



An Coimisiún Reifrinn
Referendum Commission

Report on the
referendum on blasphemy

Foreword

On 18 July 2018, the Minister for Housing, Planning and Local Government established the Referendum Commission for the purpose of the referendum on the Thirty-seventh Amendment of the Constitution Bill 2018 (which provided for a referendum on blasphemy). The referendum took place on 26 October 2018.

The Referendum Commission must, after each referendum, prepare a report for the Minister on the performance of its functions. This report outlines the approach taken and provides some detail on the main elements of its information campaign.

The time available to the Commission to finalise the detail of its public information campaign was restricted because of the wait for a decision on whether a referendum on the Constitutional provision concerning women in the home would be held on the same date as the referendum on blasphemy. The late stage at which the date of polling was confirmed provided a further challenge to the Commission's need to finalise and have printed accurate information. Earlier certainty as to the detailed subject matter of a referendum or referendums and the date on which they are to be held is recommended to give a longer lead time to future Commissions.



The Commission is very grateful to broadcasters for their cooperation in scheduling our free-to-air broadcasts explaining the referendum proposal, often at peak viewing and listening times. These free-to-air broadcasts play an important role in providing information, and in particular in encouraging people to vote on the day and we would like to acknowledge that support and express our gratitude.

Pursuant to Section 14(1) of the Referendum Act 1998, I hereby present to the Minister the report of the Referendum Commission on the performance of its functions in respect of the referendum on the Thirty-seventh Amendment of the Constitution Bill 2018.

A handwritten signature in black ink that reads "Isobel Kennedy". The signature is written in a cursive style with a long, sweeping tail on the letter 'y'.

Ms Justice Isobel Kennedy
Chairperson
Referendum Commission
15 February 2019

Introduction

The referendum on the Thirty-seventh Amendment of the Constitution Bill 2018 (which provided for a referendum on blasphemy) was held on Friday 26 October 2018. Under the Referendum Act 1998, on each occasion that a referendum falls to be held, the Minister for Housing, Planning and Local Government may, at his or her discretion, establish a Referendum Commission. In the case of a constitutional amendment, he or she may only do so on or after the date the Bill providing for the referendum is initiated in Dáil Éireann. The Bill was initiated on 13 July 2018.

Establishment of the Referendum Commission

On 18 July 2018, the Minister made an order establishing a Referendum Commission in relation to the blasphemy referendum. Ms Justice Isobel Kennedy accepted the nomination of the Chief Justice to act as Chairperson of the Referendum Commission on this occasion.

The Chairperson of the Commission must be a former judge of the Supreme Court, a former judge of the High Court, a former judge of the Court of Appeal, or a serving judge of the High Court. The other members of the Commission served in an ex officio capacity. They were:

- **Seamus McCarthy**, Comptroller and Auditor General
- **Peter Tyndall**, Ombudsman
- **Peter Finnegan**, Clerk of Dáil Éireann
- **Martin Groves**, Clerk of Seanad Éireann

The Commission is granted by law such powers as are necessary or expedient for the performance of its functions. The Commission must report on the performance of its functions to the Minister for Housing, Planning and Local Government no later than six months after polling day and the Commission stands dissolved one month after submitting its report.

Role of the Commission

The Commission's primary functions pursuant to statute are:

- to prepare one or more statements containing a general explanation of the subject matter of the proposal and of the text thereof in the relevant Bill and any other information relating to those matters that the Commission considers appropriate;
- to publish and distribute those statements in such manner and by such means including the use of television, radio and other electronic media as the Commission considers most likely to bring them to the attention of the electorate and to ensure as far as practicable that the means employed enable those with a sight or hearing disability to read or hear the statements concerned; and
- to promote public awareness of the referendum and encourage the electorate to vote at the poll.

Key features of the referendum

Time available to the Referendum Commission

The referendum bill was passed by both Houses of the Oireachtas on 20 September 2018.

