

Tribunal of Inquiry into Certain Planning Matters and Payments
(Mahon Tribunal)
Response to Final Report Recommendations

Overview

The Final Report of the Tribunal of Inquiry into Certain Planning Matters and Payments (also known as the Mahon Tribunal) contained a total of 64 recommendations for further consideration in relation to a range of policy areas, as follows:

1. Planning;
2. Conflicts of Interest;
3. Political Finance;
4. Lobbying;
5. Bribery, Corruption in Office, Money Laundering and the Misuse of Confidential Information;
6. Asset Recovery; and
7. Miscellaneous Matters.

Following publication, the Government mandated the Minister for the Environment, Community and Local Government to co-ordinate a comprehensive and detailed analysis of each of the recommendations by the relevant Government Departments, working with bodies under their aegis, as appropriate. This report provides a summary of this analysis and sets out whether the specific recommendations:

- may have already been implemented (recognising the Mahon Tribunal's work has spanned 15 years, in which time substantial policy reforms may have already been introduced);
- may be amenable to being addressed through relevant initiatives underway or planned (taking particular account of Programme for Government commitments); or
- are not proposed to be introduced at this time.

In summary, the situation is as follows:

- 29 recommendations have already been implemented or are in the process of being implemented, either partly or fully;
- 14 recommendations will be implemented, either partly or fully, by means of additional initiatives;
- 18 recommendations remain under consideration, either partly or fully; and
- 3 recommendations are not to be implemented.

In respect of the 18 recommendations that remain under consideration, many are being considered in the context of primary legislation under preparation, including the Electoral (Amendment) (Referendum Spending and Miscellaneous Provisions) Bill 2012, and in respect of the future action plan for the ethical framework.

In the following summary tables and in the annex to this document, the recommendations are categorised into the 7 policy areas and are colour-coded as above in respect of the 4 categories of status of implementation.

1. Planning

Three of the 10 planning recommendations have already been substantially implemented, with a further 5 agreed to be implemented in the context of future legislative and policy reforms. One recommendation will require further consideration as part of wider, ongoing policy reviews, while 1 recommendation calling for the appointment of members of the National Transport Authority to be managed by an independent Appointments Board will not be progressed.

One of the most significant recommendations being considered is the establishment of an Independent Planning Regulator, who could assume some of the Minister for the Environment, Community and Local Government's planning oversight functions and who could also be charged with carrying out investigations into systematic problems in the planning system. This recommendation is accepted in principle.

The summary table below shows the headline responses to the 10 relevant recommendations.

Planning Recommendations		
Recommendation	Summary Response	Lead Dept Responsible
1. Place the National Development Plan and the National Spatial Strategy on a statutory footing.	Yes, in respect of the National Spatial Strategy; no, in respect of the National Development Plan.	D/ECLG
2. Directly elect members of the Regional Authorities.	To be considered as part of broader local government reform programme.	D/ECLG
3. Facilitate documentation of Regional Authority considerations in making draft Regional Planning Guidelines.	Already substantially provided for in regulations.	D/ECLG
4. Independent Appointments Board to appoint members of National Transport Authority.	Not proposed to be implemented.	D/TTS
5. Increase transparency in the planning process.	Already substantially provided for, but additional initiatives will give further effect to elements of the recommendation.	D/ECLG
6. Provide for advance notice of material contravention of development plans.	To be implemented by way of legislative amendment.	D/ECLG
7. Restrict procedure set out in Section 140 of the Local Government Act 2001.	To be implemented by way of legislative amendment.	D/ECLG
8. Provide for documentation of submissions/ interventions made by elected members on applications for planning permission.	Requirement to be clarified by way of circular, regulation, etc.	D/ECLG
9. Introduce requirement to identify	Under consideration but accepted in	D/ECLG

relevant political donation when making application for planning permission.	principle. The practicalities would need to be very carefully worked through.	
10. Transfer Minister's enforcement powers to Independent Planning Regulator.	Accepted in principle and appropriate modalities under consideration.	D/ECLG

2. Conflicts of Interest

In respect of conflicts of interest, 1 of the 13 recommendations has already been implemented, with a further 7 recommendations to be implemented in the context of future legislative and policy reforms. The remaining 5 recommendations are the subject of further consideration in the context of advancing the broader reform of the ethical framework and whether this should be by means of amendment to the existing legislative base or by fundamentally reforming the legislative framework.

The summary table below shows the headline responses to the 13 relevant recommendations.

Conflicts of Interest Recommendations		
Recommendation	Summary Response	Lead Dept Responsible
11. Each person falling within the scope of the ethics and local government legislation should make periodic disclosures of interest.	Already implemented to some degree, with the remainder accepted in principle.	D/PER
12. Broaden the range of categories requiring disclosures of interest.	Under consideration in the context of the future action plan for the ethical framework.	D/PER
13. Enhance the periodic disclosure requirements for public officials.	Already provided for to some extent, with the remainder to be considered in the context of the future action plan for the ethical framework.	D/PER
14. Introduce ad hoc disclosure requirements for public officials.	Already implemented.	D/PER
15. Both periodic and ad hoc disclosures should be made more widely available/accessible.	Under consideration in the context of the future action plan for the ethical framework.	D/PER
16. Amend the conflict of interest provisions in Members' and Officeholders' codes of conduct.	Under consideration in the context of the future action plan for the ethical framework.	D/PER
17. Prohibit public officials from receiving gifts/benefits which could be reasonably perceived to be connected with the performance of public functions.	Already implemented to some extent, but accepted in principle in any event.	D/PER
18. Introduce measures to regulate conflicts of interest arising out of the use of inside information by Officeholders.	This recommendation is accepted in principle.	D/PER
19. Prohibit public officials from entering into contracts for the provision	Already implemented to some extent, but will be considered in the context of	D/PER

of goods or services to a public body.	the future action plan for the ethical framework.	
20. Prohibit local elected representatives from dealing with land.	Already implemented in part, but will be considered in the context of the future action plan for the ethical framework.	D/ECLG & D/PER
21. Introduce more effective regulation of conflicts of interest on the part of Officeholders arising from post-term employment.	Already implemented to some extent, but will be considered in the context of the future action plan for the ethical framework.	D/PER
22. Modify the enforcement provisions applicable to conflicts of interest at national level.	Under consideration in the context of the future action plan for the ethical framework.	D/PER
23. Modify the system for enforcing the conflicts of interest provisions in the Local Government Act.	Already implemented in part, but will be considered in the context of the future action plan for the ethical framework.	D/ECLG & D/PER

3. Political Finance

Five of the 15 political finance recommendations have already been substantively implemented, with a further 1 planned for implementation. 2 will not be implemented. The remaining 7 recommendations are the subject of ongoing consideration, including in the context of the Electoral (Amendment) (Referendum Spending and Miscellaneous Provisions) Bill 2012.

The summary table below shows the headline responses to the 15 relevant recommendations.

Political Finance Recommendations		
Recommendation	Summary Response	Lead Dept Responsible
24. Amend the definition of the term 'donation' to cover all donations given, received or used for political purposes.	To be examined in the preparation of the Electoral (Amendment) (Referendum Spending and Miscellaneous Provisions) Bill 2012.	D/ECLG
25. Introduce prohibitions on certain types of donations.	Already being implemented in the Electoral (Amendment) (Political Funding) Bill 2011.	D/ECLG
26. Lower the thresholds permitted for political donations.	Already being implemented in the Electoral (Amendment) (Political Funding) Bill 2011.	D/ECLG
27. Place an overall limit on the aggregate amount which can be donated by an individual.	To be examined in the preparation of the Electoral (Amendment) (Referendum Spending and Miscellaneous Provisions) Bill 2012.	D/ECLG
28. Amend the existing expenditure restrictions to cover all political expenditure, etc.	Already planned to be implemented in part through the Electoral (Amendment) (Referendum Spending and Miscellaneous Provisions) Bill 2012.	D/ECLG

29. Introduce a requirement to disclose annual audited accounts by political parties, elected representatives and electoral candidates.	Already being implemented in part through the Electoral (Amendment) (Political Funding) Bill 2012; remainder to be examined in the preparation of the Electoral (Amendment) (Referendum Spending and Miscellaneous Provisions) Bill 2012.	D/ECLG
30. Lower the level at which donations must be disclosed.	No changes will be made beyond those set out in the Electoral (Amendment) (Political Funding) Bill 2011, on the basis that the Bill reflects commitments in the Programme for Government.	D/ECLG
31. Introduce a requirement to provide more detailed information regarding the source and nature of received donations.	Already being implemented through the Electoral (Amendment) (Political Funding) Bill 2011.	D/ECLG
32. Introduce a requirement to disclose donations received prior to elections.	This recommendation remains under consideration.	D/ECLG
33. Introduce a requirement on political parties to supply details of their organisational structure as a condition of registration.	Already being implemented through the Electoral (Amendment) (Political Funding) Bill 2011.	D/ECLG
34. Introduce restrictions on persons entitled to receive donations on behalf of a political party, etc.	This recommendation will not be implemented, having regard to the transparency and other provisions in the Electoral (Amendment) (Political Funding) Bill 2011.	D/ECLG
35. Increase the resources available to the Standards in Public Office Commission.	Resource allocations will be decided by Government in the context of the balance to be struck between Government priorities and budgetary constraints.	D/PER
36. Entrust the enforcement of the Local Elections (Disclosure of Donations) Act 1999 to an external, independent body.	To be considered in the context of consideration of the Programme for Government commitment to establish an independent Electoral Commission.	D/ECLG
37. Include administrative sanctions in sanctions for breaching the political finance acts.	To be examined in the preparation of the Electoral (Amendment) (Referendum Spending and Miscellaneous Provisions) Bill 2012.	D/ECLG
38. Sanction certain acts or omissions in relation to donations.	To be examined in the preparation of the Electoral (Amendment) (Referendum Spending and Miscellaneous Provisions) Bill 2012.	D/ECLG

4. Lobbying

In respect of lobbying, all 5 recommendations will be addressed in the development of proposals for the regulation of lobbyists, for which legislation will be prepared in 2012. This regulation will likely involve the statutory registration of lobbyists and a code of conduct.

