.* In

his submission he continues, *“Allow citizens an opportunity for self determination. Agree a percentage point to trigger a referendum that is neither too low to allow frivolous or lobbied referendums, nor too high to make achieving consensus too difficult.”*

Hugo Wilhare’s (D1-DY565XOF2L2Z) submission reflects this view, and continues stating *“I believe the citizens should have the right to call a referendum on any given subject, when the required number signatures are collected in order to do so. I also believe when that point is reached, the government CANNOT veto, block or water down the decision in any way. Nor should the government be allowed any attempt at changing the wording chosen by the citizens.”*

The above thread continues in a submission made by **Jonathan Victory** (D1-QDJ5AIH0XN1Z) who states: *“There should be a referendum as soon as possible on allowing citizens to petition for referendums on legislative or constitutional change. Please have the Citizens’ Assembly lay the groundwork for this by determining appropriate guidelines on the following issues; 1. The minimum number of signatures required to call a referendum 2. The geographical spread required from signatures e.g. from no less than 4 different constituencies 3. The maximum word count for proposals 4. A ‘cooling-off’ period before the referendum is held e.g. 6 months? 1 year? 2 years? 5. Allowing the Government the chance to form a counter-proposal addressing the concerns raised by petitioners to go through the Oireachtas instead (this can be accepted or rejected by the activists) 6. Requiring support from a threshold of Oireachtas members 7. Allowing for multiple-choice ‘preferendums’ so as to not limit voter options 8. A moratorium on repeating referendums within a specified timeframe e.g. 5 years? 9. Which matters should be exempt from this mechanism? e.g. Matters of national finance, any proposal that would restrict human rights etc. 10. A process for vetting petition signatures and the viability of initiative proposals”.*

A submission by **Shay Gallagher** (D1-RMY05Q8JY3FV) states simply: *“We need a referendum on the one year initiative whereby the people can hold the government to account every year if they do not keep their promises.”*

Dr. Roslyn Fuller (D1-Y1J7OCSUK6AW) proposes two possibilities for change to the current mechanisms: *“1) citizen-initiated referenda, whereby we specify that a certain percentage of the population must petition to hold a referendum, or 2) by institutionalizing the Citizens’ Assembly as a permanent body with an ever-rotating (somewhat larger) randomly selected membership that prepares a referendum agenda based on the submissions made to it by ordinary citizens. While the second option sounds more convoluted, it may actually prove more workable (indeed this is very similar to how democracy worked in ancient Greece). Under this variant, the Citizens’ Assembly, rather than the government, would prepare and call referenda.”*

Colm Callanan (D1-4YRWA3OXCUTOR) states: *“Citizens Assemblies are sometimes set up to make recommendations to an Oireachtas Joint Committee. As has already been remarked this is a totally undemocratic course, shielding public representatives from their proper role. The views of Assembly members, and the reason for such views should be made known at the outset”.*

The Green Party (D1-985EYHK0N20D) would not seem to agree with this opinion stating: *“The Green Party welcomes the positive role that the Citizens’ Assembly, and its*

predecessor, the Constitutional Convention, have played in reforming the manner in which referendums are held in Ireland. We have actively and vocally supported both bodies as ways for citizens to deliberate and make recommendations for referendums on important and difficult issues affecting Irish life and politics. The work the Constitutional Convention did in deliberating marriage equality and that this Assembly has done on the Eighth Amendment stand out in particular.”

Brett Hennig (D1-P9VPFC7KU2CM) recommends holding a Citizen’s Assembly before every referendum. The submission states: “we should not be governed by raw opinion but by considered opinion”. The submission goes on to say: “This submission proposes that a law be passed requiring a Citizens’ Assembly before every referendum in Ireland. The randomly selected, representative sample of citizens should meet and deliberate on the proposed topic and produce a considered, informed recommendation. This recommendation should then be widely publicised and distributed to every household before the referendum, and a brief summary of the recommendation should be handed out with the ballot paper at every voting booth.”