The Referendum Commission in respect of the referendum on blasphemy was established on 18 July 2018. At that point the Government was also considering proposing a second referendum on the same day as the one on blasphemy. Were a second referendum to have taken place, the Commission would have produced a single guide, a single website and an advertising campaign explaining both referendums together.

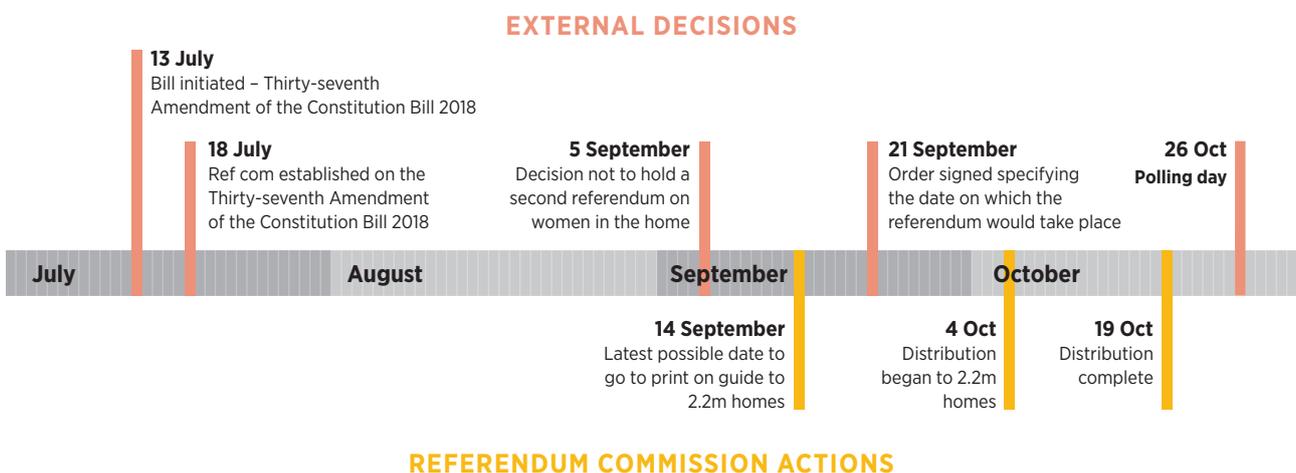
Upon its establishment on 18 July 2018, the Commission immediately began work on preparing material explaining the blasphemy referendum. It was not in a position to finalise its material until it knew for certain whether there would be one or two referendums taking place and until the order specifying the date on which the referendum would be held was signed.

The announcement that there would be just one referendum came on 5 September.

On 20 September, the Bill in relation to the blasphemy referendum was passed by the Oireachtas. On 21 September the order was made by the Minister for Housing, Planning and Local Government setting polling day for 26 October. However, in order to ensure the information guide was printed in time for distribution to every household prior to polling day, it was necessary to commence printing on 14 September. The Commission took the pragmatic decision to begin the print run on 14 September, even though there was a possibility that the date or proposal would change prior to the bill being passed by the Oireachtas, thus rendering the information guide unusable.

The Commission is of the view that adequate advance notice of the number and subjects of referendums to be put to the people and the polling date must be given to future Commissions. This would ensure Commissions have sufficient time to do their work properly, and particularly to prepare and distribute an information guide.

Figure 1. Timeline



Voter turnout

At 43.8%, voter turnout was considerably lower than for the referendum on the regulation of termination of pregnancy held earlier in 2018, which had a 64.1% turnout – the highest since the first statutory Referendum Commission was established in 1998.

Encouraging people to vote is one of the central functions of the Referendum Commission. In any referendum campaign, the Commission’s information campaign is one of many factors which contribute to the voter turnout. Other key elements are the level of public awareness of the referendum proposal, the nature of the campaigns for and against the proposal, the extent of public debate on the issues, and the other polls (if any) that are taking place on the same day. The low turnout on this occasion partly reflects the relatively low level of public debate about the blasphemy referendum proposal. Turnout would undoubtedly have been lower still had the Presidential election not taken place on the same day.