The summary table below shows the headline responses to the 5 relevant recommendations.

Lobbying Recommendations		
Recommendation	Summary Response	Lead Dept Responsible
39. Professional lobbyists should be subject to registration requirements.	Proposals are currently being developed for the regulation of lobbyists which will address this recommendation.	D/PER
40. Introduce disclosure requirements on professional lobbyists.	Proposals are currently being developed for the regulation of lobbyists which will address this recommendation.	D/PER
41. Introduce a requirement on professional lobbyists to adhere to a statutory-based code of conduct.	Proposals are currently being developed for the regulation of lobbyists which will address this recommendation.	D/PER
42. Give clear guidance to public officials on how they are expected to engage with professional lobbyists.	Proposals are currently being developed for the regulation of lobbyists which will address this recommendation.	D/PER
43. Require senior Officeholders to record and publish details of their contacts with professional lobbyists.	The proposed legislation governing lobbying will deliver on this transparency objective by putting the onus on the lobbyist to register details of relevant contacts.	D/PER

5. Bribery, Corruption in Office, Money Laundering and the Misuse of Confidential Information

In respect of bribery, corruption in office, money laundering and the misuse of confidential information, 12 of the 13 recommendations have already been, or are in the process of being, substantively implemented, including through the General Scheme of the Criminal Justice (Corruption) Bill or in the introduction of ‘whistle-blowing’ legislation in the form of the Protected Disclosures in the Public Interest Bill 2012. The remaining 1 recommendation is the subject of ongoing consideration in the context of the future action plan for the ethical framework.

The summary table below shows the headline responses to the 13 relevant recommendations.

Bribery, Corruption in Office, Money Laundering and Misuse of Confidential Information Recommendations		
Recommendation	Summary Response	Lead Dept Responsible
44. Amend the Public Bodies Corrupt Practices Act 1889 to cover Oireachtas Members.	Already being implemented, in that the Criminal Justice (Corruption) Bill will repeal and replace all seven of the Prevention of Corruption Acts 1889 to 2010. The General Scheme of the Bill was approved by Government and published in June 2012.	D/JE

45. Introduce a specific offence of making payments to a third party where the payer knows that the party intends to pay bribes.	Provided for in the General Scheme of the Criminal Justice (Corruption) Bill.	D/JE
46. Introduce a new offence criminalising a commercial entity for failing to supervise or control individuals committing bribery.	Provided for in the General Scheme of the Criminal Justice (Corruption) Bill.	D/JE
47. Extend the existing presumption of corruption contained in Section 3 of the Prevention of Corruption (Amendment) Act 2001.	Provided for in the General Scheme of the Criminal Justice (Corruption) Bill.	D/JE
48. Extend the presumption of corruption set out in Section 4 of the Prevention of Corruption (Amendment) Act 2001.	Provided for in the General Scheme of the Criminal Justice (Corruption) Bill.	D/JE
49. Apply new, additional sanctions where a person is convicted of bribery.	Already implemented in part.	D/PER & D/ECLG
50. Introduce a pan-sectoral whistleblower protection act.	Already being implemented through publication of draft Heads of the Protected Disclosures in the Public Interest Bill 2012.	D/PER
51. Extend existing whistleblower protection under the Prevention of Corruption (Amendment) Act 2010.	Already being implemented through publication of draft Heads of the Protected Disclosures in the Public Interest Bill 2012.	D/PER
52. Amend the offence of corruption in office contained in Section 8 of the Prevention of Corruption (Amendment) Act 2001.	Provided for in the General Scheme of the Criminal Justice (Corruption) Bill.	D/JE
53. Introduce a new offence for holders of ministerial office of accepting and retaining a gift or other advantage not lawfully due.	Under consideration in the context of the future action plan for the ethical framework. There are also directly relevant aspects of this recommendation dealt with in the General Scheme of the Criminal Justice (Corruption) Bill around the receipt of gifts and presumptions of corruption.	D/PER
54. Require designated persons for the purpose of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 to apply enhanced due diligence.	Accepted in principle. Legal and technical implications are being analysed by the Money Laundering Officials' Committee with a view to making necessary legislative provisions in the Criminal Justice (Money Laundering and Terrorist Financing) Amendment Bill.	D/JE
55. Define the term 'politically exposed persons' so as to apply to senior public office holders for a minimum of ten years	Accepted in principle. Legal and technical implications are being analysed by the Money Laundering	D/JE

after they have ceased to hold office.	Officials' Committee with a view to making necessary legislative provisions in the Criminal Justice (Money Laundering and Terrorist Financing) Amendment Bill.	
56. Consider the introduction of a cash transaction reporting requirement.	Suspicious transaction reports (STRs) are already provided for in the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010. The necessity for any adjustments to the STR system will be considered by the Money Laundering Officials' Committee.	D/JE

6. Asset Recovery

Four asset recovery recommendations will be considered in the context of a broader review of proceeds of crime legislation currently ongoing. As indicated in the Final Report of the Mahon Tribunal, the provisions regulating conviction-based recovery (Criminal Justice Act 1994) and those regulating non conviction-based recovery (Proceeds of Crime Acts 1996 and 2005) are already relatively robust. Although existing measures under Proceeds of Crime legislation allow for the targeting of benefits derived from corrupt conduct, the Tribunal's recommendations seek to further enhance the overall effectiveness of the criminal conviction-based confiscation regime.

The summary table below shows the headline responses to the 4 relevant recommendations.

Asset Recovery Recommendations		
Recommendation	Summary Response	Lead Dept Responsible
57. Consideration should be given to introducing a single procedure for conviction-based asset recovery measures.	To be considered in the context of a broader review of proceeds of crime legislation.	D/JE
58. Where a person has been dealt with by a court in respect of corruption offences, the court may proceed to determine whether that person has benefited from those offences.	To be considered in the context of a broader review of proceeds of crime legislation.	D/JE
59. Where the DPP seeks to determine whether a convicted person holds funds subject to confiscation, the court should be required to conduct an inquiry for the purposes of making that determination.	To be considered in the context of a broader review of proceeds of crime legislation.	D/JE
60. Once a court determines that a person has benefited from a corruption offence, the court should be required to make a confiscation order to the value of that	To be considered in the context of a broader review of proceeds of crime legislation.	D/JE

benefit.		
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7. Miscellaneous Matters

Three of the 4 miscellaneous matters are being implemented, including by means of the Tribunals of Inquiry Bill 2005. The remaining 1 recommendation will be implemented in the context of the Companies Bill, which will be published in the second half of 2012.

The summary table below shows the headline responses to the 4 relevant recommendations.

Miscellaneous Recommendations		
Recommendation	Summary Response	Lead Dept Responsible
61. Place increased focus on corruption prevention.	All relevant organisations will continue to provide advice and training, public awareness raising, and research and review.	All Relevant Organisations
62. Provide for increased transparency over the ownership of corporate vehicles.	With reference to company law, this recommendation will be progressed in the context of the Companies Bill.	D/JEI
63. Amend the Tribunals of Inquiry Evidence Acts 1921-2004 to give greater powers to Tribunals.	Already being implemented through the Tribunals of Inquiry Bill 2005.	D/JE
64. Amend the Tribunals of Inquiry Evidence Acts 1921-2004 to stipulate that the terms of reference of a Tribunal should be drafted as precisely as possible.	Already being implemented through the Tribunals of Inquiry Bill 2005.	D/JE

Conclusion

In summary, the Government is ensuring that each of the recommendations contained in the Mahon Tribunal's Final Report are fully considered and implemented where appropriate within individual Government Departments. Implementation will proceed apace and be completed as soon as possible, primarily through the enactment of the range of reforms proposed to existing Acts and the development of new legislation, including elements designed to give effect to commitments in the Programme for Government.