James Smith (D1-0VOUOI3ESHNR) refers to Switzerland which holds regular referendums. In his submission he states: “Switzerland is a neutral country with a policy of referendums, decentralised power in cantons and direct democracy and where the Parliament positions are voted by all their peers for the portfolio they will hold. They have regular referendums each year within a criteria e.g. 500,000 people must support a referendum to start the process. I hope the assembly has this detailed in full and it maybe one of the key speakers. In an Irish context, we do not trust those in power, we fear them. We must feel value when voting and confident in our voting processes with it overseen by third parties outside of Ireland due to the fact we are such a small local island with very few polling stations.”

Donal Ó’Brolchain (D1-AH7UFCHS6TTF) made a submission regarding article 6.1 of the Constitution. In his submission, he notes: “we are the source of all governmental authority and power in this Republic, as set out in Article 6.1 of our Constitution “Why is that the Dáil can “close the door” against the “guardians of the Constitution”? The Irish state has slipped, quite unselfconsciously, into being a ‘referendum democracy” To widen the scope for the development of a “referendum democracy”, I propose the number of signatures needed to have an issue presented to the people, directly, for decision in a referendum be set a 1% of the Total Valid Poll at the preceding general election. As the TVP is the means by which we give authority to TDs, it is important to keep the link between this well-established institution and the creation of a new organ of state, which is what bringing in direct democracy into our way of governing ourselves would mean. This link would reinforce the complementarity of direct democracy to our evolving representative democracy. A well-designed and carefully implemented form of modern direct democracy would promote greater understanding of issues which we face. “...Referendums are not redundant, as the liberal model of democracy claims, but can serve as important instruments for correcting misrepresentation in specific political issues...” I ask this Assembly to continue the movement to build direct democracy into our way of governing ourselves by recommending new organs of state that make it easy for us to assert our rights as citizens, rather than be governed on the basis that we only have the liberties of subjects.”

In a submission **John Roden** (D1-U4QP5H7QQHU7) submits that *“that a referendum can be initiated by a group of citizens with a limited delay before it is presented to voters for approval. 2. That citizen-initiated referenda could be used (1) to amend the Constitution; (2) to propose a new law; (3) to prevent a Dail act being signed into law”*.

The Green Party (D1-985EYHK0N20D) believes the Citizens’ Assembly should deliberate and make recommendations on what adequate safeguards there should be for citizens initiatives in Ireland and provided an illustration. *“Examples of the possible safeguards described in that document include the number of signatures required to initiate a referendum, the kinds of topic that a referendum may be called on, restrictions on repeated referendums, and the requirement for a minimum turnout to protect against referendums passing through lack of interest. These are the kinds of safeguards that exist in other states that provide for citizen-initiated referendums. The Green Party is open-minded about the kinds of safeguards that may be necessary for citizen initiatives. We have produced this document to spark discussion here rather than to lead it in a particular direction.”*

6. Other Issues

The Assembly received submissions on a number of other topics including super referendum days, repeat referendums, campaign finance law and the Irish language. The sections below briefly outline the issues that emerged in these submissions.

Super Referendum Days

In his submission **Anthony Coughlan** (D1-4TJW2JQXURBK) poses the question, “*should several different referendums be held at the same time?*” In response he states: “*There seems no good reason why they should not be as long as none of the proposed constitutional amendments is particularly contentious or divisive*”. However he goes on to qualify this by suggesting that “*if a proposed amendment is socially divisive it should be voted on its own*”.

Margaret Clare Flynn (D1-Q9LDGM8ZCKAZ) made a submission regarding changes to the Constitution. She states: “*a number of changes must not be put to the people at the same time. Neither should changes be proposed at the same time as to any other matter or general, local or individual elections or other matters*”.

Donal O’Brolchain (D1-HYMPVYMJXE5E) made a submission regarding referendum days “*Referendum days are a normal part of life for the 8m+ people who live in Switzerland. They do not have to wait for politicians to decide on issues to be put to a vote of all the people. There have been five referendum days in Switzerland since Damien English TD, Minister of State moved the Dáil motion setting up this Citizens’ Assembly, eighteen months ago. Eleven issues were voted on. Of these eleven referendums, • 3 were mandatory; • 3 arose from popular initiative; • 4 were optional; • 1 was a counter-proposal.*”

