



Oifig an Runaí Aire
Office of the Minister of State

10 November 2022

Mr John Devitt
Chief Executive of Transparency International Ireland
info@transparency.ie

Please quote ref: HPLG-MoSB-00784-2022

Dear Mr Devitt,

I wish to refer to your correspondence dated 7th September 2022 on behalf of Transparency International Ireland to Minister Darragh O'Brien T.D., calling for the development of statutory guidance for local authorities to prevent undue pressure being placed on print or broadcast media. Your correspondence was forwarded to me for consideration and direct response.

I fully acknowledge and value the role played by local radio stations and indeed media in general, all of whom operate under the requirements of the Broadcasting Acts. It is also my firm view that the independence and integrity of media must always be respected. I would expect that all public bodies under the aegis of this Department also support that principle.

It is important to clarify that local authorities are independent statutory bodies with their own democratically elected councils and management systems. Section 63(3) of the Local Government Act 2001 states that, subject to law, a local authority is independent in the performance of its functions. The independent role of local authority elected members in setting the policy framework for local authorities must also be respected.

The role of this Department in relation to local authorities is primarily to ensure an appropriate framework of policy and legislation in relation to the local government system, including its structures, functions, resourcing, financing and broad oversight. The Department does not have a role in relation to individual decisions made by local authorities save in a limited number of matters where there may be specific provision for Ministerial approval within the Department's particular areas of responsibility (i.e. housing, planning and heritage).

Part 15 of the 2001 Act sets out an ethical framework for local government. This imposes a statutory duty on all in the local government service to maintain proper standards of integrity,



conduct and concern for the public interest. Codes of Conduct have also been issued, one for councillors and one for employees, setting out principles and standards of behaviour that all persons in local government service must adhere to in the performance of their duties. The Codes of Conduct emphasise the importance of acting in good faith and with fairness and impartiality for the common good and to promote the public interest.

The Code of Conduct for Councillors was updated in 2019 and may be found here: <https://www.gov.ie/en/publication/48675-code-of-conduct-for-councillors/>

The Code of Conduct for Employees is here:

<https://www.gov.ie/en/publication/c3406-code-of-conduct-for-employees-january-2007/>

This Department does not have an enforcement role in relation to the ethical framework so it is not appropriate for me to comment on specific cases relating to any individual person or local authority. Any alleged contraventions of the ethical framework for local government are a matter for the ethics registrar of the local authority concerned. If a person is not satisfied with the outcome of the consideration of the matter following referral to the ethics registrar, he or she may make a complaint to the Standards in Public Office Commission (SIPO). While it is open to any person to make such a complaint, SIPO requires that all local avenues should first be exhausted and accordingly the matter should be raised with the local authority's own Ethics Registrar in the first instance.

With regard to your request to publish further statutory guidance for local authorities, it is my understanding that no such guidelines on advertising and publicity are currently in place for Government Departments or other public bodies. Careful consideration would be needed as to how such guidelines for local authorities would operate alongside the broader ethical framework for the public sector as well as the regulation of advertising in general.

As you may be aware, the Programme for Government includes a commitment to "*reform and consolidate the Ethics in Public Office legislation*". The Government has agreed to proposals by my colleague, Michael McGrath TD, Minister for Public Expenditure and Reform that his Department undertake a review of the existing ethics legislative framework, including recommendations made by SIPO on its operation of the current regime, in advance of bringing forward proposals for legislative reform. This review has been completed and the Department of Public Expenditure and Reform is now working on drafting new legislation that will be published in due course.



Since it is proposed to reform the broader ethics legislative framework during the term of this Government it is my preference to await the publication and progression of the reforming legislation before consideration is given to issuing any new or expanded guidance to local authorities on ethical issues.

Thank you for raising this matter and the Department will keep you informed of developments.

Yours sincerely,

A handwritten signature in black ink, which appears to read "Peter Burke".

Peter Burke T.D.
Minister for Local Government and Planning

Please note: I am a Designated Public Official under the Regulation of Lobbying Act, 2015