The following tables in the Annex provide more detailed information on the considerations and mechanisms of implementation, where appropriate.

Annex

Planning

Recommendation	Already Implemented or Being Implemented?	Additional Initiatives to Give Effect to Recommendation?	Elements of Recommendation Not to be Implemented?
<p>1. Both the National Development Plan (NDP) and the National Spatial Strategy (NSS) should be placed on a statutory footing and the relevant statute should:</p> <ul style="list-style-type: none"> • state when, how and by whom these measures are to be adopted and reviewed; • provide for public involvement in adopting those measures, including the involvement of local elected members; • require that the adoption of the NDP and the NSS be subject to Oireachtas approval; and • include equivalent provisions to those that currently apply in relation to development plans for material variations to the NDP and NSS. 	<p>The NSS is already statutorily recognised in Section 6 of the Planning and Development (Strategic Infrastructure) Act 2006, and the Planning and Development (Amendment) Act 2010 provided further amplification.</p>	<p>Provision will be made in primary legislation for regular review of the NSS, with the review process to provide for public consultation. Adoption of the final draft NSS will be subject to positive resolution from both Houses of the Oireachtas.</p>	<p>There is no formal legislative procedure for the preparation of the NDP, which has tended to be more of a reference framework with regard to financial provisions for infrastructure funding, which in turn is subject to Oireachtas Vote and Committee oversight.</p> <p>The NDP has been superseded by the Infrastructure and Capital Investment 2012-2016 Medium Term Exchequer Framework, which by its nature is a rolling plan subject to changing circumstances, such as budgets and planning consents. It is not appropriate, therefore, to place it on a statutory footing.</p>
<p>2. Consideration should be given to providing for the direct election of the members of the Regional Authorities.</p>	<p>No.</p>	<p>To be considered in the context of the proposed policy approach on further local government reform, including the regional dimension.</p>	<p>Not yet possible to determine.</p>
<p>3. Each Regional Authority should be required to:</p> <ul style="list-style-type: none"> • compile a report summarising observations, submissions or recommendations made by a local planning authority or the 	<p>This is already substantially provided for in the Planning and Development (Regional Planning Guidelines) Regulations 2003. These regulations require that in the course of preparing RPGs, the Director of the Regional</p>	<p>No.</p>	<p>None.</p>

Recommendation	Already Implemented or Being Implemented?	Additional Initiatives to Give Effect to Recommendation?	Elements of Recommendation Not to be Implemented?
<p>Minister for the Environment, Community and Local Government ('Minister for the Environment') when making the draft Regional Planning Guidelines (RPGs) or the RPGs; and</p> <ul style="list-style-type: none"> inform the relevant local authority(s) or Minister for the Environment in writing if it decides to reject a recommendation made by that authority in that report giving reasons for its decision. 	<p>Authority shall prepare a report on observations received, listing and summarising them and including a response to the issues raised, taking account of the statutory obligations of the local authorities and relevant policies and objectives of any Minister and the NSS. The report is then considered by the members of the Regional Authority in making the RPGs. The response routinely sets out reasons for either accepting, amending or rejecting observations made.</p>		
<p>4. The Chairman and the Ordinary Members of the National Transport Authority should be appointed by an Independent Appointments Board.</p>	<p>No.</p>	<p>No.</p>	<p>The National Transport Authority (NTA) has a remit beyond planning in that it has an important role in granting bus licenses, monitoring the performance of Dublin Bus and Bus Éireann, integrated ticketing and passenger information, integrating rural transport and making capital allocations in the Greater Dublin Area. The Board of the NTA comprises Ministerial representatives who do not have a quasi-judicial role in the way that members of An Bord Pleanála do, for example. It is important, therefore, that the Chairperson and members of the Board should both be fully qualified individuals and also be in tune with Government transport policy and willing to respect Ministerial policy directions. This would not be best</p>

Recommendation	Already Implemented or Being Implemented?	Additional Initiatives to Give Effect to Recommendation?	Elements of Recommendation Not to be Implemented?
			achieved by allowing an Independent Appointments Board to select the members. Rather, the Minister for Transport, Tourism and Sport should continue to make these appointments but that the Chairperson should be vetted by the relevant Oireachtas committee and the ordinary members by the Public Appointments Service prior to appointment.
<p>5. Further efforts should be made to increase transparency in the planning process. In particular:</p> <ul style="list-style-type: none"> • submissions and observations received in the context of public consultation should be published on the relevant planning authority's website as should the Manager's Report drafted on the basis of any such submissions or observations; • where the elected members of a planning authority decide to depart from the Manager's recommendations as made in that report, they should be required to give reasons for that decision; and • motions submitted when making the draft development plan or the development plan should be published on the relevant planning authority's website. 	<p>This is already partially provided for, in that many local authorities publish and/or make publicly available submissions on plans in addition to the Manager's Report, although the legislation is currently silent on the issue.</p>	<p>Legislative provision will be made to require publication in all cases. Pending the introduction of such a provision, the Department of the Environment, Community and Local Government will issue a circular letter requiring publication.</p> <p>The requirement to provide a rationale for departures from the Manager's recommendations will be provided for in primary legislation. In respect of motions, this is already generally provided for, as minutes of Council meetings, motions put forward, etc., are publicly available as a matter of routine.</p>	<p>None.</p>
<p>6. Where the elected members intend to grant planning permission in</p>	<p>No.</p>	<p>This is not currently provided for but could be introduced by way of</p>	<p>None.</p>

Recommendation	Already Implemented or Being Implemented?	Additional Initiatives to Give Effect to Recommendation?	Elements of Recommendation Not to be Implemented?
<p>material contravention of the development plan, they should be required to give advance notice of at least one month of this intention to the relevant Regional Authority and to the Minister for the Environment and be required to invite and consider submissions in relation to the same.</p>		<p>legislative amendment. However, it is further recommended that all proposed grants of permission in material contravention would automatically be submitted to An Bord Pleanála for final determination. In making provision for the automatic routing of material contraventions to An Bord Pleanála, a public notification process could be developed and provided for in legislation.</p>	
<p>7. The use of the procedure set out in Section 140 of the Local Government Act 2001 should be restricted in the case of planning decisions.</p>	<p>No.</p>	<p>This would require legislative amendment but would be a useful and important additional role, along with the automatic routing of material contravention cases, for An Bord Pleanála.</p>	<p>None.</p>
<p>8. Interventions made by elected members in respect of specific planning applications should be noted on the file and that file should be available for inspection on the relevant planning authority's website.</p>	<p>No.</p>	<p>Although the Mahon Report acknowledges that this is general practice in some local authorities, there is also the existing legislative requirement that persons (including local authority members or other politicians) making representations on behalf of applicants must pay the requisite submission fee and the submission is recorded on file. In addition, the Department of the Environment, Community and Local Government has indicated that it will clarify (by circular, regulation, etc.) that any form of contact – including oral, electronic or by phone - by an elected representative should be</p>	<p>None.</p>

Recommendation	Already Implemented or Being Implemented?	Additional Initiatives to Give Effect to Recommendation?	Elements of Recommendation Not to be Implemented?
<p>9. Applicants for planning permission should be required to indicate on their application whether they have made a political donation in excess of €55 to an elected member of the planning authority and, if so, to identify the member to whom the donation was made.</p>	<p>No.</p>	<p>recorded on file.</p> <p>The recommendation appears to be a logical follow on from the proposed new procedures applying to disclosures by elected representatives. However, the practicalities would need to be very carefully worked through. In the first place, such a disclosure requirement would be very difficult to enforce and would, for practical reasons, probably need to operate on a self-regulating basis (i.e., a planning authority could not be expected to verify whether an applicant has made an accurate declaration).</p>	<p>Not yet possible to determine.</p>
<p>10. The Minister for the Environment's enforcement powers should be transferred to an Independent Planning Regulator who should also be charged with carrying out investigations into systemic problems in the planning system as well as being conferred with educational and research functions.</p>	<p>No.</p>	<p>Accepted in principle. And appropriate modalities under consideration.</p> <p>Establishment of an independent regulatory function would require amendment of planning legislation.</p>	<p>Not yet possible to determine.</p>