While the Commission recognises that the Presidential election was the main driver for turnout, it is noteworthy that an exit poll, commissioned by RTÉ, showed a high level of awareness about the referendum on blasphemy. In that exit poll, respondents were asked if they were aware before going to vote that they would also be voting in the referendum on removing the offence of blasphemy from the constitution and 98% said they were aware, with only 2% reporting that they were unaware. Almost seven in ten (69%) reported that they understood the issues behind the blasphemy referendum. In a context in which public debate on the topic was very low, the Commission is very heartened by the findings of this research.

Figure 2. Awareness of blasphemy referendum
Source: RTÉ Red C exit poll

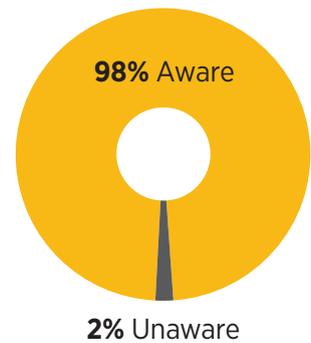
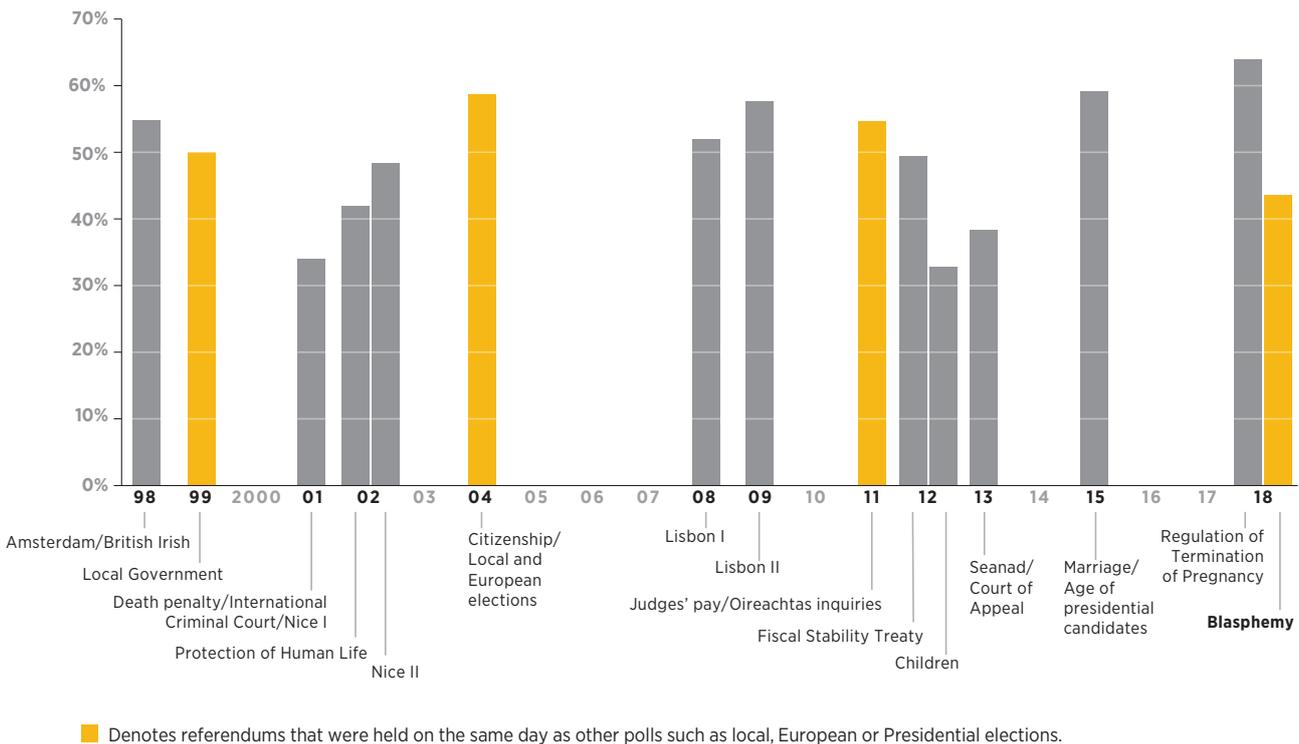