Repeat Referendums

In his submission **Anthony Coughlan** (D1-4TJW2JQXURBK) poses the question, “*should repeat referendums be allowed on the same issue?*” In response he suggests that they should, “*but only after a decent interval of time has passed, say five years or more*”. He goes on to say that “*for a Government to institute a repeat referendum on exactly the same item on constitutional legislation within a year or two of an earlier referendum in order to obtain a different result is an abuse of the democratic referendum process and shows a fundamental lack of respect for citizen-voters in their role as legislators.*”

A submission made by **Michael Logan** (D1-B5IKEN2KB26Y) states: “*The government would not be permitted to put the same or substantially the same change without getting a new mandate from the electorate i.e. a General Election and no sooner than two years after the first vote.*”

Campaign Finance Law

Gearóid R Ó Dubhthaigh (D1-7KGRJ5LQVK23) made a submission entitled “*The Conduct of Referenda: Shutting Down Debate*”. Part of the submission discusses how “*money dictates who gets heard and who gets complementary comments in the press*”. Under this heading the submission states: “*A case in point here is that of the so called ‘Children’s Referendum’. Leaving aside the merits of the issue then under consideration, it was glaringly obvious that one side had all the resources, posters, etc. while the other side struggled against impossible odds to connect. Each political party and NGO interested in children’s welfare had posters. One might say that they vied with one another to gain credit for getting this Amendment passed. However we ought not to forget that all these organisations were in receipt of state funding. Of course they said that none of this taxpayer’s money was used in the campaign – taxes obtained from tax payers; both those inclined to support and those inclined to oppose the Referendum. But it is difficult to see how the overheads involved, the fund-raising staff, the media presence, etc. of these organisations was not underwriting, subsidising and making their campaigns possible. In the case of some political parties their major source of funding was the tax payer.*”

Hugh McDowell (D1-OM7B09OS0DLD) included in his submission a section on campaign finance in referendums. He discussed the current regulatory framework, areas of concern, and comparisons with the United Kingdom. He concludes the section with proposals for reform.

Dr. Roslyn Fuller (D1-Y1J7OCSUK6AW) suggests that “*if we want to ensure that referenda are reasonably fair (and I think we should want that), we should enforce an absolute ban on foreign contributions to referenda, and severely limit spending by profit-oriented entities (including umbrella associations).*”

Anthony Coughlan (D1-4TJW2JQXURBK) poses a number of questions in his submission about funding for referendum campaigns, as follows: “*should there be public funding for umbrella groups on each side as in the UK?*” and “*should foreign funding be allowed in referendums*”. In relation to the first question he notes a number of practical issues with implementing such an approach including: “*there may well be no such umbrella groups for some referendums, especially if the issues are non-contentious*”, “*who would do the designating and the associated allocation of public money*”. In relation to the second question he states: “*Foreign money should not be allowed to seek to influence or affect the votes of citizens as they legislate directly on an amendment to the Constitution, any more than TDs or Senators should be allowed to take bribes to vote in a particular way on Oireachtas legislation*”.

The Irish Language

Dr Seán Ó Conaill (D1-AVE8ARDE0YFD) made a submission on issues of language and terminology.

With regards to the use of language he notes: “*The fact that our bilingual constitution offers us two versions of the text to examine and interpret is most welcome and, one would expect, contributes to a greater understanding of the true intentions of the people, should they choose to accept the proposed amendment.*” The submission continues to discuss the use

of language. This portion of his submission concludes stating: *“Whilst our bilingual legal order presents us with a number of challenges, it gives us a unique opportunity to ensure that, in the sphere of constitutional amendments in particular, we can attain greater clarity and certainty through well thought-out and well drafted texts. Recent developments in Europe with regards to the status of Irish and an increased focus on Irish language legal training would mean that there would be no shortage of qualified lawyer linguists available to carry out this work.”*

The submission progresses to discuss terminology use and notes: *“When we turn our attention to the future referendums the terminology used might present presents us (sic) with a problem. Using the most recent referendum as an example by terming the referendum the ‘Marriage Equality Referendum’ in the last referendum was the Government making a value judgement on those who did not intend to support the proposal? Is the title perhaps a loaded one?”*

Appendix 1

Submissions made by Advocacy Groups and Professionals

The following submissions were made by Advocacy groups and academics.

In the table below, you will find the name of the person who made the submission and details of their organisation.