Conflicts of Interest

Recommendation	Already Implemented or Being Implemented?	Additional Initiatives to Give Effect to Recommendation?	Elements of Recommendation Not to be Implemented?
<p>11. Each person falling within the scope of the Ethics in Public Office Acts 1995 and 2001 (the Ethics Acts) or Part 15 of the Local Government Act 2001 (LGA) (collectively ‘public officials’) should be required to disclose periodically his or her own specified interest as well as those held by:</p> <ul style="list-style-type: none"> • his or her family members, or any other person which is wholly or substantially dependent on that public official or whose affairs are so closely connected with that official’s affairs that a benefit derived by the person, or a substantial part of it, could pass to the public official (a ‘related person’); and • corporate entities and/or other legal arrangements in which the public official or one of the above-mentioned persons has a controlling legal or beneficial interest as well as any other entities or arrangements in which the former entities/arrangements have a controlling interest. 	<p>Already implemented to some degree. This is a broadening of the current requirements in terms of categories of persons being required to make disclosures and applying the disclosure requirements to a broader scope of relevant ‘connected persons’.</p> <p>This recommendation is accepted in principle but how it will operate in practice will need to be examined fully. There are also legal issues that need to be addressed and caveats need to be determined, e.g., the degree to which information would be made public and the definition of ‘wholly or substantially dependent’.</p> <p>Any possible infringement of the constitutional rights of relations also requires clarification.</p>	<p>The amendments relating to conflicts of interest generally raise a range of issues that require both legal and policy analysis in relation to the detail of implementation.</p> <p>Any constitutional implications will need to be fully examined.</p> <p>Consideration is being given to how to advance the reform of the ethical framework generally and whether this will be via amendment of the existing legislative base or by fundamentally reforming the legislative framework. Amending legislation will be brought forward in any event.</p>	<p>Not yet possible to determine.</p>
<p>12. In addition to the interests which currently require disclosure, each public official should be required to disclose periodically the following categories of interest:</p>	<p>Already implemented to some degree. This recommendation widens the existing categories of interests that require disclosure (e.g., the inclusion of the family home, the</p>	<p>The legal and constitutional implications of this recommendation will be examined fully by the Department of Public Expenditure and Reform in the context of the</p>	<p>Not yet possible to determine.</p>

Recommendation	Already Implemented or Being Implemented?	Additional Initiatives to Give Effect to Recommendation?	Elements of Recommendation Not to be Implemented?
<ul style="list-style-type: none"> • assets; • liabilities; • sources and amounts of income; • any company in which the person has a legal or beneficial interest; • all company offices held by the persons and all company management positions; • the person’s legal and beneficial interest in land, including the family home; • all gifts and benefits of more than a specified amount received by the person in the relevant period which reasonably appear to be unconnected with that person’s public office; and • non-pecuniary interests in so far as those interests are capable of being reasonably perceived to give rise to a conflict of interest. 	<p>inclusion of liabilities, the inclusion of gifts ‘which reasonably appear to be unconnected’, the inclusion of non-pecuniary interests) and the concept of being ‘reasonably perceived’ and will require in-depth examination from a legal perspective.</p> <p>This recommendation as a whole will need fuller consideration as to the efficacy of the individual elements in the first instance and any legal or constitutional issues in the second.</p> <p>Legal issues need to be assessed as regards any possible infringement of the constitutional rights of relations include, in particular, the following:</p> <ul style="list-style-type: none"> - inclusion of the family home; - inclusion of liabilities; - inclusion of gifts ‘which reasonably appear to be unconnected’; - inclusion of non-pecuniary interests; and - the concept of being ‘reasonably perceived’. 	<p>reform of the ethical framework (see response to recommendation 11 above). Amending legislation will be brought forward in any event.</p>	
<p>13. Each public official should be required to:</p> <ul style="list-style-type: none"> • make a periodic disclosure of interests within 30 days of entering public office and update any interest disclosed in the context of a periodic disclosure within 30 days of a significant change in that 	<p>This recommendation is accepted in principle and is already provided for to some extent. However, the scope of application and thresholds will need to be examined fully and will require in-depth examination from a legal and policy perspective.</p>	<p>The scope and legal aspects of this recommendation will be examined fully by the Department of Public Expenditure and Reform in the context of the reform of the ethical framework (see response to recommendation 11 above). Amending legislation will be brought forward in any event.</p>	<p>Not yet possible to determine.</p>

Recommendation	Already Implemented or Being Implemented?	Additional Initiatives to Give Effect to Recommendation?	Elements of Recommendation Not to be Implemented?
<p>interest; and</p> <ul style="list-style-type: none"> disclose the source of any income in excess of €1,000 and gifts/benefits in excess of €250 received either within the twelve months prior to assuming public office or subsequent to leaving it. 			
<p>14. Each public official should be required to disclose on an ad hoc basis any interest which could be reasonably seen to be of influencing him to her in the performance of his or her public functions ('ad hoc disclosure').</p>	<p>Already implemented by sections 17 and 18 of the Ethics in Public Office Act 1995.</p>	<p>No.</p>	<p>None.</p>
<p>15. Both periodic and ad hoc disclosures should be made more widely available. In particular:</p> <ul style="list-style-type: none"> periodic disclosures made under the LGA should be published on the relevant local authority's website as should minutes of local authority meetings and documents debated in the course of those meetings; and ad hoc disclosures made by both elected and senior non-elected public officials should be published, including those made at Cabinet meetings. 	<p>Disclosure statements are not generally made widely available and are in the main private.</p> <p>Legal advice will be required as to how widely available the disclosure could be, particularly in relation to non-elected public officials.</p>	<p>The scope and legal aspects of this recommendation will be examined fully by the Department of Public Expenditure and Reform in the context of the reform of the ethical framework (see response to recommendation 11 above). Amending legislation will be brought forward in any event.</p>	<p>Not yet possible to determine.</p>
<p>16. Both the Members' and Officeholders' codes of conduct should be amended so as to define a conflict of interest to include all</p>	<p>Codes of conduct for office holders come under the remit of the Government Secretariat. Codes of conduct for Members come under the</p>	<p>Agreed in principle subject to a coherent definition of 'interests' being achievable which would be consistent throughout the legislation.</p>	<p>Not yet possible to determine.</p>

Recommendation	Already Implemented or Being Implemented?	Additional Initiatives to Give Effect to Recommendation?	Elements of Recommendation Not to be Implemented?
interests which could be reasonably considered to influence a Member's or Officeholder's performance of his or her public functions.	remit of the Select Committee on Members Interests. There is a legislative basis for the codes of conduct (Section 10 of the Standards in Public Office Act 2001).	Codes of conduct can be updated to reflect the findings of the Mahon Tribunal. The scope and legal aspects of this recommendation will be examined fully by the Department of Public Expenditure and Reform in the context of the reform of the ethical framework (see response to recommendation 11 above). Amending legislation will be brought forward in any event.	
17. Each public official should be prohibited from receiving any gift or benefit which could be reasonably perceived to be connected with the performance of his or her public functions other than gifts of a nominal value provided in the course of the performance of those functions.	This matter is already covered in the Code of Standards and Behaviour for Civil Servants and other codes, i.e., office holders and Members. Under the Ethics in Public Office Act 1995, all gifts of more than €650 for those covered must be disclosed; gifts of more than this amount from a family or friend must also be disclosed if it could materially influence the person in the conduct of his/her official functions.	This recommendation is accepted in principle. The scope and legal aspects of the recommendation will be examined fully by the Department of Public Expenditure and Reform in the context of the reform of the ethical framework (see response to recommendation 11 above). Amending legislation will be brought forward in any event and this amendment will be addressed in the context of this amending legislation.	Not yet possible to determine.
18. Further measures should be introduced to regulate conflicts of interest arising out of the use of inside information by Officeholders.	No.	This recommendation is accepted in principle. The Code of Conduct for Office Holders is a matter for the Cabinet Secretariat. Any legal and constitutional implications of this recommendation will be examined fully by the Department of Public Expenditure and Reform in the context of the reform of the ethical framework (see response to recommendation 11 above). Amending legislation will be brought	Not yet possible to determine.

Recommendation	Already Implemented or Being Implemented?	Additional Initiatives to Give Effect to Recommendation?	Elements of Recommendation Not to be Implemented?
<p>19. Each public official falling within the scope of the Ethics Acts ('national public official') should be prohibited from entering into a contract for the provision of goods or services to a public body both while a public official and for a period of one year following the end of his or her term in office. Equivalent restrictions should be placed on a public official falling within the scope of the LGA ('local public official') from entering into such contracts with the local authority of which he or she is a member/employee.</p>	<p>Already implemented to some degree. The Code of Standards and Behaviour for Civil Servants already contains detailed prohibitions for every civil servant from engaging in the provision of goods and services to a public body, together with a prohibition on the acceptance of outside appointments and consultancy engagements where potential conflicts of interest might arise, for a period of one year following resignation or retirement.</p>	<p>forward in any event.</p> <p>The Programme for Government contains a commitment to amend the rules to ensure that no senior public servant (including political appointees) or Minister can work in the private sector in any area involving a potential conflict of interest with their former area of public employment, until at least two years have elapsed after they have left the Public Service.</p> <p>The scope and legal aspects of this recommendation will be examined fully by the Department of Public Expenditure and Reform in the context of the reform of the ethical framework (see response to recommendation 11 above). Amending legislation will be brought forward in any event.</p>	<p>Not yet possible to determine.</p>
<p>20. Each local elected representative should be prohibited from dealing with land both during his or her term of office and for a period of two years thereafter where the local authority of which that representative is a member has made a decision changing the planning or zoning status of that land during that representative's term of office, where he or she has voted on that decision and where he or she is engaged in an outside activity which primarily</p>	<p>Already implemented in part. Pursuant to Section 177 of the Local Government Act 2001, a Councillor must withdraw from a meeting of a local authority/committee after disclosure of an interest and must not vote or take part in any discussion or consideration of the matter.</p> <p>Whereas there is full implementation in instances where a member has a direct interest (e.g., ownership of the land in question), there would appear</p>	<p>The legal and constitutional implications of this recommendation will be examined fully by the Department of Public Expenditure and Reform and the Department of the Environment, Community and Local Government in the context of the reform of the ethical framework (see response to recommendation 11 above).</p> <p>This recommendation has particular implications for professionals such as</p>	<p>Not yet possible to determine.</p>