Figure 3. Voter turnout in referendums since 1998



The Commission's information campaign

The Commission's information campaign was designed to fulfil its functions as set out in law: To explain the referendum proposal, to promote awareness of the referendum and to encourage people to vote.

i Promoting awareness: The Commission was conscious on this occasion that the referendum was on an issue which was not the subject of high-profile public debate, and that many voters were unaware of the detail or even the existence of a constitutional provision on blasphemy. Therefore, it needed to pay particular attention to the need to encourage awareness of the referendum, what the Constitution said about blasphemy, and how blasphemy is defined in law.

Much of the advertising produced by the Commission therefore focussed on drawing voters' attention to the fact that a referendum was to take place, that it was on the subject of blasphemy, and that it was taking place on the same day as the presidential election. The Commission's activity to encourage people to vote, and to explain the referendum proposal itself, further served to promote awareness.

ii Encouraging voting: The Commission ran an advertising campaign encouraging people to check the voting register and, if necessary, to register to vote before the deadline. This involved press statements to national and regional press, broadcast interviews by the Commission chairperson, an online and radio advertising campaign and considerable social media activity. The campaign encouraged voters to visit the website checktheregister.ie to check whether or not they were registered and, if necessary, to download the forms required either to register or to amend their details.

iii Explaining the proposal: The law requires the Commission to publish an independent and neutral account of the referendum proposal, and it did so in a guide distributed to 2.2 million homes, and on its website. This included an explanation of the constitutional position as it stood before the referendum, what the law currently said about blasphemy, an account of the proposed constitutional change, the effects of a Yes vote and the effects of a No vote.

This material was published in a guide distributed to all homes in the State. It was also published on the website refcom.ie, along with other background information on relevant legislation, previous court judgements, and practical information on voting. The Chair and Commission representatives gave a number of national and local radio interviews raising awareness of the referendum, explaining the proposal and encouraging people to vote. The Commission also ran a substantial advertising and social media campaign.

Campaign elements

The key communications elements used by the Commission to fulfil the three objectives were:

- 1. Website:** The website, *refcom.ie*, which used written and video content to explain the proposal, to encourage voting and to give additional relevant material to help voters understand the background and context.
- 2. Guide:** A guide to the referendum delivered to 2.2 million homes explaining the current situation, the proposed change, and the effects of a Yes and No vote.
- 3. Social media:** A social media presence on Twitter, Facebook and Instagram giving campaign news and information, and encouraging people to check the register and to vote.
- 4. Accessible content:** Versions of the referendum guide produced in braille, Irish Sign Language video, audio, large-print format and easy-to-read format for people with intellectual disabilities.
- 5. Advertising:** A national advertising campaign on television, radio, online, press and outdoor poster sites to raise awareness of the referendums, to encourage voter registration and voting and to direct voters to the *refcom.ie* website where further information was available.
- 6. Free-to-air:** Free-to-air broadcasts about the referendum produced by the Commission and broadcast by national and regional broadcasters as required by law.
- 7. Media:** Explaining the referendum proposal on national and regional radio as well as online news sources. The Chairperson, on behalf of the Commission, gave two interviews on RTÉ's Morning Ireland programme. Interviews were also given on local radio stations on the content of the referendum proposals.
- 8. Direct contact:** The public could ask specific questions by email, by post, or through a lo-call phone line.

Resources

Funding of the Referendum Commission

The Commission was allocated a budget of €3 million by the Department of Justice and Equality.