The third column in the table contains a reference number. You can use the reference number or person's name in the first column, to find the submission on the Citizens' Assembly website via the search function.

Find the submission you would like to view. Visit <http://citizensassembly.ie/> and then select 'submissions' from the navigation menu.

You can also visit this short URL to take you directly to this page <http://goo.gl/8o9ajz>

If you are an organisation that made a submission to the Assembly and are not on this list please contact us at info@citizensassembly.ie.

Name	Organisation	Reference
Séamas de Barra	Alliance For The Defence Of The Family And Marriage	D1-JG82X93DVZQ5
Michael Nugent	Atheist Ireland	D1-KF04W5RRDTOL
Michael O'Keefe	BAI (Broadcasting Authority of Ireland)	D1-1WW5UF2DY63B
Hugh McDowell B.L.	Barrister and author	D1-OM7B09OS0DLD
Vanessa Liston	CiviQ	D1-NMHDO2VGE9BP
Peter Emerson	Director, de Borda Institute	D1-C80B3HEIA6BF D1-K5LTNRJGSP66
Colum Kenny	Emeritus Professor, B.C.L., Dublin City University, Barrister-at-Law,	D1-KH1ZZ8OF45CK
Oliver Moran	Green Party	D1-985EYHK0N20D
Patricia McKenna B.L.	Former member of the European Parliament	D1-3473BCKLXXTZ
Donal O'Brolchain	Political Advocate	D1-YNWN6SBFNTBW D1-H4RT3SFTK1WA
John Baker	Political theorist	D1-P689K46JZI4A
Brendan Walsh	Retired Solicitor and former Sheriff of Dublin City	D1-5SPUSAFP6SJY
Brett Hennig	Sortition Foundation and new Democracy	D1-P9VPFC7KU2CM
Lelia O'Flaherty	The Council for the Status of the Family	D1-

		JPNCEPJMTXQ
Mark McAuley	The One-Year Initiative Campaign	D1- XG1GGUOJY21C
Anthony Coughlan	Associate Professor Emeritus in Social Policy, Trinity College Dublin	D1- 4TJW2JQXURBK
Dr Seán Ó Conaill	University College Cork	D1- AVE8ARDE0YFD

Call for Submissions

Appeared in: The Irish Times, the Irish Independent, The Irish Examiner and the Mirror on 14th November 2017.

English Text

The Citizens' Assembly was established following a Resolution passed by both Houses of the Oireachtas. The Assembly is an exercise in deliberative democracy, placing the citizen at the heart of important legal and policy issues facing Irish society today.

The Citizens' Assembly is inviting submissions on the fourth topic the Assembly will consider, the manner in which referenda are held. Submissions can be made online or by post to Citizens Assembly, 16 Parnell Square, Dublin 1, to arrive no later than 22 December 2017.

All documents received by the Assembly secretariat may be listed on the website, in order of date received and displayed with a name/name of organisation, and the title of the submission.

For more information on the Assembly or to make an online submission visit www.citizensassembly.ie

Irish Text

I ndiaidh do dhá Theach an Oireachtais glacadh le Rún is ea a bunaíodh an Tionól Saoránach. Is ionann an Tionól is pléghrúpa daonlathach a chuireann an saoránach i gcroílár ceisteanna tábhachtacha dlí agus beartas atá roimh phobal na hÉireann sa lá inniu.

Fáiltíonn an Tionól Saoránach roimh aighneachtaí ar an ceathrú hábhar atá le breithniú ag an Tionól – An tslí a reáchtáiltear reifrinn. Is féidir aighneacht a dhéanamh ar líne nó tríd an bpost chuig An Tionól Saoránach, 16 Cearnóg Parnell, Baile Átha Cliath 1, tráth nach déanaí ná an 22 Nollaig 2017.

Is féidir doiciméid a fhaigheann rúnaíocht an Tionóil a liostú ar an láithreán gréasáin, de réir na ndátaí a bhfuarthas iad, agus a thaispeáint mar aon le hainm/ainm na heagraíochta, agus teideal na haighneachta.

Chun tuilleadh eolais faoin Tionól a fháil nó chun aighneacht ar líne a dhéanamh, téigh chuig www.citizensassembly.ie