Recommendation	Already Implemented or Being Implemented?	Additional Initiatives to Give Effect to Recommendation?	Elements of Recommendation Not to be Implemented?
involves the sale and/or development of land.	to be a lack of clarity where a member has an indirect interest (e.g., practices as a valuer, estate agent, auctioneer, etc.).	valuers, estate agents, auctioneers, etc., in their maintenance of outside employment while an elected member of a local authority.	
21. Conflicts of Interest on the part of officeholders arising from post-term employment should be subject to increased and more effective regulation.	Already implemented to some degree. No monitoring or oversight currently applies to the existing provisions in the Code of Conduct for Civil Servants in general. The Outside Appointments Board deals with matters at Assistant Secretary level and above. The Programme for Government contains a recommendation for extending the post-term moratorium to 24 months from the existing 12 months.	This recommendation is accepted in principle. The legal and constitutional implications of this recommendation will be examined fully by the Department of Public Expenditure and Reform in the context of the reform of the ethical framework (see response to recommendation 11 above). Amending legislation will be brought forward in any event and these amendments will be implemented if legally and constitutionally possible.	Not yet possible to determine.
22. The enforcement provisions applicable to conflicts of interest at national level should be modified so as to: <ul style="list-style-type: none"> • give the Standards in Public Office Commission (SIPO) a supervisory role over the Select Committees; • permit SIPO to (i) accept an anonymous or oral complaint (ii) sit with a quorum of 3 members (iii) appoint an inquiry officer when carrying out its own investigations and (iv) seize documents; and • place increased emphasis on the prevention of conflict of interests through training, education and 	SIPO currently does not have these powers under Ethics legislation and these amendments would require legislative change. This will need to be examined fully and will require in-depth examination from a legal and policy perspective.	The policy, legal and constitutional implications of this recommendation will be examined fully by the Department of Public Expenditure and Reform in the context of the reform of the ethical framework (see response to recommendation 11 above). Amending legislation will be brought forward in any event.	Not yet possible to determine.

Recommendation	Already Implemented or Being Implemented?	Additional Initiatives to Give Effect to Recommendation?	Elements of Recommendation Not to be Implemented?
research.			
<p>23. The system for enforcing the conflict of interests provisions in the LGA should be modified so as to:</p> <ul style="list-style-type: none"> • give SIPO a supervisory role over enforcement at local level; • provide for a formal complaint procedure; • provide for whistleblower protection for complainants; • require each local authority to include information on the application and enforcement of the conflict of interests measures in its annual report; and • place increased emphasis on the prevention of conflicts of interests through training, education and research. 	<p>Already implemented in part. SIPO has existing powers under the Standards in Public Office Act 2001 to carry out investigations of a contravention of Part 15 of the Local Government Act 2001 if a request is made to SIPO by the appropriate person(s) in that local authority.</p> <p>Under Part 15 (Section 174) of the Local Government Act 2001, when the Ethics Registrar becomes aware of a possible contravention of the ethics framework by a member of a local authority, s/he must bring this to the attention of the Cathaoirleach or, as appropriate, the Manager. Section 174(8a) provides that the Cathaoirleach and/or the Manager must consider what action should be taken.</p>	<p>Elements of the recommendation could be considered in relation to the initiative by the Department of Public Expenditure and Reform to overhaul and consolidate the existing ethics framework/legislation and in doing so provide for consistency in processes and duties across the public service and in the context of the Protected Disclosures in the Public Interest Bill 2012.</p> <p>In addition, consideration is being given within the Department of the Environment, Community and Local Government to addressing some elements administratively and to introducing legislative requirements through the Department of Public Expenditure and Reform initiative on ethics or the local government reform process.</p>	<p>Not yet possible to determine, as further consideration is required to decide whether SIPO should be given the role of supervision or assisting local authorities in enforcement at local level.</p>

Political Finance

Recommendation	Already Implemented or Being Implemented?	Additional Initiatives to Give Effect to Recommendation?	Elements of Recommendation Not to be Implemented?
<p>24. The definition of the term 'donation' should be amended to cover all donations, given, received or used for political purposes.</p>	<p>No.</p>	<p>This recommendation would best be examined in the preparation of the Electoral (Amendment) (Referendum Spending and Miscellaneous</p>	<p>Not yet possible to determine.</p>

Recommendation	Already Implemented or Being Implemented?	Additional Initiatives to Give Effect to Recommendation?	Elements of Recommendation Not to be Implemented?
		<p>Provisions) Bill 2012 because that Bill will have a particular focus on 'third parties', in the context of spending at referendum campaigns.</p> <p>The Mahon Tribunal acknowledged that amending the definition of the term 'donation' would have particular implications for such bodies and recommends that the definition of the term 'third party' be also amended.</p>	
<p>25. The following types of donations should be prohibited:</p> <ul style="list-style-type: none"> • indirect donations; • anonymous or cash donations to an electoral candidate or elected representative of more than €55 and to a political party or third party of more than €175; and • the receipt by an electoral candidate or elected representative of more than €2,000 in total by way of anonymous or cash donations and of more that €5,000 by a political party or third party. 	<p>Not directly, but donations of more than €200 from corporate donors will be prohibited unless certain conditions are met.</p>	<p>This recommendation will be implemented within the Electoral (Amendment) (Political Funding) Bill 2011 by:</p> <ul style="list-style-type: none"> - banning the acceptance of an indirect donation, which is more in keeping with the general approach in the legislation where restrictions are placed on accepting rather than giving donations; and - reducing the anonymous donation threshold from €126.97 to a lower amount of €100 for both individuals and political parties and setting a similar threshold for cash donations. 	<p>Having regard to other transparency measures in the Electoral (Amendment) (Political Funding) Bill 2011, the element involving the prohibition on the receipt by an electoral candidate or elected representative of more than €2,000 in total by way of anonymous or cash donations and of more that €5,000 by a political party or third party will not be implemented.</p>
<p>26. The thresholds for permitted political donations should be lowered to €1,000 in the case of donations to an electoral candidate or an elected representative and €2,500 in the case of donations to political parties or third parties.</p>	<p>Yes. The Tribunal acknowledges that this mirrors a commitment in the Programme for Government which is being implemented in the Electoral (Amendment) (Political Funding) Bill 2011, currently before Dáil Éireann.</p>	<p>No.</p>	<p>None.</p>

Recommendation	Already Implemented or Being Implemented?	Additional Initiatives to Give Effect to Recommendation?	Elements of Recommendation Not to be Implemented?
	<p>The Bill provides for a reduction from €6,348.69 to €2,500 in the maximum amount that can be accepted as a donation by a political party, an accounting unit of a political party or a third party.</p> <p>The Bill provides for a reduction from €2,539.48 to €1,000 in the maximum amount that can be accepted as a political donation by an individual (candidate or elected member).</p> <p>The Mahon Report states at paragraph 5.35 (Chapter 18) that ‘the Tribunal fully endorses these proposed reductions’.</p>		
<p>27. An overall limit should be placed on the aggregate amount which an individual can donate to an electoral candidate or elected representative who is a member of a political party and the party itself.</p>	<p>No. The current limits apply to donations received by a candidate, public representative or political party from the same source in the same year. These donation limits are being lowered in the Electoral (Amendment) (Political Funding) Bill 2011. Although there is a limit on what can be accepted by an individual or party, a donor could give donations up to the maximum amount to a number of different candidates, public representatives and parties.</p> <p>However, under the legislation as it stands, there are disclosure</p>	<p>This recommendation would best be examined in the preparation of the Electoral (Amendment) (Referendum Spending and Miscellaneous Provisions) Bill 2012. Currently, the limits on donations contained within the Electoral Act apply to the recipient rather than the donor. Applying limits to donors would require some consideration as to how the provisions would be framed and what penalties would apply.</p>	<p>Not yet possible to determine.</p>