Throughout the information campaign, the Referendum Commission was highly conscious of achieving value for money and ensuring maximum effectiveness of the campaign. The Commission is satisfied that both these objectives were realised.

Overall expenditure was modestly over €2 million, broken down as shown in Figure 4. The balance of just under €905,000 is being returned to the Department of Justice & Equality.

In addition, the Commission is entitled to certain media-buying volume rebates arising from the referendum information campaign. The value of the rebates has not yet been established, but is estimated to be in the order of €16,800. When received, the proceeds of the rebates will be remitted to the Department of Justice and Equality.

Figure 4. Expenditure on the referendum information campaign

	€
Campaign management fees	304,498
Content research	61,255
Guide production and distribution	475,113
Television / audio visual	471,437
Radio	153,480
Outdoor advertising	182,564
Print media	74,492
Online media	350,990
Administration and other costs	21,461
Total expenditure	2,095,290

Procurement

During 2018, the Office of the Ombudsman entered into draw-down contracts with the following service providers:

- **Murray Consultants** (public relations/communications services);
- **BBDO** (creative and digital);
- **Mindshare** (media planning/buying);
- **Colorman** (booklet design, printing and distribution); and
- **Empirica Ltd** (advice and assistance with specification development to procure services for the Referendum Commission).

Legal services for the Commission, including engagement of Counsel, were provided by **Philip Lee Solicitors**, legal advisors to the Office of the Ombudsman.

Dept provided website design (and content management services) for the Referendum Commission website.

Acknowledgements

The Commission would like to acknowledge the team of service providers for their advice, assistance and support in helping it to achieve its remit through the Commission's public information campaign. Together, they devised and implemented a substantial public information campaign, notwithstanding very challenging time constraints.

The Commission also acknowledges the co-operation it received from broadcast outlets in relation to the provision of free-to-air broadcasts, and in giving interview time to the Commission to enable it to explain the proposal.

As marketing/communications consultant to the Commission, Murray played a vital role in ensuring that the various strands of the campaign were delivered on time and in a coordinated fashion.

The creative advertising agency BBDO, media buying agency Mindshare, website designers Dept, and booklet producers Colorman all delivered work of high quality under great time pressure.

The Commission is also grateful to its legal advisor, Philip Lee, solicitors, to Eoin McCullough SC and to Catherine Donnelly BL and Francis Kieran BL.

The Commission would like particularly to thank its secretariat, provided by the Office of the Ombudsman, for its assistance in managing the public information campaign. We would like to thank the team of Rebecca Coyle, Alan Perkins and Fergus Keegan and in particular Sean Garvey, who served as Secretary to the Commission. We would also like to thank Jacqui McCrum, (then) Director General of the Office of the Ombudsman, for providing us with staff and other necessary facilities, and Liam Duffy, the Head of ICT, and his team for their work on the website.

Conclusions and recommendations

Voter turnout

Several factors determine voter turnout, not least engagement and debate on the topic in advance of the referendum. However, given there was very little debate on this issue, the main driver behind voter turnout was that it was being held on the same day as the Presidential election. It is the Commission's view that future referendums on which a high level of public debate is not anticipated should be put to the people either at the same time as an election, or at the same time as another matter is being put to the people, to ensure strong voter turnout.

Focus groups

This Commission echoes the recommendation of the previous Commission on the usefulness of focus group research. Focus group research on the development of explanatory materials undertaken on the independent guide to the referendum on blasphemy was very helpful in ensuring that it was clear and understandable, and the current Commission would advise future Commissions to ensure adequate time is provided for such research.

Time

Many previous Referendum Commissions have highlighted the need for more time in order to prepare an information campaign. The current Commission endorses that position and is of the view that the Referendum Commission should be given a continuing legal identity through the establishment of a permanent Electoral Commission. An Electoral Commission would have an ongoing role, in particular in relation to voter registration.



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