Recommendation	Already Implemented or Being Implemented?	Additional Initiatives to Give Effect to Recommendation?	Elements of Recommendation Not to be Implemented?
	requirements applying to donors in such circumstances.		
<p>28. The existing expenditure restrictions should be:</p> <ul style="list-style-type: none"> • extended to cover all political expenditure; • lowered to an amount which constitutes an effective ceiling on political expenditure; and • extended to cover Seanad electoral candidates and third parties. 	<p>Already being implemented in part. The Electoral (Amendment) (Referendum Spending and Miscellaneous Provisions) Bill is to be published later in 2012 and is on the Government's Legislation Programme. This Bill will provide for the disclosure of expenditure and donations at referendum campaigns and will provide for the extension of the spending limit period that applies at Presidential, Dáil, European Parliament and local elections. Extending the spending limit period will have the effect of capturing more spending in the reporting arrangements. The spending limit should also apply to a longer period which would reduce the value of the limit to a candidate, and thereby lower the effective ceiling. This would address the relevant Tribunal recommendation.</p>	<p>The main focus of the Bill to be published later in 2012 is election and referendum spending. The recommendations in the Tribunal Report that deal with election spending can be examined as this Bill is being developed.</p>	<p>Not yet possible to determine.</p>
<p>29. Political parties, elected representatives and electoral candidates should be required to disclose their audited annual accounts.</p>	<p>Already being implemented for political parties but not for their branches or for individuals.</p> <p>The Electoral (Amendment) (Political Funding) Bill 2011, currently before the Dáil, provides for all registered political parties to prepare an annual statement of accounts and an auditor's report</p>	<p>This recommendation would best be examined in the preparation of the Electoral (Amendment) (Referendum Spending and Miscellaneous Provisions) Bill 2012 because consideration would need to be given to how this arrangement could be made operational.</p>	<p>Not yet possible to determine.</p>

Recommendation	Already Implemented or Being Implemented?	Additional Initiatives to Give Effect to Recommendation?	Elements of Recommendation Not to be Implemented?
	<p>which will be submitted to SIPO each year for publication. In the event of non-compliance, State funding under the Electoral Act 1997 will be withheld from the party. The Tribunal fully supports the introduction of this provision (paragraph 5.50, Chapter 18).</p>		
<p>30. The level at which donations must be disclosed should be lowered to:</p> <ul style="list-style-type: none"> • €55 in the case of a donation received by an electoral candidate or elected representative; • €175 in the case of a donation received by a political party or third party. 	<p>No.</p> <p>However, the Electoral (Amendment) (Political Funding) Bill 2011, currently before Dáil Éireann, provides for reductions in declaration limits:</p> <ul style="list-style-type: none"> • the threshold at which donations must be disclosed by a political party will fall from €5,078.95 to €1,500; and • the threshold at which donations must be disclosed by a candidate or elected representative will fall from €634.87 to €600. <p>These reductions deliver on commitments in the Programme for Government.</p>	<p>None.</p>	<p>No changes will be made beyond those set out in the Electoral (Amendment) (Political Funding) Bill 2011, on the basis that the Bill reflects commitments in the Programme for Government.</p>

<p>31. Donation recipients should be required to provide more detailed information regarding the source and nature of donations which they have received.</p>	<p>Already implemented in part. Currently, recipients must provide information in their donation statements on the value of the donation and its nature (i.e., whether it is in cash, by cheque, in the form of property or services etc.). They must also provide the name, description and postal address of the person by or on whose behalf the donation was made.</p>	<p>The new requirements, in the Electoral (Amendment) (Political Funding) Bill 2011, for the registration of corporate donors will mean that detailed information will be available to the public about such donors, including the name and address of the corporate donor; a statement of the purposes for which the corporate donor was formed; a list of each member, shareholder or trustee of the corporate donor; and a copy of its statement of accounts and annual report.</p>	<p>None.</p>
<p>32. Political parties, third parties and electoral candidates should be required to disclose donations received prior to elections.</p>	<p>No. However, political parties and elected representatives are required to submit a donations declaration annually. Unsuccessful election candidates are required to make donation statements within 56 days of polling day at Dáil, Presidential and European Parliament elections and within 90 days at local elections.</p>	<p>This recommendation remains under consideration.</p>	<p>Not yet possible to determine.</p>
<p>33. Political parties should be required to supply details of their organisational structure, including their subsidiary organisations and branches as a condition of registration under the Electoral Act 1992.</p>	<p>No.</p>	<p>Section 25 of the Electoral Act 1992 provides for the registration of political parties. This recommendation will be implemented by amending the Electoral Act 1992 by means of the Electoral (Amendment) (Political Funding) Bill 2011.</p>	<p>None.</p>
<p>34. Restrictions should be placed on the persons entitled to receive</p>	<p>No.</p>	<p>None.</p>	<p>This recommendation will not be implemented, having regard to the</p>

donations on behalf of a political party, third party, elected representative or electoral candidate.			transparency and other provisions in the Electoral (Amendment) (Political Funding) Bill 2011, which sufficiently deal with the relevant concerns that were raised by the Mahon Tribunal.
35. The Standards in Public Office Commission should be given increased resources for the purpose of enforcing the political finance acts.	The resources available to the Standards in Public Office Commission increased almost annually from 1996 to 2007. In 2008 and 2009, the resources available to the Commission decreased due to general economic and budgetary constraints. The resources available to the Commission remained steady in 2010 and 2011, with an increase in resources in 2012. A small decrease in resources available to the Commission is envisaged for 2013. However, the allocation will remain above 2004 levels.	It is recognised that every effort must be made to ensure that sufficient resources are available to the Commission for the purpose of enforcing the political finance acts. Resources allocation will be decided upon by the Government in line with public service expenditure and numbers policy and in the context of the balance to be struck between Government priorities and budgetary constraints.	None.
36. The enforcement of the Local Elections (Disclosure of Donations) Act 1999, as amended (LEA), should be entrusted to an external, independent body.	No.	This recommendation for oversight arrangements relating to funding of local representatives and election candidates will be considered in due course in the context of consideration of the Programme for Government commitment to establish an independent Electoral Commission.	Not yet possible to determine.
37. Sanctions for breaching the political finance acts should include administrative sanctions.	Already implemented in part. The Electoral (Amendment) (Political Funding) Bill 2011 currently before Dáil Éireann provides for such a sanction in connection with the new requirement on a political party to submit its financial accounts to SIPO. Funding will be withheld from	Implementation of this recommendation would require a detailed examination of existing offences and penalties contained within the Electoral Act 1997 and the Local Elections (Disclosure of Donations and Expenditure) Act 1999 to consider which offences	Not yet possible to determine.

	political parties that do not comply with the requirement.	would be most amenable to the application of administrative rather than criminal sanctions. This recommendation is to be examined in the preparation of the Electoral (Amendment) (Referendum Spending and Miscellaneous Provisions) Bill 2012.	
38. The following acts or omissions should be subject to sanction: <ul style="list-style-type: none"> • failing to open a donations account; • making a prohibited donation; • deliberately circumventing the requirements set down in the political finance acts. 	No.	The focus of the current legislation is on the receiver rather than the donor. It is an offence to receive a prohibited donation. This recommendation would necessitate a detailed examination of the implications arising and would best be considered as part of the Electoral (Amendment) (Referendum Spending and Miscellaneous Provisions) Bill 2012.	Not yet possible to determine.

Lobbying

Recommendation	Already Implemented or Being Implemented?	Additional Initiatives to Give Effect to Recommendation?	Elements of Recommendation Not to be Implemented?
39. Professional lobbyists should be subject to registration requirements.	The Department of Public Expenditure and Reform is currently developing proposals for the regulation of lobbyists which will address this recommendation. Legislation is to be prepared in 2012.	The Department of Public Expenditure and Reform may adopted a phased approach to the implementation of the statutory register and the code of conduct. A final decision on the approach has not yet been made.	None.
40. Professional lobbyists should be regularly required to disclose at a minimum:	The Department of Public Expenditure and Reform is currently developing proposals for the	The Department of Public Expenditure and Reform may adopted a phased approach to the	None.

Recommendation	Already Implemented or Being Implemented?	Additional Initiatives to Give Effect to Recommendation?	Elements of Recommendation Not to be Implemented?
<ul style="list-style-type: none"> the identity of their clients; the objects of their lobbying activity; and details of the public institutions and public officials being lobbied. 	<p>regulation of lobbyists which will address this recommendation. Legislation is to be prepared in 2012.</p>	<p>implementation of the statutory register and the code of conduct. A final decision on the approach has not yet been made.</p>	
<p>41. Professional lobbyists should be required to adhere to a statutory-based code of conduct.</p>	<p>The Department of Public Expenditure and Reform is currently developing proposals for the regulation of lobbyists which will address this recommendation. Legislation is to be prepared in 2012.</p>	<p>The Department of Public Expenditure and Reform may adopted a phased approach to the implementation of the statutory register and the code of conduct. A final decision on the approach has not yet been made.</p>	<p>None.</p>
<p>42. Public officials should be given clear guidance on how they are expected to engage with professional lobbyists with specific reference to lobbyists who are former public officials.</p>	<p>The Department of Public Expenditure and Reform is currently developing proposals for the regulation of lobbyists which will address this recommendation. Legislation is to be prepared in 2012.</p>	<p>The Department of Public Expenditure and Reform may adopted a phased approach to the implementation of the statutory register and the code of conduct. A final decision on the approach has not yet been made.</p>	<p>None.</p>
<p>43. Senior Officeholders should be required to record and publish details regarding their contacts with professional lobbyists.</p>	<p>No.</p>	<p>It is intended that the legislation governing regulation of lobbying would deliver on this transparency objective by putting the onus on the lobbyist to register details of relevant contacts with senior office holders. The question of interlinkages between such legislation and the FOI Act, Ethics code of legislation and existing codes of conduct will also be examined. Provision is being made to review the legislation after a set time period, and this issue could be addressed at that stage.</p>	<p>None.</p>

Recommendation	Already Implemented or Being Implemented?	Additional Initiatives to Give Effect to Recommendation?	Elements of Recommendation Not to be Implemented?
		Legislation is to be prepared in 2012. Review of the legislation will take place within 2–3 years of enactment to assess its effectiveness and to identify any weaknesses emerging in its implementation.	

Bribery, Corruption in Office, Money Laundering and Misuse of Confidential Information

Recommendation	Already Implemented or Being Implemented?	Additional Initiatives to Give Effect to Recommendation?	Elements of Recommendation Not to be Implemented?
44. Amend the Public Bodies Corrupt Practices Act 1889 (the 1889 Act) to cover Oireachtas Members.	Already being implemented. The Criminal Justice (Corruption) Bill will repeal and replace all seven of the Prevention of Corruption Acts from 1889 to 2010. The old offences will be replaced and will apply to all public officials and office holders, including TDs and Senators. The General Scheme of the Bill was approved by Government and published in June 2012.	No.	None.
45. Introduce a specific offence of making payments to a third party where the payer ('P') knows or is reckless to the fact that that party intends to use some or all of those payments to pay bribes for the purpose of furthering P's interests.	Provided for in the General Scheme of the Criminal Justice (Corruption) Bill.	No.	None.
46. Introduce a new offence criminalising a commercial entity for failing to take adequate measures to	Provided for in the General Scheme of the Criminal Justice (Corruption) Bill. The Scheme provides for a	No.	None.

Recommendation	Already Implemented or Being Implemented?	Additional Initiatives to Give Effect to Recommendation?	Elements of Recommendation Not to be Implemented?
supervise or control individuals carrying on activities on its behalf where that individual commits bribery in the context of those activities and that bribery is to the benefit of the entity.	corporate body to be guilty of an offence where a corruption offence has been committed for its benefit.		
47. Extend the existing presumption of corruption contained in Section 3 of the Prevention of Corruption (Amendment) Act 2001 (the 2001 Act), which arises in respect of political donations, to cover a) donations which a political party should have disclosed under the Electoral Act 1997 but failed to disclose and b) the acceptance of prohibited donations.	Provided for in the General Scheme of the Criminal Justice (Corruption) Bill.	No.	Not yet possible to determine, as there are some legal complexities regarding the legal personality of a political party to be analysed.
48. Extend the presumption of corruption set out in Section 4 of the 2001 Act to cover consideration and advantages: <ul style="list-style-type: none"> • conferred on Officeholders, Oireachtas members and Local Elected Members or to a third party connected to such a person, including a family member or corporate entity; • where the relevant public official has done any act or made any omission in relation to his or her office or position, or any matter arising therefrom; • where that act or omission is to the benefit of the person making the payment or on whose behalf 	Provided for in the General Scheme of the Criminal Justice (Corruption) Bill.	No.	Not yet possible to determine, as there are some legal complexities to be analysed.

Recommendation	Already Implemented or Being Implemented?	Additional Initiatives to Give Effect to Recommendation?	Elements of Recommendation Not to be Implemented?
<p>the payment is made; and</p> <ul style="list-style-type: none"> where the relevant public official was required to disclose the interest under either the Ethics Acts 1995 and 2001 or the Local Government Act 2001, but failed to do so. 			
<p>49. New, additional sanctions to apply where a person is convicted of bribery, namely:</p> <ul style="list-style-type: none"> undertakings convicted of bribery should be banned from all public tenders for a 7 year period on first offence and indefinitely thereafter. a person convicted of bribery where the purpose of the bribe was to influence a public official in performing his or her public functions in relation to planning or development should be prohibited from applying for planning permission in respect of any land owned by him or her or under his or her control for a 7 year period other than planning permission in respect of changes to his or her own private dwelling. 	<p>Already implemented. Under Article 45 of Directive 2004/18/EC, contracting authorities must exclude certain persons from being considered for awards of public contracts. This exclusion is not time limited. The article was transposed by Section 53(1), (2) and (3) of the European Communities (Award of Public Authorities' Contracts) Regulations 2006.</p>	<p>The National Procurement Service has issued a set of model form documents for use by contracting authorities when tendering for goods and services. Appendix 5 of these documents is a declaration as to personal circumstances of the tenderer. This declaration is also underpinned by the Statutory Declaration Act 1938.</p> <p>In relation to public works contracts, a similar declaration is required at Appendix A of the Suitability Assessment Questionnaire (SAQ).</p> <p>Contracting authorities are empowered by the 2006 Regulations to seek information from the competent administrative or judicial authority. If the tenderer is from another EU Member State, the contracting authority may request the co-operation of the competent authority in that Member State.</p> <p>The model form documents for use in tendering for goods and services were</p>	<p>None.</p>

Recommendation	Already Implemented or Being Implemented?	Additional Initiatives to Give Effect to Recommendation?	Elements of Recommendation Not to be Implemented?
		<p>published in mid 2011 and are available at: www.procurement.ie.</p> <p>In relation to public works contracts, the SAQ has been available for use by contracting authorities since 2009 and is available at www.constructionprocurement.gov.ie.</p>	
<p>50. Introduce a pan-sectoral whistleblower protection act protecting all those reporting suspected offences and/or breaches of regulatory measures from any form of liability, relief and/or penalisation arising from that report.</p>	<p>Already being implemented. The draft Heads of the Protected Disclosures in the Public Interest Bill 2012 were published by the Minister for Public Expenditure and Reform on 27 February 2012 with a view to informing the public debate on the issue of whistleblowing. The main objective of the proposed legislation is to provide protection for workers, in all sectors, who make disclosures of serious wrongdoing in the workplace. Three types of protection are provided for workers:</p> <ul style="list-style-type: none"> - protection from the retributive actions of an employer; - protection from civil liability; and - protection from victimisation by a third party. <p>Although the protections contained in the proposed legislation will be restricted to ‘workers’, the definition of the term ‘worker’ will be cast widely to encompass not only employees but also other persons falling into the non-standard</p>	<p>No.</p>	<p>The recommendation states that protection should be introduced for ‘all those reporting suspected offences’. The protections contained in the proposed legislation will be restricted to workers reporting serious wrongdoing in the workplace with the maintenance of existing protections from civil liability for non-workers under a number of existing sectoral Acts. The maintenance of the existing sectoral protections for persons other than workers from civil liability is to ensure that no existing right is withdrawn. The restriction of the protections to workers and the workplace is in line with international practice where experience has shown that whistleblowing occurs primarily in the workplace and that workers who blow the whistle suffer detriment at the hands of their employers for having reported the wrongdoing.</p>

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	<p>employer/employee relationship.</p> <p>In addition to the protections for workers, the proposed legislation will also acknowledge the existence of a number of existing pieces of sectorally based legislation which contain whistleblowing provisions.</p>		
<p>51. Extend existing whistleblower protection under the Prevention of Corruption (Amendment) Act 2010 to</p> <ul style="list-style-type: none"> a) protect independent contractors who report suspicions of corruption from penalisation, b) remove the existing limit on the amount of compensation which may be awarded to those penalised for whistle-blowing, and c) under the Criminal Justice Act 2011, to cover those reporting or giving evidence on offences under the Public Bodies Corrupt Practices 1889. 	<p>Already being implemented. Although not being considered in the context of the Corruption Acts, the protections proposed for workers under the proposed Protected Disclosures in the Public Interest Bill 2012 will be available to independent contractors.</p> <p>The limits on compensation which may be awarded to those penalised for whistle-blowing will be considered in the context of the drafting of the Protected Disclosures Bill.</p> <p>Under the proposed Protected Disclosures legislation, the protections available to workers who report serious wrongdoing in the workplace will also be available to those workers who give evidence in relation to such wrongdoings. Although not specifically referencing the Acts in question, the definition of wrongdoing set out in the proposed legislation is so widely drawn as to</p>	<p>No.</p>	<p>None.</p>

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	cover matters of corruption in public bodies. This matter will be considered in more detail at the drafting stage.		
<p>52. Amend the offence of corruption in office contained in Section 8 of the Prevention of Corruption (Amendment) Act 2001 to:</p> <ul style="list-style-type: none"> • cover situations where a public official fails or omits to do an act in relation to his or her office or position for the purpose of corruptly obtaining a gift, consideration or advantage for himself, herself or any other person; • cover any situation where a public official uses confidential information obtained as a result of his or her office for the purpose of corruptly obtaining a gift, consideration or advantage for himself, herself or any other person; and • define the term ‘corruptly’ so as to cover any acts or omissions on the part of a public official for the purposes of obtaining an unlawful or improper advantage for himself, herself or any other person. 	Provided for in the General Scheme of the Criminal Justice (Corruption) Bill.	No.	Not yet possible to determine, as there are some legal complexities to be analysed.
<p>53. Introduce a new offence for holders of ministerial office of accepting and retaining a gift or other advantage in connection with</p>	Under the Ethics in Public Office Act 1995, gifts with a value of more than €650 must be disclosed in an annual ethics statement where the	The legal and constitutional implications of this recommendation will be examined fully by the Department of Public Expenditure	None.

Recommendation	Already Implemented or Being Implemented?	Additional Initiatives to Give Effect to Recommendation?	Elements of Recommendation Not to be Implemented?
<p>that office where that advantage is of above a nominal value and is not lawfully due to the officeholder.</p>	<p>gift could materially influence the person in the performance of his/her official functions, and all gifts to office holders by virtue of office with a value of more than €650 are deemed to be gifts to the State and must be surrendered and disclosed. However, there is exclusion for office holders where a gift is from a friend for personal reasons only.</p> <p>One aspect of the General Scheme of the Criminal Justice (Corruption) Bill is of direct relevance to the type of corruption which the Tribunal's recommendation seeks to address. The Scheme includes a number of presumptions to apply where a person is charged with an offence under the Bill. One of those is that any gift received by an Irish public official in breach of a relevant code of ethics or discipline shall be presumed to have been given and received corruptly as an inducement for doing any act or making any omission in relation to his or her office.</p>	<p>and Reform in the context of the reform of the ethical framework (see response to Recommendation 11 above).</p> <p>Sanctions in general will need to be examined.</p>	
<p>54. Require designated persons for the purpose of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 (the CJ(MLTF)A) to apply enhanced due diligence to domestic elected public officials and senior office holders.</p>	<p>Accepted in principle. Legal and technical implications are being analysed by the Money Laundering Officials' Committee with a view to making necessary legislative provisions in the Criminal Justice (Money Laundering and Terrorist</p>	<p>No.</p>	<p>Not yet possible to determine, as the policy approach is still being considered.</p>

Recommendation	Already Implemented or Being Implemented?	Additional Initiatives to Give Effect to Recommendation?	Elements of Recommendation Not to be Implemented?
	Financing) (Amendment) Bill.		
55. Define the term ‘politically exposed persons’ so as to apply to senior public officeholders for a minimum of ten years after they have ceased to hold office.	Accepted in principle. Legal and technical implications are being analysed by the Money Laundering Officials’ Committee with a view to making necessary legislative provisions in the Criminal Justice (Money Laundering and Terrorist Financing) (Amendment) Bill.	No.	Not yet possible to determine, as the operational implications and policy considerations are still being considered.
56. Consider the introduction of a cash transaction reporting requirement obliging designated bodies to alert the authorities to cash transactions in excess of a specified sum.	The Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 as it stands requires designated persons to report suspicious transactions. The overall approach in the relevant EU Directives and Financial Action Task Force recommendations is risk based rather than rules based, i.e., favouring a judgment in individual situations rather than specified thresholds. The recommendation will, however, be considered in the development of the Scheme of the Criminal Justice (Money Laundering and Terrorist Financing) (Amendment) Bill.	No.	Not yet possible to determine, as the policy approach is still being considered.

Asset Recovery

Recommendation	Already Implemented or Being Implemented?	Additional Initiatives to Give Effect to Recommendation?	Elements of Recommendation Not to be Implemented?
57. Consideration should be given to introducing a single procedure for	No.	This recommendation will be considered in the context of a broader	Not yet possible to determine.

Recommendation	Already Implemented or Being Implemented?	Additional Initiatives to Give Effect to Recommendation?	Elements of Recommendation Not to be Implemented?
conviction-based asset recovery measures.		review of proceeds of crime legislation.	
58. Where a person has been sentenced or otherwise dealt with by a court in respect of one or more corruption offences which he or she has been convicted on indictment, the court may proceed to determine whether that person has benefited from those offences.	No.	This recommendation will be considered in the context of a broader review of proceeds of crime legislation.	Not yet possible to determine.
59. Where the DPP makes an application to the court to determine whether a convicted person holds funds subject to confiscation, the court should be required to conduct an inquiry for the purposes of making that determination.	No.	This recommendation will be considered in the context of a broader review of proceeds of crime legislation.	Not yet possible to determine.
60. Once a court determines that a person has benefited from a corruption offence, that court should be required to make a confiscation order to the value of that benefit or the person's realisable assets, whichever is the less.	No.	This recommendation will be considered in the context of a broader review of proceeds of crime legislation.	Not yet possible to determine.

Miscellaneous

Recommendation	Already Implemented or Being Implemented?	Additional Initiatives to Give Effect to Recommendation?	Elements of Recommendation Not to be Implemented?
61. Place increased focus on corruption prevention, including the provision of advice and training; public awareness raising; researching	All relevant organisations will continue to provide advice and training, public awareness raising, and research and review.	No.	None.

Recommendation	Already Implemented or Being Implemented?	Additional Initiatives to Give Effect to Recommendation?	Elements of Recommendation Not to be Implemented?
and reviewing the effectiveness of the anti-corruption measures; and emerging trends in corruption prevention.			
<p>62. Provide for increased transparency over the ownership of corporate vehicles.</p>	<p>With reference to company law, the Company Law Review Group (CLRG) has recommended in its recent 2011 Report, published in May 2012, that ‘bearer shares’ be abolished by means of an express prohibition. ‘Bearer shares’ are shares the ownership of which is not recorded or identified (they literally accord the rights of ownership to the person in whose possession they are held for the time being) and accordingly this CLRG recommendation will make a substantial contribution to addressing this recommendation in relation to Irish companies. The Department of Jobs, Enterprise and Innovation proposes to progress this CLRG recommendation in the context of the Companies Bill, which will be published in the second half of 2012.</p>	<p>Apart from progressing the relevant CLRG recommendation on the abolition of ‘bearer shares’, the Department of Jobs, Enterprise and Innovation does not advocate any further measures in company law. Any potential requirements to identify beneficial ownership of shares, particularly in an international or group context, would be expected to produce serious adverse consequences in the context of foreign direct investment (FDI), with significant negative effects for investment and jobs in Ireland. This would run directly counter to the Government’s aim to make Ireland the ‘best small country in the world in which to do business’. Further, any attempts to require identification of beneficial ownership would be simply unworkable in the context of listed companies whose shares are trading on the Irish Stock Exchange (or other exchanges), and the ownership of which is consequently changing regularly even during a single day. Any such measure would act as a persuasive disincentive to companies to either locate in or maintain their stock exchange listing</p>	<p>This recommendation will be addressed in the context of a prohibition on ‘bearer shares’ in Irish companies.</p>

Recommendation	Already Implemented or Being Implemented?	Additional Initiatives to Give Effect to Recommendation?	Elements of Recommendation Not to be Implemented?
<p>63. Amend the Tribunals of Inquiry Evidence Acts 1921–2004 so as to empower a Tribunal of Inquiry to:</p> <ul style="list-style-type: none"> • require any person to attend to answer questions at private interview and to provide a written statement setting out those answers; • order the discovery of documents without prior notice; and • enter business premises and inspect and seize documents relevant to its inquiries and to obtain a warrant for the purpose of entering other premises for these purposes. 	<p>Already being implemented. In respect of the Tribunals of Inquiry Bill 2005, Section 27 provides that proceedings shall be conducted in public unless in the opinion of a Tribunal (i) it is in the public interest to do so for reasons connected with matters the subject of inquiry or the nature of the evidence to be given; or (ii) there is a risk of prejudice to criminal or civil proceedings that are pending or in progress. Section 22 provides for a Tribunal to establish or adopt rules and procedures for (i) receiving, taking and recording evidence; and (ii) receiving submissions. Section 30 provides for extensive powers to a Tribunal to make such orders as are reasonable and necessary for the purpose of its functions in enforcing the attendance of witnesses and examining them on oath and compelling the production of documents.</p>	<p>No.</p>	<p>None.</p>
<p>64. Amend the Tribunals of Inquiry Evidence Acts 1921–2004 to stipulate that the terms of reference of a Tribunal of Inquiry should be drafted as precisely as possible.</p>	<p>Already being implemented. In respect of the Tribunals of Inquiry Bill 2005, the issue of drafting the terms of reference of Tribunals is considerably improved upon in sections 6 and 7 of the Bill. Section 21 contains a specific provision requiring Tribunals to perform their functions in a manner that is efficient, effective and expeditious as</p>	<p>No.</p>	<p>None.</p>

Recommendation	Already Implemented or Being Implemented?	Additional Initiatives to Give Effect to Recommendation?	Elements of Recommendation Not to be Implemented?
	is practicable having regard to their terms of reference.		

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